

NO. 20-7674

In the Supreme Court of the United States

KAUNTAU REEDER
Petitioner

v.

TIMOTHY HOOPER, WARDEN,
Respondent.

ON PETITION TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

UNOPPOSED MOTION FOR NINETY DAY EXTENSION
PENDING STATE COURT REVIEW

Comes now the Respondent, Warden Darrel Timothy Hooper¹, through the District Attorney for Orleans Parish, without opposition of the petitioner, moves pursuant to U.S. Supreme Court Rule 39.4 for a ninety day extension to file a Brief in Opposition to allow for further state court review. As grounds, Respondent states as follows:

¹ In accordance with Federal Rule 43 (c)(2) of the Federal Rules of Appellate Procedure, Timothy Hooper is substituted for Darryl Vannoy.

1. Petitioner was indicted for second degree murder on October 7, 1993.

His first trial resulted in a hung jury. He was then convicted by a non-unanimous jury at his second trial and sentenced to life without the possibility of parole.

2. According to the United States Court of Appeal for the Fifth Circuit, petitioner was convicted based upon the testimony of a single eye-witness, Earl Price. See *Reeder v. Vannoy*, 978 F.3d 272, 274 (5th Cir. 2020) (“Price was the only eyewitness to the shooting who testified at Reeder’s trial.”). However the testimony was “not the only evidence linking [the defendant] to the crime” as there was no objection to corroborating evidence which “may have qualified as hearsay.” *Id.*

3. Petitioner alleged a *Brady* violation arising from the non-disclosure of evidence that impeached the credibility of Earl Price.² The United States Court of Appeal for the Fifth Circuit rejected petitioner’s *Brady* claims, finding the undisclosed federal conviction of Earl Price “cumulative of other evidence disclosed to the defense – including the assault and battery conviction that was revealed to the jury during Price’s cross-examination.” *Reeder v. Vannoy*, 978 F.3d 272, 279 (5th Cir. 2020).

² The information alleged as a *Brady* violation in the federal habeas petition was an undisclosed “federal conviction on the charge of a falsified gun application.” *Reeder v. Cain*, No. CV 13-6493, 2014 WL 12815163, at *6 (E.D. La. Aug. 15, 2014), report and recommendation adopted, No. CV 13-6493, 2017 WL 1056011 (E.D. La. Mar. 21, 2017), aff’d sub nom. *Reeder v. Vannoy*, 978 F.3d 272 (5th Cir. 2020).

4. In preparing to file the State's *Brief in Opposition* in this Court, the office reviewed the file and determined that there was additional exculpatory and impeachment evidence that had not previously been provided to the petitioner. The District Attorney's Office has supplemented its disclosures, and the petitioner has sought leave to file a supplemental application for state post-conviction relief in state court.

5. The proceedings in state court may moot or inform the issue jurisdiction of this Court. Cf *Johnson v. California*, 541 U.S. 428, 429–30, 124 S. Ct. 1833, 1834–35, 158 L. Ed. 2d 696 (2004) (discussing 28 U.S.C. § 1257, and the limited review of “[f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had.”) citing *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 95 S.Ct. 1029, 43 L.Ed.2d 328 (1975).

6. Counsel for Petitioner has indicated that the petitioner has no objection holding the proceedings in abeyance and allowing the state court process to complete prior to addressing the issue before the United States Supreme Court.

Wherefore, respondent respectfully seeks a ninety day extension.

Respectfully,

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