

App. No. _____

IN THE SUPREME COURT OF THE UNITED STATES

Thomas F. Bowling,

Petitioner

v.

Director, Virginia Dept. of Corrections

Respondent.

ON APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A
WRIT OF *CERTIORARI* TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

PETITIONER'S APPLICATION TO EXTEND TIME TO FILE A PETITION FOR A
WRIT OF *CERTIORARI*

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August 21, 2019

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Director, Virginia Dept. of Corrections,

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**PETITIONER'S APPLICATION TO EXTEND TIME TO FILE A
PETITION FOR A WRIT OF CERTIORARI**

To The Honorable John G. Roberts, Jr., as Circuit Justice for the
United States Court of Appeals for the Fourth Circuit:

Pursuant to Supreme Court Rule 13.5, Petitioner Thomas Franklin
Bowling respectfully requests that the time to file a Petition for a Writ of
Certiorari in this matter be extended for sixty days to November 18, 2019.
The Court of Appeals denied a timely filed petition for rehearing or
rehearing en banc on June 21, 2019. Absent an extension of time, the
Petition would therefore be due on September 19, 2019. Petitioner is
filing this Application at least ten days before that date. *See S. Ct. R.*

13.5. This Court would have jurisdiction over the judgment under 28 U.S.C. §1254(1).

REASONS FOR GRANTING AN EXTENSION OF TIME

The time to file a Petition for Writ of Certiorari should be extended for sixty days for these reasons:

1. The request for the extension of time is justified in order to provide

Mr. Bowling's legal team adequate time to prepare the petition:

a. The grounds for this petition have changed since this case was briefed and the Court of Appeals issued its decision. The case originally challenged the denial of parole to a juvenile offender, Thomas Bowling, who alleged in his pro se petition that the Virginia Parole Board did not adequately consider his youth at the time of his offense when it denied parole. He sought reconsideration of the Parole Board's denial of parole in 2016.

b. After briefing and oral argument, the Court of Appeals issued a published opinion on April 2, 2019, denying relief and holding that juvenile offenders have no constitutional right to

have the Parole Board consider their youth at the time of the offense in deciding whether to grant parole.

- c. Mr. Bowling had planned to file a petition for a writ of certiorari with this Court. But four weeks later, on April 30, 2019, the Virginia Parole Board granted parole to Mr. Bowling, rendering his case moot.
- d. Because the case had become moot, undersigned counsel filed an unopposed motion with the Court of Appeals for it to vacate its opinion and judgment and remand the case to the district court with directions to dismiss it as moot. *See United States v. Munsingwear, Inc.*, 340 U.S. 36, 39 (1950).
- e. Without explanation, the Court of Appeals denied that unopposed motion on May 24, 2019. Counsel timely petitioned for rehearing and rehearing en banc on June 7, 2019, and that petition was denied on June 21, 2019.
- f. The grounds for certiorari now center solely on the Court of Appeals' failure to vacate the opinion.
- g. Assigned counsel is the Director of the Appellate Litigation Program at the Georgetown University Law Center. The

Appellate Litigation Program is a student clinic run through the law school in which third-year students, under the supervision of licensed attorneys, litigate appeals in this and other courts.

- h. The personnel of the clinic turns over during the summer. The students in the clinic who prepared the briefs before the United States Court of Appeals for the Fourth Circuit have graduated, and new students will not begin working for the clinic until the fall semester.
- i. The turnover in clinic personnel and the change in the issue being raised necessitates additional time for the new legal team to familiarize itself with the case and to brief the issues fully. In this regard, the matter is not unlike a change in counsel which has supplied “good cause” for a time extension under this Court’s rules. *See Gressman et al.*, Supreme Court Practice at 403 (9th ed. 2007).

2. The extension will provide adequate time for the new legal team fully to prepare a *certiorari* petition on Mr. Bowling’s behalf.

3. Similar applications previously have been approved by justices of this Court. *See, e.g.*, Application No. 12A105 (*Carrillo v. Tucker*) (July 20, 2012) (application for extension of time granted by Justice Thomas in light of turnover of appellate litigation clinic personnel).
4. No meaningful prejudice would arise from the extension. That is because, regardless of whether an extension is granted, this Court would hear oral argument and issue its opinion in the October 2019 term should the certiorari petition be granted.

CONCLUSION

For the foregoing reasons, the application should be granted and the deadline for filing a petition for a writ of *certiorari* should be extended sixty days to and including November 18, 2019.

Respectfully submitted,

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