

In the Supreme Court of the United States

KEVIN SALVADOR GOLPHIN,

Applicant/Petitioner,

v.

STATE OF NORTH CAROLINA,

Respondent.

**APPLICATION DIRECTED TO
THE HONORABLE CHIEF JUSTICE JOHN G. ROBERTS, JR.
FOR AN EXTENSION OF TIME WITHIN WHICH
TO PETITION FOR A WRIT OF CERTIORARI TO THE
SUPREME COURT OF NORTH CAROLINA**

EAMON P. JOYCE
CHRISTINA PRUSAK CHIANESE
BRIANNA O. GALLO
BRIAN C. EARL
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019
(212) 839-5300

*Counsel for Applicant Kevin Salvador
Golphin*

APPLICATION FOR EXTENSION OF TIME

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and
Circuit Justice for North Carolina:

1. Kevin Salvador Golphin respectfully requests a 60-day extension of time, up to and including August 18, 2025, within which to file a petition for a writ of certiorari. *See* 28 U.S.C. § 2101(c); Sup. Ct. R. 13.5. Following a three-day resentencing hearing that took place from April 11-13, 2022, the North Carolina Superior Court sentenced Mr. Golphin to two consecutive sentences of life without the possibility of parole (“LWOP”). *State v. Golphin*, No. 97CRS47312, 2022 WL 22905357 (Superior Ct. Cumberland Cty. Apr. 13, 2022) (*see* Exhibit 1). Golphin timely appealed. On February 6, 2024, the North Carolina Court of Appeals affirmed. *State v. Golphin*, 898 S.E.2d 37 (N.C. Ct. App. 2024) (*see* Exhibit 2). The North Carolina Court of Appeals denied en banc rehearing on March 12, 2024 (*see* Exhibit 3). On March 19, 2025, the North Carolina Supreme Court denied Mr. Golphin’s petition for discretionary review. *State v. Golphin*, 912 S.E.2d 838 (N.C. 2025) (Mem.) (*see* Exhibit 4). Thus, unless extended, the time to file a petition for a writ of certiorari will expire on June 17, 2025. *See* Sup. Ct. R. 13.3. This application has been filed more than ten days before the petition is currently due and is supported by good cause, as set forth below. *See* Sup. Ct. R. 13.5. This Court has jurisdiction to review the decision of the North Carolina Supreme Court under 28 U.S.C. § 1257(a).

2. This case warrants review because the decision of the North Carolina Supreme Court denying Mr. Golphin’s petition for discretionary review and thereby

allowing the decision of the North Carolina Court of Appeals to stand is in conflict with the constitutional protections for juvenile offenders under the Eighth Amendment established by this Court in *Miller v. Alabama*, 567 U.S. 460 (2012). The issues presented are of significant public interest and constitutional importance because they implicate the protection against cruel and unusual punishment for juveniles.

Mr. Golphin is a 45-year-old man currently serving two LWOP sentences for offenses he committed in 1997 when he was 17-years old. As the victim of childhood abuse and neglect that began while he was *in utero*, and continued well into his adolescence, Mr. Golphin has suffered from post-traumatic stress disorder and other significant mental and behavioral disorders linked to his childhood trauma. Moreover, at the time of his juvenile offenses, he had the emotional and behavioral maturity of a much younger boy and was less able to appreciate the consequences of his actions compared to the average 17-year-old. Over his decades of incarceration, Mr. Golphin has rehabilitated and reformed, going from nearly illiterate to an avid reader, earning a GED, completing all behavioral courses offered by the prison system, and maintaining many prison jobs.

On May 13, 1998, a jury¹ sentenced Mr. Golphin to death. Thereafter, in December 2005, Mr. Golphin was resentenced to mandatory LWOP in accordance

¹ A North Carolina court later found that the jury's verdict was the product of racial bias. See Order, *State v. Golphin*, 97 CRS 47314-15 (Superior Ct. Cumberland Cty. Dec. 13, 2012), available at https://www.aclu.org/wp-content/uploads/legal-documents/rja_order_12-13-12.pdf.

with this Court's ruling in *Roper v. Simmons*, 543 U.S. 551, 572-73 (2005). Then, on July 19, 2018, following this Court's rulings in *Miller* prohibiting mandatory LWOP sentences for juveniles without consideration of "how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison," 567 U.S. at 480, and in *Montgomery v. Louisiana*, 577 U.S. 190, 206-08 (2016) holding that *Miller* applies retroactively, Mr. Golphin was granted a new sentencing proceeding.

On April 13, 2022, after a three-day evidentiary hearing, the resentencing court rendered an oral decision, which it then memorialized in writing, resentencing Mr. Golphin to two LWOP sentences. In its order, the court reasoned that "Defendant's *crimes* demonstrate his permanent incorrigibility and not his unfortunate yet transient immaturity." *Golphin*, 2022 WL 22905357, at *3 (emphasis added). The North Carolina Court of Appeals then affirmed the LWOP sentences based on the resentencing court's view of what Mr. Golphin's "*crimes* [as a juvenile] demonstrated," while disregarding evidence of Mr. Golphin's reformation while incarcerated and continued capacity for change. *Golphin*, 898 S.E.2d at 52. The North Carolina Supreme Court declined to review the Court of Appeal's decision. *Golphin*, 912 S.E.2d 838 (Mem.).

