

IN THE
Supreme Court of the United States

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KEITH MICHAEL CONNOLE,

Petitioner/Movant,

v.

STATE OF ARIZONA

and

RACHEL MITCHELL, Maricopa County Attorney,

Respondents.

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**RULE 13 MOTION
FOR EXTENSION OF TIME TO FILE
PETITION FOR CERTIORARI**

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**TO THE HONORABLE JUSTICE
ELENA KAGAN AS CIRCUIT JUSTICE**

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July 5, 2023

To the Honorable Elena Kagan, as Associate Justice of The Supreme Court Of The United States and Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

MOTION FOR AN EXTENSION OF TIME

Pursuant to Rules 13.5, 22, 30.2, and 30.3 of the Rules of this Court, as well as 28 U.S.C. § 2101(c), Movant Keith Connole hereby requests a 60-day extension of time within which to file a petition for a writ of certiorari, up to and including Friday, September 22, 2023.

N.B. – by email, Respondents stated their objection to the Motion.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *State of Arizona v. Keith Connole*, Maricopa County Superior Court No. CR2001-007211-A (July 26, 2022) [attached as Exhibit A.] The Supreme Court of the State of Arizona denied Movant’s for review on April 25, 2023. [See *Keith Connole v. Garbarino (State of Arizona)*, No. CR-22-0305-PR (attached as Exhibit B).]

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1257.¹ Based on the April 25, 2023 Arizona Supreme Court’s

¹ See, e.g., *Wearry v. Cain*, 577 U.S. 385, 395-96 (2016) (“This Court, of course, has jurisdiction over the final judgments of state postconviction courts, see 28 U.S.C. § 1257(a), and exercises that jurisdiction in appropriate circumstances.”); *Gonzalez v. Thaler*, 565 U.S. 134, 154 (2012) (“We can review . . . judgments of a ‘state court of last resort’ or of a lower state court if the ‘state court of last resort’ has denied discretionary review.”).

ruling, under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for a writ of certiorari was due to be filed on or before Monday, July 24, 2023.

In accordance with Rule 13.5, this application has been filed more than 10 days in advance of the filing date for the petition for a writ of certiorari.

REASONS JUSTIFYING THE EXTENSION

This case presents issues of importance to criminal prosecutions nationwide. The Petition will present both legal and procedural issues involving a defendant's federal and state constitutional due-process rights — the right to comparative DNA testing potentially providing newly discovered evidence material to post-conviction relief.

The extension is required due to the press of business on counsel's numerous other matters. Counsel of record's substantial commitments during the relevant time period include:

- A reply brief due in a habeas action in the US District Court District of Arizona in *Cameron Leezell Taylor v. Ryan Thornell*, 2:21-cv-01300-DLR-MTM, due on June 23, 2023;
- A petition for post-conviction relief in the Pima County Superior Court in *State of Arizona v. Corey Morris*, CR2015-4024-001/CR2015-4312-001, due July 20, 2023;
- A motion to remand a matter to the grand jury in the Maricopa County Superior Court in *State of Arizona v. Bruce Beekman*, CR2022-132949, likely due sometime before July 26, 2023;
- A petitioner for review to the Arizona Supreme Court in *State of Arizona v. Kim*

Kristoff, CR2023-0131-PR, due on July 21, 2023; and

- An opening brief to the United States Court of Appeals for the Ninth Circuit in *United States v. Edward Buck*, No. 22-50091/50136, due July 26, 2023.

Both this Court and Applicant deserve the best possible effort in presenting these important arguments, and counsel's existing commitments will prevent the full development and presentation of these issues. The proposed extension will permit the best possible presentation to this Court.

Furthermore, an extension will not cause prejudice to Respondents, as this Court would likely hear oral argument and issue its opinion until the October 2024 Term regardless of whether an extension is granted.

CONCLUSION

For the foregoing reasons, Movant respectfully requests that this Court grant an extension of 60 days, up to and including Friday, September 22, 2023, within which to file a petition for a writ of certiorari in this case.

RESPECTFULLY SUBMITTED this 5th of July, 2023.

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SERVICE

A copy of this application was served by email and U.S. mail to the counsel listed below in accordance with Supreme Court Rule 22.2 and 29.3:

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5th of July, 2023.

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