

No. \_\_\_\_\_

**IN THE SUPREME COURT OF THE UNITED STATES**

MITCHELL WILLOUGHBY

Petitioner,

v.

DEEDRA HART, WARDEN,

Respondent.

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE SIXTH CIRCUIT

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

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**CAPITAL CASE**

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February 7, 2020

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

*To the Honorable Sonia Sotomayor, Associate Justice of the Supreme Court of the  
United States and Circuit Justice for the Sixth Circuit:*

Petitioner, Mitchell Willoughby, respectfully applies to this Court for an order extending the time in which to file his petition for writ of certiorari from February 17, 2000 until April 17, a period of sixty (60) days. Mr. Willoughby is filing this Application at least ten days before the present due date. See S.Ct. R. 13.5. This Court has jurisdiction under 28 U.S.C. §1257. In support of this Application, Petitioner states as follows:

1. Mr. Willoughby is incarcerated under conviction of murder for which he was sentenced to death. On August 29, 2019, the United States Court of Appeals for the Sixth Circuit issued an opinion in Case No. 14-6505, wherein the Court affirmed the judgment of the United States District Court for the Eastern District of Kentucky in case No. of the Kenton Circuit Court in Case No. 5:08-cv-179. See opinion attached herein as Attachment 1. Mr. Willoughby sought rehearing *en banc*, which was denied by the court on November 19, 2019. See Order attached herein as Attachment 2.

2. Mr. Willoughby now seeks a writ of certiorari for the United States Court of Appeals for the Sixth Circuit with respect to its decision rendered on August 29, 2019, as referenced above. This Court's jurisdiction to grant the same arises pursuant

to 28 U.S. C. § 1254 (1).

3. According to Supreme Court Rule 13.3, a petition for writ of certiorari is due on or before February 17, 2020. See Supreme Court Rule 13.3 (“the time to file the petition for a writ of certiorari . . . runs from the date of the denial of rehearing or, if rehearing is granted, the subsequent entry of judgment”). However, the time granted by Supreme Court Rule 13 will be insufficient to allow Petitioner’s counsel to do justice to the issues at hand, which are of vast import. Therefore, Petitioner seeks an extension of sixty (60) days in which to file his petition for a writ of certiorari. See Supreme Court Rule 13.5 (“[A] Justice may extend the time to file a petition for writ of certiorari for a period not exceeding 60 days”).

4. In accordance with Supreme Court Rule 13.5, this Application is submitted at least ten (10) days prior to the present due date. Further, the requested extension is made in good faith and not for the purposes of delay. Indeed, the requested extension is made because of the vital importance associated with the issues at hand – the right to a fair and reliable sentence. This Court has repeatedly emphasized that “our duty to search for constitutional error with painstaking care is never more exacting than it is in a capital case.” *Burger v. Kemp*, 483 U.S. 776, 785 (1987). It is respectfully submitted that counsel’s duty to present all authorized claims of constitutional error with care is of equal import. Thus, it is important that counsel be granted additional time to research the constitutional issues at hand and prepare Mr. Willoughby’s petition with the care and accuracy demanded of such cases.

5. Obligations on behalf of clients of both counsel, including clients who have

been sentenced to death, have precluded counsel from being able to direct adequate time and attention to the preparation of a petition for writ of certiorari on Petitioner's behalf. Therefore, in light of counsel's current obligations and the importance of the constitutional issues that will be presented in this capital case, counsel submit that a sixty (60) day extension is necessary and appropriate in order to effectively prepare the petition for certiorari on Mr. Willoughby's behalf.

Wherefore, in the interest of justice and for good cause shown, counsel for Mr. Willoughby respectfully request that this Court extend the current February 17, 2020 deadline until April 17, 2020.

Respectfully submitted,

/s/ Dennis J. Burke  
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**CERTIFICATE OF SERVICE**

I, Dennis J. Burke, a member of the Bar of this Court, hereby certify that on February 7, 2020, a copy of this Application for Extension of Time to File a Petition for a Writ of Certiorari in the above entitled case was mailed, first class postage prepaid, to, Hon. Matthew Krygiel, Assistant Kentucky Attorney General, 1024 Capital Center Drive, Frankfort, KY, 40601. I further certify that all parties required to be served have been served.

/s/ Dennis J. Burke

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