

No. _____

IN THE SUPREME COURT OF THE UNITED STATES
October Term 2019

MICHAEL WADE NANCE,
Petitioner,

v.

BENJAMIN FORD, Warden,
Georgia Diagnostic Prison,
Respondent.

**APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

CAPITAL CASE

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TO THE HONORABLE CLARENCE THOMAS, Associate Justice of the Supreme Court of the United States, and Circuit Justice for the United States Court of Appeals for the Eleventh Circuit:

COMES NOW the Petitioner, MICHAEL WADE NANCE, by and through undersigned counsel, and pursuant to 28 U.S.C. §§ 1254 and 2101(c) and Supreme Court Rules 13.5 and 30.2, respectfully requests an extension of time of sixty (60) days to file his petition for a writ of certiorari in this Court. Mr. Nance seeks review of the decision of the United States Court of Appeals for the Eleventh Circuit (Case No. 17-15361), which was entered on April 30, 2019, affirming the District Court's denial of relief of Mr. Nance's federal habeas corpus petition. *See* Attachment A. The

Court of Appeals for the Eleventh Circuit denied Mr. Nance's petition for rehearing on July 11, 2019. *See* Attachment B.

Mr. Nance invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1254. His time to file a petition for a writ of certiorari currently expires on October 9, 2019, and Mr. Nance makes this request more than ten (10) days in advance of that date.

In support of his request, Mr. Nance shows the following as good cause:

1. This case involves an appeal from the decision of the United States Court of Appeals for the Eleventh Circuit, affirming the District Court's denial of his constitutional claims for relief as to his sentence of death.

2. This case presents significant questions of federal constitutional law which necessitate the filing of the forthcoming petition for a writ of certiorari and demand that the petition be built upon thorough research and a comprehensive examination of the record. The important constitutional questions involved in Mr. Nance's case include whether a defendant facing death may be subjected to excessive restraints during his capital trial without good cause, and whether trial counsel meets the required standard of effectiveness when he or she neglects to present mitigating and readily available evidence of a capital defendant's brain damage.

3. Undersigned counsel requests this extension of time in order to be able to dedicate the time and effort needed to competently present the issues posed by Mr. Nance's case to this Court. In the time since the denial of Mr. Nance's petition for rehearing, both undersigned counsel have been actively engaged in the

representation of other Georgia Resource Center clients, which has prevented them from giving the attention needed to Mr. Nance's petition for a writ of certiorari.

4. Since the denial of Mr. Nance's petition for rehearing, undersigned counsel Vanessa Carroll has been occupied in the preparation and drafting of an omnibus procedural default and merits brief in *Rivera v. Warden*, Case No. 1:13-CV-161 (S.D. Ga.), which was filed on September 3, 2019. Also during this period, Ms. Carroll, with undersigned counsel Cory Isaacson, prepared and drafted a motion for reconsideration in *O'Kelley v. Warden*, Case No. 4:15-CV-104 (S.D. Ga.), which was filed on July 26, 2019; prepared and drafted a reply to that motion, which was filed on August 23, 2019; assisted in the preparation for oral argument to the Supreme Court of Georgia in *Ford v. Tate*, Case No. S19A0825, which was argued on August 6, 2019; and prepared for the deposition of a state expert in *Edenfield v. Warden*, Butts County Superior Court Case No. 2014-HC-15, which occurred on September 5, 2019. Furthermore, from December 2018 until August 19, 2019, Ms. Carroll served as Interim Executive Director of the Georgia Resource Center, a small non-profit office providing post-conviction representation for Georgia's indigent death-sentenced prisoners, and was accordingly engaged in the attendant administrative and supervisory responsibilities of that role.

5. Since the denial of Mr. Nance's petition for rehearing, undersigned counsel Cory Isaacson has similarly been occupied in the representation of other Georgia Resource Center clients. Ms. Isaacson, along with Ms. Carroll, prepared and drafted a motion for reconsideration in *O'Kelley v. Warden*, Case No. 4:15-CV-104

(S.D. Ga.), which was filed on July 26, 2019, and prepared and drafted a reply to that motion, which was filed on August 23, 2019. In addition, Ms. Isaacson conducted a thorough examination of the case record in order to assist in the preparation for oral argument to the Supreme Court of Georgia in *Ford v. Tate*, Case No. S19A0825, which was argued on August 6, 2019. Ms. Isaacson has also been actively engaged in learning the record of Mr. Nance’s case—to which she was recently appointed—in order to competently represent him in his petition for a writ of certiorari and beyond.

WHEREFORE, for the foregoing reasons, undersigned counsel respectfully request an extension of time of sixty (60) days within which to file Mr. Nance’s petition for a writ of certiorari, up to and including December 8, 2019.

Respectfully submitted, this 20th day of September, 2019,

/s/Vanessa Carroll

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CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing document this day
by electronic mail on counsel for Respondent at the following address:

Clint C. Malcolm
Assistant Attorney General
132 State Judicial Building
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300
cmalcolm@law.ga.gov

This 20th day of September, 2019.

/s/Vanessa Carroll

Vanessa Carroll (Ga. 993425)
Georgia Resource Center

Counsel for Petitioner Michael W. Nance