

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DONALD HERB JOHNSON

Petitioner,

v.

LAURA PLAPPERT, WARDEN,

Respondent.

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

CAPITAL CASE

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

*To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the
United States and Circuit Justice for the Sixth Circuit:*

Petitioner, Donald Johnson, respectfully applies to this Court for an order extending the time in which to file his petition for writ of certiorari from June 9, 2026 until August 8, 2026, a period of sixth (60) days. This Court has jurisdiction under 28 U.S.C. §1257. In support of this Application, Mr. Johnson states as follows:

1. Mr. Johnson is incarcerated under conviction of murder for which he was sentenced to death. On January 9, 2026, the United States Court of Appeals for the Sixth Circuit issued an opinion in Case No. 23-5330 (attached), wherein the court affirmed the judgment of the United States District Court for the Eastern District of Kentucky in Case No. 7:14-cv-00117. Mr. Johnson sought rehearing en banc, which was denied on March 11, 2026. See Order denying the petition for rehearing en banc attached hereto as Attachment 2.

2. Mr. Johnson now seeks a writ of certiorari for the United States Court of Appeals for the Sixth Circuit with respect to its decision rendered on January 9, 2026 as referenced above. This Court’s jurisdiction to grant the same arises pursuant to 28 U.S. C. § 1257 (a).

3. According to Supreme Court Rule 13.3, a petition for writ of certiorari to is due on or before June 9, 2026. 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 or, if

rehearing is granted, the subsequent entry of 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 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”).

4. 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 sentence. 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 care is of equal import. Thus, it is important that counsel be granted additional time to prepare Mr. Taylor’s petition with the care demanded of such cases.

5. Other obligations, including on behalf of clients who have been sentenced to death, 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. Therefore, 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 effectively prepare the petition for certiorari on Mr. Johnson's behalf.

Wherefore, in the interest of justice and for good cause shown, counsel for Mr. Johnson respectfully request that this Court extend the current June 9, 2026 deadline until August 8, 2026.

Respectfully submitted,

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