

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

ROBERT WALTER SCULLY, *Petitioner*

v.

STATE OF CALIFORNIA, *Respondent*.

APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE STATE OF CALIFORNIA
(DEATH PENALTY CASE)

MARY K. MCCOMB
STATE PUBLIC DEFENDER
STATE OF CALIFORNIA

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**Counsel of Record*

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Counsel for Petitioner

No. _____

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2021

ROBERT WALTER SCULLY, Petitioner,
v.
STATE OF CALIFORNIA, Respondent.

APPLICATION FOR EXTENSION OF TIME TO FILE
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To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the
United States and Circuit Justice for the Ninth Circuit:

Petitioner, Robert Walter Scully, requests a 60-day extension of time to and
including December 18, 2021, to file his petition for a writ of certiorari in this Court. The
jurisdiction of this court is invoked under 28 U.S.C. section 1257(a).

On May 24, 2021, the Supreme Court of California issued its original opinion on
petitioner's automatic appeal from a sentence of death. *People v. Scully*, 11 Cal.5th 542
(2021). A copy of the final opinion is attached as Appendix A. Petitioner filed a timely
petition for rehearing. On July 21, 2021, rehearing was denied in an order that modified
the original opinion. That order is attached as Appendix B. Thus, the time to petition for a
writ of certiorari in this Court expires on October 19, 2021. This application for an
extension of time of 60 days, to and including December 18, 2021, in which to file the
petition is being filed more than 10 days before that date.

This capital case raises several important federal constitutional issues and will meet the criteria for a discretionary grant of review under Supreme Court Rule 10. Issues under examination include whether a state court violates a capital defendant's rights under the Fifth, Sixth, Eighth, and Fourteenth Amendments by not requiring a jury to find the existence of each aggravating factor unanimously and beyond a reasonable doubt and by not requiring a jury to find beyond a reasonable doubt that the factors in aggravation outweigh the factors in mitigation.

An extension of time to file a petition for a writ of certiorari is justified because these important issues, and others, warrant careful scrutiny and resolution. A substantial amount of time is required to research and draft the petition competently.

Furthermore, the attorney to whom this case is assigned in our office and who argued the case before the California Supreme Court, Supervising Deputy State Public Defender Valerie Hriciga, is recovering from a serious shoulder fracture which has significantly impeded her ability to work. I am working with her on the petition, preparation of which is of highest priority, while meeting my obligations as the Chief Deputy State Public Defender.

For all of these reasons, counsel has been unable to complete the petition and respectfully requests an extension of 60 days, to and including December 18, 2021, in which to file the petition for writ of certiorari on petitioner's behalf.

Accordingly, petitioner respectfully requests that an order be entered extending his time to petition for a writ of certiorari by 60 days, to and including December 18, 2021.

Dated: October 7, 2021

Respectfully submitted,

MARY K. McCOMB
STATE PUBLIC DEFENDER
STATE OF CALIFORNIA

Christina A. Spaulding*
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