

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

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

\_\_\_\_\_ **Term, 20** \_\_\_\_\_

A C JAMES, JR.,	)	U.S. Court of Appeals 7 <sup>th</sup> Cir. No. 22-3031
Petitioner	)	Appeal from the U.S. District Court of the
v.	)	Northern District of Indiana,
	)	South Bend Division
WARDEN, RON NEAL,	)	No. 33:22-CV-70-MGG
Respondent	)	Magistrate Judge Michael G. Gotsch, Sr.

**MOTION TO DIRECT THE CLERK TO FILE PETITION**

Comes now, A C James, Jr., (who is presently incarcerated at the Indiana State Prison with DOC# 231845), pro se respectfully request of the Court to grant motion to direct the Clerk to file petition out of time, pursuant to U.S. Sup. Ct. R. 13.2, R. 22, R. 30.2, and R. 30.4, to review petition for a writ of certiorari along with the motion for leave to proceed inform a pauperis, as following:

1. On July 15, 2019 the trial/post-conviction court given a Findings of Fact and Conclusion of Law, that's unconstitutional in denied James petition for post-conviction relief.
2. Timely appeal to the Indiana Court of Appeals, affirmed the trial/post-conviction court, in Memo. Decision, on June 18, 2021, also denied petition for rehearing on 8/20/2021. In petition to the Indiana Supreme Court, denied transfer on 11/16/2021.
3. Timely filed petition for habeas corpus relief, in the United States District Court for the Northern District of Indiana, South Bend Division, which given an Opinion and Order that's unconstitutional, deciding with the State Courts, denies petition for habeas corpus relief.
4. Timely appeal to the United States Court of Appeals for the Seventh Circuit, in accordingly denied petition for a certificate of appealability and request to proceed inform a pauperis, decided April 26, 2023.
5. Having not received a copy of document(s) 9 (Attachments #1 thru #9 State Court Record) entered on 4/07/2022 by Respondent for which the District Court referred to in its Opinion, petitioner requested a copy on 7/13/2023, in order to be more adequate in petition for a writ of certiorari.

6. The District Court Clerk having not respond, petitioner filed a motion to compel, as for Respondent to produce copy of document(s) 9 ((Attachments #1 thru #9 State Court Record), within requested as of computation for extension of time to file petition for a writ of certiorari, which was presented to this Court and the district court, on July 25, 2023.
7. On August 2, 2023, the district court issued an Order, for the clerk of that court to provide a copy of the document(s) 9 (Attachments #1 thru #9 State Court Record), however, denies request to extend as lack of jurisdiction, although the court could have exercise supplemental jurisdiction pursuant to 28 USCS § 1367(d).
8. On September 15, 2023, the Clerk for this Court in respond to the motion, in which requested extension of time to file petition for a writ of certiorari, basically informed petitioner that that the Court does not address the matter presented. And that the jurisdiction of this Court extends only to consideration of cases or controversies properly brought before it from the lower courts in accordance with federal law and filed pursuant to Rules of this Court. (See Motion and Clerk's letter attached.)
9. However, pursuant to U.S. Sup. Ct. R. 13 .2, "good cause" and R. 30.2, the Justice or the Clerk is empowered by law or these Rules to extend the time to file any document, which includes e.g. extension of time to file petition for a writ of certiorari, see also *Missouri v. Jenkins*, U.S. 33, (1990), the Court discussed *infra* at 45, 28 USCS § 2101(c) requires that a petition for certiorari in a civil case be filed within 90 days after the entry of the judgment sought to be reviewed. Section 2101(c) also permits a Justice of this Court, for good cause shown, to grant an extension of time, for the filing of a petition for certiorari in a civil case for a period not exceeding 60 days. In civil cases, applications for extensions of time must be presented during the original 90 day period. This court's rule 30.2.
10. In *Pace v. DiGugliemo*, 544 U.S., 408 (April 27, 2005), noting, Federal Rule Civil Procedure 5(e) ("The clerk shall not refuse to accept for filing any paper presented for the purpose solely because it is not presented in proper form as required by these rules or any local rules or practices"). Rule 5 (d) (2) (B) provides that a judge to accept a paper for filing replacing the reference in former Rule 5 (e). See also *Pasternack v. Commissioner*, 155 U.S. App. D.G., 384, 478 F. 2d 588, 593 (D.C. Cir. 1973) (*per curiam*) (papers inaptly worded or filed in wrong court still sufficient to show party's intent to appeal).
11. In given that James did filed for extension of time to file petition for a writ of certiorari on July 25, 2023 it was presented during the original 90 day period; as accordingly to the due date, and in which James did within 30 days thereafter, September 15, 2023 response from the Clerk of this Court, did filed petition on October 13, 2023 which is considerably not out-of-time, as the Clerk of the Court returned as out-of-time, on October 25, 2023. (See Clerk's letter attached.)

