

**In the Supreme Court of the United States**

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DANIEL E. GENSON, III,  
*Applicant,*

*v.*

STATE OF KANSAS  
*Respondent.*

\_\_\_\_\_

**APPLICATION DIRECTED TO THE HONORABLE NEIL M. GORSUCH  
FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT  
OF CERTIORARI TO THE KANSAS SUPREME COURT**

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## APPLICATION FOR EXTENSION OF TIME

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

1. Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5, 22, 30, and 33.2, Applicant Daniel E. Genson, III, respectfully requests a 60-day extension of time to file a petition for a writ of certiorari. Since the sixtieth day would fall on a Saturday, Mr. Genson requests he be given up to and including Monday, February 27, 2023, to file his petition. The Kansas Supreme Court issued its opinion and entered judgment on July 29, 2022. A copy of that opinion is attached as Appendix A. Mr. Genson moved the Kansas Supreme Court for rehearing of its decision, but it denied his motion on September 27, 2022. A copy of the order denying Mr. Genson's motion is attached as Appendix B. Currently, a petition would be due December 27, 2022. This application to extend that time has been filed more than 10 days before the petition's present filing deadline. This Court has jurisdiction under 28 U.S.C. § 1257(a) to review the decision of the Kansas Supreme Court.

2. In the decision to be reviewed, the Kansas Supreme Court addressed whether substantive due process guaranteed by the Fourteenth Amendment protects individuals from substantial prison sentences for inaction absent scienter and wrongly concluded that it does not. In specific, it held that the crime of failing to comply in *every aspect* with the Kansas Offender Registration Act is constitutional under the Fourteenth Amendment despite the fact it dispenses with the requirement of a culpable mental state and imposes strict liability; punishes non-dangerous inaction; and can result in a prison sentence of 17 to 247 months.

3. Mr. Genson has good cause to seek an extension of time. Counsel for Mr. Genson are two capital public defenders in a small office consisting of three attorneys and one support staff. Counsel is responsible for the representation of numerous other clients at the appellate level. Accordingly, counsel has been and will be occupied with deadlines in other matters, including:

- October 12, 2022: a capital merits brief in *State v. Kimberly Younger*, No. 124,601 (Kan.);
- October 26, 2022: oral argument at the Kansas Supreme Court in *State v. Edroy Taylor*, No. 123,005 (Kan.)
- November 28, 2022: a merits brief on a dispositive procedural question in a case initially resolved by capital plea, *State v. David Cornell Bennett, Jr.*, No. 125535 (Kan.)
- December 2022: a reply brief in *Jonathan D. Carr v. Kansas*, No. 22-5731 (U.S.);

In addition to the briefing deadlines, Mr. Genson's attorneys also serve as appellate advisors on numerous district-court level defense teams defending clients facing capital trials and execution. In this capacity, counsel must prepare for and attend numerous district court proceedings. Mr. Genson respectfully submits that counsels' press of business constitutes good cause for an extension of time to file his petition for a writ of certiorari.

4. Additionally, counsel for Mr. Genson has contacted, Brant Laue, Solicitor General, of the Kansas Attorney General's Office, counsel for the respondent, and he has indicated that his office does not oppose Mr. Genson's request for a 60-day extension.

## CONCLUSION

For the foregoing reasons, Mr. Genson respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari by 60 days, up to and including February 27, 2023.

Dated: November 22, 2022

Respectfully submitted,



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