

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

KUNTA K. GRAY,
Applicant/Petitioner,

v.

DUSHAN ZATECKY,
Respondent.

Application for Extension of Time to
File a Petition For a Writ of Certiorari to
the United States Court of Appeals for
the Seventh Circuit

APPLICATION TO THE HONORABLE
ELENA KAGAN AS CIRCUIT JUSTICE

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November 30, 2017

APPLICATION FOR EXTENSION OF TIME

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Seventh Circuit:

Pursuant to Rule 13.5 of this Court, Petitioner Kunta K. Gray prays for a 45-day extension of time to file his petition for a writ of certiorari in this Court to and including February 1, 2018.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *Gray v. Zatecky*, 865 F.3d 909 (7th Cir. 2017), which is attached as Exhibit A.

JURISDICTION

The United States Court of Appeals for the Seventh Circuit granted Petitioner a certificate of appealability on March 4, 2016, and appointed counsel on March 24, 2016. After briefing and oral argument, the Seventh Circuit affirmed the district court's dismissal of Petitioner's habeas petition on August 2, 2017. The Seventh Circuit denied Petitioner's request for rehearing and rehearing *en banc* on September 19, 2017. *See* Exhibit B. Under rules 13.1, 13.3, and 30.1 of this Court, Petitioner's time to petition for certiorari in this Court expires on December 18, 2017. Petitioner now files this application more than 10 days in advance of that date. This court will have jurisdiction over any timely filed petition pursuant to 28 U.S.C. § 1254(1).

REASONS JUSTIFYING AN EXTENSION OF TIME

Petitioner is currently serving an 85-year sentence in Indiana. Petitioner intends to file a certiorari petition that challenges the Seventh Circuit's affirmance of the dismissal of Petitioner's habeas petition on timeliness grounds and its failure to reach the underlying merits of Petitioner's habeas petition.

Petitioner makes this application in order to request an extension of time in which to prepare a petition that adequately presents the above issues. After the Seventh Circuit granted a certificate of appealability, it appointed counsel who began representing Petitioner *pro bono*. The law firm currently representing Petitioner, Baker & Hostetler LLP, only became involved in this matter after counsel of record joined the firm earlier this year. Thus, attorneys from the law firm Baker & Hostetler LLP are still becoming familiar with the record and working to assist counsel of record in preparing Petitioner's petition for writ of certiorari. Counsel of record is also busy meeting prior commitments, including filing post-hearing findings of fact and conclusions of law with Ohio's Environmental Review Appeals Commission on December 15, 2018 on behalf of the appellant in *Oxford Mining Co. v. Butler*, Case Nos. 17-6903 & 17-6904 (Ohio ERAC). An extension of time is necessary to enable counsel to review the voluminous record and other documents, analyze applicable law, and prepare a petition for a writ of certiorari that will materially assist the Court in evaluating whether to grant the petition in this important matter.

Wherefore, Petitioner respectfully requests that an order be entered extending his time to petition for certiorari to and including February 1, 2018.

November 30, 2017

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I, Kyle T. Cutts, hereby certify that on November 30, 2017, a copy of the Application for Extension of Time to File a Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit was served on counsel of record to Dushan Zatecky, Warden of Pendleton Correctional Facility, by emailing an electronic copy of same, and placing a copy in the United States mail, first class postage prepaid to:

Kelly Loy
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Indiana Government Center South
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