

No

IN THE

Supreme Court of the United States

BRYAN SCOTT CAVETT, PRO SE  
petitioner

v.

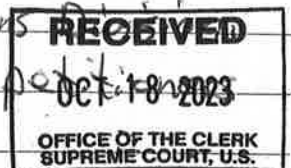
BOBBY LUMPKIN, DIRECTOR, Texas Dept. Criminal  
JUSTICE,  
Respondent

On Motion for Extension of Time to file For a  
PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE SUPREME COURT OF THE UNITED STATES;

Come's Now, Bryan Scott Cavett, Petitioner Pro-se, prays  
and moves this Court to grant an Extension of time to file his  
Petition FOR WRIT OF CERTIORARI, and respectfully States:

1. The United States Court of Appeals for the Fifth Circuit,  
rendered judgement in Cause No. 23-50314, styled as  
Bryan Scott Cavett, petitioner, versus; Bobby Lumpkin, Director, Texas  
Department of Criminal Justice, Correctional Institutions  
Respondent, on the date of, July 20, 2023, for



Application for Certificate of Appealability, in the United States District Court for the Western District of Texas; USDC, No. 1:22-cv-1042 Bryan Scott Cavetts, Petition For Writ of Certiorari, is Due to be filed with this Court for review about, on the date of October 20, 2023, 90 calendar days from the date of entry of judgement, order or opinion, or the date a timely filed petition for any rehearing is denied, or a subsequent judgement based on the grant of a petition, which is within time to file with the Clerk a petition for a Writ of Certiorari, Per this Courts Rules.

2. Bryan Scott Cavett, Now seeks an 60 to 75 days length of time (extention) to file the Writ of Certiorari, for review on or before December 15, 2023, or an adequate timely amount of days this Court Deems respectful for Cavett.

3. Cavett reasoning for Such an extention of time by the Court is, that he is an Inmate at and In the Custody of the Texas Department of Criminal Justice, H.H. Coffield Unit in 2661 FM 2054, Tennessee Colony Tx. 75884. This Extention of time is necessary because, Bobby Lumpkin, Bryan Collier, Director's of Texas Department of Criminal Justice, as well, Texas Board of Criminal Justice, has on Wednesday, September 6, 2023, implemented what it deems a threat to the offenders and security, a State Wide Prison System Lockdown, due to 16 or more prisoner and officer homicides, within the TDCJ facilities due to drugs and contraband. Due to this, Inmates Such as Cavett are not allowed to leave their cells (No inmate Movement), which makes it unable to Use the Unit Law Library per Access to the Courts.

There is no set time limit from Officials, or Directors of TDCJ as to how long this Security Threat, and Texas Statewide Prison lockdown will last, which is also due to the lack of officers employed which is at only 30% according to State Officials. It appears unlikely at this time how long such will get any better.

Due to Extreme Situations which are out of Bryan Scott Cavett's hands, such time constraints will make it extremely difficult to adequately prepare his Writ of Certiorari within the 90 day required. Due to these complex issues, additional time is needed to adequately prepare the issues and Statement of fact of the Case in this Writ of Certiorari.

4. This is the First Extension of time, Cavett has sought for the filing of Writ of Certiorari.

For these reasons, Bryan Scott Cavett, request that this Court grant Bryan Scott Cavett's motion for Extension of Time to file Petition For Writ of Certiorari, so that the Writ of Certiorari will be due on or about December 15, 2023.

Bryan Scott Cavett, would also request any other relief to which he may be entitled.

### Prayer For Relief

Bryan Scott Cavett, Prays this Honorable Court Grants the Motion for Extension of Time to file, Petition For Writ of Certiorari.

Respectfully Submitted,  
Bryan Scott Cavett  
Pro-Se

# CERTIFICATE OF SERVICE

This Certifies that the Undersigned mailed this Motion to the Clerk, of the Supreme Court of the United States, by placing it in the inmate prison mail box, thru the Inmate Indigent Mail System, thru the Unit Law Library at Coffield on this Date; September, 11, 2023 Petitioner Cavett further request, since due to his being indigent, that any and all additional Copies of the forgoing legal instrument be thereby forwarded to all interested parties which may be involved, VIA the CM/ECF System, except for Bryan Scott Cavett, as he is detained and indigent with no other means to do so.

Date: 9/11/2023

Respectfully Submitted,

Mailed To:

~~Bryan Scott Cavett, Pro-Se~~  
Bryan Scott Cavett, Pro-Se

Honorable Clerk of the  
Supreme Court of the United States  
Washington, D.C. 20543-0001

United States Court of Appeals  
for the Fifth Circuit

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No. 23-50314

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 20, 2023

Lyle W. Cayce  
Clerk

BRYAN SCOTT CAVETT,

*Petitioner—Appellant,*

*versus*

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,  
Correctional Institutions Division,*

*Respondent—Appellee.*

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Application for Certificate of Appealability  
the United States District Court  
for the Western District of Texas  
USDC No. 1:22-CV-1042

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UNPUBLISHED ORDER

Before SMITH, SOUTHWICK, and WILSON, *Circuit Judges.*

PER CURIAM:

Bryan Scott Cavett, Texas prisoner # 2124183, moves for a certificate of appealability (COA) to appeal the district court's dismissal of his 28 U.S.C. § 2254 application challenging his conviction for indecency with a child by sexual contact. The district court dismissed Cavett's application as barred by the one-year limitations period of 28 U.S.C. § 2244(d). Cavett

No. 23-50314

argues that he is entitled to equitable tolling of the limitations period and that he can demonstrate cause and prejudice for the untimely filing of the application because he received ineffective assistance of counsel. He also asserts that he was entitled to an evidentiary hearing because deference should not have been given to the state court's decision.

To obtain a COA, Cavett must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *see Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). Because the district court rejected the habeas application on a procedural ground, Cavett must show "that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Cavett has not made the requisite showing. *See id.*

As Cavett fails to make the required showing for a COA, we do not reach the issue whether the district court erred by failing to conduct an evidentiary hearing. *See United States v. Davis*, 971 F.3d 524, 534-35 (5th Cir. 2020).

Cavett's motion for a COA is DENIED.