

No. _____

****CAPITAL CASE****

**In The
Supreme Court of the United States**

RANDY WILLIAM GAY,

Petitioner

v.

DEXTER PAYNE, Director,
Arkansas Division of Correction,

Respondent

APPLICATION TO EXTEND TIME TO FILE A PETITION FOR A WRIT OF
CERTIORARI FROM OCTOBER 14, 2026, TO DECEMBER 14, 2026

To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of
the United States and Circuit Justice for the Eighth Circuit:

Under 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5, 22, and 30.3,
petitioner Randy Gay respectfully requests that the time to file a petition for a writ
of certiorari be extended up to and including Monday, December 14, 2026.

Mr. Gay will seek review of the order of the United States Court of Appeals
for the Eighth Circuit denying a Certificate of Appealability (“COA”) in *Gay v.*

Payne, No. 26-1877 (8th Cir. 2026). *See* Appendix A. Mr. Gay did not seek a petition for rehearing following the court's order. This Court will have jurisdiction under 28 U.S.C. § 1254(1). The time to seek certiorari currently expires on October 14, 2026. An extension of time is necessary to adequately prepare an argument on significant constitutional and procedural issues presented in this capital habeas corpus case.

The Eighth Circuit below declined to issue a COA on Mr. Gay's claim that he was wrongfully denied his Sixth Amendment right to be represented by the counsel of his choice. *U.S. v. Gonzalez-Lopez*, 548 U.S. 140 (2006). It did so by summarily denying Mr. Gay's motion to appeal despite the presence of procedurally and factually complex circumstances that present a matter of first impression and involve the denial of a structural right. Reasonable jurists could debate both the federal habeas court's procedural ruling as well as the court's engagement of the merits of Mr. Gay's uniquely structured claim. Mr. Gay has demonstrated "a substantial showing of the denial of a constitutional right," and this claim is "adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

The undersigned attorneys are counsel of record in Mr. Gay's ongoing appeal in the Eighth Circuit in which he is the Appellee. *Gay v. Payne*, No. 26-1786. Mr. Gay's responsive brief is currently due October 13, 2026, the day before the deadline to file his petition in this Court. Despite diligent efforts, counsel's duties in this and other death-penalty matters will prevent the timely completion of an adequate

certiorari petition that sufficiently encapsulates the unique facts and constitutional issues within the time allowed by Rule 13.1.

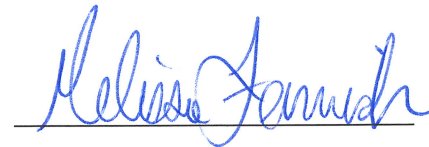
No prior application for extension has been made in this case. Due to the complexity of the claim and the legal and factual nuances presented as a result of the Eighth Circuit's summary denial, Mr. Gay respectfully requests a 60-day extension of time to prepare a proper and effective certiorari petition.

Wherefore, Petitioner Randy Gay respectfully requests that the Court extend the time to file a petition for a writ of certiorari up to and including Monday, December 14, 2026.

Dated: September 21, 2026

Respectfully submitted,

LISA G. PETERS
FEDERAL PUBLIC DEFENDER



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