

**IN THE SUPREME COURT OF THE UNITED STATES**

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**SIR MARIO OWENS, PETITIONER**

vs.

**STATE OF COLORADO, RESPONDENT.**

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**ON PETITION FOR WRIT OF CERTIORARI TO THE  
COLORADO COURT OF APPEALS**

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**UNOPPOSED APPLICATION FOR EXTENSION OF TIME IN WHICH TO  
FILE PETITION FOR WRIT OF CERTIORARI**

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Attorney for Petitioner:

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(303) 333-5166

To the Honorable Justice Neil M. Gorsuch, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Tenth Circuit:

Petitioner Sir Mario Owens, through undersigned counsel and pursuant to Supreme Court Rules 13(5), 21, 22, and 39, respectfully seeks a 45-day extension of time, to and including October 21, 2022, in which to file a petition for a writ of certiorari. In support of this request, counsel states as follows:

1. The Colorado Court of Appeals (CCOA) issued its Opinion affirming the state trial court's denial of postconviction relief on October 7, 2021. *See People v. Owens*, 17CA1182 (Colo. App. Oct. 7, 2021) (not published pursuant to C.A.R. 35(f)). Petitioner timely petitioned the Colorado Supreme Court (CSC) to issue a writ of certiorari to review the CCOA's decision, but the CSC denied his petition on June 6, 2022. Without an extension of time, the time to petition for a writ of certiorari in this Honorable Court would expire on September 6, 2022, which is the next day after the ninetieth day from the date of the CSC's order denying his petition for discretionary review (the ninetieth day being Labor Day, a federal legal holiday). *See Sup. Ct. R. 13(1)*. This application is being filed more than ten days before that date. *See Sup. Ct. R. 13(5)*.

## **BACKGROUND**

2. The State prosecuted Mr. Owens for first-degree murder of Gregory Vann, and other lesser charges for the shootings of Javad Marshall-Fields and Elvin

Bell, at Lowry Park in Aurora, Colorado on July 4, 2004. After two-and-a-half days of deliberation, the jury found Owens guilty on most counts, and he was sentenced to life without parole. His direct appeal was affirmed, *see People v. Owens*, 07CA0895 (Colo. App. 2012) (not published pursuant to C.A.R. 35(f)), and this Court declined to issue a writ of certiorari. *See Owens v. Colorado*, 571 U.S. 1147 (2014).

3. Subsequent postconviction proceedings in the state courts revealed that sitting Juror # 75 never disclosed during trial that she: (1) knew and recognized prosecution witnesses who were testifying against Owens as her son's close friends (even having contact with one witness at her son's apartment during the trial), who she correctly suspected were gang members; (2) knew or suspected her son was at Lowry Park when the shootings occurred; (3) conversed with him during the trial, when he told her he knew the people involved and urged her to get off the case because she was too close to it and that he was afraid for her safety; (4) previously hosted the murder victim Vann as a guest in her home where she had served him meals; (5) was acquainted with the mother of Marshall-Fields, who was one of the shooting victims at Lowry Park but survived; and (6) lived and was in an intimate relationship with – and eventually after trial would marry – a man who Marshall-Fields knew as “Uncle Cornbread,” a life-long best friend of Marshall-Fields' biological uncles.

4. Owens' grounds for certiorari stem from claims related to the presence on his jury of Juror 75, whose many connections to and entanglement with the case

unquestionably implicated Owens' Sixth and Fourteenth Amendment rights to a fair trial, an impartial jury, and due process. In denying Owens postconviction relief, the state courts below artificially disentangled Juror 75's many connections to the case and boxed them into distinct categories to be knocked down one at a time in a vacuum. This artificial boxing allowed the state courts to completely ignore Juror 75's improper contact during trial with her son – who knew the victim and witnesses and was present at the crime scene – and another testifying prosecution witness, and this Honorable Court's precedents of *Mattox v. U.S.*, 146 U.S. 140 (1892), and *Remmer v. U.S.*, 347 U.S. 227, 229 (1954), which establish presumptions of prejudice arising from inappropriate extraneous contacts and improper influences.

