

No.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2023

ELLIS MASHBURN, JR.

Petitioner,

v.

COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS,

Respondent.

**Application for an Extension of Time
to File a Petition for a Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit**

**To the Honorable Clarence Thomas, Associate Justice of the
Supreme Court of the United States and Circuit Justice for the United
States Court of Appeals for the Eleventh Circuit:**

Pursuant to Rules 13.5 and 30 of the Rules of this Court, Applicant Ellis Mashburn respectfully requests a 30-day extension of time within which to file a petition for a writ of certiorari up to and including Friday, February 9, 2024:

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254.
2. On September 5, 2023, the United States Court of Appeals for the

Eleventh Circuit affirmed the denial of Mr. Mashburn's habeas petition. *Mashburn v. Commissioner, Alabama Department of Corrections*, No. 22-10329 (11th Cir. Sept. 5, 2023). (Attached as Exhibit 1.) The Eleventh Circuit denied his petition for panel rehearing on October 12, 2023. (Attached as Exhibit 2.).

3. Pursuant to Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for a writ of certiorari is due to be filed on or before January 10, 2024. In accordance with Rule 13.5, this application is being filed more than 10 days in advance of the filing date for the petition for a writ of certiorari.

4. This is a capital case in which the death penalty has been imposed. Mr. Mashburn is incarcerated at Holman Correctional Facility in Atmore, Alabama. No execution date has been scheduled in this case.

5. Petitioner's case raises meritorious issues regarding the constitutionality and reliability of his capital conviction and death sentence. As such, there are compelling questions about whether the Eleventh Circuit properly affirmed the denial of his habeas petition.

6. Undersigned counsel currently is involved in the appeals of many capital cases: several habeas corpus cases in the federal district courts, postconviction cases in Alabama state courts, and several direct appeals to the Alabama Court of Criminal Appeals and the Alabama Supreme Court. Counsel faces a number of deadlines in these cases in the coming weeks.

7. An additional thirty (30) days is needed to prepare a pleading that adequately apprises this Court of the relevant facts and law in this case.

For these reasons, Mr. Mashburn respectfully requests an additional thirty (30) days in which to file his petition for writ of certiorari, thereby changing to February 9, 2024, the date on or by which it must be filed.

Respectfully submitted,

/s/ James M. Hubbard

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