

No. 25A-_____

IN THE
SUPREME COURT OF THE UNITED STATES

R.L.P.¹

Petitioner

v.

COMMONWEALTH OF KENTUCKY

Respondent

**APPLICATION TO THE HONORABLE JUSTICE BRETT M. KAVANAUGH
FOR A SIXTY (60) DAY EXTENSION OF TIME TO FILE A PETITION FOR
A WRIT OF CERTIORARI TO THE KENTUCKY SUPREME COURT**

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

Pursuant to Supreme Court Rules 13.5 and 30.3, Petitioner respectfully requests that this Court grant him a sixty (60) day extension, to and including September 20, 2026 in which to file a Petition for Certiorari from a decision of the Kentucky Supreme Court. The Petition for Certiorari is presently due to be filed on July 22, 2026, and this application is being filed outside of the 10-day window required by Rules 13.5 and 30.3. As noted below, good cause exists for granting the extension.

Background: In 2021, Kentucky adopted a new civil commitment statute that

¹ Proceedings below are confidential by statute, and so R.L.P. has been identified by initials in all lower court proceedings.

only applied to individuals who were found to be incompetent to stand trial for a serious crime. Under the new statute, if a person charged with certain serious offenses was found incompetent, the Commonwealth could petition to have them committed to a facility located inside a prison, which no other civilly committed person was confined to. The Court was then required to conduct a bench trial to determine by a preponderance of the evidence whether the accused was “guilty” of the crime charged. If the court found that the Commonwealth met that burden, it would move on to a commitment hearing. If the court committed the accused, they would remain in custody until they either could establish they no longer met the criterion for commitment, or that they had been restored to competency. This differed from the traditional civil commitment in Kentucky, which required a new commitment hearing annually.

The Petitioner, R.L.P., was charged with the murder of his father. He is floridly schizophrenic and was found to be incompetent to stand trial. The state petitioned to confine him indefinitely under KRS Chapter 202C, and he challenged the constitutionality of that statute. The trial court rejected that constitutional challenge and found him “guilty” by a preponderance of the evidence. After a commitment hearing, R.L.P. was one of the first individuals to be committed under the new KRS Chapter 202C, and he remains committed to a prison based mental hospital.

On appeal, R.L.P. challenged the constitutionality of KRS Chapter 202C. On April 23, 2026, the Kentucky Supreme Court upheld the statute in a “to be published”

decision.

Jurisdiction: This Court has jurisdiction under 28 U.S.C. § 1257(a).

Issues to be Presented: This case presents the following important questions for review:

First, this case presents the question of whether a state can, consistent with this Court's rulings in *Baxstrom v. Herold*, 383 U.S. 107 (1966) and *Jackson v. Indiana*, 406 U.S. 715 (1972), create a unique system for confining a person charged with a serious crime and found incompetent to stand trial that requires those people to be confined to a prison-based mental hospital indefinitely until they either no longer meet the criterion for commitment, or until they are restored to competency. Importantly, this system is very different from, and more restrictive than, the ordinary civil commitment regime for confining a person who is a danger to themselves or others due to mental illness.

Second, this case also presents the question of whether Kentucky can permit indefinite civil commitment based in part upon a finding by a mere preponderance of the evidence that the accused is "guilty" of the offense they are charged with, based on the characterization of the decision as "preliminary", even though there is no proceeding where the matter must be proved by a higher standard.

Extension: The undersigned certifies that he is not seeking this extension for hindrance or delay, but to ensure that the issues are properly presented to the Court. Between the time the Kentucky Supreme Court decision the present, undersigned counsel has filed 12 major pleadings (principal briefs, reply briefs,

motions for discretionary review, and the like). Undersigned counsel is filing a separate petition for certiorari in this Court on the day this extension is filed, and has three major pleadings due between now and the July 22, the current due date for this certiorari petition. During the month of August, he has three principal briefs and another petition for certiorari due. Due to his substantial workload and other responsibilities, counsel will not be able to timely complete the petition for certiorari in the time allotted.

The undersigned believes that a sixty (60) day extension of time is needed to ensure that the issues are properly framed and presented for this Court's review. Accordingly, for the reasons expressed above, Petitioner respectfully requests that this Court grant him a sixty (60) day extension, to and including September 20, 2026 in which to file the Petition for Certiorari.

Respectfully submitted,
COUNSEL FOR R.L.P.

s/Timothy G. Arnold
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