

No. 17A725

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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February 12, 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 30-day extension of time to file his 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 25, 2018. As discussed herein, Petitioner only recently retained undersigned counsel to serve as Counsel of Record before this Court and Respondent consents to the requested extension. The record below presents at least two important questions upon which the lower courts are divided, and undersigned counsel believes that the requested time is necessary to provide this court with the sort of comprehensive analysis that aid the Court in determining whether to grant certiorari.

The Supreme Court of Louisiana issued its order denying Mr. Williams' writ application on October 27, 2017. *See* Attachment A. Mr. Williams has previously

sought one extension of time from this Court. On January 9, 2018, Justice Alito granted Petitioner a 29-day extension. The time for filing a petition would thus expire on February 23, 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 had no part in the shooting, 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 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. On postconviction, Mr. Williams' postconviction counsel was, for the first time, provided the Caddo 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 Mr. Williams could not have been the one who committed the murder and that another person had committed it, based on observations immediately following the shooting; that the State's sole eyewitness had been seen with the murder weapon prior to the murder (directly contradicting the eyewitness's testimony at trial that he had never even held a gun); 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, up until obtaining Mr. Williams' confession, they were concerned 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 v. Maryland*, 373 U.S. 83 (1963). 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 was only recently able to retain undersigned counsel to serve as Counsel of Record before this Court on a *pro bono* basis, over two months after the Louisiana Supreme Court issued its decision in this case.

10. Counsel's review to date confirms that the record presents at least two issues upon which the lower courts are divided:

- a. Whether evidence withheld by the prosecution can be material under *Brady* when it would be inadmissible at trial.
- b. Whether in assessing materiality under *Brady*, a court must take into account post-trial judicial determinations, such as the fact that the defendant has been adjudicated to be intellectually disabled.

11. Undersigned counsel believes an additional 30 days is required to complete the research and analysis that would assist this Court in determining whether to grant certiorari.

12. During the period of the sought extension, Counsel of Record has several court deadlines, including:

- 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.
- An opening brief in the U.S. Court of Appeals for the Tenth Circuit in *May v. Segovia*, No. 17-1458, due on March 22, 2018.
- Two amicus briefs (one before this Court and another before the Ninth Circuit) in cases raising complex constitutional questions.

13. Respondent consents to the extension sought by Petitioner.

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 25, 2018.

Respectfully submitted,



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