

Capital Case

Case No. _____

**In the
Supreme Court of the United States**

KENDRICK ANTONIO SIMPSON,
Petitioner/Applicant,

v.

MIKE CARPENTER, WARDEN,
OKLAHOMA STATE PENITENTIARY,
Respondent.

**APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

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COUNSEL FOR KENDRICK ANTONIO SIMPSON

May 6, 2019

* Counsel of Record

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

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

In accordance with Supreme Court Rules 13, 22, and 30, and for the reasons set forth herein, Petitioner/Applicant, Kendrick Antonio Simpson, respectfully applies to this Court for an order extending the time in which to file his petition for a writ of certiorari from May 23, 2019, until July 22, 2019, a period of sixty (60) days. In support of this Application, Mr. Simpson shows the Court as follows:

BACKGROUND

Mr. Simpson is in the custody of the State of Oklahoma. He is incarcerated under a conviction of First-Degree Murder for which he has been sentenced to death. On December 27, 2018, the United States Court of Appeals for the Tenth Circuit issued a published opinion in Case No. 16-6191, 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-11-96-M. *See* Opinion attached hereto as Attachment 1. Petitioner sought rehearing from the Tenth Circuit Court of Appeals, but the same was denied on February 22, 2019. *See* Order attached hereto as Attachment 2.

ARGUMENT AND AUTHORITIES

Petitioner/Applicant, Kendrick Simpson, seeks a writ of certiorari to the United States Court of Appeals for the Tenth Circuit with respect to its decision rendered on December 27, 2018, as referenced above. This Court’s jurisdiction to grant the same arises pursuant to 28 U.S.C. § 1254(1). According to Sup. Ct. R. 13.1, a petition for writ of certiorari to the United States Court of Appeals for the Tenth Circuit is due within 90 days from February 22, 2019, on or before May 23, 2019. *See* Sup. Ct. R. 13.3 (“[T]he time to file the petition for a writ of certiorari . . . runs from the date of the denial of rehearing”). However, the time granted by Sup. Ct. R. 13.3 will be insufficient to allow Petitioner’s counsel to do justice to the issues at hand, which are of vast import. Therefore, Petitioner/Applicant seeks an extension of sixty (60) days in which to file his petition for a writ of certiorari. *See* Sup. Ct. R. 13.5 (“[A] Justice may extend the time to file a petition for a writ of certiorari for a period not exceeding 60 days”).

In accordance with Sup. Ct. R. 13.5 and 30.2, this application is timely 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.¹ The requested extension is made because of the vital importance associated with the issues in this capital case, namely, the right to a fair and reliable sentencing proceeding. This Court has repeatedly emphasized that “[o]ur duty

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

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. As such, it is important that counsel be granted additional time to research the constitutional issues at hand so that counsel may prepare Petitioner’s petition with the care and accuracy demanded of such capital cases.

Mr. Simpson’s counsel, Sarah M. Jernigan and Patti Palmer Ghezzi, 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. Simpson.² 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 for a writ of certiorari on behalf of Applicant. Therefore, even if counsel exercises due diligence and gives priority to preparing the petition, it will not be possible to file the petition on time.

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

² *Bosse v. Carpenter*, CIV-18-204 (W.D. Okla.); *Grissom v. Carpenter*, 18-8592 (S. Ct.); *Harmon v. Carpenter*, 16-6360 (10th Cir.); *Johnson v. Carpenter*, 16-5165 (10th Cir.); *Malone v. Carpenter*, 17-6027 (10th Cir.); *Carpenter v. Patrick Murphy*, 17-1107 (S. Ct.); *Pavatt v. Carpenter*, 14-6117 (10th Cir.); and *Tryon v. Carpenter*, CIV-19-195 (W.D. Okla.).

necessary and appropriate in order to efficiently and effectively prepare the petition for a writ of certiorari on behalf of Mr. Simpson.

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. Simpson's petition for a writ of certiorari. Counsel respectfully request this Court extend the current May 23, 2019 deadline for 60 days until July 22, 2019.

Respectfully submitted,

s/ Sarah M. Jernigan

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