

CAPITAL CASE

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

RANDY HAIGHT

Petitioner-Applicant

vs.

SCOTT JORDAN

Respondent

**UNOPPOSED APPLICATION FOR AN EXTENSION OF
TIME TO FILE A PETITION FOR A WRIT OF
CERTIORARI**

*To the Honorable Brett M. Kavanaugh, Associate Justice, and Circuit Justice
for the United States Court of Appeals for the Sixth Circuit:* In this capital case,
pursuant to Supreme Court Rule 13.5, Petitioner Randy Haight respectfully applies
for a sixty (60) day extension of time, to and including September 7, 2023, within
which to file a petition for writ of certiorari.

In support of this application, Randy Haight states:

1. On February 9, 2023, the United States Court of Appeals for the Sixth Circuit issued an opinion affirming the denial of habeas corpus relief in this death penalty case. *Haight v. Jordan*, 59 F.4th 817 (6th Cir. 2023). Mr. Haight's Petition for Rehearing and Suggestions for Rehearing *En Banc* was denied by the court in an order entered on April 10, 2023. Mr. Haight's petition for a writ of certiorari is due to be filed by July 9, 2023. *See* U.S.S.Ct.R. 13.1.

2. Mr. Haight was forced to go to trial when the Commonwealth of Kentucky refused to abide by its promise in the plea agreement that if Mr. Haight pleaded guilty, the Commonwealth would recommend and advocate for a life sentence and would "take no action inconsistent [with that recommendation]." When the trial judge then sentenced Mr. Haight to death, Mr. Haight became the first and only person in Kentucky to be sentenced to death over the prosecutor's recommendation of life since the reinstatement of the death penalty in 1976. After the Kentucky Supreme Court reversed Mr. Haight's convictions and death sentence, the Commonwealth ignored its promise and began to advocate for the death penalty for Mr. Haight, giving him no choice but to go to trial, where trial errors, a biased juror, and ineffective counsel predictably resulted in a death sentence, this time upheld by the Kentucky Supreme Court.

3. Mr. Haight's 28 U.S.C. §2254 petition for a writ of habeas corpus, filed in the District Court for the Western District of Kentucky, presented 45 grounds for relief. After denying all of Mr. Haight's claims for relief, the district court granted a certificate of appealability (COA) for 25 of the claims. The Sixth Circuit granted a COA for one additional claim.

4. Mr. Haight's brief in the Sixth Circuit addressed his claims in 20 arguments. The brief was 90,619 words and 409 pages, the respondent's brief was 27,404 words and 161 pages, and the reply brief was 19,865 words and 85 pages.

5. Given the complexity of this capital case and the number of issues that were addressed on appeal, undersigned counsel believe that the Petition for Certiorari cannot reasonably be completed and filed by July 9, 2023.

6. After rehearing was denied, counsel immediately began work on the petition for certiorari, beginning with a review of all the original claims for relief with an eye toward U.S.S.Ct.R. 10, to identify the issue or issues to present to the Supreme Court. Undersigned counsel Hackett was unavailable to work on the petition from May 4, 2023 to May 15, 2023. Undersigned counsel, John Bailey, has been, and continues to be, in preparation for two federal murder tries set in August and October. Each of those trials is expected to take three to four weeks to try. Mr. Bailey also has a Principal Brief due before the 6th Circuit on June 26th

for a two-month RICO murder trial that will contain eight issues and require a motion seeking permission to file an oversized brief. Mr. Bailey also has additional cases with upcoming court dates and hearings in the next two months.

7. Counsel for Mr. Haight are two appointed solo practitioners with no support staff. To concisely and effectively present the most meritorious issues to the Supreme Court, within the appropriate limitations of Rule 33.2, is a challenging endeavor. Counsel have determined that they cannot prepare and file a thoughtful and thoroughly researched petition within the time.

8. A sixty (60) day extension may be granted, pursuant to Rule 13.5, and such would be appropriate under these circumstances, as your Honor has found in a number of recent capital cases. *See e.g. Burns v. Mays*, U.S. No. 22A117 (August 15, 2022)(Kavanaugh, J.); *Chinn v. Warden*, U.S. No. 21A678 (July 4, 2022)(Kavanaugh, J.); *Hall v. Mays*, U.S. No. 21A213 (Dec. 9, 2021)(Kavanaugh, J.); *Taylor v. Jordan*, U.S. No. 21A156 (Nov. 19, 2021)(Kavanaugh, J.)

9. Counsel for the Respondent, Hon. Matthew R. Krygiel, Assistant Attorney General, advised counsel that Respondent does not oppose this application for a 60-day extension.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of this Application has been served on Counsel for Respondent, by first class mail to: Assistant Attorney General Matthew Krygiel, Kentucky Office of the Attorney General, Office of the Solicitor General, Criminal Appeals Unit, 1024 Capital Center Drive, Frankfort, KY 40601-8204, on this 17th day of June, 2023.

s/Bruce P. Hackett
Bruce P. Hackett
Counsel for Randy Haight