

No. _____

IN THE
Supreme Court of the United States

JOE CLARENCE SMITH,
Petitioner,

vs.

RYAN THORNELL, ET AL.,
Respondents.

****CAPITAL CASE****

**APPLICATION TO EXTEND TIME TO FILE PETITION FOR
WRIT OF CERTIORARI**

JON M. SANDS
FEDERAL PUBLIC DEFENDER
DISTRICT OF ARIZONA

JENNIFER GARCIA
Counsel of Record
JESSICA SALYERS
ASSISTANT FEDERAL PUBLIC DEFENDERS
250 North 7th Avenue, Suite 600
Phoenix, Arizona 85007
(602) 382-2816 voice
(602) 382-2800 facsimile
Jennifer_Garcia@fd.org
Jessica_Salyers@fd.org

s/ Jennifer Garcia
JENNIFER GARCIA
ASSISTANT FEDERAL PUBLIC DEFENDER

Counsel for Petitioner Joe Clarence Smith

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioner Joe Clarence Smith respectfully requests a 60-day extension of time, up to and including December 28, 2026, in which to file his Petition for Writ of Certiorari. The current due date is October 29, 2026, and this application is being filed 14 days in advance of that date. Respondents' counsel has informed undersigned counsel that they have no objection to this requested 60-day extension.

JUDGMENT FOR WHICH REVIEW IS BEING SOUGHT

On June 3, 2026, in *Smith v. Thornell*, No. 25-1964, the Ninth Circuit Court of Appeals denied Mr. Smith's Application for a Certificate of Appealability following the federal district court's denial of his Motion for Relief from Judgment pursuant to Rule 60(b). (Appendix 1.) Rehearing was denied on July 31, 2026. (Appendix 2.)

REASONS FOR THE REQUESTED EXTENSION OF TIME

Counsel respectfully requests a 60-day extension of time in which to file a petition for certiorari seeking review of the Ninth Circuit's decision in this case, up to and including December 28, 2026.

To date, undersigned counsel have been unable to afford Mr. Smith's Petition for Writ of Certiorari the considerable attention it requires. Ms. Garcia is counsel in nine capital habeas cases, each with their own responsibilities including a brief due on December 21, 2026. In addition to her case responsibilities, she will be out of the office on scheduled medical leave from October 21, 2026, through November 16, 2026,

and is the chair and faculty for the annual Arizona Death Penalty Defense Seminar scheduled for December 10-11, 2026.

Ms. Salyers also has had commitments that have prevented her from working on a petition for certiorari in this matter. Ms. Salyers is counsel in seven capital habeas cases, each of which has its own responsibilities, including a brief due on November 30, 2026, in the Maricopa County Superior Court. In addition to her case responsibilities, Ms. Salyers experienced a family medical emergency that has required her to be out of town and out of the office from September 5, 2026, through October 5, 2026, and will continue to require periodic leave in the upcoming weeks.

As a result of the foregoing reasons, and in light of the heightened reliability that the Eighth Amendment requires in capital cases, *see Woodson v. North Carolina*, 428 U.S. 280, 305 (1976) (explaining that “[b]ecause of th[e] qualitative difference[]” between death and other punishments, “there is corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case”), Mr. Smith respectfully requests an extension of time to file his Petition for Writ of Certiorari for 60 days, up to and including December 28, 2026.

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Respectfully submitted this 15th day of October, 2026.

JON M. SANDS
FEDERAL PUBLIC DEFENDER
DISTRICT OF ARIZONA

JENNIFER GARCIA
Counsel of Record

JESSICA SALYERS
ASSISTANT FEDERAL PUBLIC DEFENDERS
250 North 7th Avenue, Suite 600
Phoenix, Arizona 85007
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s/ Jennifer Garcia
JENNIFER GARCIA
ASSISTANT FEDERAL PUBLIC DEFENDER

Counsel for Petitioner Joe Clarence Smith