

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

COREY FOREST

*Petitioner,*

v.

STATE OF TENNESSEE

*Respondent.*

---

ON PETITION FOR CERTIORARI TO THE TENNESSEE SUPREME COURT

---

PETITIONER'S APPLICATION FOR AN EXTENSION OF TIME  
TO FILE PETITION FOR A WRIT OF CERTIORARI TO THE  
TENNESSEE SUPREME COURT

---

Brandon E. White – Tenn. Bd. Prof'l Resp. # 033618  
The Law Office of Brandon E. White  
39 Public Square, Suite 1  
Columbia, Tennessee 38401  
Office: (931) 901-0193  
Fax: (931) 548-2717  
brandon@brandonewhitelaw.com

*Counsel for Petitioner*

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

*To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of  
the United States and Circuit Justice for the State of Tennessee:*

Petitioner, Corey Forest ("Mr. Forest"), respectfully applies to this Court for an order extending the time in which to file his Petition for a Writ of Certiorari from January 23, 2023, until Wednesday, February 22, 2023. In support of this Application, Mr. Forest states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. § 1257, as Mr. Forest is appealing a final judgment entered by the Tennessee Supreme Court on October 24, 2022.

2. Mr. Forest is appealing state court convictions for possession of greater than one-half (0.5) grams of cocaine with intent to sell and possession of a firearm during the commission of a dangerous felony for which Mr. Forest received an effective sentence of eleven (11) years to serve in the Tennessee Department of Correction. *See* Tenn. Code Ann. § 39-17-417(c)(1) (codifying offense of possession of greater than one-half (0.5) grams of cocaine with intent to sell); *see also* Tenn. Code Ann. § 39-17-1324(a) (codifying offense of possession of firearm during commission of a dangerous felony).

3. On October 15, 2021, the Tennessee Supreme Court granted Mr. Forest's Application for Permission to Appeal pursuant to Rule 11 of the Tennessee Rules of Appellate Procedure. *See* Tenn. R. App. P. 11 (outlining factors the Tennessee Supreme Court considers when determining whether to grant an

Application for Permission to Appeal). *See* Tennessee Supreme Court Order Granting Application for Permission to Appeal, filed October 15, 2021, attached hereto and incorporated herewith as Appendix A.

4. Mr. Forest's Application for Permission to Appeal presented the following questions for review:

- i. Whether Officer Barber, who at the time of the pretextual traffic stop never intended to write Mr. Forest a ticket, much less make a citizen's arrest for speeding, unconstitutionally prolonged the duration of the traffic stop in order to buy Trooper Kilpatrick additional time to make it to the scene of the traffic stop with his drug dog?
- ii. Whether a private citizen in the State of Tennessee has the authority to conduct a purely pretextual arrest of another private citizen, particularly when the arresting person never intends to attempt, must less effectuate, a statutorily mandated duty to take the arrested person without unnecessary delay to a magistrate or deliver the arrested person to an officer?
- iii. Assuming, *arguendo*, that a private citizen in the State of Tennessee has the authority to conduct a pretextual stop, should that pretextual stop be subject to the "balancing" analysis set forth in *Whren v. United States* involving a search or seizure conducted in an extraordinary manner?

5. In its Order granting Mr. Forest's Application for Permission to Appeal, the Tennessee Supreme Court noted that it was "particularly interested in the parties

addressing the permissible scope of activity for a law enforcement officer acting as a private citizen under Tenn. Code Ann. § 40-7-109.” See Appendix A.

6. Mr. Forest, as well as the State of Tennessee, filed briefs with the Tennessee Supreme Court in support of their respective positions. Mr. Forest, as well as the State of Tennessee, orally argued the case on April 6, 2022.

7. After the case had been fully briefed and orally argued, the Tennessee Supreme Court entered an Order on October 24, 2022, dismissing Mr. Forest’s appeal. See Order Dismissing Appeal, filed October 24, 2022, attached hereto and incorporated herewith as Appendix B.

8. Mr. Forest’s case presents important questions of law concerning the intersection of (1) law enforcement officers traveling well outside of their jurisdiction to conduct traffic stops; (2) the authority of law enforcement officers—who become private citizens upon exiting their jurisdiction—to conduct arrests as private citizens for offenses which, by statute, require the issuance of a citation in lieu of arrest; and (3) the authority of law enforcement officers-turned-private-citizens to prolong the duration of a traffic stop beyond the “mission” of the traffic stop in order to facilitate another officer who has jurisdiction arriving at the scene of the arrest with, *inter alia*, a drug dog.

9. Mr. Forest now seeks a Writ of Certiorari for the Tennessee Supreme Court with respect to its decision to dismiss Mr. Forest’s appeal.

10. Pursuant to Supreme Court Rule 13.1, a Petition for a Writ of Certiorari must be filed within ninety (90) days after entry of the judgment entered by a state

court of last resort. *See* Sup. Ct. R. 13.1. Because the Order dismissing Mr. Forest's appeal was entered by the Tennessee Supreme Court on October 24, 2022, Mr. Forest's Petition for a Writ of Certiorari is due today, January 23, 2023, by operation of Supreme Court Rule 30.1. *See* Sup. Ct. R. 30.1 (providing that the last day of the designated period shall be included, unless it is, *inter alia*, a Sunday, in which event the period shall extend until the end of the next day). However, for the reasons stated, *infra*, the time granted by Supreme Court Rule 13.1 will be insufficient to allow Petitioner's counsel to finish drafting and to file Mr. Forest's Petition for a Writ of Certiorari with this Court. As a result, Mr. Forest seeks an extension of thirty (30) days in which to file his Petition for a Writ of Certiorari. *See* Sup. Ct. R. 13.5 ("[A] Justice may extend the time to file a petition for writ of certiorari for a period not exceeding 60 days.").

