

App. No. ____ (CAPITAL CASE)

IN THE SUPREME COURT OF THE UNITED STATES

JOHN L. LOTTER,

Petitioner,

v.

STATE OF NEBRASKA,

Respondent.

ON APPLICATION FOR AN EXTENSION OF TIME
TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE NEBRASKA SUPREME COURT

PETITIONER'S APPLICATION TO EXTEND TIME TO FILE A PETITION FOR A
WRIT OF CERTIORARI

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September 15, 2022

IN THE SUPREME COURT OF THE UNITED STATES

JOHN L. LOTTER,

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v.

STATE OF NEBRASKA,

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PETITIONER'S APPLICATION TO EXTEND TIME TO FILE A PETITION FOR A
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To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court and Circuit Justice for the United States Court of Appeals for the Eighth Circuit:

PETITIONER, John L. Lotter, through undersigned counsel, respectfully applies for an extension of sixty (60) days to prepare and file his Petition for a Writ of Certiorari to seek review of a decision of the Nebraska Supreme Court, *Nebraska v. Lotter*, 311 Neb. 878, Nos. S-20-363, S-20-366, S-20-367 (Neb. July 1, 2022) (Appendix A). In support of this request, Petitioner respectfully submits:

1. Petitioner intends to file a Petition for a Writ of Certiorari to seek this Court's review of the Nebraska Supreme Court's judgment entered on July 1, 2022. This Court would have jurisdiction under 28 U.S.C. § 1257(a). Petitioner's certiorari petition is now due on September 29, 2022. In accordance with this Court's rules, this request is made at least ten (10) days in advance of the current due date. *See* Sup. Ct. R. 13.5.

2. This is a capital case. It also presents complex legal issues. And lead counsel for Petitioner in both this case and separate proceedings in federal court (Rebecca E. Woodman) recently withdrew from Petitioner's representation.¹ On August 12, 2022, the Federal District Court for the District of Nebraska appointed the Federal Community Defender Office for the Eastern District of Pennsylvania as substitute counsel for Petitioner under 18 U.S.C. § 3599. This substitution of counsel and the complexity of the case necessitate additional time for undersigned counsel to review the record and consider the matters to be presented in a petition for certiorari. Moreover, Petitioner requests additional time to file in light of undersigned counsel's heavy workload. Counsel is the chief of the Capital Habeas Unit of the Federal Community Defender Office and responsible for numerous capital cases that have competing deadlines in various federal and state courts in the upcoming weeks. At this time, four of the unit's clients are under active death warrants.

3. Under these circumstances, the undersigned respectfully requests that the Court grant this Motion and extend the time in which to file the Petition for Writ of Certiorari by sixty (60) days, until November 28, 2022.

4. There is no execution warrant pending, and granting this request shall cause no prejudice to the State.

¹ Primary responsibility for the case in the Nebraska Supreme Court was undertaken by Ms. Woodman, who appeared *pro hac vice* with local counsel Timothy S. Noerrlinger.

5. This request is made in good faith and is not predicated on an intent to delay the resolution of this litigation.

WHEREFORE, Petitioner prays that the Court allow a sixty-day (60-day) extension for the preparation and filing of this Petition for Writ of Certiorari.

Respectfully submitted,

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Dated: September 15, 2022

CERTIFICATE OF SERVICE

I, Shawn Nolan, hereby certify that on this date I served the foregoing upon the following persons by email and by first class mail, postage prepaid:

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/s/ Shawn Nolan

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Dated: September 15, 2022