

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

EDWARD LEE BUSBY,
Petitioner,

v.

TEXAS,
Respondent.

On Petition for a Writ of Certiorari to
the Texas Court of Criminal Appeals

**APPLICATION FOR A THIRTY-DAY EXTENSION OF TIME
TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE TEXAS COURT OF CRIMINAL APPEALS**

To the Honorable Samuel Alito, Associate Justice, and Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioner Edward Lee Busby respectfully seeks a thirty-day extension of time, until July 3, 2025, to file a petition for a writ of certiorari seeking review of the Texas Court of Criminal Appeal’s (“CCA”) judgment issued March 5, 2025, in an unpublished order, *Ex parte* Busby, No. WR-70,747-06 (Tex. Crim. App. Mar. 5, 2025). *See* Appendix A. Counsel for Respondent does not oppose the requested thirty-day extension.

1. On February 3, 2021, the CCA issued an unpublished order staying Busby’s execution and remanding his claim raised pursuant to *Atkins v. Virginia*, 536 U.S.

304 (2002), to the state habeas trial court, after finding the claim satisfied that criteria for raising a claim in a subsequent habeas application. After the remand proceeding concluded, the CCA entered its Order denying Busby relief on March 5, 2025.

2. While the state's rules do not allow for a motion for rehearing, Busby filed a pleading which suggested the CCA reconsider its decision on March 20, 2025. See Tex. R. App. P. 79.2(d). The CCA denied the suggestion, without issuing a written order, on April 25, 2025.

3. At present, Busby has until June 3, 2025, to file a petition for a writ of certiorari seeking review of the CCA's judgment. *See* S. Ct. R. 13.1.

4. This Court has jurisdiction pursuant 28 U.S.C. § 1257(a).

5. Pursuant to Rules 13.5 and Rule 30.3, this Court may extend the time for seeking certiorari for up to sixty additional days.

6. Undersigned Counsel David R. Dow respectfully seeks this extension of time because of the importance of the issue in this case and Counsel's obligations in other matters.

7. This is a capital case, and the issue to be presented is significant.

8. Dow and his undersigned associate Newberry are § 3599 counsel for Matthew Lee Johnson, who is scheduled to be executed on May 20, 2025. Dow and Newberry have spent significant time this Spring pursuing relief for Johnson in both state and federal courts. Dow and Newberry are also appointed state habeas counsel for an

individual whose initial state habeas application is due to be filed on or before May 29 and have spent considerable time this Spring working on the state application.

Conclusion

For the foregoing reasons, this application for extension of time should be granted, extending Busby's time to file a petition for writ of certiorari for thirty days, or until July 3, 2025.

DATE: May 16, 2025

Respectfully submitted,

/s/ David R. Dow

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