

No. 22A840

IN THE SUPREME COURT OF THE UNITED STATES

RALPH LEROY MENZIES, Petitioner,

vs.

LARRY BENZON, Warden, Utah State Prison, Respondent.

****CAPITAL CASE****

**APPLICATION FOR FURTHER EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT**

TO THE HONORABLE NEIL M. GORSUCH, CIRCUIT JUSTICE FOR THE
TENTH CIRCUIT:

Pursuant to Supreme Court Rules 13.5, 30.2, and 30.3, Petitioner Ralph Menzies respectfully requests a 30-day extension of time, up to and including Friday, June 2, 2023, in which to file his Petition for Writ of Certiorari. The current due date is May 3, 2023, and this application is being filed ten days in advance of that date. Respondent's counsel has informed undersigned counsel that they have no objection to this requested 30-day extension.

JUDGMENT FOR WHICH REVIEW IS BEING SOUGHT

On November 7, 2022, in *Menzies v. Powell*, No. 19-4042, the Tenth Circuit

Court of Appeals affirmed the federal district court's denial of Mr. Menzies's petition pursuant to 28 U.S.C. § 2254. Rehearing was denied on January 3, 2023.

REASONS FOR THE REQUESTED EXTENSION OF TIME

Counsel respectfully requests a 30-day extension of time in which to file a petition for certiorari seeking review of the Tenth Circuit's decision in this case, up to and including June 2, 2023.

To date, undersigned counsel have been unable to complete Mr. Menzies's Petition for Writ of Certiorari. Ms. Layer is counsel in eight capital habeas cases, each with their own pending responsibilities. Ms. Layer filed an amended civil complaint in the Utah Third district state court on April 14, 2023, on behalf of Mr. Menzies and other Utah clients. Ms. Layer also has an opening brief due in the Fourth Circuit Court of Appeals on May 1, 2023. In addition, Ms. Layer was out of the office on pre-planned leave the week of March 27, as well as on travel related to other cases during the weeks of April 3 and April 17. Ms. Layer will again be traveling out of state for a conference the week of May 1, including over the date on which the petition is currently due. As a supervisor in the Capital Habeas Unit, Ms. Layer also has supervisory and administrative responsibilities requiring a significant amount of time and attention.

Mr. Zuckerman has also had commitments that have prevented him from working on a petition for certiorari in this matter. Mr. Zuckerman is counsel in eight

capital habeas cases. Mr. Zuckerman filed a petition for rehearing in the Tenth Circuit in a capital case on April 11, 2023. He is also counsel in same civil litigation noted above that was filed in Utah state court on April 14, 2023. In addition, Mr. Zuckerman has a brief due in the Utah Supreme Court on May 26, disclosure of five expert reports due in the Utah 4th District state court on June 9, and an amended petition for writ of habeas corpus in a capital case due in the Northern District of California on June 22, 2023. Mr. Zuckerman has also been out of the office on work-related travel for nine days over the past five weeks.

As a result of the foregoing, Ms. Layer and Mr. Zuckerman have been unable to devote the time required to adequately prepare Mr. Menzies's Petition for Writ of Certiorari, which establishes good cause for the instant request.

CONCLUSION

For the foregoing reasons, and in light of the heightened reliability that the Eighth Amendment requires in capital cases, *see Woodson v. North Carolina*, 428 U.S. 280, 305 (1976) (explaining that “[b]ecause of th[e] qualitative difference[]” between death and other punishments, “there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case”), Mr. Menzies respectfully requests an extension of time to file his Petition for Writ of Certiorari for 30 days, up to and including June 2, 2023. This time period would be within the 60-day limit provided by Rule 13.

Respectfully submitted this 21st day of April, 2023.

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