

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

GREGORY MICHAEL NIERENBERG,
Petitioner,

v.

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE ELEVENTH CIRCUIT
COURT APPEALS

APPLICATION FOR AN ADDITIONAL EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI

MICHAEL UFFERMAN
Michael Ufferman Law Firm, P.A.
2202-1 Raymond Diehl Road
Tallahassee, Florida 32308
Florida Bar # 114227
(850) 386-2345
Email: ufferman@uffermanlaw.com

Counsel for the Petitioner

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

Introduction

Pursuant to this Court's Rule 13.5, the Petitioner, Gregory Michael Nierenberg, respectfully requests an additional thirty-day extension of time within which to file a petition for a writ of certiorari in this Court, to and including April 17, 2026.

Jurisdiction

The order of the Eleventh Circuit Court of Appeals affirming the denial of the Petitioner's motion for a certificate of appealability was entered on November 18, 2025. Previously, this Court granted a thirty-day extension and extended the Petitioner's deadline to file his petition for a writ of certiorari to March 18, 2026. Undersigned counsel is requesting an additional thirty days by which to file the petition for a writ of certiorari.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). A copy of the opinion of the Eleventh Circuit Court of Appeals is included in the appendix to this motion.

Argument

The issue in this case is whether the Petitioner's request for a certificate of appealability was improperly denied.

Unfortunately undersigned counsel's current circumstances require him to seek an additional extension of time in this case. In February of this year, undersigned

counsel was diagnosed with a respiratory infection. As a result, undersigned counsel has been out of his office for several days and he needs additional time in the instant case.¹

Therefore, the Petitioner requests an extension of thirty days to file the petition for a writ of certiorari. No party will be prejudiced by the granting of a thirty-day extension in this case.

Accordingly, the Petitioner respectfully requests that an order be entered extending the time to petition for writ of certiorari by thirty days.

Respectfully submitted,

/s/ Michael Ufferman
MICHAEL UFFERMAN
Counsel for the Petitioner

¹ Undersigned counsel is still experiencing lingering symptoms from the respiratory infection.

CERTIFICATE OF SERVICE

I, Michael Ufferman, a member of the Bar of this Court, hereby certify that on the 26th day of February, 2026, a copy of this Application For Extension of Time To File A Petition For A Writ Of Certiorari in the above-entitled case was mailed, first class postage prepaid, to the Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050 (counsel for the Respondent herein). I further certify that all parties required to be served have been served.

/s/ Michael Ufferman
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Michael Ufferman Law Firm, P.A.
2202-1 Raymond Diehl Road
Tallahassee, Florida 32308
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2202-1 Raymond Diehl Road
Tallahassee, Florida 32308
Florida Bar # 114227
Phone (850) 386-2345
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In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-11057

GREGORY MICHAEL NIERENBERG,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF
CORRECTIONS,
FLORIDA ATTORNEY GENERAL,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:22-cv-00176-WWB-SJH

ORDER:

Gregory Nierenberg, a Florida prisoner, appeals the denial of his 28 U.S.C. § 2254 petition, and moves this Court for a

certificate of appealability (“COA”).¹ In order to obtain a COA, a movant must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The movant satisfies this requirement by demonstrating that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong” or that the issues “deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Reasonable jurists would not debate the denial of any of Nierenberg’s claims. With respect to Claim 1, the state post-conviction court reasonably determined that trial counsel advised Nierenberg that he had grounds to withdraw his guilty plea and investigated the drug use and inconsistent statements of the state’s witnesses, and its conclusion that counsel was not ineffective was not an unreasonable application of federal law. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Harrington v. Richter*, 562 U.S. 86, 105 (2011).

Turning to Claim 2, the state post-conviction court reasonably determined that counsel did not perform deficiently in advising Nierenberg that he did not have a valid self-defense to second-degree murder, given his statements that he was the aggressor. *See Strickland*, 466 U.S. at 687; *Harrington*, 562 U.S. at 105.

¹ Nierenberg seeks COA on only four of the claims that he raised in his petition. Accordingly, this Court “will not entertain the possibility of granting a certificate of appealability” on the additional claim that he raised below. *See Jones v. Sec’y, Dep’t of Corr.*, 607 F.3d 1346, 1353-54 (11th Cir. 2010).

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Order of the Court

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With respect to Claim 3, the state court did not unreasonably find that counsel had no reason to believe that Nierenberg suffered from PTSD, anxiety, and depression, meaning that its conclusion that counsel did not render deficient performance by not presenting evidence of these conditions was not an unreasonable application of *Strickland*. See *Strickland*, 466 U.S. at 687; *Harrington*, 562 U.S. at 105. As such, Nierenberg also was not entitled to an evidentiary hearing on this claim in the district court. See *Landers v. Warden, Att’y Gen. of Ala.*, 776 F.3d 1288, 1295 (11th Cir. 2015).

As to Claim 4, the state court’s determination that counsel did not render ineffective assistance by failing to move to withdraw Nierenberg’s guilty plea, in light of Ashley Pace’s testimony, was not an unreasonable application of *Strickland*, as it reasonably concluded that Pace’s testimony was not inconsistent on the question of whether she saw Nierenberg shoot at Carl Harp. Finally, to the extent that Nierenberg sought to assert a claim of actual innocence, such a claim is not cognizable in a non-capital habeas proceeding. See *Jordan v. Sec’y, Dep’t of Corr.*, 485 F.3d 1351, 1356 (11th Cir. 2007).

Accordingly, Nierenberg’s motion for a COA is DENIED.

/s/ Kevin C. Newsom

UNITED STATES CIRCUIT JUDGE