

CAPITAL CASE

19-

In The

SUPREME COURT OF THE UNITED STATES

October Term 2019

Richard Hurles,

Applicant/Petitioner,

v.

David Shinn,

Respondent.

**Application for an Extension of Time Within
Which to File a Petition for a Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit**

**APPLICATION TO THE HONORABLE JUSTICE
ELENA KAGAN AS CIRCUIT JUSTICE**

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November 7, 2019

APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Richard Hurles hereby requests a 60-day extension of time within which to file a petition for a writ of certiorari up to and including Monday, February 17, 2020.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *Richard Hurles v. Charles Ryan*,¹ No. 16-99007 (February 5, 2019), Exhibit A. The United States Court of Appeals for the Ninth Circuit denied Applicant's petition for panel rehearing and petition for rehearing *en banc* on August 21, 2019, Exhibit B.

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254(1). Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for a writ of certiorari was due to be filed on or before November 19, 2019. In accordance with Rule 13.5, this application is being filed more than 10 days in advance of the filing date for the petition for a writ of certiorari. Counsel for Respondent, Assistant Attorney General Lacey Gard, does not oppose this request.

REASONS JUSTIFYING AN EXTENSION OF TIME

Applicant respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari seeking review of the decision of the United

¹ David Shinn has since replaced Charles Ryan as the Director of the Arizona Department of Corrections and the Respondent to this proceeding.

States Court of Appeals for the Ninth Circuit in this case, up to and including February 17, 2020.

This case involves a complex question of what standard the district court, which denied the writ of habeas corpus, was to apply to a claim of judicial bias on remand from the Ninth Circuit. Additionally, this case involves the important question on the extent to which *Martinez v. Ryan*, 566 U.S. 1 (2012) may be used to overcome the procedural default of a claim.

1. Applicant requests an extension of time due to counsel's professional obligations. Both Mr. Schaye and Ms. Skinner work for the Arizona Capital Representation Project, a small non-profit legal resource center that represents people on Arizona's death row, as well as inmates who were sentenced to life as juveniles. Between the two of them, Mr. Schaye and Ms. Skinner have three capital state post-conviction petitions due in January 2020. Ms. Skinner recently sought a lengthy extension in one of those cases, but was only given until January. Investigating and preparing those post-conviction petitions has taken up the bulk of Mr. Schaye's and Ms. Skinner's time since the Ninth Circuit denied relief in Mr. Hurles' case. Additionally, Mr. Schaye is preparing for an evidentiary hearing in another capital state post-conviction case in April 2020.

2. Due to their obligations in other death penalty matters, Mr. Schaye and Ms. Skinner have not yet been able to conduct the work necessary to prepare Hurles' petition for writ of certiorari. Because of their professional obligations, and

because of the high stakes of Mr. Hurles' capital case, Petitioner requests an extension of time.

Conclusion

For the foregoing reasons, Petitioner respectfully request an extension of time to file his Petition for Writ of Certiorari for 60 days, until February 17, 2020.

Respectfully submitted,

s/ Emily Skinner

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