

OCTOBER TERM, 2021

CASE NO. _____
IN THE SUPREME COURT OF THE UNITED STATES

CHADRICK FULKS,

Petitioner,

v.

T. J. WATSON, WARDEN, USP-TERRE HAUTE,
UNITED STATES OF AMERICA,

Respondent.

**UNOPPOSED MOTION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

PETITIONER, Chadrick Fulks, through undersigned counsel, respectfully moves for an extension of sixty (60) days, until August 8, 2022, to prepare and file his Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit. In support of this request, Petitioner respectfully submits:

1. Petitioner was sentenced to death by a federal jury in June 2004. His convictions and sentence were affirmed by the United States Court of Appeals for the Fourth Circuit. *See United States v. Fulks*, 454 F.3d 410 (4th Cir. 2006), *cert. denied*, 551 U.S. 1147 (2007). Petitioner's motion to vacate his convictions and sentence and for a new trial pursuant to 28 U.S.C. § 2255 were denied and the denial was affirmed on appeal. *United States v. Fulks*, 683 F.3d 512 (4th Cir. 2012), *cert. denied*, 551 U.S. 1147 (2013).

2. On January 29, 2015, Petitioner filed a pro se Petition for Writ of Habeas Corpus in the U.S. District Court for the Southern District of Indiana pursuant to 28 U.S.C. § 2241 and, after counsel were appointed, he filed a counseled amended habeas petition on March 8, 2019. In it, he averred that he was intellectually disabled under current legal and diagnostic standards, and thus categorically exempt from execution under *Atkins v. Virginia*, 536 U.S. 304 (2002). The district court denied relief without a hearing, *Fulks v. Krueger*, No. 215-CV-00033, 2019 WL 4600210 (S.D. Ind. Sept. 20, 2019), and the Seventh Circuit affirmed, *Fulks v. Watson*, 4 F.4th 586 (7th Cir. 2021) (attached as Exhibit A). Petitioner’s petition for rehearing was denied on March 11, 2022 (attached as Exhibit B).

3. Petitioner intends to seek certiorari review in this case. This Court will have jurisdiction over the petition under 28 U.S.C. § 1254(1). Petitioner’s certiorari petition is currently due on June 9, 2022. In accordance with this Court’s Rules, Petitioner’s request for an extension of time is being made at least ten (10) days in advance of the current due date.

4. Petitioner requests additional time in which to file his petition. Petitioner’s case is complex. The petition for writ of certiorari will address the denial of review under 28 U.S.C. § 2241 on a claim for relief based on a diagnosis of intellectual disability and the prohibition on the execution of the intellectually disabled set forth by *Atkins*. Petitioner must address, inter alia, (1) the evolution of the this Court’s jurisprudence on *Atkins* claims, *see, e.g., Hall v. Florida*, 134 S. Ct. 1986 (2014), *Moore v. Texas*, 137 S. Ct. 1039 (2017), and *Moore v. Texas*, 139 S. Ct. 666 (2019); (2) the substance of current diagnostic standards for intellectual disability; (3) the threshold factors set forth by 28 U.S.C. § 2255(h) for the filing of a successive § 2255 motion; (4) the standard set forth by § 2255(e) (§ 2255’s “savings clause”), which relates to when review of § 2241 is appropriate; and (5) the relationship between these diagnostic standards, *Atkins*

jurisprudence, § 2255(h), and the savings clause. Given the complexity of these issues and the significance of this capital case, counsel for Petitioner requests additional time to conduct the careful briefing and thorough research needed to provide this Court with a professionally adequate petition for writ of certiorari.

5. On May 26, 2022, William A. Glaser, who is counsel for Respondent, indicated that he has no objection to Petitioner's extension request.

WHEREFORE, Petitioner prays that the Court allow a sixty (60) day extension of time, until August 8, 2022, for the preparation and filing of his Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

Respectfully submitted,

/s/ Peter Williams

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Counsel of Record for Petitioner Chadrick Fulks,
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Dated: May 26, 2022