

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DARYL D. HOLLOWAY,
Petitioner,

v.

THE CITY OF MILWAUKEE, et al.,
Respondents.

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

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

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**APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO FILE
A PETITION FOR WRIT OF CERTIORARI**

To the Honorable Amy Coney Barrett, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Seventh Circuit:

Pursuant to Rule 13.5 of the Rules of this Court and 28 U.S.C. § 2101(c), applicant Daryl D. Holloway respectfully requests a 45-day extension of time, to and including December 21, 2022. This Court has jurisdiction under 28 U.S.C § 1257. In support of this Application, Mr. Holloway states as follows:

1. Mr. Holloway is an individual who endured nearly 25 years of incarceration for crimes he did not commit. Mr. Holloway was rendered innocent as a matter of law by the same judge who convicted him decades earlier. On August 8, 2022, the United States Court of Appeals for the Seventh Circuit issued an opinion in Case No. 21-3007 (Exhibit 1), wherein, the Court affirmed the judgment of the United States District Court for the Eastern District of Wisconsin in Case No. 19-CV-1460.

2. Mr. Holloway's case raises important questions regarding unduly suggestive identification procedures and the officers' reliance on such identifications when the photo array and subsequent lineup were less than 32 hours apart, and where Holloway was the only individual to appear in both.

3. Mr. Holloway's case likewise raises an important issue on the constitutionality of qualified immunity and whether its jurisprudence necessitates reversal as its basis has no roots in sound text or law to validate its broad, powerful application.

4. Mr. Holloway now seeks a writ of certiorari for the United States Court of Appeals for the Seventh Circuit with respect to its decision affirming the district court. This Court's jurisdiction to grant the same arises pursuant to 28 U.S.C. § 1254(1). Mr. Holloway did not petition

for a panel rehearing or rehearing *en banc* in the Seventh Circuit. *See* Sup. Ct. R. 13.5. Accordingly, Mr. Holloway’s petition for writ of certiorari is currently due in this Court 90 days after the Seventh Circuit’s decision and order dated August 8, 2022, or on November 7, 2022.

5. According to Supreme Court Rule 13.1, a petition for writ of certiorari is due on or before November 7, 2022. *See* Supreme Court Rule 13. (“a petition for writ of certiorari to review a judgment in any case is timely when it is filed with the Clerk of this Court within 90 days after entry of the judgment.”) 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 importance. Therefore, Petitioner seeks an extension of forty-five (45) 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”).

6. 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. Indeed, the requested extension is made because of the vital importance associated with the issues at hand – the right to a fair and reliable trial as well as qualified immunity. It is respectfully submitted that counsel’s duty to present all authorized claims of constitutional error with care and consider them with equal importance. Thus, it is key that counsel be granted additional time to prepare Mr. Holloway’s petition with the care demanded of such cases.

7. Other obligations have precluded counsel from being able to direct adequate time and attention to the preparation of a petition for writ of certiorari on Petitioner’s behalf. This includes the preparation of two federal jury trials, an oral argument in the Seventh Circuit, and a Wisconsin Court of Appeals case. Therefore, in light of counsel’s current obligations and the

importance of the constitutional issues that will be presented in this case, counsel submit that a forty-five (45) day extension is necessary and appropriate in order to effectively prepare the petition for certiorari on Mr. Holloway's behalf.

Wherefore, in the interest of justice and for good cause shown, counsel for Mr. Holloway respectfully request that this Court extend the current November 7, 2022, deadline until December 21, 2022.

Respectfully submitted,

/s/ Nathaniel Cade, Jr. _____

NATHANIEL CADE, JR.

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Dated this 25th day of October, 2022.

CERTIFICATE OF SERVICE

I, Nathaniel Cade, Jr., certify that I have this day served the foregoing Motion for Extension of Time to file Petition for Writ of Certiorari by first-class mail, postage prepaid, address to Stacy J. Miller, Assistant City Attorney, City of Milwaukee City Attorney's office, 800 City Hall, 200 East Wells Street, Milwaukee, WI 53202.

Dated this 25th day of October, 2022.

/s/ Nathaniel Cade, Jr.
Nathaniel Cade, Jr.