12. In *Durham v. United States*, 401 U.S. 481 (1971), the Court considered the petition for certiorari in which the opinion of the Court of Appeals was filed on November 17, 1969, rehearing was denied on March 5, 1970, and the petition was filed on September 26, 1970, under Rule 22(2) that applied that case the petition was more than five (5) months out of time.

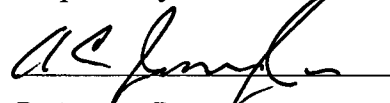
13. In many cases, the Court has entertained petitions through docketed after expiration of time prescribed in the Court's Rules; *Smith v. Mississippi*, 373 U.S. 238; *Arnold v. North Carolina*, 376 U.S. 773; *Nelson v. United States*, 392 U.S. 303; *Fuller v. Alaska*, 393 U.S. 80; *Banks v. California*, 382 U.S. 420; *Long v. Park*, 384, U.S. 32; *Serio v. United States*, 392 U.S. 305.

14. In the event of time restrain, by prison lockdowns, as with prison authorities having impeded with access to Law Library (See attached, State of Indiana Department of Correction letter), and receiving copy of the document(s) 9 (Attachments #1 thru #9 State Court Record) in a delayed manner, which it has been sent with the banner heading document 42-1, thru 42-5, as of with Order document 42, please see also included with petition for a writ of certiorari, in Appendix F at 1-4...

Wherefore, without further delay in motion to direct the Clerk to file petition, petitioner pleads to the Supreme Court of the United States, Justice of the Court, to grant motion pursuant to U.S. Sup. Ct. R. 13.2 R. 22, R. 30.2 and R. 30.4, and accordingly to the foregoing law of this Court, to review petition for writ of certiorari as timely in the most extraordinary circumstances, whereas also to know that it would be a miscarriage of justice for James's conviction involving a capital crime, murder that is, if choose not to review petition for writ of certiorari holding particular issues of importance for the public concern.

Date: December 28, 2023

Respectfully Submitted,



*Petitioner Pro se*  
A C James, Jr., DOC# 231845  
Indiana State Prison  
1 Park Row St.  
Michigan City, IN 46360

AC James Jr  
Petitioner

v.

Warden, Indiana State Prison  
Respondent

Appellate No. 22-3031  
No. 3:22-CV-70 MGG

### Motion to Compell State's Record

Comes now, AC James Jr #231845, pro se respectfully request the Court to order the Warden, Indiana State Prison, to provide a copy of the State's Record that was entered upon record on 4/07/2022 as Document 61 9 (Attachments #1 thru #9 State court record). The respondent have not sent petitioner a copy as entered upon record. It is needed in order for petitioner to make an adequate response/petition to proceed in exhaust a writ of certiorari. It was previously request from the Clerk, considering it could have been e-mail from record to Law Librarian Supervisor, however finding that it's the responsibility of respondent. And upon delay petitioner also request extension of time to exhaust a writ of certiorari.

Respectfully Submitted, pro se

*AC James Jr*

RECEIVED

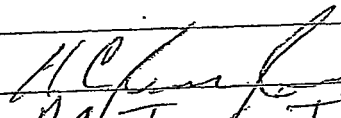
AUG 17 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

## Certificate of Service

I A C James Jr, pro se on July 25, 2023  
sent the Respondent and/or attorney for respondent  
a copy of the Motion to Compell State's Record to  
the following address, by U.S. Mail

Caroline G. Templeton  
Indiana Attorney General's Office  
302 Washington St. 5th Fl  
Indianapolis, IN 46204-2779

Respectfully,   
A C James Jr #231845  
Indiana State Prison  
1 Park Row  
Michigan City, Indiana 46360

713-73 by 93 (initials) (name)

To: Clerk of the Court  
United States District Court  
Northern District of Indiana  
South Bend Division  
Robert A. Grant Federal Bldg. and Courthouse Rm 201  
204 S. Main Street South Bend, Indiana 46601

231845  
01 118

July 13, 2023

In Re: Document(s) 9 (Attachments: #1 thru #9 State court records) (Entered: 4/07/2022) for Case:  
3:22-CV-00070-JD-AMG

Dear Clerk,

I, AC James Jr #231845 write to you requesting a copy the Document(s) 9 with (Attachments #1 thru #9 State court records), Case 3:22-CV-00070-JD-AMG, please. Thank You. For your assistance it is greatly appreciated.

