

No. 17A-

IN THE SUPREME COURT OF THE UNITED STATES

Corey Dewayne Williams,
Applicant,

v.

State of Louisiana,
Respondent.

**UNOPPOSED APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI**

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January 8, 2018

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

Pursuant to this Court's Rules 13.5, 22, and 30.3, Applicant Corey D. Williams respectfully requests a 45-day extension of time to file a petition for a writ of certiorari to review the judgment of the Supreme Court of Louisiana in this case, resulting in a due date of March 12, 2018. As discussed herein, this case appears to concern an egregious violation of this Court's decision in *Brady v. Maryland*, 373 U.S. 83 (1963), and to squarely present at least two important questions upon which the lower courts are divided. Mr. Williams requests this extension because he only recently retained Counsel of Record Amir H. Ali to represent him *pro bono* before this Court and Mr. Ali has numerous filing deadlines (including several before this Court) and other professional commitments, which would otherwise prevent him from providing the sort of comprehensive analysis that aids this Court in determining whether to grant certiorari. Respondent does not oppose Mr. Williams' request for an extension.

Mr. Williams has not previously sought an extension of time from this Court. The Supreme Court of Louisiana issued its order denying Mr. William's writ application on October 27, 2017. *See* Attachment A. The time for filing a petition would thus expire on January 25, 2018 absent an extension. Consistent with Rule 13.5, this application has been filed at least 10 days before that date. This Court has jurisdiction over the case under 28 U.S.C. § 1257(a).

1. In 2000, Mr. Williams was convicted and sentenced to death for a murder that took place when he was just three weeks past his 16th birthday. There was no physical evidence linking Mr. Williams to the homicide. Mr. Williams was convicted based upon the testimony of an adult eyewitness, who claimed that he had only seen the shooting and insisted that he had never even held a gun, and a confession obtained from Mr. Williams after all-night questioning.

2. In addition to being a minor, Mr. Williams was subsequently adjudicated to be intellectually disabled within the meaning of this Court's decision in *Atkins v. Virginia*, 536 U.S. 304 (2002). The relevant court found that Mr. Williams has an IQ of 68 and lacks the "ability to engage in the world around him." LASC Writ App. Vol. 2 at 237. It found that family members characterized Corey as a "duck" or a "chump"—"someone who could be 'set out' and had indeed 'taken the rap' for others, and that might be relevant to the current charge." *Id.*

3. On April 5, 2005, Mr. Williams filed an application for postconviction relief. After years of litigation and a separate law suit against the Shreveport Sheriff's Office, Mr. William's postconviction counsel was, for the first time, provided the Cado

Parish District Attorney's physical file in Mr. Williams case. Representatives from the District Attorney's office had long maintained that the file was either lost or destroyed.

4. The file contained, among other things, several recorded interviews of key witnesses that had never been disclosed to the defense. At trial, the State had refused to provide the recorded interviews, instead providing only reports in which police purported to summarize the contents of the interviews. The actual recordings reveal that the police summaries omitted several critical, exculpatory details from the recorded statements, including, among other things, statements that the state's sole eyewitness had been seen with the murder weapon prior to the murder; statements that contradicted the State's theory linking the murder weapon to Mr. Williams; statements that another person had committed the murder, and an admission from one witness that he had lied about seeing Mr. Williams commit the murder out of fear for his own life; and statements by police officers indicating that they were aware that Mr. Williams was intellectually impaired and believed that the adult witnesses had conspired to blame Mr. Williams for the crime.

5. Before the district court, Mr. Williams argued that the State's suppression of the recorded statements violated *Brady*. Mr. Williams argued that in assessing the materiality of the evidence, the court must take into account the subsequent finding that Mr. Williams is intellectually disabled. *See Hall v. Florida*, 134 S. Ct. 1986, 1993 (2014) (observing that persons who are intellectually disabled are particularly prone to confess to crimes that they did not commit); *Atkins*, 536 U.S.

at 320 & n.25 (same); *see also J.D.B. v. North Carolina*, 564 U.S. 261, 269 (2011) (observing that with juveniles the risk of false confession is “troubling” and “all the more acute”).

