

NO.

IN THE SUPREME COURT OF THE UNITED STATES

BRIAN TOOTLE, PETITIONER

vs.

SUPERINTENDENT SCI DALLAS, RESPONDENT

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

**MOTION TO DIRECT THE CLERK TO FILE PETITION FOR
WRIT OF CERTIORARI OUT OF TIME**

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Attorney for Petitioner, Brian Tootle

IN THE
SUPREME COURT OF THE UNITED STATES
MOTION TO DIRECT THE CLERK TO FILE PETITION FOR A
WRIT OF CERTIORARI OUT OF TIME

1. Petitioner, Brian Tootle was convicted of murder and sentenced to life imprisonment.
2. On or about July 11, 2025, the United States Court of Appeals for the Third Circuit refused to grant Petitioner a Certificate of Appealability.
3. Petitioner requested rehearing *en banc* which was denied on October 7, 2025.
4. Petitioner had until January 5, 2026 to file a Petition for Writ of Certiorari.
5. On January 2, 2026, Petitioner electronically filed a Motion for Extension of Time to File the Petition for Writ of Certiorari which does not appear to have been approved for filing.
6. On January 5, 2026, Petitioner electronically filed a Motion to be Excused from Providing the Paper Books which does not appear to have been approved for filing.

7. Counsel for Petitioner electronically filed the Petition for Writ of Certiorari on January 5, 2026, however, it does not appear that the Petition was approved for filing.

8. However, on January 8, 2026, counsel for Petitioner did mail a check in the amount of \$300.00 representing the filing fee as well as ten (10) copies of the Petition for Writ of Certiorari.

9. Counsel for Petitioner also forwarded to the Court, copies of the Motion for Extension of Time and Motion for Leave to Excused from filing the Paper books.

10. On January 13, 2026, the Clerk's office notified counsel they could not accept the Petition contending it was not timely submitted with the electronic filing contemporaneously.

11. Accordingly, counsel is requesting leave of court to allow the filing of the Petition for Writ of Certiorari out of time.

12. No one will be prejudiced by the relief requested in this Motion.

13. The issue is of significant importance and has not, heretofore, been addressed by this Honorable Court.

14. A copy of the "proposed" Petition for Writ of Certiorari, is attached hereto.

15. Petitioner attempted to seek an extension of the filing deadline as he had just been retained to represent Petitioner and attempted to make certain the Petition would be timely filed.

16. Prior to Petitioner requesting an extension, it is believed Petitioner himself, acting *pro se* requested an extension.

17. Petitioner is also attaching a copy of a Petition for “*in forma pauperis*” [IFP] status.

WHEREFORE, for all of the reasons set forth above, Petitioner, Brian Tootle respectfully requests that Your Honorable Court grant his Motion for Leave to File Petition for a Writ Of Certiorari out of Time

Respectfully submitted,

s/Jonathan J. Sobel, Esquire
Jonathan J. Sobel, Esquire,
Attorney for Brian Tootle

Date: January 13, 2026