

**\*\*THIS IS A CAPITAL CASE\*\***

No. \_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

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DAVID HOSIER,

*Petitioner,*

v.

DAVID VANDERGRIF,

*Respondent.*

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On Petition for Writ of Certiorari  
to the U.S. Court of Appeals, Eighth Circuit

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**MOTION FOR ORDER DIRECTING CLERK OF COURT TO  
FILE PETITION FOR WRIT OF CERTIORARI OUT OF TIME**

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**TO: THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE  
JUSTICE FOR THE UNITED STATES SUPREME COURT AND  
CIRCUIT JUSTICE FOR THE EIGHTH CIRCUIT**

Petitioner David Hosier, a death-sentenced prisoner seeking this Court's review of the denial of certificates of appealability for two claims raised in his Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254, respectfully moves this Court for an order directing the Clerk of Court to file his Petition for Writ of Certiorari out of time. Petitioner failed to file the Petition for Writ of Certiorari by July 31, 2023, the deadline set by order of Justice Kavanaugh on May 24, 2023.

Petitioner Hosier is aware 28 U.S.C. § 2101(c) provides no exception to allow the late filing of the Petition and knows the statutory time limitations are mandatory and jurisdictional. *Missouri v. Jenkins*, 495 U.S. 33, 45 (1990). Hosier nevertheless requests an exception to allow a late filing because he is a death-sentenced individual denied appellate review of two substantial habeas claims in the court below who now seeks review on the limited issues of whether certificates of appealability should issue to allow appellate review of two claims raised in his Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254. Petitioner submits this motion and the Petition for Writ of Certiorari one day after discovering the failure to file a timely Petition.

Wherefore, Mr. Hosier requests respectfully that an order be issued directing the Clerk of Court to file his Petition for Writ of Certiorari out of time.

Dated August 15, 2023.

Respectfully submitted,

/s/ Jeremy S. Weis  
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