

No: _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2017

DONNIE CLEVELAND LANCE,
Petitioner,

versus

WARDEN, GEORGIA DIAGNOSTIC AND CLASSIFICATION PRISON,
Respondent.

APPLICATION FOR AN EXTENSION OF TIME TO FILE PETITION
FOR WRIT OF CERTIORARI TO THE
ELEVENTH CIRCUIT COURT OF APPEALS

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TO THE HONORABLE CLARENCE THOMAS, Associate Justice of the Supreme Court of the United States, and Circuit Justice for the United States Court of Appeals for the Eleventh Circuit:

Petitioner DONNIE CLEVELAND LANCE, a Georgia death-sentenced prisoner acting by and through undersigned appointed counsel and pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rule 13.5, respectfully requests an extension of time of sixty (60) days to prepare and file his Petition for a Writ of Certiorari in this Court. Mr. Lance seeks review of the decision of the United States Court of Appeals for the Eleventh Circuit entered on August 31, 2017, *see* Attachment A, and for which his Petition for Rehearing *En Banc* was denied on October 31, 2017, *see* Attachment B. Mr. Lance invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1257(a). His time to file a Petition for a Writ of Certiorari in this Court elapses on January 29, 2018; he makes this request more than ten (10) days before the day when his petition would be due without an extension of time, and this is his first request for an extension of time. In support of his request, Mr. Lance shows the following as good cause:

A Petition for Writ of Certiorari is essential here because serious constitutional errors occurred during Mr. Lance's capital trial. These errors were identified and found sufficient by the state trial court that first heard Mr. Lance's habeas claims, but they have since been swept aside by the Georgia Supreme Court, the federal district court, and the court of appeals. These errors deprived Mr. Lance of the effective representation that the Constitution guarantees all capital defendants, much to Mr. Lance's prejudice. Failing to provide Mr. Lance relief based on these errors cannot be squared with the state habeas court's findings that the undisputed expert testimony not presented at Mr. Lance's trial was both "readily available" and "critical to informed deliberation as to sentence." In addition, rejecting Mr. Lance's habeas claims conflicts with this Court's prior decisions repeatedly affirming that mitigating mental health evidence is crucial to capital defendants at the sentencing phase such that failure to present it is inherently prejudicial.

Pro bono counsel for Mr. Lance believes the decision from the court of appeals conflicts with precedent from this Court and other circuits, supporting *certiorari* review. Counsel requests an extension of time to seek review in this Court so that counsel can properly and adequately present the substantial constitutional issues that give rise to Mr. Lance's petition, thoroughly investigate

any conflicts of authority, and effectively represent Mr. Lance. Counsel for Mr. Lance also need additional time to consult with Supreme Court experts in the preparation of the Petition.

In the time since Mr. Lance's petition for rehearing *en banc* was denied, Mr. Lance's counsel have been actively engaged representing other clients, which has impaired their ability to prepare an effective petition by the current deadline. Specifically, counsel has been defending another client against claims pursued on an expedited basis related to an abandoned, multi-billion dollar energy project, which has involved five separate matters and entailed expedited briefing on motions for preliminary injunction and requests to appoint a receiver related to certain assets. Counsel has further been involved in multiple putative class actions that are proceeding through briefing on motions to dismiss and motions directed to the class allegations, along with beginning discovery in still other commercial litigation matters. Other counsel involved in representing Mr. Lance have three separate mediations scheduled in different matters between now and the time of the current deadline for the Petition for Writ of Certiorari is currently due. Counsel have a fully committed professional schedule, in addition to this pro bono case, and require additional time to complete the Petition for Writ of Certiorari in this case.

With an extension of sixty days, undersigned counsel are confident that they can adequately brief and present these and potentially other issues to this Court. Mr. Lance is not currently under a date of execution.

WHEREFORE, Mr. Lance respectfully requests that this Court grant him a sixty (60) day extension of time within which to file his Petition for Writ of Certiorari, until and including March 30, 2018.

Respectfully submitted, this 16th day of January, 2018.

/s/ L. Joseph Loveland
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