

Case No.

IN THE SUPREME COURT OF THE UNITED STATES

STEVEN BRYANT,

Petitioner,

-v-

SHAWN EMMONS,
Warden, Valdosta State Prison,

Respondent.

**MOTION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF GEORGIA**

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COUNSEL FOR PETITIONER

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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, Steven Bryant, by and through undersigned counsel, and pursuant to 28 U.S.C. §§ 1257, 2101(c) and Supreme Court Rule 13.5, respectfully requests an extension of time of sixty (60) days within which to file his Petition for Writ of Certiorari to the Supreme Court of Georgia. The decision he seeks to have reviewed is the decision of the Supreme Court of Georgia entered on October 5, 2021, reversing the state habeas court's ruling that Mr. Bryant's appellate counsel had rendered ineffective assistance by failing to properly assert several

instances of trial counsel ineffectiveness, failing to properly present certain claims of trial error, and failing to pursue relief for the violation of Mr. Bryant's right to conflict-free appellate counsel.

See Appendix A. Mr. Bryant's Motion for Reconsideration of the Georgia Supreme Court's decision was denied on November 2, 2021. *See Appendix B.* Mr. Bryant's time to petition for a Writ of Certiorari in this Court expires on January 31, 2022. This request is made more than ten (10) days before the petition would be due without an extension of time, and Petitioner shows the following good cause in support of this request (*see* 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5 and 30.2):

1. On July 8, 2015, Mr. Bryant was found guilty of aggravated sexual battery after jury trial in the Superior Court of Floyd County, Georgia, on July 8, 2015. He was sentenced to life without possibility of parole. His conviction and sentence were affirmed by the Georgia Court of Appeals on June 12, 2018, in an unreported decision in *Bryant v. State*, Case No. A18A0342.

2. On June 18, 2019, Mr. Bryant filed an initial state habeas petition, *pro se*, in the Superior Court of Lowndes County challenging his conviction. On June 30, 2020, the habeas court issued a final order granting relief and setting aside the conviction. Respondent appealed to the Supreme Court of Georgia.

3. On referral from the Supreme Court of Georgia and with the consent of Mr. Bryant, the Habeas Project of the Mercer University School of Law undertook representation of Mr. Bryant in the appeal.¹ The Habeas Project is a law clinic staffed by undersigned counsel, the director of the Habeas Project, and a handful of 3rd year law students.

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4. On October 5, 2021, the Supreme Court of Georgia issued an opinion reversing the habeas court's grant of relief. *See Appendix A.* On November 2, 2021, the Supreme Court of Georgia denied reconsideration.

5. Petitioner wishes to file a Petition for Writ of Certiorari requesting that this Court review the Supreme Court of Georgia's denial of Petitioner's Constitutional rights. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

6. Currently, a Petition for Writ of Certiorari to appeal the final judgment of the Supreme Court of Georgia is due on or before January 31, 2022. However, an extension of time in which to file this Petition is sought because undersigned counsel and student staff have conflicting obligations in other Georgia habeas cases which have prevented the Habeas Project from devoting adequate time toward completing Petitioner's Petition for a Writ of Certiorari.

7. The following matters necessitate this request for an extension of time:

- On November 30, 2021, undersigned filed the Appellant's Brief in *Rawls v. State*, Georgia Supreme Court case number S22A0134, and a reply on December 17, 2021. Undersigned will conduct oral argument on January 19, 2022.
- On September 21, 2021, the Supreme Court of Georgia granted an application for certificate of probable cause to appeal filed in *Davenport v. Ward*, case number S21H0847. Undersigned must file the Appellant's Brief on February 15, 2022.

8. Additionally, Habeas Project students have just completed their fall exams and are currently on winter break until January 18.

9. A sixty (60) day extension of the due date for the Petition for Writ of Certiorari in the instant case, until April 1, 2022, is requested to accommodate these competing obligations and to allow the clinic to prepare a competent Petition.

10. A Petition for Writ of Certiorari is essential because Mr. Bryant believes that the Supreme Court of Georgia erred in reversing the habeas court's grant of relief in favor of Mr.

Bryant. In particular, the Georgia Supreme Court erred in reversing the lower court's finding of ineffective assistance of appellate counsel with respect to litigating trial counsel's failure to impeach the co-defendant witness, Kim Bridges, by introducing available evidence that would have directly contradicted her testimony that she had received no benefit from the state for her testimony and provided ample bases to challenge her credibility. In reversing the habeas court's grant of relief as to this claim, the Supreme Court of Georgia failed to address key facts pertinent to the determination of trial and appellate counsel's deficient performance and prejudice under *Strickland v. Washington*, 466 U.S. 668 (1984) and related precedent. Because the alleged victim, Shirley Hudgens, passed away before trial, Bridges was the only witness to see any interaction between Mr. Bryant and Hudgens at the time of the alleged assault. She testified that she saw Bryant assault Hudgens, that Bryant had intended beforehand to wake up Hudgens to cajole her to engage in sexual intercourse with him, and that Bryant sent apologetic text messages to Hudgens. Since the state's case rested largely upon Bridges' testimony, her false and misleading testimony under questioning about incentives for her to shade her testimony were highly prejudicial. Both trial and appellate counsel were aware that Bridges had entered into a highly beneficial agreement with the prosecutor which allowed her to avoid a sex crime conviction and substantial prison time, but they failed to present available evidence of the agreement either at trial or on appeal in support of a trial counsel ineffectiveness claim. The state habeas court correctly applied *Strickland* in finding appellate counsel ineffective, and the Georgia Supreme Court should have affirmed.

WHEREFORE, undersigned counsel respectfully requests an extension of time of sixty (60) days within which to file the Petition for Writ of Certiorari, up to and including Friday, April 1, 2022.

Dated: This 6th day of January 2022.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing document this day by U.S. Mail and/or electronic mail on counsel for Respondent at the following address:

Meghan Hill
Assistant Attorney General
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This the 6th day of January 2022.



Attorney