

**IN THE
SUPREME COURT OF THE UNITED STATES**

No. _____

JAMES W. VANDIVNER, JR.,
Petitioner,

v.

SECRETARY PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL.,
Respondent.

APPLICATION TO THE HONORABLE SAMUEL A. ALITO, JR.,
FOR AN EXTENSION OF TIME TO FILE A
PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Petitioner, James W. VanDivner, Jr., through undersigned counsel, respectfully moves for an extension of sixty days to prepare and file his Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit. In support of this request, Mr. VanDivner respectfully submits:

1. On August 14, 2025, the United States Court of Appeals for the Third Circuit affirmed the denial of a certificate of appealability in connection with the denial of a writ of habeas corpus pursuant to 28 U.S.C. §2254. Mr. VanDivner, through undersigned counsel, wishes to file a Petition for Writ of Certiorari to seek this Court’s review of the Third Circuit’s judgment.

2. This Court has jurisdiction to review the Third Circuit’s decision pursuant to 28 U.S.C. §1254(1). *See also Hohn v. United States*, 524 U.S. 236 (1998). Mr. VanDivner’s certiorari petition is currently due on November 12, 2025. *See Sup.Ct.R. 13.1*. In accordance with this

Court's rules, this request is made at least ten days in advance of the current due date. *See* Sup.Ct.R. 13.5.

3. Mr. VanDivner's case presents a complex legal issue and involves over five years of proceedings in the United States District Court for the Western District of Pennsylvania and the United States Court of Appeals for the Third Circuit. Prior to that, this former capital case was on post-conviction review in state court for over nine years. This case involves the denial of the certificate of appealability on a complicated issue where two areas of law intersect. Substantial time is required to create a petition that appropriately addresses this complex question.

4. Moreover, Mr. VanDivner requests additional time to file in light of counsel's heavy workload in the Capital Habeas Unit of the Federal Public Defender for the Western District of Pennsylvania. Undersigned is co-counsel on a case where the Sixth Circuit issued an opinion on October 9, 2025, which has required immediate attention. Counsel also is responsible for multiple capital cases that have needed attention. Furthermore, counsel's office has been appointed to represent a client with a November 13, 2025, execution date (the day after this certiorari petition is due) and counsel has been assisting the team in the lead up to that date. Finally, though counsel continues to work during the ongoing lapse in appropriations, the situation has created hurdles that counsel must jump through in order to effectively represent clients during this time.

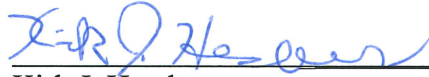
5. Under these circumstances, counsel respectfully requests that the Court grant this Application and extend the time in which to file the Petition for Writ of Certiorari by sixty days, until January 12, 2026.

6. The granting of this request shall cause no prejudice to the Respondents.

7. This request is made in good faith and is not predicated on an intent to delay the resolution of this litigation involving a petitioner with a life sentence.

For the foregoing reasons, Mr. VanDivner hereby requests that an extension of time to and including January 12, 2026, be granted within which Mr. VanDivner may file a petition for writ of certiorari.

Respectfully submitted,



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