

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JAMES CODDINGTON^{*}, et al.,
Petitioners,

v.

SCOTT CROW[†], et al.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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

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January 6, 2023

^{*} Petitioner James Coddington was executed by the State of Oklahoma on August 25, 2022.

[†] Since the filing of the Opinion, Respondent Director Scott Crow has retired from his position and Steven Harpe has been appointed to replace him as Director of the Oklahoma Department of Corrections.

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

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

Petitioners BRENDA ANDREW, RONSON BUSH, JEMAINÉ CANNON, CARLOS CUESTA-RODRIGUEZ, SCOTT EIZEMBER, RICHARD GLOSSIP, CLARANCE GOODE, WENDELL GRISSOM, PHILLIP HANCOCK, JOHN HANSON, MARLON HARMON, RAYMOND JOHNSON, WADE LAY by and through his next friend Rhonda Kemp, EMMANUEL LITTLEJOHN, RICKY MALONE by and through his next friend David Autry, MICA MARTINEZ, ALFRED MITCHELL, JAMES PAVATT, RICHARD ROJEM, JAMES RYDER by and through his next friend Sue Ryder, ANTHONY SANCHEZ, KENDRICK SIMPSON, MICHAEL SMITH, KEVIN UNDERWOOD, and TERMANE WOOD, through undersigned counsel, respectfully move for an extension of sixty (60) days to prepare and file their Petition for Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit. In support thereof, Petitioners respectfully submit as follows:

1. This is a lethal injection case brought by Oklahoma death-row prisoners in the United States District Court for the Western District of Oklahoma. Petitioners seek review of the Court of Appeals' decision entered on October 19, 2022 (Attachment A), affirming the district court's grant of summary judgment. *Coddington v. Crow*, No. 22-6100, 2022 WL 10860283 (10th Cir. Oct. 19, 2022). This Court has jurisdiction under 28 U.S.C. § 1254.

2. Pursuant to Rule 13 of the Rules of the Supreme Court of the United States, Petitioners may file a writ of certiorari within 90 days of the Court of Appeals judgment, i.e., by January 17, 2023.

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

4. However, Petitioners' counsel cannot meaningfully prepare a professionally appropriate certiorari petition by the current due date of January 17, 2023. Undersigned counsel, Emma V. Rolls, serves as the Chief of the Capital Habeas Unit and the First Assistant for the Office of the Federal Public Defender for the Western District of Oklahoma. Her supervisory role carries heavy administrative responsibilities. Currently, the Capital Habeas Unit represents 13 clients with pending execution dates, in addition to numerous clients with active litigation in the district and circuit courts. Undersigned counsel oversees all filings and day-to-day operations in the unit. Further, undersigned counsel is lead counsel for Mr. Jemaine Cannon, who is currently set to be executed by the State of Oklahoma on March 9, 2023. Undersigned counsel is diligently preparing for a clemency hearing that will be set some time in February of 2023. Additionally, undersigned counsel serves as co-counsel in *Fuston v. Farris*, WDOK No. CIV-21-179-SLP, which currently has a Supplemental Reply Brief due February 2, 2023. Undersigned counsel serves as lead or co-counsel for the federal representation of several other death-row prisoners, including four with set execution dates. Therefore, even if counsel exercises due diligence and gives priority to preparing the petition, it will not be possible to file the petition on time without compromising each of the referenced clients' cases.

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

6. Under the circumstances, which include both the timing issues outlined above and the fact that this case presents issues that have nationwide importance, the undersigned respectfully

requests that this Court grant Petitioners' request to extend the date by which to file his Petition for Writ of Certiorari by sixty (60) days, or until March 20, 2023.

7. The granting of this request shall cause no prejudice to the Government. This request is made in good faith and is not predicated on an intent to delay the resolution of this litigation.

WHEREFORE, Petitioners pray that the Court allow a sixty (60) day extension for the preparation and filing of their Petition for Writ of Certiorari.

Respectfully Submitted,

s/Emma V. Rolls
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