

No. 24A__

In the
SUPREME COURT OF THE UNITED STATES

KARU GENE WHITE,
Applicant / Petitioner,

v.

LAURA PLAPPERT, WARDEN,
Respondent.

**Application for an Extension of Time Within
Which to File a Petition for a Writ of Certiorari to the
United States Court of Appeals for the Sixth Circuit**

**APPLICATION TO THE HONORABLE ASSOCIATE
JUSTICE BRETT M. KAVANAUGH AS CIRCUIT JUSTICE**

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APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Karu Gene White respectfully requests a 59-day extension of time within which to file a petition for a writ of certiorari, up to and including Friday, September 26, 2025.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *White v. Plappert*, No. 21-5958 (6th Cir. Mar. 14, 2025), reported at 131 F.4th 465 (attached as Exhibit 1). The United States Court of Appeals for the Sixth Circuit denied Applicant's petition for rehearing en banc on April 30, 2025 (attached as Exhibit 2).

JURISDICTION

28 U.S.C. § 1254(1) provides this Court with jurisdiction over any timely filed petition for certiorari in this case. Under Rules 13.1 and 13.3 of the Rules of this Court, a petition for a writ of certiorari is due to be filed on or before July 29, 2025. In accordance with Rule 13.5, Applicant is filing this application more than 10 days before the deadline for the petition for a writ of certiorari.

REASONS JUSTIFYING AN EXTENSION OF TIME

In this capital case, a divided panel of the Sixth Circuit denied Applicant habeas relief under 28 U.S.C. § 2254, over Judge Stranch's forceful dissent. This case presents several substantial issues of law.

First, the decision below held that the underlying state court decision was not contrary to clearly established federal law under 28 U.S.C. § 2254(d) because the state court "correctly cited and quoted" this Court's general standard for ineffective-assistance-of-counsel claims in *Strickland v. Washington*, 466 U.S. 668 (1984)—even

though the state court’s reasoning rested on more specific misstatements of law that, as the panel majority recognized, “r[a]n afoul of Supreme Court precedent” governing ineffective-assistance-of-counsel claims. Op. 15-16; see *Wiggins v. Smith*, 539 U.S. 510, 527 (2003); *Williams v. Taylor*, 529 U.S. 362, 391-398 (2000).

Second, the panel majority construed the deference due the state court’s decision under 28 U.S.C. § 2254(d) to require that a federal habeas court deny relief if the federal court is able to hypothesize *any* colorable reasoning that the state court *could have* relied upon (but did not) to deny relief—even if the state court’s *actual* reasoning is contrary to, or an unreasonable application of, federal law. Op. 11, 23. That conclusion runs afoul of this Court’s precedents, see *Wilson v. Sellers*, 584 U.S. 122, 125 (2018), and deepens a split among the federal courts of appeals, compare, e.g., *Hudson v. Kelly*, 94 F.4th 195, 200-01 (1st Cir. 2024), with *Pye v. Warden*, 50 F.4th 1025, 1036-41 (11th Cir. 2022).

Third, the judgment below concluded that an otherwise meritorious habeas petition may be denied if the federal court concludes that the petitioner has not shown that “justice” requires relief. Op. 9 (citing 28 U.S.C. § 2243). That conclusion contradicts 150 years of this Court’s habeas jurisprudence, which holds that a habeas petitioner is entitled to relief when he demonstrates that his conviction or sentence is unlawful. E.g., *Cunningham v. Neagle*, 135 U.S. 1, 41 (1890); *In re Medley*, 134 U.S. 160, 161-62, 173 (1890); *Ex parte Nielsen*, 131 U.S. 176, 184 (1889). The Sixth Circuit’s decision invites lower courts in that circuit to deny habeas relief based on vague

and undefined notions of “justice” without regard to the merits of the petitioners’ legal claims.

Applicant respectfully requests a 59-day extension of time within which to file a petition for a writ of certiorari seeking review of the complex issues raised by the Sixth Circuit’s decision in this case, up to and including Friday, September 26, 2025. The reasons for Applicant’s request are as follows:

1. Munger, Tolles & Olson LLP began assisting with Applicant’s representation in April 2025, after the Sixth Circuit issued its decision. An extension of time is necessary to permit counsel to familiarize themselves with the unusually extensive record in this case and to prepare and file the petition for certiorari.

2. The extension of time is also necessary because of the press of other business with proximate deadlines. Mr. Verrilli, Ms. Anders, and Mr. Mohammadi are counsel for appellees Radio Free Asia and Middle East Broadcasting Network in *Radio Free Asia v. United States*, No. 25-5150 (D.C. Cir.), and *Middle East Broadcasting Network v. United States*, No. 25-5151 (D.C. Cir.), in which expedited appellees’ briefs are due on July 15, 2025, and oral argument will likely be scheduled in early September. Mr. Verrilli and Ms. Anders also are counsel for the National Endowment for Democracy in *National Endowment for Democracy v. United States*, No. 25-cv-648 (D.D.C.), which is being litigated on an expedited basis, such that the Endowment’s amended complaint is due on June 30, 2025; its motion for a preliminary injunction is due on July 13, 2025; and argument will likely be heard on August 7, 2025. Mr. Verrilli, Ms. Anders, and Mr. Mohammadi are counsel for the

Bolivarian Republic of Venezuela (U.S.-recognized opposition government) in *Crystallex v. Bolivarian Republic of Venezuela*, No. 17-mc-151 (D. Del.), in which substantial briefing concerning the sale of shares of Citgo Petroleum Corporation to satisfy the Republic's judgment debts will precede a sale hearing on August 18, 2025, after which expedited appellate proceedings will follow. Mr. Verrilli is counsel to Crowell & Moring in *Crowell & Moring, LLP v. TREA 1001 Pennsylvania Trust*, No. 24-cv-1011 (D.C. Ct. App.), in which Crowell & Moring's brief is due on June 30, 2025. Mr. Mann also has significant conflicts, including claim construction briefing, due July 14, 2025, and a hearing, scheduled for August 12, 2025, in *Advanced Cluster Systems, Inc. v. Intel Corp.*, No. 7:24-cv-245 (W.D. Tex.); and oral argument scheduled for August 8, 2025, in *OPM v. Moulton*, No. 24-1774 (Fed. Cir.).

3. Mr. Barron, who has represented Applicant for over a decade, suffered a major heart attack the morning of May 4, 2025, was operated on the next day, and hospitalized for three days. While Mr. Barron has subsequently continued to work, full recovery will take an extended period of time and entails substantial rehabilitative therapy and medical appointments.

In addition, the State unexpectedly requested an execution warrant a little over a week ago for one of Mr. Barron's long-term clients, which has resulted in a significant amount of time-sensitive work that will continue into the next few weeks and likely months. Mr. Barron also has numerous upcoming deadlines in capital cases, including numerous pleadings due on July 2, 2025, and a reply brief due on July 28, 2025 (the day before Applicant's petition for a writ of certiorari would be due

if an extension of time is not granted), and he has had multiple filings due, also in capital cases, in the past week.

A 59-day extension for the Applicant would allow his counsel the necessary amount of time to contribute to these open matters effectively without impairing their ability to research and draft this petition for certiorari.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 59 days, up to and including September 26, 2025, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,

/s/ Donald B. Verrilli, Jr.

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