

No. 22A_____

IN THE
Supreme Court of the United States

TREMANE WOOD,
Petitioner,

vs.

STATE OF OKLAHOMA,
Respondent.

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

**** CAPITAL CASE ****

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

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 Tremane Wood respectfully requests a 60-day extension of time in which to file his Petition for Writ of Certiorari. The current due date is November 16, 2022, and this Application is being filed nineteen days in advance of that date. The requested extension would

make the Petition due on January 13, 2023.¹ Respondent’s counsel, Assistant Oklahoma Attorney General Joshua Lockett, has informed undersigned counsel that he has no objection to this requested 60-day extension.

Mr. Wood seeks review of the Order issued on August 18, 2022 by the Oklahoma Court of Criminal Appeals (“OCCA”) in *Wood v. State of Oklahoma*, No. PCD-2022-550 (Okla. Crim. App. Aug. 18, 2022). (App. 1.) There, the OCCA dismissed Mr. Wood’s claim that newly-discovered evidence establishes that his capital trial attorney was addicted to cocaine and had ties to organized crime during the period he handled Mr. Wood’s capital case in violation of Mr. Wood’s Sixth, Eighth, and Fourteenth Amendment rights. (App. 1 at 6–7.) Oklahoma law prohibited Mr. Wood from petitioning the OCCA for rehearing following its dismissal of his newly-discovered federal constitutional claim. Rule 5.5, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch. 18, App. (2017) (explaining that once the OCCA has rendered its decision on a postconviction appeal, “the petitioner’s state remedies will be deemed exhausted” and “[a] petition for rehearing is not allowed and these issues

¹ Because the requested 60-day extension of time falls on Sunday, January 15, 2023, and because Monday, January 16, 2023 is a federal holiday, the filing deadline will fall on Tuesday, January 17, 2023. *See* Sup. Ct. R. 30.1 (excluding from the computation of any period of time allowed by the Rules the last day of the period that falls on Saturday, Sunday, or a federal legal holiday, and providing, in that event, “the period shall extend until the end of the next day that is not a Saturday, Sunday, federal legal holiday, or day on which the Court building is closed[]”); *see also* Fed. R. App. P. 26(a)(1)(C). However, in an abundance of caution, Mr. Wood seeks leave to file his Petition on Friday, January 13, 2023.

may not be raised in any subsequent proceeding in a court of this State”).

REASONS FOR THE REQUESTED EXTENSION OF TIME

The State of Oklahoma seeks to execute Mr. Wood notwithstanding troubling new evidence that his trial attorney, Johnny Albert, was addicted to cocaine and had ties to organized crime through which he was regularly supplied with drugs during the period he handled Mr. Wood’s capital case. On April 19 and 20, 2022, two witnesses came forward and recounted in sworn statements that:

John was connected with the Playboy Gangsta Crips since 1999/2000. This meant that John represented all the members of the gang and they looked out for John and gave him drugs. . . . During the almost decade I knew John, he did cocaine every day. John also drank regularly, probably daily. (App. 2, ¶¶ 3–4.)

Johnny and I spent a lot of time together, . . . I am sure Johnny was using cocaine in 2002 because I would give it to him as payment for legal fees. (App. 3, ¶¶ 3–4.)

On the basis of this newly-discovered evidence that his state and federal rights were transgressed, Mr. Wood timely filed a successor postconviction application in the OCCA. (App. 4.) Mr. Wood also requested discovery and an evidentiary hearing through which he sought to further develop the factual basis of his newly-discovered claim. (Apps. 5–6.) The OCCA dismissed Mr. Wood’s application on state procedural grounds and denied his requests for evidentiary development. (App. 1 at 6–7.)

Mr. Wood seeks this Court’s review of the OCCA’s denial of his successor postconviction application and of the important federal constitutional questions it presents. Besides presenting the question whether Mr. Wood’s federal constitutional

rights were violated when the State of Oklahoma saddled him with a drug addicted attorney with ties to organized crime who did little to defend him in a capital case, the OCCA's dismissal of Mr. Wood's successor postconviction application also raises important questions about the independence and adequacy of the procedural bar employed by the OCCA to deny merits review of Mr. Wood's newly-available federal constitutional claim, and the constitutionality of Oklahoma's capital postconviction statute under the Constitution's Eighth and Fourteenth Amendment guarantees.

To date, undersigned counsel has been unable to afford Mr. Wood's Petition for Writ of Certiorari the considerable attention that it requires. Since the OCCA dismissed Mr. Wood's successor postconviction application on August 18, 2022, counsel for Mr. Wood have had considerable obligations and commitments. On September 7, 2022, Ms. Bass filed an amended petition for writ of habeas corpus in *Reeves v. Shinn, et al.*, No. CV-21-01183-PHX-DWL (D. Ariz. Sept. 7, 2022). Ms. Bass has a court-imposed filing deadline in Mr. Reeves' case on November 4, 2022. On October 4, 2022, Ms. Bass filed a motion to remand the active cross-appeal in *Doerr v. Shinn, et al.*, Nos. 09-99026, 10-99007, and 20-99002 (9th Cir.), following this Court's decision in *Shinn v. Ramirez*, 142 S. Ct. 1718 (2022). That motion was fully briefed on October 21, 2022. As a supervisor in the Capital Habeas Unit, Ms. Bass has also had supervisory and administrative responsibilities, including those that required out of state travel in September 2022.

Mr. Hilzendeger, meanwhile, has had his own commitments that have kept

him from working on a petition for certiorari in this matter. On September 20, 2022, he presented oral argument to the Ninth Circuit in *William Meyer v. Attorney General*, No. 21-15374. On September 23, 2022, he filed a reply brief in the Ninth Circuit in *Clinton Eldridge v. Catricia Howard*, No. 21-15616. On September 26, 2022, he filed a replacement opening brief in the Ninth Circuit in *United States v. Sanchez-Murrillo*, No. 19-10429. On September 30, 2022, he filed a reply brief in the Ninth Circuit in *Kristopher Dillon v. David Shinn*, No. 21-16181. On October 11, 2022, he filed a reply brief in the Ninth Circuit in *Paul Melville v. David Shinn*, No. 21-15999. On October 18, 2022, he filed a petition for certiorari in this Court in *Michael Jessup v. David Shinn*, No. 22-5889. And he has been working on petitions for certiorari in two cases related to *Jessup* that will be timely filed on or before November 17, 2022 -- *Cedric Rue v. David Shinn*, No. 17-17290 (9th Cir.), and *Tonatihu Aguilar v. David Shinn*, No. 17-16013 (9th Cir.).

As a result of the foregoing, Ms. Bass and Mr. Hilzendeger have been unable to devote the time that adequately preparing Mr. Wood's Petition for Writ of Certiorari requires, which establishes good cause for the instant request. *See* Sup. Ct. R. 13.5.

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. Wood respectfully asks the Court to extend the time for filing a Petition for Writ of Certiorari up to and including January 17, 2023.

Respectfully submitted: October 28, 2022.

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