

S.Ct. # _____
UNITED STATES SUPREME COURT

Nicholas Hudson,

Petitioner,

Mich. S.Ct. # 158323

v.

Mich. Court of Appeals # 341748

People of the State of Michigan,

Respondent.

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**On Petition for Writ of Certiorari to the
Michigan Court of Appeals**

**PETITIONER'S APPLICATION TO EXTEND TIME FOR FILING THE
PETITION FOR WRIT OF CERTIORARI**

ADDRESSED TO JUSTICE SONIA SOTOMAYOR

Timothy M. Holloway
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Now comes Petitioner, Nicholas Hudson, by and through his attorney, Timothy M. Holloway, moves for a sixty (60) day extension of time in which to file the Petition for Writ of Certiorari and states in support:

1. Extraordinary circumstances, involving the severe medical condition and hospitalization of Hudson's former attorney, James S. Lawrence, justify full consideration of this application to extend the time for filing the certiorari petition although this application for an extension is not being filed more than ten (10) days prior to the current deadline. See Rule 13.5 ("The application must be filed with the Clerk at least 10 days before the date the petition is due, except in extraordinary circumstances.""). Prior to Mr. Lawrence's severe medical emergency, it was contemplated that Mr. Lawrence would timely file the petition for certiorari with the U.S. Supreme Court. Mr. Lawrence was attorney of record during all of the lower court proceedings, that are list below, from the motion for reconsideration that was filed on or about June 24, 2016, in the Wayne County Circuit Court through the proceedings in the Michigan Supreme Court which ended on April 25, 2019.

2. Mr. Lawrence was admitted to the hospital on or about July 5, 2019, and has been in the hospital until today's date.

3. Mr. Lawrence's severe medical condition involved removal of a kidney,

along with urinating blood and blood clots.

4. Petitioner Hudson's relatives did not find another attorney to file this application for an extension until yesterday, July 22, 2019.

5. This application for an extension is being filed, prior to the current deadline for filing the certiorari petition, by Express U.S. Mail under Rule 29.2. Rule 29.2 ("A document is timely filed . . . if it is sent to the Clerk through the United States Postal Service by first-class mail (including express or priority mail), postage prepaid, and bears a postmark, other than a commercial postage meter label, showing that the document was mailed on or before the last day for filing.").

6. The petition is currently due on July 24, 2019.

7. On April 25, 2019, the Michigan Supreme Court entered an order denying a timely filed application for leave to appeal. (Exhibit A, *People v. Nicholas Hudson*, Mich S.Ct. #158232)

8. On July 3, 2018, the Michigan Court of Appeals issued an order denying a timely application for leave to appeal. (Exhibit B, *LLC, People v. Nicholas Hudson*, Mich. Court of Appeals # 341748)

5. On December 1, 2016, the Wayne County Circuit Court entered an order denying Petitioner Hudson's motion for relief of judgment that was filed on or

about June 24, 2016, pursuant to M.C.R. 6.500 et seq. (Exhibit C, *People v. Nicholas Hudson*, Order Denying Defendant's Motion for Relief from Judgment, Wayne County Circuit Ct. # 99-012250-01-FC)

6. On June 30, 2017, the Wayne County Circuit Court entered an order denying Petitioner Hudson's timely motion for reconsideration of the court's December 1, 2017 order. (Exhibit D, *People v. Nicholas Hudson*, Order, Wayne County Circuit Ct. # 99-012250-01-FC)

7. The statutory provision which provides the Court with jurisdiction to grant a writ of certiorari to review the state court proceedings is 28 U.S.C. § 1257.

8. An extension is justified due to the problems created by Mr. Lawrence's aforementioned medical emergency and, if Mr. Lawrence's condition does not sufficiently improve: (A) the time needed for Petitioner Hudson to retain another attorney; and (B) the time needed for that attorney to be able to draft and produce the petition for certiorari.

9. Petitioner Hudson's conviction herein is for first-degree murder and felony firearm. Based on these convictions, Hudson is serving a life sentence without possibility of parole.

9. The federal issues presented throughout the aforementioned proceedings in the state court include issues based on a burden-shifting Due Process issue

related to the prosecutor's misconduct at trial and ineffective assistance of appellate counsel issue. However, undersigned counsel believes the most striking issues involve the issues summarized in the next paragraph of this application for an extension.

10. The most disturbing issues may be based on the fact that the trial court prevented the jury from learning important facts related to Hudson's guilt or innocence and regarding credibility of witnesses as follows. The jury was not able to learn that Petitioner Hudson was a witness, in a federal criminal matter against police officers, including one of the officers (Officer Voizell Jennings) who testified at Petitioner Hudson trial herein. There were also other errors related to the cross examination of witnesses when defense counsel was not able to inquire about: (a) one witness's possible involvement in the offense for which Hudson was being tried; (b) another witness's prior misidentification of individuals; and (c) another witness's possible receipt of deals and promises for his testimony. These errors implicated the constitutional right to present a defense as guaranteed by the Sixth Amendment's Compulsory Process Clause and the 14th Amendment's Due Process Clause, *see, e.g., Rock v. Arkansas*, 483 U.S. 44 (1987), along with the Sixth Amendment's Confrontation Clause;

11. Supreme Court Rule 13.5 is the authority for an extension of sixty (60)

days in which to file the petition for a writ of certiorari.

12. An extension of sixty (60) days beyond the current deadline will extend the deadline to September 22, 2019.

WHEREFORE, Petitioner prays that the Court grant a 60 day extension to September 22, 2019, in which to file the Petition for a Writ of Certiorari.

Respectfully submitted,

Dated: July 23, 2019

Timothy M. Holloway
Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Timothy M. Holloway, certify that I am a member of the Bar of the Supreme Court and that, on July 23, 2019, I served Petitioner's Application to Extend the Time for Filing the Petition for Writ of Certiorari on the respondent by service, via first-class mail, upon the respondent's attorney at the following address:

Kym L. Worthy
Wayne County Prosecutor
1441 Saint Antoine St, 11th Floor
Detroit, MI 48226

The phone number for Ms. Worthy is (313) 224-5777. Ms. Worthy and her office are also being served, on today's date, with this document by email addressed to:

1. kworthy@waynecounty.com ;
2. wcaapeals@waynecounty.com ;and
3. WCPAAppeals@waynecounty.com

All parties required to be served have been served.

Respectfully submitted,

Date: July 23, 2019

Timothy M. Holloway