

NO. _____ (CAPITAL CASE)

IN THE SUPREME COURT OF THE UNITED STATES

GEORGE EDWARD MCFARLAND,

Petitioner,

vs.

BOBBY LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION

Respondent.

On Petition for a Writ of Certiorari to
The United States Court of Appeals for the Fifth Circuit

**APPLICATION FOR A 30-DAY EXTENSION OF TIME TO FILE A
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

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**APPLICATION FOR A 30-DAY EXTENSION OF TIME TO FILE A
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

TO THE HONORABLE SAMUEL ALITO, ASSOCIATE JUSTICE, AND CIRCUIT JUSTICE FOR THE
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT:

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioner George Edward McFarland (“McFarland”) respectfully seeks a 30-day extension of time, until July 27, 2022, to file a petition for a writ of certiorari seeking review of the Fifth Circuit’s judgment issued February 14, 2022, in a published decision, *McFarland v. Lumpkin*, 26 F.4th 314 (5th Cir. 2022) (*See* Appendix A). Counsel for Respondent do not oppose the requested 30-day extension.

1. On July 13, 2020, the Fifth Circuit granted a certificate of appealability (“COA”) to appeal the denial of four claims by the district court. *McFarland v. Davis*, 812 F. App’x 249 (5th Cir. 2020) (Appendix B). Following affirmance, McFarland filed timely petitions for panel rehearing and rehearing en banc, both of which were denied on March 29, 2022. App. C.

2. At present, McFarland has until June 27, 2022, to file a petition for a writ of certiorari seeking review of the Fifth Circuit’s judgment. *See* S. Ct. R. 13.1.

3. The district court had jurisdiction under 28 U.S.C. § 2241(a). The Fifth Circuit had appellate jurisdiction under 28 U.S.C. §§ 1291, 2241, and 2253. This Court has jurisdiction under 28 U.S.C. § 1254(1).

4. Under Rule 13.5 and Rule 30.3, this Court may extend the time for seeking certiorari for up to sixty additional days.

5. Undersigned counsel Jared Tyler (“Tyler”) respectfully seeks this extension of time because of the importance of the issues in this case and counsel’s obligations in other matters.

6. This is a capital case, and the issues to be presented are significant. The court below granted a certificate of appealability as to four distinct claims, reflecting the substantiality of the issues involved in the case. *See* Appendix B. These issues include, *inter alia*, the right to counsel under the Sixth Amendment during a police lineup and during a capital trial.

7. Counsel Tyler was appointed below pursuant to 18 U.S.C. § 3599. Tyler is a solo practitioner who provides legal services part-time to a non-profit legal services corporation (Texas Defender Service) and also serves as resource counsel for a regional Habeas Assistance and Training program in Texas, in which capacity he consults on capital cases and provides other services related to increasing the effectiveness and efficiency of representation in capital cases in federal court. Tyler is appointed counsel on three other capital matters at various stages and participates as counsel or consulting counsel in at least five other capital matters, several of which are presently active. In late April, Tyler had a hearing in a capital case in which he is counsel of record in state court and anticipates post-hearing briefing in the case to be filed in June. He also has a pre-scheduled vacation for the second week in June. His consulting and other duties have been substantial during the period.

CONCLUSION

For the foregoing reasons, the application for extension of time should be granted, extending McFarland's time to file a petition for writ of certiorari for thirty days, or until July 27, 2022.

Respectfully submitted,

s/ Jared Tyler

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