Respectfully Submitted,  
AC James Jr

AC James Jr #231845  
Indiana State Prison  
One Park Row  
Michigan City, Indiana 46360

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

A.C. JAMES, JR.,

Petitioner,

v.

WARDEN,

Respondent.

CAUSE NO. 3:22-CV-70-MGG

ORDER

A.C. James, Jr., a prisoner without a lawyer, filed a motion asking for copies of the electronically filed portion of the State court record at ECF 9. He explains that he needs these copies for the purpose of preparing a petition for a writ of certiorari to the Supreme Court of the United States and that he has never before received copies of ECF 9. The motion for these copies is granted.

James also seeks an extension of time to file a petition for a writ of certiorari. However, this request is denied as this court lacks the authority to extend this deadline. *See* U.S. Sup. Ct. R. 13(5) ("For good cause, a [Supreme Court] Justice may extend the time to file a petition for a writ of certiorari for a period not exceeding 60 days.").

For these reasons, the court:

- (1) DENIES the request to extend (ECF 41);
- (2) GRANTS the request for copies (ECF 41); and
- (3) DIRECTS the clerk to send A.C. James, Jr. a copy of ECF 9 and any attached exhibits.

SO ORDERED on August 2, 2023

s/ Michael G. Gotsch, Sr.

Michael G. Gotsch, Sr.

United States Magistrate Judge



**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

September 15, 2023

A.C. James  
#231845  
Indiana State Prison  
1 Park Row  
Michigan City, IN 46360

RE: Motion to Compel State's Record

Dear Mr. James:

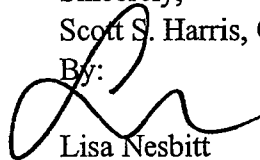
In reply to your letter or submission, received August 21, 2023, I regret to inform you that the Court is unable to assist you in the matter you present.

Under Article III of the Constitution, the jurisdiction of this Court extends only to the consideration of cases or controversies properly brought before it from lower courts in accordance with federal law and filed pursuant to the Rules of this Court.

Your papers are herewith returned.

Sincerely,  
Scott S. Harris, Clerk

By:

A handwritten signature in black ink, appearing to read 'Lisa Nesbitt', is written over the printed name.

Lisa Nesbitt  
(202) 479-3038

Enclosures



**STATE OF INDIANA**  
**Department of Correction**

Indiana Government Center—South

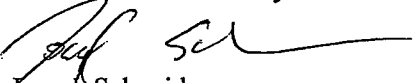
**Eric J. Holcomb**  
Governor

302 W. Washington Street • Indianapolis, Indiana 46204-2738  
Phone: (317) 232-5711 • Fax: (317) 232-6798 • Website: [www.in.gov/idoc/](http://www.in.gov/idoc/)

**Christina Reagle**  
Commissioner

Sept 27, 2023  
To Whom it May Concern,

Incarcerated Individual AC James 231845 B118 has been unable to leave his job in the electronics shop to go the law library recently on a few occasions because the library has either forgotten to send passes for him, his shop has been busy and unable to let him go, or the law library staff member has not been here which leads to the Law Library being closed. This has led to him not being able to attend to his needs in research or getting proper correspondence prepared in the required time frame which has led to him missing deadlines or delaying his current action. Please allow him some extra time to work on his current action, he has filed grievances about this issue, and we are working on getting the law library and his supervisor on the same page so he can be allowed this access to the law library to meet his deadlines.

  
Joseph Schneider  
Unit Team Manager  
Indiana State Prison

**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

October 25, 2023

A.C. James  
#231845  
Indiana State Prison  
1 Park Row  
Michigan City, IN 46360

RE: James v. Neal  
USCA7 No. 22-3031

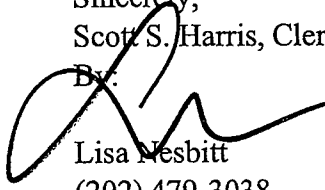
Dear Mr. James:

The above-entitled petition for a writ of certiorari was postmarked October 13, 2023 and received October 25, 2023. The papers are returned for the following reason(s):

The petition is out-of-time. The date of the lower court judgment or order denying a timely petition for rehearing was April 26, 2023. Therefore, the petition was due on or before July 25, 2023. Rules 13.1, 29.2 and 30.1. When the time to file a petition for a writ of certiorari in a civil case (habeas action included) has expired, the Court no longer has the power to review the petition.

Sincerely,  
Scott S. Harris, Clerk

By:



Lisa Nesbitt  
(202) 479-3038

Enclosures