

DOCKET NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2022

HARRY FRANKLIN PHILLIPS

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

**APPLICATION FOR A SIXTY-DAY EXTENSION OF TIME
IN WHICH TO FILE PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH
CIRCUIT**

CAPITAL CASE

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

Petitioner, HARRY FRANKLIN PHILLIPS, by and through undersigned counsel, and pursuant to 28 U.S.C. § 2101 (c) and Rules 13.5 and 30.2 of this Court, respectfully requests an extension of time of sixty (60) days to file a petition for writ of certiorari to the United States Court of Appeals for the Eleventh Circuit, to and including March 6, 2023.

Mr. Phillips is a death-sentenced inmate in the custody of the State of Florida.

This Court has jurisdiction to review the decision of the United States Court of Appeals for the Eleventh Circuit under 28 U.S.C. § 1254 (1).

Phillips was convicted of one count of first-degree murder and sentenced to death in the Circuit Court of the Eleventh Judicial Circuit in and for Dade¹ County, Florida. This case involves the order of the United States Court of Appeals for the Eleventh Circuit entered on October 7, 2022, denying Mr. Phillips’ Motion to Expand Certificate of Appealability. *See Phillips v. Secretary, Florida Department of Corrections*, No. 15-15714 (11th Cir. Oct. 7, 2022) (“Attachment A”).²

Mr. Phillips’ time to petition for certiorari in this Court regarding the Eleventh Circuit Court of Appeal’s order expires on January 5, 2023. This application for a sixty-day extension is being filed more than ten days before that date. Undersigned counsel shows the following good cause in support of this request.

Mr. Phillips is represented by the Office of the Capital Collateral Regional Counsel-South (CCRC-South), a Florida state agency charged with the responsibility of representing indigent death row inmates. Undersigned counsel is assigned as lead counsel for Mr. Phillips and carries a full caseload of capital postconviction cases. Undersigned counsel is lead counsel on several cases being litigated in the trial courts and federal courts at various stages of the postconviction process and has had to file in the last 45 days four Eleventh Circuit briefs, two motions for post-conviction relief

1 The county has since been renamed to Miami-Dade County.

2 Counsel has another case involving the same client that counsel intends to file a petition for writ of certiorari with this Court (see case No. 22-11606). Counsel is also seeking an extension of time for that cert petition.

in state court, including one on a quadruple homicide, as well as manage other cases and appear in court. Additionally, counsel has been ill with the flu and missed a significant amount of work, being out of work for almost a week and then slowly building up to returning full time to work. Counsel is also scheduled to be on a pre-planned, prepaid family trip out of the country beginning just after Christmas and through January 8, 2023. Additionally, the Office of the Capital Collateral Regional Counsel-South has been understaffed due to several unanticipated resignations.

Due to undersigned counsel's caseload, the posture of her cases, the staffing shortage at CCRC-S, counsel's bout with the flu and her previously planned travel, counsel has not been able to prepare a proper petition for writ of certiorari in Mr. Phillips' case and is unable to do so within the time frame allotted.

If the sixty-day extension of time is granted, counsel's intention is to file a petition for certiorari on or before March 6, 2023.

Wherefore, Mr. Phillips respectfully requests that an order be entered extending his time to petition for certiorari to and including March 6, 2023.

Respectfully submitted,

/s/ Marie-Louise Samuels Parmer

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COUNSEL FOR MR. PHILLIPS

ATTACHMENT A

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 15-15714-P

HARRY FRANKLIN PHILLIPS,

Petitioner-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

ORDER:

Harry Franklin Phillips is a Florida death row prisoner who seeks to expand the existing certificate of appealability (“COA”) to include the district court’s denial of Ground V of his 28 U.S.C. § 2254 habeas corpus petition. His motion to expand the COA is DENIED because he has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2).

/s/ Charles R. Wilson
UNITED STATES CIRCUIT JUDGE