App. No. _____

IN THE SUPREME COURT OF THE UNITED STATES

BENNY LEE HODGE,

Petitioner,

v.

LAURA PLAPPERT, Warden,

Respondent.

CAPITAL CASE

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**Application for Extension of Time
in Which to File a Petition for a Writ of Certiorari**

To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme

Court of the United States and Circuit Justice for the United States Court of

Appeals for the Sixth Circuit:

The Petitioner, Benny Lee Hodge, through counsel, respectfully requests

that the time to file for a petition for a writ of certiorari in this matter be extended for sixty (60) days up to and including October 6, 2025[1] pursuant to Supreme Court Rule 13.5 and Rule 22. The United States Court of Appeals for the Sixth Circuit issued its *en banc* judgment and opinion affirming the district court's denial of the writ of habeas corpus on May 7, 2025. (*See* Appendix). Mr. Hodge's time to petition for a writ of certiorari in this Court would therefore expire on August 5, 2025, absent an extension.

Pursuant to Supreme Court Rule 13.5, Mr. Hodge files this application at least ten (10) days before that date, and shows the Court:

1.   Mr. Hodge was sentenced to death in 1986 for the murder of Tammy Acker and the attempted murder of Dr. Roscoe Acker. In 2016, the federal district court in the Eastern District of Kentucky denied his petition for a writ of habeas corpus. In 2021, a panel of the Court of Appeals for the Sixth Circuit affirmed the denial. *Hodge v. Jordan*, 12 F.4th 640 (6th Cir. 2021). However, a reconstituted panel issued a superseding opinion in 2024 reversing the district court and remanding with instructions to grant habeas relief. *Hodge v. Jordan*, 95 F.4th 393 (6th Cir. 2024). On rehearing *en banc*, the Court of Appeals for the Sixth Circuit affirmed the district court's denial of habeas relief. *Hodge v. Plappert*, 136 F.4th 648 (6th Cir. 2025).

2.   Mr. Hodge now seeks a writ of certiorari to the United States Supreme Court. This Court has jurisdiction pursuant to 28 U.S.C. § 1254.

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[1] 60 days from August 5, 2025 is October 4, 2025, a Saturday. *See* S. Ct. Rule 30.

3. This extension is sought for a good cause and not for the purpose of delay. Specifically, in the time since the lower court issued its judgment, undersigned counsel have been responsible for a large number of briefs and filings in other capital cases. Counsel have diligently been working on the petition in this case, but the press of these and other responsibilities past and upcoming has left insufficient time in which to complete the petition.

4. In light of counsels' current obligations, and the importance of the constitutional issues that will be presented in this capital case, counsel submit that a sixty (60) day extension is necessary and appropriate to effectively prepare the petition for a writ of certiorari on Mr. Hodge's behalf.

Mr. Hodge therefore asks this Court to extend the time to file a petition for a writ of certiorari in this appeal sixty (60) days up to and including October 6, 2025.

Respectfully submitted,

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