

**OCTOBER TERM 2022**

**No. 22A586**

---

IN THE SUPREME COURT OF THE UNITED STATES

---

JAIME PIERO COLE,

Petitioner,

v.

BOBBY LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,  
CORRECTIONAL INSTITUTIONS DIVISION,

Respondent.

---

**CAPITAL CASE**

---

**UNOPPOSED SECOND APPLICATION TO THE  
HONORABLE SAMUEL A. ALITO, JR. FOR EXTENSION OF TIME  
TO FILE A PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

---

Petitioner Jaime Piero Cole, through undersigned counsel, respectfully moves for an extension of thirty (30) days to prepare and file his Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit. In support thereof, Petitioner respectfully submits as follows:

1. This is a capital case brought by a Texas state prisoner. This Court has jurisdiction under 28 U.S.C. § 1257(a). Petitioner seeks review of the Court of Appeals' decision entered on August 26, 2022 (attached to original Application for Extension), affirming the district court's denial of habeas relief. *Cole v. Lumpkin*, No. 4:17-CV-940, 2021 WL 4067212

(S.D. Tex. Sept. 7, 2021), *certificate of appealability denied*, No. 21-70011, 2022 WL 3710723 (5th Cir. Aug. 26, 2022).

2. Petitioner's Petitions for Rehearing and Rehearing En Banc were denied by the Court of Appeals on October 5, 2022. Pursuant to Rule 13 of the Rules of the Supreme Court of the United States, Petitioner had until January 3, 2023, in which to file a petition for certiorari review.

3. Petitioner intends to seek certiorari review in this case as this case presents important constitutional questions and highlights a circuit split in need of resolution.

4. On December 23, 2022, Petitioner filed an application for a sixty day extension of time in which to file his certiorari petition. On January 3, 2023, Justice Alito granted a thirty day extension of time, until February 2, 2023, in which to file the certiorari petition.

5. Undersigned counsel has attempted to be ready to file a certiorari petition by that date. However, additional developments hinder Petitioner's counsel from preparing a professionally appropriate certiorari petition by February 2, 2023.

6. As described in the original application, undersigned counsel, Shawn Nolan, had a client executed on November 29, 2022 (Johnson); and has two clients facing execution dates on February 1, 2023 (Ruiz), and February 8, 2023 (Balentine). Attorney Nolan had an appellate brief due in the United States Court of Appeals for the Third Circuit on January 13, 2023 (*Hannibal v. Sec'y, Pa. Dep't of Corr.*, No. 21-3075), but that filing was extended until January 27, 2023. In addition, Attorney Nolan is required to file a reply brief in the United States Court of Appeals for the Fifth Circuit by January 25, 2023 (*Mullis v. Lumpkin*, No. 21-70008) (an unopposed request for an extension of time to file that brief was denied on January 23, 2023).

7. The obligations resulting from these active execution cases and competing obligations have prevented counsel from being able to adequately prepare a petition for certiorari by the current due date. Undersigned counsel requests additional time in which to do so.

8. In accordance with this Court's Rule 13.5, this request is being made at least ten (10) days in advance of the current filing deadline and is timely.

9. Under the circumstances, which include both the timing issues outlined above and the fact that Mr. Cole is at a final stage of his capital litigation and presents an issue that has nationwide importance, the undersigned respectfully requests that this Court grant Mr. Cole's request to extend the date by which to file his Petition for Writ of Certiorari by thirty (30) days, or until March 4, 2023.

10. The granting of this request shall cause no prejudice to the Government. Assistant Attorney General Cara Hanna, Esq., counsel for Respondent, has authorized undersigned counsel to represent that Respondent does not oppose this request. This request is made in good faith and is not predicated on an intent to delay the resolution of this litigation.

WHEREFORE, Petitioner prays that the Court allow a thirty (30) day extension for the preparation and filing of his Petition for Writ of Certiorari.

Respectfully submitted,

/s/ Shawn Nolan  
SHAWN NOLAN  
Chief, Capital Habeas Unit  
Federal Community Defender for the  
Eastern District of Pennsylvania  
601 Walnut Street, Suite 545 West  
Philadelphia, PA 19106  
Shawn\_Nolan@fd.org  
(215) 928-0520

*Counsel of Record*, Member of the Supreme  
Court Bar

Dated: January 23, 2023

**CERTIFICATE OF SERVICE**

I, Shawn Nolan, hereby certify that on this date I served the foregoing upon the following persons by first class mail, postage prepaid:

Cara Hanna  
Assistant Attorney General  
Office of the Attorney General of Texas  
Post Office Box 12548, Capitol Station  
Austin, Texas 78711-2548

/s/ Shawn Nolan  
Shawn Nolan

Dated: January 23, 2023