The total disregard of these seminal cases, coupled with the CCOA's questioning of whether the federal doctrine of implied juror bias still exists,<sup>1</sup> permit strong arguments that the CCOA improperly stated applicable rules of federal law and decided important federal questions in ways that conflict with and contravene this Court's relevant decisions, making this case a worthwhile candidate for this Court's certiorari review. Indeed, this is an important case for the Court to review because the facts are so extensive that if they don't warrant relief on a theory of implied bias, they are undoubtedly close to the edge – which can help the Court

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<sup>1</sup> Contrast *McDonough Power Equip., Inc. v. Greenwood*, 464 U.S. 548, 556-57 (1984) (Blackmun, J., concurring) (recognizing that the doctrine of implied bias applies in "exceptional circumstances" where objective circumstances cast concrete doubt on the impartiality of a juror); *Smith v. Phillips*, 455 U.S. 209, 222 (1982) (O'Connor, J., concurring) ("While each case must turn on its own facts, there are some extreme situations that would justify a finding of implied bias.").

appropriately articulate the contours of the law in this area.

5. This Court has jurisdiction to grant certiorari pursuant to 28 U.S.C. § 1257(a).

#### **REASONS FOR GRANTING AN EXTENSION OF TIME**

6. I believe an extension of time is necessary to prepare Mr. Owens' petition for writ of certiorari adequately. This is a legally and factually complex case, and there is a significant amount of information that needs to be conveyed within the petition so that this Court will be able to meaningfully exercise its discretion as to whether or not to grant a writ of certiorari. Presenting these issues directly, clearly, and concisely — as required by Sup. Ct. R. 14 — is difficult and time-consuming.

7. I am a sole practitioner and have been working diligently on this petition, but been prevented from completing it by other significant professional responsibilities and a recent bout with COVID. On July 19, 2022, I filed amicus briefs in two cases currently pending in the Colorado Supreme Court. *See People v. Rainey*, 21SC285; *People v. Davis*, 21SC388. I then succumbed to COVID, which was debilitating, and then had to devote substantial time to investigating, drafting, and filing (on August 11, 2022) a time-sensitive post-conviction motion based on newly discovered evidence in *People v. Miller*, 2011CR5114 — a first degree murder case in the Denver district court. Since then, I've been busily engaged in preparing an opening brief in the Tenth Circuit Court of Appeals in *Godinez v. Raemish et al*,

No. 22-1194, which is a complex federal habeas corpus case involving an Eighth Amendment challenge to Colorado's Sex Offender Lifetime Supervision Act, under *Graham v. Florida*, 560 U.S. 48 (2010).<sup>2</sup> I also need to complete, on or before September 1, 2022, an Answer Brief in *People v. Lindgren*, 22SA210, which is an expedited interlocutory appeal in the Colorado Supreme Court.

9. Given the amount of work that still remains to be done on Mr. Owens' petition and in the other matters referenced herein, I do not believe it will be possible to file his petition by September 6, 2022, in the comprehensive yet succinct form and manner deserving of this Honorable Court and the important constitutional questions sought to be reviewed.

10. The requested extension of time is for forty-five days. *See* Sup. Ct. R. 13(5) (authorizing extension of up to sixty days for the filing of a petition for writ of certiorari). Counsel conferred with opposing counsel at the Colorado Attorney General's Office, who graciously indicated they did not object to the extension of time requested herein.

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<sup>2</sup> *See Godinez v. Williams*, 2022 WL 1642497 (D. Colo. May 24, 2022).

**WHEREFORE**, Petitioner Sir Mario Owens respectfully requests that an order be entered extending his time in which to petition for writ of certiorari to and including October 21, 2022.

Respectfully submitted this 25<sup>th</sup> day of August 2022,

*/s/ Jonathan D. Reppucci*

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**AFFIDAVIT OF SERVICE**

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JONATHAN D. REPPUCCI, a member of the bar of this Court,  
hereby attests that pursuant to Supreme Court Rule 29, the preceding  
Unopposed Application for Extension of Time in Which to File Petition for Writ of  
Certiorari to the Colorado Court of Appeals was served on counsel for the  
Respondent by enclosing a copy of these documents in an envelope, first-class  
postage prepaid and addressed to:

KATHARINE J. GILLESPIE & JILLIAN PRICE  
COLRADO ATTORNEY GENERAL'S OFFICE  
RALPH L. CARR COLORADO JUDICIAL CENTER  
1300 BROADWAY, 9TH FLOOR  
DENVER, CO 80203

ANN TOMSIC  
ARAPAHOE COUNTY DISTRICT ATTORNEY'S OFFICE  
6450 S. REVERE PKWY



CENTENNIAL, CO 80111-6492

and that the envelope was deposited with the United States Postal Service, Denver, Colorado 80206, on August 25<sup>th</sup>, 2022, and further attests that all parties required to be served have been served.

*/s/ Jonathan D. Reppucci*

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JONATHAN D. REPPUCCI