

CAPITAL CASE

21-_____

**In the
SUPREME COURT OF THE UNITED STATES**

October Term 2021

**James Tyler,
Applicant/Petitioner**

v.

**Louisiana,
Respondent.**

**Application for an Extension of Time Within
Which to File a Petition for a Writ of Certiorari to the
Supreme Court of the State of Louisiana**

**UNOPPOSED APPLICATION TO THE
HONORABLE JUSTICE SAMUEL ALITO AS CIRCUIT JUSTICE**

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February 1, 2022

CAPITAL CASE

APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant James Tyler hereby requests a 60-day extension of time within which to file a petition for a writ of certiorari up to and including Monday, April 16, 2022.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *Tyler v. Vannoy*, 2020-0984 (La. November 17, 2021) (attached as Exhibit 1), the denial of supervisory writs by the Louisiana Supreme Court *in this death penalty case*. The writ application to the Louisiana Supreme Court sought review of Louisiana's First Judicial District Court's denial of post-conviction review based on the trial court's determination that this Court's decision in *McCoy v. Louisiana*, 138 S.Ct. 1500 (2018) was not retroactively applicable to the Mr. Tyler's case).

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254(1). Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for a writ of certiorari was due to be filed on or before February 15, 2021. In accordance with Rule 13.5, this application is being filed more than 10 days in advance of the filing date for the petition for a writ of certiorari.

REASONS JUSTIFYING AN EXTENSION OF TIME

Applicant respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari seeking review of the decision of the Supreme Court of the State of Louisiana in this case, up to and including April 16, 2022.

1. Applicant is an indigent, death sentenced prisoner residing on death row at the Louisiana State Penitentiary. The Louisiana Department of Corrections suspended all visitation – including legal visitation – at all Louisiana prisons effective January 6, 2022. The visitation restriction is a consequence of the Omicron surge of COVID-19 cases in Louisiana. Counsel for Applicant have been unable to conduct in person, confidential attorney-client meetings with Applicant since that date, have been unable to review drafts of Applicant’s petition for writ of certiorari with him, and have been unable to meet in person with Applicant to have him sign documents necessary to the filing of Applicant’s petition for writ of certiorari. Counsel anticipate that the Louisiana State Penitentiary will re-open for legal visitation in the coming month as COVID-19 numbers in Louisiana decrease. An extension of time will permit the counsel to have confidential, in person legal meetings with Applicant concerning his petition for writ of certiorari and to have him sign documents necessary for his filings before this Court.

2. The 60-day extension of time is also necessary because counsel for Applicant, both of whom primarily represent indigent defendants by court appointment in capital and other serious criminal cases, have numerous other competing professional obligations in this and other federal and state courts during this time period. A 60-day extension for the Applicant would allow counsel sufficient time to engage in person with Applicant upon the re-opening of legal visitation in the context of the case demands of the balance of their practices.

3. The 60-day extension is consistent with and motivated by the same interests expressed in this Court’s March 19, 2020 general order providing a 150 day deadline for petitions for writs of certiorari filed at this Court. *See* March 19, 2020 Order of the United States Supreme Court (extending deadlines for petitions for a writ of certiorari in light of “the ongoing public health concerns relating to COVID-19”). While the order was rescinded by a subsequent July 19, 2021

order by the Court, the public health circumstances relating to COVID-19 have deteriorated significantly since July 2021 and currently more closely resemble the March 2020 state of affairs that resulted in the extension order.

4. Applicant's counsel have conferred with counsel for the Respondent, Assistant District Attorney Suzanne Ellis, who informed applicant's counsel that the Respondent does not oppose this request for a 60-day extension.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 60 days, up to and including April 16, 2022, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,



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