

No. _____

Supreme Court, U.S.

FILED

MAR 10 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

APPLICATION TO JUSTICE SONIA SOTOMAYOR
FOR AN EXTENSION OF TIME TO FILE A
PETITION FOR WRIT OF CERTIORARI

MARK A. HILL A766-443

Pickaway Correctional Inst.

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Orient, Ohio 43146

APPLICANT PRO SE

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MAR 18 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

MEMORANDUM

Now comes Mark A. Hill, pro se, pursuant to USCS Supreme Ct. R. 22, requesting Justice Sotomayor to grant him an extension of time to file a Petition for Writ of Certiorari to the Court of Appeals of Ohio, Tenth Appellate District.

On Wednesday, November 27, 2019, Applicant was transported to Noble Correctional Institution (NCI) located in Caldwell, Ohio. In February 2021, Applicant submitted a request for 'hardship' transfer from NCI to Pickaway Correctional Institution (PCI) in order to be located closer to family for visiting purposes, reducing the distance from a two (2) hour drive in both directions to a twenty (20) minute trip each way. In March 2021, Applicant's transfer request was approved and he was placed on the waiting list.

On April 8, 2021, Applicant timely filed an Ohio Appellate Rule 26(B) Application for Reopening of direct appeal based upon claims of ineffective assistance of appellate counsel in the Tenth District Court of Appeals of Ohio.

On September 2, 2021, the court of appeals filed a Memorandum Decision denying the application to reopen. On September 7, 2021, the Journal Entry denying the App. R. 26(B) application was filed.

On October 20, 2021, Applicant timely filed a Notice of Appeal and Memorandum in Support of Jurisdiction in the Supreme Court of Ohio.

On December 14, 2021, the Supreme Court filed an Entry declining to accept jurisdiction of the appeal. Applicant did not seek a reconsideration of the jurisdictional decision.

Due to the October 2021 change implemented by the Ohio Department of Rehabilitation and Correction (ODRC) requiring all mail received from the

Courts to be treated as regular mail and no longer legal mail, and a photocopy of the original document(s) then forwarded to the prisoner, Applicant was not served with the Entry until December 27, 2021.

In January 2022, Applicant began preparing a petition for writ of certiorari on a word processor in the NCI law library.

At 1:40 pm on February 14, 2022, Applicant was informed that he would be transferred from NCI to PCI the next morning and that all personal and state issued property in his possession must be taken to Receiving & Discharge (R&D) by 3:00 pm that same day.

As a result of the limited time provided to Applicant for packing his property (clothing, electronics, legal materials, commissary, etc.) and getting to R&D, where an Inmate Property Record is completed, he was unable to obtain a copy of his certiorari petition containing almost 4,800 words from the NCI law library that he began preparing the second week of January.

One of the delays in Applicant beginning the petition was due to his 50 year-old sister, Carla Hill, unexpectedly passing away after contracting COVID-19 in combination with some underlying health issues.

Upon arriving at PCI on Tuesday, February 15, 2022, Applicant was informed that institution policy required permission be obtained from the Institution Inspector to possess his legal materials.

After failing to gain access to the PCI Inspector during the posted open-office hours, Applicant sent an electronic Kite requesting his legal materials on February 18, 2022. (No. PCI0222001526)

On February 22, 2022, Applicant was able to gain access to his legal materials in order to attempt to reproduce the nearly 4,800 word document and complete the petition for writ of certiorari prior to the March 14, 2022 deadline.

Currently, PCI is suffering from a major staff/employee shortage which has adversely affected Applicant's access to the prison law library.

ODRC Policy No. 59-LEG-01.VI.A.4. mandates that "Each law library shall establish a schedule of reasonable hours that provide inmates with adequate access to legal materials."

Ohio Administrative Rule 5120-9-20(B), Inmate Access to Legal Services, in pertinent parts, sets forth: "(1) . . . a reasonable opportunity to prepare legal documents."

" * * * .

"(6) Inmates shall be permitted reasonable access to typewriters . . . for the typing preparation of legal documents."

Since arriving at PCI, access to the prison law library has been as follows:

- February 18-20, Closed
- February 21, Closed (Holiday)
- February 22-23, 8-10:30A/12:30-3:00P
- February 24, 8-9:30A/12:30-2:30P
- February 25-27, Closed
- March 1, 12:30-3P/5:30-6:30P
- February 28, 12:30-3P/5:30-6:30P
- March 1, 8-10:30A/12:30-3P
- March 2, 8-10:30A/12:30-3P
- March 3-6, Closed

The PCI law library provides four (4) word processors for preparing legal documents, with a 30-minute limit per period for the entire prison population. There may be moments where an individual may utilize the word processor for a longer period depending upon availability.

As such, Applicant determined that it would be impossible to meet the March 14, 2022 deadline in this matter. Applicant offers that the above is demonstrative of extraordinary circumstances that are clearly beyond his control or influence.

Additionally, on February 22, 2022, Applicant was informed of a February 8,

2022 decision rendered by the Supreme Court of Ohio pertaining to App. R. 26(B) applications for reopening, in State v. Leyh, 2022-Ohio-292, which addresses nearly the same issue(s) of determining ineffective assistance of appellate counsel submitted by the applicant.

The Leyh case was accepted by the Court on September 1, 2020 and pending when Applicant filed his case on October 20, 2021. See 159 Ohio St.3d 1487, 2020-Ohio-4232, 151 N.E.3d 639.

Based upon the relevant legal question resolved by the Supreme Court of Ohio regarding Ohio App. R. 26(B), Applicant offers that he should be provided the opportunity to adequately incorporate this legal standard in the questions presented for certiorari consideration.

CONCLUSION

WHEREFORE, the applicant hereby requests an extension of time, up and through April 30, 2022, to file a petition for writ of certiorari to the Tenth District Court of Appeals of Ohio in the application for reopening of direct appeal based on genuine issues of ineffective assistance of appellate counsel.

Respectfully submitted,



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