

No. _____

CAPITAL CASE

IN THE SUPREME COURT OF THE UNITED STATES

SCOTT MCLAUGHLIN,
Petitioner,

vs.

ANNE PRECYTHE,
Respondent.

**APPLICATION FOR A SIXTY (60) DAY EXTENSION OF TIME
IN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI**

TO: THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE JUSTICE
OF THE UNITED STATES SUPREME COURT, AND CIRCUIT
JUSTICE FOR THE EIGHTH CIRCUIT:

Pursuant to Rule 13.5, petitioner respectfully requests a sixty (60) day extension of time in which to file his petition for a writ of certiorari in this Court, up to and including April 18, 2022. In support of this application, petitioner states the following grounds:

1. Petitioner, Scott McLaughlin, is a Missouri prisoner under a sentence of death who intends to seek discretionary review in this Court, pursuant to 28 U.S.C. § 1254, of the judgment reversing the district court's judgment granting his

petition for a writ of habeas corpus from the Eighth Circuit Court of Appeals, issued on August 18, 2021. A copy of the opinion is attached hereto. The Eighth Circuit subsequently denied rehearing and rehearing *en banc* on November 19, 2021. A copy of this order is attached hereto.

2. Pursuant to Rule 13, petitioner's petition for a writ of certiorari is currently due on or before February 17, 2022.

3. Petitioner intends to file a petition for a writ of certiorari seeking discretionary review from this Court on questions surrounding whether trial counsel was ineffective at the penalty phase of his trial under *Wiggins v. Smith*, 539 U.S. 510 (2003).

4. Co-counsel Kent Gipson's ability to work on this petition in the past few weeks has been hindered by the recent death of his mother, which necessitated his absence from the office to attend her funeral in Southwest Missouri on December 18, 2021. Following the holidays, co-counsel Gipson had a January 10, 2022, deadline to file a traverse in United States District Court, Western District of Missouri in *Davis v. Falkenrath*, No. 4:21-cv-00630-GAF. During the week of January 17, 2022, co-counsel Kent Gipson had to prepare and file an Application for a Certificate of Appealability before the Eighth Circuit Court of Appeals in *Williams v. Steele*, No. 21-3223, and had an unextendable deadline of January 19, 2022, to file a 29.15 motion in the Circuit Court of St. Louis County in *Lawson v.*

State, No. 21SL-CC3103. Counsel also had an unextendable deadline to file a traverse on January 20, 2022, in the United States District Court for the Western District of Missouri in *Black v. Falkenrath*, No. 2:21-cv-04207-NKL. During the week of January 24, 2022, co-counsel Gipson's time has been consumed with expedited litigation seeking the release of Missouri prisoner, Keith Carnes, in the course of ongoing state habeas litigation in *Carnes v. Buckner*, No. SC98736, after a Special Master appointed by the Missouri Supreme Court issued factual findings that established that Mr. Carnes is innocent and that his conviction was tainted by a *Brady* violation. Co-counsel Gipson also has a January 27, 2022, deadline to file a traverse in the United States District Court for the Eastern District of Missouri in *Johnson v. Falkenrath*, No. 4:21-cv-00867-DDN. During the month of February, 2022, co-counsel Gipson has to prepare for an evidentiary hearing in the United States District Court for the Western District of Missouri scheduled for February 2, 2022, in *Perdomo-Paz v. Buckner*, No. 4:20-cv-00221-SRB. Counsel also has deadlines the same week to file two briefs in the Missouri Court of Appeals, Western District, in *Shockley v. Missouri Dept. of Corrections*, WD85028, and *Webb v. State*, WD84604. During the week of February 7, 2022, counsel has to prepare for an evidentiary hearing scheduled for February 15, 2022, in the Circuit Court of Livingston County, Missouri, in the state habeas corpus case of former

Missouri death row inmate, Virginia Twenter, who is advancing claims of governmental misconduct in a capital murder case that is over thirty years old.

5. In the past few weeks, co-counsel Laurence Komp filed a Motion for Rehearing/Rehearing En Banc in the capital case of *Tisius v. Blair*, Case No. 21-1682 (8th Cir.), on December 21, 2021. Immediately following the holidays, on December 27, 2021, Mr. Komp filed a Memorandum in Support of Petition for Writ of Habeas Corpus in United States District Court, Western District of Missouri in *McFadden v. Blair*, No. 4:20-cv-01046-SEP. Mr. Komp is involved in the preparation of clemency materials in anticipation of an upcoming execution warrant in the case of Missouri death row inmate Carman Deck.

WHEREFORE, for the foregoing reasons, petitioner respectfully requests that Justice Kavanaugh, in his capacity as Circuit Justice for the Eighth Circuit, issue an order granting petitioner a sixty day (60) extension of time up to and including April 18, 2022, in which to file his petition for a writ of certiorari.

Respectfully submitted,

/s/ Kent E. Gipson
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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I, Kent E. Gipson, attorney for petitioner, hereby certify that on the 26th day of January, 2022, a true and correct copy of the foregoing was mailed to: Michael Spillane, Assistant Attorney General, P.O. Box 899, Jefferson City, Missouri 65102.

/s/ Kent E. Gipson
Kent E. Gipson