

CAPITAL CASE

No. _____

In The

SUPREME COURT OF THE UNITED STATES

October Term 2023

**MICHAEL JONATHON CARLSON,
*Applicant/Petitioner***

v.

**STATE OF ARIZONA,
*Respondent.***

**Application for an Extension of Time Within
Which to File a Petition for a Writ of Certiorari to the
Arizona Supreme Court**

**APPLICATION TO THE HONORABLE ELENA KAGAN
ASSOCIATE JUSTICE OF THE SUPREME COURT
OF THE UNITED STATES AND CIRCUIT JUSTICE
FOR THE NINTH CIRCUIT**

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**APPLICATION FOR EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION
FOR WRIT OF CERTIORARI
TO THE ARIZONA SUPREME COURT**

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Michael Jonathon Carlson requests a 60-day extension of time to file a petition for writ of certiorari, up to and including Friday, March 17, 2024.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is the Arizona Supreme Court's denial of postconviction relief in *State of Arizona v. Michael Jonathon Carlson*, No. CR-22-0157-PC (October 17, 2023). Attachment A. The Arizona Supreme Court affirmed the decision in *State of Arizona v. Michael Jonathan Carlson*, No. CR-20093544 (August 21, 2021). Attachment B.

JURISDICTION

This Court will have jurisdiction over any timely filed petition for writ of certiorari in this case pursuant to 28 U.S.C. 1254(1). Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for writ of certiorari is due to be filed on or before January 16, 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.

REASONS JUSTIFYING AN EXTENSION OF TIME

Applicant respectfully requests a 60-day extension of time within which to file a petition for writ of certiorari seeking review of the decision of the Arizona Supreme Court in this case, up to and including March 17, 2024. The requested extension is

made in good faith and not for the purposes of delay. Indeed, the requested extension is made because of the vital importance associated with the issues at hand – the right to a fair and reliable trial. This Court has emphasized that “our duty to search for constitutional error with painstaking care is never more exacting than it is in a capital case.” *Burger v. Kemp*, 483 U.S. 776, 785 (1987). It is respectfully submitted that counsel’s duty to present all authorized claims of constitutional error with care is of equal significance. Thus, it is important that counsel be granted additional time to prepare Mr. Carlson’s petition with the care demanded of such cases.

Both counsel undersigned are solo practitioners with one part-time legal assistant between them. Other obligations, including on behalf of Mr. Carlson, have precluded counsel from being able to direct adequate time and attention to the preparation of a petition for writ of certiorari on Petitioner’s behalf. Specifically, counsel filed a successive petition for postconviction relief for Mr. Carlson on September 1, 2023. The State responded on October 12, 2023, five days before the Arizona Supreme Court issued its order in this matter. Since then, counsel have spent considerable time preparing the reply to the successive petition, which was filed in the trial court on December 15, 2023.

Additionally, since the Arizona Supreme Court’s order, Mr. Cooper prepared for a first-degree murder trial, which resolved just ten days before trial was set to begin on November 30 (*State of Arizona v. Christopher*, Pima County Superior Court case no. CR2020-4747). This was in addition to other demands of his caseload, which include another first-degree murder trial scheduled to start on February 13 (*State of Arizona v. Aguilar*, Pima County Superior Court case no. CR2022-1602) and a federal

terrorism trial, with co-counsel Krauss, in which jury selection is scheduled to begin on April 16, 2024 (*USA v. Hussein*, District of Arizona case no. CR19-02162). Ms. Krauss, similarly, filed a Motion to Remand in the Ninth Circuit on November 8 (*USA v. Coleman*, Ninth Circuit case no. 23-770), appeared for oral argument before the Ninth Circuit on December 8 (*USA v. Eklund*, Ninth Circuit case no. 21-30240), and filed a motion for a reduction of sentence in the District Court for the District of Alaska on December 13, 2023 (*USA v. Eklund*, Ninth Circuit case no. CR-18-00035).

A 60-day extension for Applicant Mr. Carlson would allow undersigned counsel the necessary amount of time to effectively prepare the petition for writ of certiorari in this case. Counsel have been in contact with Assistant Attorney General Jason P. Gannon, who indicated that the State has no opposition to the granting of this motion.

CONCLUSION

Therefore, considering counsel's current obligations and the importance of the constitutional issues that will be presented in this capital case, counsel submit that a 60-day extension, up to and including March 17, 2024, is necessary and appropriate in order to effectively prepare the petition for certiorari on Mr. Carlson's behalf.

Respectfully submitted,

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December 29, 2023
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