6. The court rejected Mr. Williams’ claim. It held that the State’s suppression of the recorded interviews was not material in light of the police summaries provided to defense counsel prior to trial (which omitted the various statements above). *See Attachment C at 5, 6.* Viewing each undisclosed aspect of the recorded interviews in isolation, the court reasoned that the information omitted from the summaries would not have been admissible and thus could not have been material. *Id.* at 6, 7. Moreover, the court reasoned: “Corey Williams confessed to the murder. He admitted his guilt.” *Id.* at 7.

7. Mr. Williams timely sought review by the Louisiana Court of Appeal, which denied him a writ, but instructed the district court to hold an evidentiary hearing as to two pieces of evidence that it failed to address in its initial opinion. *See Attachment B.* The district court again held that the undisclosed information was not material. *See Attachment D.*

8. Mr. Williams timely sought review in the Supreme Court of Louisiana, which denied him a writ. *See Attachment A.*

9. Mr. Williams has just retained undersigned counsel to serve as Counsel of Record before this Court on a *pro bono* basis. Although counsel has not had the opportunity to fully review the record below, which includes Mr. Williams’ capital

trial, a cursory review indicates that this case may present multiple important issues that warrant this Court's review, including:

- a. An egregious violation of this Court's decision in *Brady*, comparable to instances in which this Court has issued unanimous summary reversals in the past.
- b. Whether the prosecution may withhold recorded statements from key witnesses and instead provide summaries of those statements, in which the State determines what information is or is not material to include.
- c. Whether evidence withheld by the prosecution can be material under *Brady* when it would be inadmissible at trial.
- d. Whether in assessing materiality under *Brady*, a court must take into account facts established post-trial, such as the fact that the defendant has been adjudicated to be intellectually disabled.

Based on counsel's preliminary research, at least two of the questions above appear to be the subject of a conflict among circuits and state courts of last resort.

10. Mr. Williams intends to file a petition for certiorari in this case and requests additional time to file his petition for certiorari for three reasons. First, as explained above, he only recently obtained undersigned counsel to assist him with the petition. Counsel requires additional time to gather the relevant record materials, to review the record, which includes Mr. Williams' capital trial record, and to provide the sort of comprehensive analysis that would aid this Court in determining whether its review is warranted.

11. Second, during the period of the sought extension, Counsel of Record Amir H. Ali has numerous court deadlines, including several before this Court. These include:

- A reply brief in the U.S. Court of Appeals for the Eleventh Circuit (following remand from this Court) in *Welch v. United States*, No. 14-15733, due January 16, 2018.
- Oral argument in the Supreme Court of Louisiana (following remand from this Court) in *State v. Lacaze*, No. 16-KP-0234, on January 23, 2018.
- A petition for certiorari for review of a decision of the Supreme Court of Idaho in *Garza v. State*, 2017 WL 5077957 (Idaho 2017), due February 5, 2018.
- A reply brief in support of certiorari in *Wass v. Idaho*, No. 17-425, to be filed before distribution on February 7, 2018.
- A reply brief in the U.S. Court of Appeals for the Eighth Circuit in *Townsend v. Murphy, et al.*, No. 17-2783, due February 9, 2018.
- A reply brief in support of certiorari in *Wilcoxson v. United States*, No. 17-669, to be filed before distribution on February 20, 2018.
- A reply brief in support of certiorari in *Gonzalez-Badillo v. United States*, No. 17-696, to be filed before distribution on February 28, 2018.

12. Third, during the period of the sought extension, undersigned counsel has several other professional commitments, including teaching a clinic on appellate litigation and a course on Supreme Court Litigation at Harvard Law School, and a seminar on Constitutional Litigation at Georgetown Law School.

13. Respondent does not oppose Mr. Williams' request for an extension.

14. For these reasons, Mr. Williams respectfully requests that the time to file a petition for a writ of certiorari be extended to and including March 12, 2018.

Respectfully submitted,



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