

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

RALPH LEROY MENZIES, Petitioner,

vs.

LARRY BENZON, Warden, Utah State Prison, Respondent.

****CAPITAL CASE****

**APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT**

TO THE HONORABLE NEIL M. GORSUCH, CIRCUIT JUSTICE FOR THE
TENTH CIRCUIT:

Pursuant to Supreme Court Rules 13.5, 30.2, and 30.3, Petitioner Ralph Menzies respectfully requests a 60-day extension of time, up to and including Friday, June 2, 2023, in which to file his Petition for Writ of Certiorari. The current due date is April 3, 2023, and this application is being filed eleven days in advance of that date. Respondent's counsel has informed undersigned counsel that they have no objection to this requested 60-day extension.

JUDGMENT FOR WHICH REVIEW IS BEING SOUGHT

On November 7, 2022, in *Menzies v. Powell*, No. 19-4042, the Tenth Circuit

Court of Appeals affirmed the federal district court's denial of Mr. Menzies's petition pursuant to 28 U.S.C. § 2254. (Appendix 1.) Rehearing was denied on January 3, 2023. (Appendix 2.)

REASONS FOR THE REQUESTED EXTENSION OF TIME

Counsel respectfully requests a 60-day extension of time in which to file a petition for certiorari seeking review of the Tenth Circuit's decision in this case, up to and including June 2, 2023.

To date, undersigned counsel have been unable to afford Mr. Menzies's Petition for Writ of Certiorari the considerable attention it requires. Ms. Layer is counsel in eight capital habeas cases, each with their own pending responsibilities. Since the Tenth Circuit denied Mr. Menzies's appeal, Ms. Layer has filed supplemental briefing in a capital § 2255 case in the District of South Carolina, as well as multiple pleadings in another capital § 2255 case in the Eastern District of Texas. Ms. Layer also filed supplemental briefing in the Supreme Court of Utah in a capital case on February 28, 2023, which required an unusually extensive amount of research to prepare. Ms. Layer also has an opening brief due in the Fourth Circuit Court of Appeals on May 1, 2023. As a supervisor in the Capital Habeas Unit, Ms. Layer also has supervisory and administrative responsibilities requiring a significant amount of time and attention.

Mr. Zuckerman has also had commitments that have prevented him from working on a petition for certiorari in this matter. Mr. Zuckerman is counsel in eight

capital habeas cases. Mr. Zuckerman has filed a brief in the California Superior Court on February 21, 2023, and supplemental briefing in the Supreme Court of Utah in a capital case on February 28, 2023. Mr. Zuckerman has a petition for rehearing due in the Tenth Circuit in a capital case on April 12, 2023, and an amended petition for writ of habeas corpus in a capital case due in the Northern District of California on June 22, 2023. Mr. Zuckerman is also preparing to file a motion for a new sentencing in a capital case in the California Superior Court. Mr. Zuckerman has also been engaged in pre-hearing discovery in state court in Utah where an evidentiary hearing has been granted on the issue of intellectual disability in a capital case, which has required extensive work.

As a result of the foregoing, Ms. Layer and Mr. Zuckerman have been unable to devote the time required to adequately prepare Mr. Menzies's Petition for Writ of Certiorari, which establishes good cause for the instant request.

CONCLUSION

For the foregoing reasons, and in light of the heightened reliability that the Eighth Amendment requires in capital cases, *see Woodson v. North Carolina*, 428 U.S. 280, 305 (1976) (explaining that “[b]ecause of th[e] qualitative difference[]” between death and other punishments, “there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case”), Mr. Menzies respectfully requests an extension of time to file his Petition for

Writ of Certiorari for 60 days, up to and including June 2, 2023.

Respectfully submitted this 23rd day of March, 2023.

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