11. Mr. Forest, by and through undersigned counsel, acknowledges that an application for an extension of time to file a Petition for a Writ of Certiorari "must be filed with the Clerk at least ten (10) days before the date the petition is due, except in extraordinary circumstances." *Id.* For the following reasons, Mr. Forest respectfully submits that extraordinary circumstances warrant accepting as late-filed the instant Application for Extension of Time:

- i. After the Tennessee Supreme Court dismissed Mr. Forest's appeal, undersigned counsel, who at the time was not admitted to the Bar of this Court, had to locate two sponsors previously admitted to this Court to

support undersigned counsel's application for admission to practice in this Court.

- ii. This Court admitted undersigned counsel as a member of the Bar of this Court on January 17, 2023. *See* Letter from Supreme Court Clerk Scott S. Harris, attached hereto and incorporated herewith as Appendix C.
- iii. Undersigned counsel received the letter referenced in Appendix C in the mail via the United States Postal Service today, January 23, 2023.
- iv. Supreme Court Rule 9.1 provides that “[a]n attorney seeking to file a document in this Court in a representative capacity must first be admitted to practice before this Court as provided in Rule 5, except that admission to the Bar of this Court is not required for an attorney appointed under the Criminal Justice Act of 1964, see 18 U.S.C. § 3006A(d)(7), or under any other applicable federal statute.” Sup. Ct. R. 9.1.
- v. Upon information and belief and pursuant to Supreme Court Rule 9.1, undersigned counsel was ethically prohibited from filing the instant Application for Extension of Time until January 17, 2023, the date of undersigned counsel's admission to the Bar of this Court.
- vi. Because undersigned counsel was admitted to the Bar of this Court on January 17, 2023, undersigned counsel could not have ethically filed the instant Application for Extension of Time in compliance with Supreme Court Rule 13.5's requirement for the Application for Extension of Time

to “be filed with the Clerk at least ten (10) days before the date the petition is due,” which is today, January 23, 2023. *See* Sup. Ct. R. 13.5.

12. Pursuant to Supreme Court Rule 29.7, Mr. Forest, by and through undersigned counsel, also acknowledges that “all filers who are represented by counsel must submit documents to the Court’s electronic filing system in conformity with the ‘Guidelines for the Submission of Documents to the Supreme Court’s Electronic Filing System’ issued by the Clerk.” Undersigned counsel has submitted a registration request for approval for this Court’s electronic filing system. *See* Email from Supreme Court Electronic Filing System, attached hereto and incorporated herewith as **Appendix D**. Upon information and belief, registration requests for approval to file with the Court’s electronic filing system are generally reviewed within two (2) business days. *See id.* Upon information and belief, undersigned counsel’s registration request for approval for this Court’s electronic filing system is still pending as of the drafting of this pleading. As a result, undersigned counsel has mailed the instant pleading to the Clerk of the Court via the United States Postal Service by first-class mail, postage prepaid, and bearing a postmark showing that the pleading was mailed today, January 23, 2023. *See* Sup. Ct. R. 29.2. If appropriate, undersigned counsel will also electronically file the instant pleading via the Court’s electronic filing system once undersigned counsel’s registration request has been approved.

13. In addition to the instant matter, undersigned counsel has completed, or otherwise been working on, the following appeals:

- i. *State of Tennessee v. Timothy Travis Jenkins*, Tennessee Court of Criminal Appeals Docket No. M2022-01093-CCA-R3-CD (defendant appealing the full revocation of his six-year probated sentence);
- ii. *Kimberly Miller v. State of Tennessee*, Tennessee Court of Criminal Appeals Docket No. M2022-00901-CCA-R3-PC (petitioner-appellant appealing the post-conviction court's denial of petition for post-conviction relief stemming from petitioner-appellant's conviction for first degree murder and resulting sentence of life imprisonment);
- iii. *State of Tennessee v. Gavin Sheets*, Tennessee Court of Criminal Appeals Docket No. M2022-00538-CCA-R3-CD (filed motion for appeal bond with the Tennessee Court of Criminal Appeals on December 5, 2022; filed motion for review of the Court of Criminal Appeals' Order denying motion for appeal bond with the Tennessee Supreme Court on December 26, 2022); and
- iv. *State of Tennessee v. Douglas Roach*, Tennessee Court of Criminal Appeals Docket No. M2022-00871-CCA-R3-CD (defendant appealing ten (10) convictions for especially aggravated kidnapping and resulting effective sentence of twenty-five (25) years in prison).

14. Since October 24, 2022, undersigned counsel has participated in approximately 115 court appearances in various cases in various trial courts in the State of Tennessee.



15. In light of undersigned counsel's recent admission to the Bar of this Court, undersigned counsel's past and present obligations, and the importance of the issues that will be presented in this case, undersigned counsel submits that a thirty (30) day extension is necessary in order to prepare and file Mr. Forest's Petition for a Writ of Certiorari.

WHEREFORE, in the interest of justice and for good cause shown, Mr. Forest requests the following relief:

1. That this Application for Extension of Time be accepted as late-filed pursuant to Supreme Court Rule 13.5;
2. That this Court extend the current January 23, 2023, deadline to February 22, 2023;
3. That the paper copy of this pleading be accepted pending the approval of undersigned counsel's registration request with the Court's electronic filing system; and
4. That this Court grant Mr. Forest such other relief as may be appropriate and the interest of justice requires.

Respectfully submitted,

*Brandon E. White*

Brandon E. White – T.B.P.R. # 033618  
The Law Office of Brandon E. White  
39 Public Square, Suite 1  
Columbia, TN 38401  
Office: (931) 901-0193  
Fax: (931) 548-2717  
brandon@brandonewhitelaw.com

*Counsel for Petitioner*