

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

MICHAEL A. GORDON
Petitioner,

v.

STATE OF FLORIDA
Respondent.

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

CAPITAL CASE

HOWARD L. "REX" DIMMIG, II
Public Defender

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TO FILE A PETITION FOR A WRIT OF CERTIORARI**

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

Petitioner, Michael A. Gordon, respectfully applies to this Court for an order extending the time in which to file his petition for writ of certiorari from Monday, January 16, 2023 up to and including February 15, 2023, a period of thirty (30) days. This Court has jurisdiction under 28 U.S.C. §1257(a). In support of this Application, Mr. Gordon states as follows:


1. Mr. Gordon is incarcerated after two convictions of murder for which he was sentenced to death. On September 1, 2022 the Florida Supreme Court issued an opinion in Case No. SC20-284 (attached as Exhibit A), wherein the Court affirmed the death sentences. Mr. Gordon's motion for rehearing was denied on October 17, 2022 (attached as Exhibit B).
2. Mr. Gordon's issue implicates the Eighth and Fourteenth Amendments, and raises important questions regarding the continued constitutional viability of Florida's entire capital sentencing scheme, in light of the state Supreme Court's recent abandonment of proportionality review in Lawrence v. State, 308 So.3d 544 (Fla. 2020) based on its misinterpretation of Pulley v. Harris, 465 U.S. 37 (1984), as well as its jettisoning of other substantive and procedural safeguards against the arbitrary and capricious imposition of the death penalty. This issue was raised in Mr. Gordon's brief, and was summarily rejected by the Florida Supreme Court with a citation to Lawrence. [Appendix A, p.25].

3. Mr. Gordon now seeks a writ of certiorari to the Florida Supreme Court with respect to its decision in this case. This Court's jurisdiction to grant the same arises pursuant to 28 U.S.C. § 1254 (1).
4. The petition for writ of certiorari is due on or before Monday, January 16, 2023. See Supreme Court Rule 13.3 ("the time to file the petition for a writ of certiorari . . . runs from the date of the denial of rehearing or, if rehearing is granted, the subsequent entry of judgment"); Supreme Court Rule 30.1 (if time period ends on a Saturday or Sunday, period is extended until and including Monday). For the reasons stated below, petitioner seeks an extension of thirty (30) days in which to file his petition for a writ of certiorari. See Supreme Court Rule 13.5 ("[A] Justice may extend the time to file a petition for writ of certiorari for a period not exceeding 60 days").
5. In accordance with Supreme Court Rule 13.5, this Application is submitted at least ten (10) days prior to the present due date.
6. Counsel's capital and noncapital caseload, and the upcoming Christmas and New Years holidays, will impede his ability to devote adequate time and attention to the preparation of the petition for writ of certiorari on Petitioner's behalf. Therefore, in light of counsel's current obligations and the importance of the constitutional issue that will be presented in this capital case, counsel submits that a thirty (30) day extension is necessary and appropriate in order to effectively prepare the petition for certiorari on Mr. Gordon's behalf.

Wherefore, in the interest of justice and for good cause shown, counsel for Mr. Gordon respectfully requests that this Court extend the current January 16, 2023, deadline up to and including February 15, 2023.

Dated: December 19, 2022

Respectfully submitted,



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