

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

VON TAYLOR,
Petitioner,

- v. -

ROBERT POWELL, Warden,
Respondent.

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

**UNOPPOSED APPLICATION TO THE
HONORABLE JUSTICE NEIL GORSUCH
FOR EXTENSION OF TIME TO FILE
PETITION FOR A WRIT OF CERTIORARI**

CAPITAL CASE

BRIAN M. POMERANTZ (Bar #: 291976)*
P.O. Box 853
Carrboro, NC 27510
Habeas@protonmail.com
(323) 630-0049

KENNETH F. MURRAY
316 East Mitchell Drive
Phoenix, AZ 85012
kfmurray2013@gmail.com
(602) 684-7391

Attorneys for Defendant-Petitioner
*Counsel of Record

**APPLICATION FOR EXTENSION OF
TIME TO FILE PETITION FOR A WRIT OF CERTIORARI
[28 U.S.C. § 2101(c); SUPREME COURT RULES 13.5, 22, AND 30]**

To the Honorable Justice Neil Gorsuch, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Tenth Circuit.

Petitioner Von Taylor, by undersigned counsel, pursuant to Title 28, United States Code, section 2101(c), and Supreme Court Rules 13.5, 22, and 30, respectfully requests that the Court grant him a thirty (30) day extension of time from January 6, 2022, to and including February 7, 2022,¹ within which to file a petition for a writ of certiorari to the United States Court of Appeals for the Tenth Circuit.

The judgment sought to be reviewed is that of the Tenth Circuit Court of Appeals in the case entitled *Taylor v. Powell*, Tenth Circuit case no. 20-4039. On July 30, 2021, the Tenth Circuit Court of Appeals issued a judgment reversing the district court judgment granting the Petition for Writ of Habeas Corpus. A copy of the Tenth Circuit opinion is appended hereto as Appendix A. A timely petition for rehearing was denied on October 8, 2021. A copy of the Tenth Circuit Order denying the Petition for Rehearing is appended hereto as Appendix B. Without extension, the time allowed by law for filing a petition for a writ of certiorari will expire on January 6, 2022.

The jurisdiction of this Court is invoked under the provision of 28 U.S.C. § 1254. The district court had subject matter jurisdiction pursuant to 28 U.S.C. § 2254. The Tenth Circuit court had jurisdiction pursuant to 28 U.S.C. §§ 1291 and 2253.

This petition for a writ of certiorari will address whether the Tenth Circuit disregarded Utah Supreme Court law regarding accomplice liability notice

¹ The thirtieth day falls on February 5, 2022, a Saturday. Pursuant to Supreme Court rule 30.1, the petition for a writ of certiorari would therefore be due on February 7, 2022.

requirements in the State of Utah.

This extension is requested now because both of Mr. Taylor's counsel are currently on another capital habeas case with a federal habeas petition presumptively due on February 9, 2022.² *See Contreras v. Broomfield*, Eastern District of California case no. 1:19-cv-01523-AWI-SAB. Additionally, Petitioner's counsel, Brian M. Pomerantz, has been working on a petition for a writ of certiorari for *Epperson v. Commonwealth*, Kentucky Supreme Court case no. 2019-SC-0724-MR, that will be timely filed before its required date of December 29, 2021. Along with the habeas petition he is co-counsel on, Petitioner's counsel, Kenneth F. Murray, has also been battling fatigue from long-covid.

On December 15, 2021, Mr. Pomerantz, counsel for Mr. Taylor, corresponded with Assistant Solicitor General Andrew Peterson, counsel for Warden Robert Powell. Mr. Peterson stated that he does not oppose this application for a thirty-day extension of time to file the petition for a writ of certiorari.

Wherefore, it is respectfully requested that the time within which to petition for a writ of certiorari herein be extended thirty-days to and including February 7, 2022.

Respectfully submitted,

DATED: December 20, 2021

/S/ Brian M. Pomerantz
BRIAN M. POMERANTZ*

Attorney for Petitioner
*Counsel of Record

² The magistrate court has recommended equitable tolling through February 9, 2022, but the district court has not yet adopted the recommendation.