

Capital Case

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

EMMANUEL LITTLEJOHN,
Petitioner,

v.

TERRY ROYAL, Warden,
Oklahoma State Penitentiary,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

**PETITIONER'S APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR A WRIT OF CERTIORARI**

RANDY A. BAUMAN, OBA # 610 *
SARAH M. JERNIGAN, OBA # 21243
Assistant Federal Public Defenders
Office of the Federal Public Defender
Western District of Oklahoma
215 Dean A. McGee, Suite 707
Oklahoma City, OK 73102
405-609-5975 (phone)
405-609-5976 (fax)
Randy_Bauman@fd.org
Sarah_Jernigan@fd.org
ATTORNEYS FOR EMMANUEL LITTLEJOHN

March 2, 2018

* Counsel of Record

**PETITIONER'S APPLICATION FOR EXTENSION OF
TIME TO FILE PETITION FOR A WRIT OF CERTIORARI**

*To the Honorable Sonia Sotomayor, Associate Justice of the United States Supreme Court
and Circuit Justice for the Tenth Circuit:*

In accordance with Rules 13.5, 30.2, and 30.3 of the Rules of the Supreme Court of the United States, and for the reasons set forth herein, Petitioner, Emmanuel Littlejohn, respectfully applies to this Court for an order extending the time in which to file his petition for a writ of certiorari from March 18, 2018, until May 17, 2018, a period of sixty (60) days. In support of this Application, Petitioner shows the Court as follows:

BACKGROUND

Mr. Littlejohn is incarcerated under a conviction of First Degree Murder for which he has been sentenced to death. On November 7, 2017, the United States Court of Appeals for the Tenth Circuit issued a published opinion in Case No. 14-6177, wherein the circuit court affirmed the original judgment entered by the United States District Court for the Western District of Oklahoma in Case No. CIV-05-225-M. *See* Opinion and Judgment, attached hereto as Attachment A. Petitioner sought rehearing, which the Tenth Circuit Court of Appeals denied on December 18, 2017. *See* Order, attached hereto as Attachment B.

ARGUMENT AND AUTHORITIES

Petitioner, Emmanuel Littlejohn, seeks a writ of certiorari to the United States Court of Appeals for the Tenth Circuit with respect to its decision rendered on November 7, 2017, with rehearing denied on December 18, 2017, as referenced above. This Court's jurisdiction

to grant the same arises pursuant to 28 U.S.C. §1254(1). According to Supreme Court Rule 13.3, a petition for writ of certiorari to the United States Court of Appeals for the Tenth Circuit is due on or before March 18, 2018. *See* Supreme Court Rule 13.3 (“the time to file the petition for a writ of certiorari . . . runs from the date of the denial of rehearing . . .”). However, the time granted by Supreme Court Rule 13 will be insufficient to allow Petitioner’s counsel to do justice to the issues at hand, which are of vast import. Therefore, Petitioner seeks an extension of sixty (60) days in which to file his petition for a writ of certiorari. *See* Supreme Court Rule 13.5 (“[A] Justice may extend the time to file a petition for writ of certiorari for a period not exceeding 60 days”).

In accordance with Supreme Court Rule 13.5, this Application is submitted at least ten (10) days prior to the present due date. Further, the requested extension is made in good faith and not for the purposes of delay. The requested extension is made because of the vital importance associated with the issues at hand. This matter centers around the right to a fair and reliable sentence.¹ This Court has repeatedly emphasized that “our duty to search for constitutional error with painstaking care is never more exacting than it is in a capital case.” *Burger v. Kemp*, 483 U.S. 776, 785 (1987). It is respectfully submitted that counsel’s duty to present all authorized claims of constitutional error with painstaking care is equal or greater. Thus, it is important that counsel be granted additional time to research the

¹ No execution date has been set. Thus, an extension of time will not create an unreasonable delay in the administration of justice.

constitutional issues so that counsel may prepare Petitioner's petition with the care and accuracy demanded of such cases.

Further, Mr. Littlejohn's counsel, Randy A. Bauman² and Sarah Jernigan,³ are Assistant Federal Public Defenders with the Capital Habeas Unit of the Office of the Federal Public Defender for the Western District of Oklahoma. The division's exclusive responsibility is to represent clients who have been sentenced to death in the state of Oklahoma and who have exhausted all of their state appeals. Both counsel are presently lead or co-counsel for the federal representation of multiple death row inmates including Mr. Emmanuel Littlejohn. Obligations on behalf of many of these clients have precluded counsel from being able to direct their full time and attention to the preparation of a petition of a writ of certiorari on behalf of Petitioner. Therefore, even if counsel exercise due diligence and give priority to preparing the petition, it will not be possible to file the petition on time

²Mr. Bauman's current obligations include the reply Brief in *Cuesta-Rodriguez v. Royal*, Tenth Circuit Case # 16-6315. Mr. Cuesta-Rodriguez having shown his claim of profound Constitutional error is not procedurally barred from federal review needs to carefully develop a reply to Respondent's contrary argument. That brief is due April 16, 2018. In addition, Mr. Bauman has responsibilities in preparing the brief in opposition to Oklahoma's request for certiorari in *Royal v. Murphy*, Case No. 17-1107. Further, Mr. Bauman is the third level supervisor for Oklahoma's Capital Habeas Unit and has many responsibilities in that regard to include assisting colleagues in the Unit with active dockets of their own, to include two upcoming Tenth Circuit arguments.

³Ms. Jernigan's current obligations have included drafting and filing an opening brief in *Johnson v. Royal*, Tenth Circuit Case #16-5165, on February 26, 2018; preparing as lead counsel for an oral argument in *Underwood v. Royal*, Tenth Circuit Case # 16-6262, to be held March 22, 2018; and drafting an opening brief in *Malone v. Royal*, Tenth Circuit Case # 17-6027, to be filed March 23, 2018.

without compromising each of the referenced clients' cases.

In light of counsel's 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 in order to efficiently and effectively prepare the petition for certiorari on behalf of Mr. Littlejohn.

WHEREFORE, in the interest of justice and for good cause shown, counsel submit that a reasonable extension of time should be granted to complete Mr. Littlejohn's petition. Counsel respectfully request this Court extend the current March 18, 2018 deadline until May 17, 2018.

Respectfully submitted,

s/ Randy A. Bauman

RANDY A. BAUMAN, OBA # 610 *
SARAH M. JERNIGAN, OBA # 21243
Assistant Federal Public Defenders
Office of the Federal Public Defender
Western District of Oklahoma
215 Dean A. McGee, Suite 707
Oklahoma City, Oklahoma 73102
(405) 609-5975 Phone
(405) 609-5976 Facsimile
Randy_Bauman@fd.org
Sarah_Jernigan@fd.org

ATTORNEYS FOR PETITIONER,
EMMANUEL LITTLEJOHN

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