

**IN THE SUPREME COURT OF THE UNITED STATES
CASE NO. _____**

LAVAR BROWN,

Petitioner,

v.

COMMONWEALTH OF PENNSYLVANIA,

Respondent.

**APPLICATION FOR EXTENSION OF TIME FOR THE FILING OF
A PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF PENNSYLVANIA**

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Dated: August 28, 2026

TO THE HONORABLE SAMUEL A. ALITO, JR., Circuit Justice for the United States Court of Appeals for the Third Circuit:

Petitioner Lavar Brown, through undersigned counsel, respectfully moves for an extension of 60 days to prepare and file his Petition for Writ of Certiorari seeking review of the order of the Supreme Court of Pennsylvania in *Commonwealth v. Brown*, 358 A.3d 469 (Pa. 2026) (Appendix A). In support thereof, Petitioner respectfully submits as follows:

1. The case for which Petitioner is filing a Petition for Writ of Certiorari involves a post-conviction decision by the Supreme Court of Pennsylvania for a case where the court exercised extraordinary jurisdiction and reversed and remanded an order granting a new trial for Mr. Brown's conviction for second degree murder. The case involved a robbery and a murder. One of Mr. Brown's co-defendants received a death sentence in the case which has since been vacated. Mr. Brown's second-degree conviction served as an aggravating circumstance in a separate capital case in which Mr. Brown received a death sentence. *See Commonwealth v. Brown*, 987 A.2d 699 (Pa. 2009); *Commonwealth v. Brown*, 196 A.3d 130 (Pa. 2018).

2. In that second-degree case, Mr. Brown filed a successive state post-conviction (PCRA) petition based on disclosures uncovered during a new open-file policy enacted by the Philadelphia District Attorney's Office (DAO). Based on the disclosures Mr. Brown filed multiple claims under *Brady v. Maryland*, 373 U.S. 83 (1963), and *Napue v. Illinois*, 360 U.S. 264 (1959). Those claims attacked on many grounds the veracity of the only two witnesses who implicated Mr. Brown in the case.

3. The Commonwealth of Pennsylvania, represented by the DAO, agreed to a new trial, adding that, if Mr. Brown were granted a new trial, it would try him again.

4. During the course of the successive PCRA proceedings, the court permitted the families of the victims in both of Mr. Brown's cases to be heard as amicus curiae. They were represented by pro bono counsel. The court denied their motion to intervene. The victims' families chose not to appeal that ruling.

5. Noting that no one, including amicus, wanted a hearing, the court reviewed numerous legal memoranda and filings, including a stipulation of facts between Mr. Brown and the Commonwealth, and granted relief on one of the *Brady* claims.

6. The claim for which relief was granted alleged that the Commonwealth withheld evidence that one of the two witnesses who implicated Mr. Brown had falsely accused an individual named Kennisha Paige of being involved in the January 19, 2003 Rite Aid robbery/murder for which Mr. Brown was convicted. It was also alleged that detectives determined she had a solid alibi because she was at a residential facility for adolescent girls in Erie, Pennsylvania at that time. This suppression deprived the defense of evidence that could have been used at trial to show that police knew that this witness had provided untrue information and was capable of falsely implicating an innocent person in the crime to save himself.

7. Following the grant of relief, the victims' family members petitioned the Supreme Court of Pennsylvania to exercise King's Bench jurisdiction in the case. The state supreme court did that, inviting the Office of the Pennsylvania Attorney General (OAG) to be an amicus in the case.

8. On June 16, 2026, the Pennsylvania Supreme Court issued its decision reversing the grant of relief and remanding for an evidentiary hearing. It held that Mr. Brown did not meet his burden of showing by a preponderance of the evidence that the cooperating witness had

falsely accused Ms. Paige. *Commonwealth v. Brown*, 358 A.3d 469, 505 (Pa. 2026). It held that the DAO had violated its duty of candor to the Court. *Id.* at 514. The Court also directed that the OAG be permitted to intervene in the case and in any future Philadelphia County post-conviction cases in which the DAO agrees to relief. *Id.* at 532, 540.

9. Petitioner, through undersigned counsel, wishes to file a Petition for Writ of Certiorari to seek this Court's review of the decision of the Supreme Court of Pennsylvania. The state supreme court required him to prove that an underlying event actually happened – that the cooperating witness actually identified Paige. Petitioner wishes to raise the issue of whether that requirement contradicts this Court's instruction that such an analysis "confuses the weight of the evidence with its favorable tendency." *Kyles v. Whitley*, 514 U.S. 419, 451 (1995). It is the evidence that the cooperating witness identified Paige that makes up the *Brady* claim.

10. Petitioner's counsel cannot meaningfully prepare a professionally appropriate Petition by its current due date of September 14, 2026 (pursuant to Rule 30 of this Court). Undersigned counsel has been conducting research for the petition he will file with the Court. That research is not completed. He has a pre-paid vacation for the upcoming week and a half. He has professional responsibilities in other cases, including capital cases. These include: researching, investigating and drafting a petition for writ of habeas corpus in a capital case; drafting and filing a petition for compassionate relief; and having just drafted and filed a reply brief in support of a post-conviction petition.

11. Under these circumstances, Petitioner requests that the Court grant this Motion and extend by 60 days the deadline by which the Petition for Writ of Certiorari must be filed.

12. This request is made more than ten days before the filing deadline and is timely.

13. The granting of this request shall cause no prejudice to the Respondent.

WHEREFORE, Petitioner prays that the Court grant a 60-day extension of time for the preparation and filing of his Petition for Writ of Certiorari, extending the deadline from September 14, 2026, to November 13, 2026.

Respectfully submitted,

s/ Samuel J.B. Angell

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Dated: August 28, 2026

Parties to the Proceedings

Petitioner Lavar Brown is incarcerated in Pennsylvania at the State Correctional Institution - Phoenix

Respondents are the Commonwealth of Pennsylvania represented by the Philadelphia District Attorney's Office, the Victims' Family Members and the Office of the Attorney General of Pennsylvania