

**CAPITAL CASE**

**22-**

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**In The  
SUPREME COURT OF THE UNITED STATES**

**October Term 2022**

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**Ronald Jeffrey Prible,  
*Applicant,***

**v.**

**Bobby Lumpkin, Director, Texas Department of Criminal Justice,  
Correctional Institutions Division,  
*Respondent.***

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**Application for Extension of Time Within  
Which to File for a Writ of Certiorari to the  
United States Court of Appeals for the Fifth Circuit**

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**APPLICATION TO THE HONORABLE JUSTICE  
SAMUEL A. ALITO, JR., AS CIRCUIT JUSTICE**

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GRETCHEN N. SCARDINO  
SCARDINO LLP  
501 Congress Avenue, Suite 150  
Austin, TX 78701  
(512) 443-1667  
gretchen@scardinollp.com

PHILIP H. HILDER  
JAMES G. RYTTING  
HILDER & ASSOCIATES, P.C.  
819 Lovett Boulevard  
Houston, TX 77006  
(713) 597-8012  
james@hilderlaw.com

JEFFREY T. GREEN\*  
JASON A. PETTY  
YUZHU HU  
SIDLEY AUSTIN LLP  
1501 K Street, N.W.  
Washington, D.C. 20005  
(202) 736-8000  
jgreen@sidley.com

January 6, 2023

*Attorneys for Applicant*

\*Counsel of Record

## **APPLICATION FOR AN EXTENSION OF TIME**

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Ronald Jeffrey Prible, Jr., hereby requests a 30-day extension of time within which to file a petition for a writ of certiorari up to and including Thursday, February 16, 2023.

## **JUDGMENT FOR WHICH REVIEW IS SOUGHT**

The Fifth Circuit's opinion is reported at 43 F.4th 501.

## **JURISDICTION**

The Court of Appeals issued its opinion on August 8, 2022 (attached as Exhibit 1). The court denied a timely petition for panel rehearing and a petition for rehearing en banc on October 17, 2022 (attached as Exhibit 2). This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

## **REASONS JUSTIFYING AN EXTENSION OF TIME**

1. Mr. Prible's appointed counsel, James Rytting and Gretchen Scardino, represent six other death-sentenced clients between them. On October 12, 2022, the 230<sup>th</sup> District Court of Harris County, Texas, set a January 10, 2023 execution date for one of Mr. Rytting's clients, Robert Alan Fratta. Mr. Rytting has therefore been occupied drafting and revising a successor application for a writ of habeas corpus pursuant to Texas Code of Criminal Procedure Article 11.071. In addition, Mr. Rytting has had to litigate issues related to the lethal injection protocols of the State of Texas, specifically, the use of pentobarbital that the State has extended beyond the use-by date. In connection with both cases, Mr. Rytting has had to review and revise motions to stay Mr. Fratta's execution. He is still currently

engaged in defending his client against the execution date as well as seeking clemency.

2. The extension of time is also necessary because of the press of other client business. For example, in the coming months, Jeffrey Green has several overlapping commitments representing other clients in this Court, including a petition for writ of certiorari in *Washington v. Shinn* (No. 22-) and *Seekins v. United States* and amicus briefs in *United States v. Helaman Hansen* (No. 22-179) and *Smith v. United States* (No. 21-1576). Mr. Green is also appointed counsel in five D.C. Court of Appeals cases currently briefing and/or preparing for oral argument, *Johnson v. United States* (No. 13-CF-493), *Parker v. United States* (No. 19-CF-1168), *Proctor v. United States* (No. 22-CF-0349), *Minor v. United States* (No. 18-CF-0686), and *Neal v. United States* (No. 17-CF-1346) and has ongoing, active litigation in the United States District Court for the District of Columbia, the District of Columbia Superior Court, the United States District Court for the District of Delaware, the United States District Court for the District of Utah, the United States District Court for the Eastern District of Pennsylvania, and the Superior Court of the U.S. Virgin Islands. A 30-day extension for the Applicant would allow Mr. Green the necessary amount of time to effectively contribute to all open matters including Applicant's petition as well as his other client business abroad.

**CONCLUSION**

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 30 days, up to and including February 16, 2023, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,

/s/ Jeffrey T. Green

GRETCHEN N. SCARDINO  
SCARDINO LLP  
501 Congress Avenue, Suite 150  
Austin, TX 78701  
(512) 443-1667  
gretchen@scardinollp.com

PHILIP H. HILDER  
JAMES G. RYTTING  
HILDER & ASSOCIATES, P.C.  
819 Lovett Boulevard  
Houston, TX 77006  
(713) 597-8012  
james@hilderlaw.com

JEFFREY T. GREEN\*  
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YUZH HU  
SIDLEY AUSTIN LLP  
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(202) 736-8000  
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