

No. _____

CAPITAL CASE

IN THE SUPREME COURT OF THE UNITED STATES

AUBREY TRAIL,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

**APPLICATION FOR A SIXTY (60) DAY EXTENSION OF TIME IN
WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI**

TO: THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE JUSTICE OF
THE UNITED STATES SUPREME COURT, AND CIRCUIT JUSTICE FOR
THE EIGHTH CIRCUIT:

Pursuant to Rule 13.5, petitioner respectfully requests a sixty (60) day
extension of time in which to file his petition for a writ of certiorari in this Court, up

to and including January 4, 2026.¹ In support of this application, petitioner states the following grounds:

1. Petitioner, Aubrey Trail, is a Nebraska prisoner under a sentence of death who intends to seek discretionary review in this Court, pursuant to 28 U.S.C. § 1257(a), of the judgment affirming the denial of state post-conviction relief by the Nebraska Supreme Court. A copy of the opinion is attached hereto. The Nebraska Supreme Court subsequently denied rehearing on August 7, 2025. A copy of this order is attached hereto.

2. Pursuant to Rule 13, petitioner's petition for a writ of certiorari is currently due on or before November 5, 2025.

3. Petitioner intends to file a petition for a writ of certiorari seeking discretionary review from this Court on questions surrounding whether Nebraska provides an adequate post-conviction process under *Case v. Nebraska*, 381 U.S. 336 (1965).

4. Attorney Laurence Komp has been involved in two recent executions, an Indiana execution on October 10, 2025, and a Missouri execution on October 14, 2025. Both cases necessitated complex litigation in state and federal court. Additionally, Attorney Komp filed briefing, on October 3, 2025, and a reply, on

¹ Sixty days from November 5, 2025 falls on a Sunday, carrying it over to January 4, 2026.

October 6, 2025, in the capital § 2254 proceeding in *McFadden v. Cofer*, No. 4:20-cv-01046-SEP.

5. Petitioner has not previously petitioned this Court for an extension of time in which to file a Petition for Writ of Certiorari.

6. Counsel avers that this Application is made in good faith and not for purposes of delay.

WHEREFORE, for the foregoing reasons, Petitioner respectfully requests that Justice Kavanaugh, in his capacity as Circuit Justice for the Eighth Circuit, issue an order granting petitioner a sixty (60) day extension of time up to and including January 4, 2026, in which to file his petition for a writ of certiorari.

Dated October 22, 2025

Respectfully submitted,

/s/ Laurence E. Komp
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