

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

October Term 2021

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ROBERT BETHEL,

Petitioner,

v.

STATE OF OHIO,

Respondent.

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APPLICATION TO EXTEND THE TIME TO FILE A  
PETITION FOR WRIT OF CERTIORARI  
TO THE SUPREME COURT OF OHIO

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Counsel for Petitioner Robert Bethel

To the Honorable Brett Kavanaugh, Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

1. For the specific reasons set forth below, Petitioner Robert Bethel respectfully requests, under Supreme Court Rules 13.5, 22, and 30.3, a sixty-day extension of time to file his petition for a writ of certiorari seeking review of *State of Ohio v. Robert Bethel*, 2020-Ohio-783.

2. An Ohio jury convicted Robert Bethel of aggravated murder and recommended a death sentence as punishment. The trial court accepted that recommendation and the state courts affirmed Mr. Bethel's conviction and death sentence on direct appeal. The Ohio courts also denied Mr. Bethel's requests for post-conviction relief.

3. Mr. Bethel filed a Motion for Leave to File and New Trial Motion and Motion for New Trial Based on Newly Discovered Evidence under Ohio law: Crim. R. 33(A)(6) and/or R.C. 2953.23. The trial court denied the motion and the court of appeals affirmed the denial.

4. On September 1, 2020, the Ohio Supreme Court accepted the appeal for review and heard Mr. Bethel's case on the merits regarding two propositions of law, both involving questions under the federal constitution. Mr. Bethel's first proposition of law stated: A defendant's right to due process of law is violated when the State suppresses material and exculpatory evidence in contravention of *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), and Bethel is entitled to a new trial on this basis. His second proposition stated: Ohio law regarding postconviction does not provide adequate relief when a defendant's rights are violated in contravention of *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), because it unconstitutionally shifts the burden to defendant.

5. On March 22, 2022, the Ohio Supreme Court affirmed the lower court's decisions denying Mr. Bethel relief. *State of Ohio v. Robert Bethel*, 2020-Ohio-783. Copies of the opinion are attached.

6. On May 24, 2022, the court denied Mr. Bethel's Motion for Reconsideration.

7. Mr. Bethel seeks for this Court to review the Ohio Supreme Court's March 22, 2022, opinion. Jurisdiction in this Court is appropriate under 28 U.S.C. § 1257(a).

8. Good cause exists to justify Mr. Bethel's requested extension. Counsel represents other capital and non-capital petitioners in various stages of state and federal litigation and require additional time to draft a petition for a writ of certiorari. Lead counsel and co-counsel have an evidentiary hearing scheduled July 18, 2022, in *State of Ohio v. Hector Alvarado*, Lucas County C.P. Case No. G-4801-CR-201301381-000 and are preparing for a trial in *State v. Kenny Phillips*, Cuyahoga County C.P. Case No. CR-06-481842-C, that is set to commence September 19, 2022. Co-counsel also has supplemental briefing due on July 29, 2022, in *State v. Eric Misch*, Lucas County C.P. Case No. G-4801-CR-19930628-000. Lead counsel was also recently appointed as direct appeal counsel in capital case *State of Ohio v. Thomas Knuff*, Case No. 2019-1323. The case is briefly stayed until September 15, 2022 so counsel can learn the case.

9. Petitioner Bethel's counsel thus require an extension of time to adequately prepare his petition for a writ of certiorari.

Therefore, Petitioner Robert Bethel respectfully requests that an order be entered extending his time to file a petition for a writ of certiorari for sixty days, from August 22, 2022, until October 21, 2022.

Respectfully Submitted,

Office of the Ohio Public Defender, by:

/s/ Rachel Troutman

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Supervising Attorney, Death Penalty Dept.

/s/ Joanna Sanchez

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**Certificate of Service**

I, Rachel Troutman, hereby certify that on this 13th day of July 2022, a copy of the foregoing MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO was served in compliance with Supreme Court Rule 29.3 by regular United States Mail, first-class postage prepaid, on the following parties and via email:

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*Counsel for Respondent*

All parties required to be served have been served.

/s/ Rachel Troutman  
Rachel Troutman  
*Counsel for Petitioner Bethel*