

OCTOBER TERM 2025

CASE NO. _____ (CAPITAL CASE)

IN THE SUPREME COURT OF THE UNITED STATES

BRILEY PIPER,
Petitioner,

v.

ATTORNEY GENERAL FOR THE STATE OF SOUTH DAKOTA, et al.,
Respondents,

UNITED STATES OF AMERICA,
Intervenor.

**APPLICATION FOR AN EXTENSION OF TIME FOR THE FILING OF A
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE EIGHTH CIRCUIT**

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**Counsel of Record*
Member of the Bar of the Supreme Court

Counsel for Petitioner, Briley Piper

Dated: August 28, 2026

TO THE HONORABLE BRETT M. KAVANAUGH, Associate Justice of the Supreme Court and Circuit Justice for the United States Court of Appeals for the Eighth Circuit:

1. Pursuant to Rule 13.5 of the Rules of this Court, Petitioner Briley Piper, through undersigned counsel, respectfully moves for an extension of sixty days to prepare and file his Petition for a Writ of Certiorari to seek review of an order of the United States Court of Appeals for the Eighth Circuit.

2. Petitioner seeks certiorari review of the Eighth Circuit's opinion and judgment affirming the judgment of the United States District Court for the District of South Dakota, which denied habeas relief in this death-penalty case.

3. The Eighth Circuit issued its opinion and judgment on May 4, 2026, and it denied Petitioner's timely petition for rehearing on June 18, 2026. Copies of the Eighth Circuit's opinion, judgment, and rehearing order are attached as Appendices A, B, and C, respectively.

4. Petitioner invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1254(1). Petitioner's certiorari petition is currently due on September 16, 2026. *See* Sup. Ct. R. 13.3. In accordance with this Court's rules, Petitioner makes this extension request at least ten days in advance of the current due date. *See* Sup. Ct. R. 13.5.

5. Petitioner's appeal to the Eighth Circuit raised numerous complex procedural and substantive issues, including claims relating to the adequacy and independence of a state-court procedural bar, the proper standard of review to be

applied to Petitioner's claims, the availability of an evidentiary hearing in order to determine whether 28 U.S.C. § 2254(e)(2) should be applied, whether Petitioner was at fault for failing to develop the factual record in state court, and several substantive claims of ineffective assistance of counsel at the penalty phase. In order to prepare a proper certiorari petition, Petitioner must thoroughly research and review each claim in order to determine which claim or claims are most appropriate for this Court's review and whether such claims meet the standards of Supreme Court Rule 10. Such careful research and review is a time-consuming process. Because Petitioner is sentenced to death, this is likely his only chance to obtain this Court's review of his conviction and sentence. Preparation of a certiorari petition in a capital case should not be rushed. Petitioner requests additional time to present the issues fully but concisely to this Court.

6. Petitioner also requests additional time in light of counsel's competing deadlines in other capital and non-capital cases. Since the denial of the petition for rehearing, undersigned counsel of record has undertaken work-related travel to Florida, California, Texas, South Dakota, and Puerto Rico. Counsel of record will be required to travel again to Puerto Rico the weeks of August 31 and likely September 8 in relation to a change-of-plea hearing currently scheduled for September 11 in *United States v. Nelson Torres-Delgado*, No. 3:23-cr-0273 (D.P.R.) (motion to continue plea hearing pending). Counsel of record also has other litigation deadlines including the filing of an initial brief as Appellee (and as Cross-Appellant) in the United States Court of Appeals for the Third Circuit by September 25, 2026, *see*

Pruitt v. Sec’y, Pa. Dep’t of Corr., Nos. 25-9001 & 25-9002 (3d Cir.) (death-penalty case), and objections to a Report and Recommendation in the Eastern District of Pennsylvania by September 2, 2026, *see Ware v. Kendall*, No. 2:19-cv-00705-GJP (E.D. Pa.) (granting in part and denying in part petition for writ of habeas corpus).

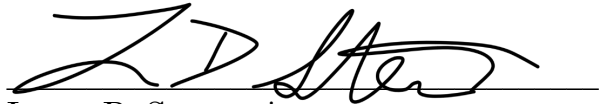
7. Counsel is mindful that applications for extension of time to seek certiorari are not favored. Sup. Ct. R. 13.5. Counsel makes this application due to a bona fide need for the additional time to properly discharge his constitutional obligations to his client and to adequately address the complex legal issues present in this death-penalty case.

8. Under these circumstances, the undersigned most respectfully requests that the Court grant this application and extend the date on which to file the petition for a writ of certiorari by sixty days, from September 16, 2026, to November 15, 2026. Because November 15, 2026, falls on a Sunday, Petitioner’s deadline would be Monday, November 16, 2026. *See* Sup. Ct. R. 30.1.

9. The grant of this extension request will not otherwise delay the litigation of this case or cause prejudice to the State. This request is made in good faith and not predicated on an intent to delay the resolution of this litigation.

WHEREFORE, Petitioner prays that the Court grant a sixty-day extension for the preparation and filing of his Petition for a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Loren D. Stewart', is written over a horizontal line.

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Counsel for Petitioner, Briley Piper

Dated: August 28, 2026

Parties to the Proceedings

Petitioner, Briley Piper, is incarcerated in South Dakota at the South Dakota State Penitentiary, Jameson Annex, under sentence of death.

Respondents are the Attorney General of the State of South Dakota and Tabatha Benting, Warden of the South Dakota State Penitentiary. Benting succeeds Joseph Roemmich, the penitentiary's previous warden, who was a named Respondent to this action in proceedings before the United States Court of Appeals for the Eighth Circuit. *See* Sup. Ct. R. 35.3.

Intervenor is the United States of America.

No party to this litigation is a publicly or privately held corporation.