The North Carolina courts' sentencing of Mr. Golphin to LWOP by making the facts of his crimes dispositive, rather than meaningfully reviewing the facts and circumstances applicable to Mr. Golphin as a child offender and his subsequent rehabilitation as an adult, conflict with this Court's Eighth Amendment holdings

which prohibit courts from sentencing juveniles to LWOP based solely on the crimes they committed. At or around the same time it denied Mr. Golphin’s petition for review, the North Carolina Supreme Court issued a series of decisions likewise upholding LWOP sentences by elevating the crimes of conviction into the dispositive consideration. *See State v. Tirado*, 911 S.E.2d 51, 71 (N.C. 2025); *State v. Sims*, 912 S.E.2d 767, 786-87 (N.C. 2025) (Earls, J., concurring) (“[T]he majority signals a shift in the *Miller* sentencing hearing inquiry away from the circumstances of the offender and his offense in favor of his offense only. . . . [T]he majority distills the *Miller* sentencing inquiry to a singular focus on the facts of the crime”); *State v. Borlase*, 912 S.E.2d 795, 805 (N.C. 2025).

In doing so, the North Carolina Supreme Court has brought itself into conflict with this Court’s Eighth Amendment precedents, as well as their applications by other courts. For example, as this Court ruled in *Miller*, “imposition of a State’s most severe penalties on juvenile offenders cannot proceed as though they were not children” and “must take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison.” 567 U.S. at 474, 479-80. This requires consideration of a juvenile’s “capacity for change,” *id.* at 472, because even when juvenile offenders have committed “heinous crimes,” “[t]he opportunity for release will be afforded to” any such offender who is “capable of change.” *Montgomery*, 577 U.S. at 212; *see Miller*, 567 U.S. at 472 (“[T]he distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes.”).

Mr. Golphin's case raises issues that are of exceptional importance. Sentencing a juvenile offender to LWOP—a punishment this Court has analogized to death, *see Graham v. Florida*, 560 U.S. 48, 70 (2010); *Miller*, 567 U.S. at 470—is of enormous consequence.

3. There is good cause for a 60-day extension.

Counsel have been addressing, and must continue to address, multiple competing obligations and numerous deadlines stretching from April through August. These deadlines have made and will continue to make it difficult for counsel to competently complete the petition to seek this Court's review by June 17, 2025.

Counsel of record's competing deadlines and argument dates since the North Carolina Supreme Court's decision include and have included:

- April 11, 2025: motion to dismiss in *In re Fidelity Investments Data Breach Litigation*, No. 24-cv-12601 (D. Mass.);
- April 28, 2025: reply brief in support of motion to dismiss in *In re MOVEit Customer Data Security Breach Litigation*, MDL No. 3083 (D. Mass.);
- May 1, 2025: cert petition in *Kingdom of Spain, Petitioner v. Basket Renewable Investments LLC, et al.*, No. 24-1130 (U.S.);
- May 7, 2025: oral argument in *Wallace v. Genworth Life Insurance Company*, No. A-001231-23-T02(e) (N.J. Super., App. Div.);
- May 12, 2025: oral argument on motion to dismiss in *In re MOVEit Customer Data Security Breach Litigation*, MDL No. 3083 (D. Mass.);
- May 16, 2025: reply brief in support of motion to dismiss/compel arbitration in *Bruce v. Citigroup*, Adv. Proc. No. 14-08224 (Bankr. S.D.N.Y.);
- May 28, 2025: hearing in *Bruce v. Citigroup*, Adv. Proc. No. 14-08224 (Bankr. S.D.N.Y.);

- June 6, 2025: oral argument in *Seagate Technology LLC v. NHK Spring Co., Ltd.*, No. 24-4470 (9th Cir.);
- June 27, 2025: appellee’s brief in *Smith-Washington v. TaxAct, Inc.*, No. 25-128 (9th Cir.);
- July 14, 2025: motion to dismiss in *Hoyt v. Hazen and Sawyer, P.C.*, No. 25-cv-61001 (S.D. Fla.);
- July 23, 2025: reply brief in support of petition for *certiorari* in *Kingdom of Spain, Petitioner v. Basket Renewable Investments LLC, et al.*, No. 24-1130 (U.S.);
- August 15, 2025: reply brief in *Holifield v. XRI Investment Holdings LLC*, No. 2025-01358 (N.Y. App. Div.); and
- August 21, 2025: appellant’s brief in *Jordan v. Crunch, LLC*, No. 25-1220 (2d Cir.).

Given this press of existing business, an extension is necessary to ensure that counsel have adequate time to craft a petition that will best assist this Court in determining whether to grant review.

CONCLUSION

The Court should extend the deadline for Mr. Golphin’s petition by 60 days, up to and including August 18, 2025.

May 29, 2025

Respectfully submitted,

/s/ Eamon P. Joyce

EAMON P. JOYCE
CHRISTINA PRUSAK CHIANESE
BRIANNA O. GALLO
BRIAN C. EARL
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019
(212) 839-5300

*Counsel for Applicant Kevin Salvador
Golpin*

CERTIFICATE OF SERVICE

I certify that, on this 29th day of May, 2025, I caused a copy of the foregoing Application for Extension of Time to be served by first-class mail, postage pre-paid, and by email on the following:

Heidi M. Williams
Special Deputy Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
919-716-6500
State Bar No. 59214
hwilliams@ncdoj.gov

/s/ Eamon P. Joyce

EAMON P. JOYCE
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019
(212) 839-5300

*Counsel for Applicant Kevin Salvador
Golphin*