

No. _____

In the Supreme Court of the United States

ANDREW THOMAS COWHY,

Applicant,

v.

MICHIGAN,

Respondent.

**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE
A PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT
OF MICHIGAN**

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

Pursuant to 28 U.S.C. § 2101(d) and Rules 13.1 and 13.5 of the Rules of this Court, applicant Andrew Cowhy respectfully requests a 60-day extension of time, to and including Monday, December 30, 2024, to file a petition for a writ of certiorari in this case.

On August 2, 2024, the Michigan Supreme Court issued an order denying discretionary review of Mr. Cowhy's criminal conviction. This Court's jurisdiction will

be invoked under 28 U.S.C. § 1257(a). Attached is a copy of the Michigan Supreme Court order and the Michigan Court of Appeals opinion.

1. Andrew Cowhy is serving a sentence of 75 to 150 years based on his conviction for five counts of first-degree criminal sexual conduct and five counts of second-degree criminal sexual conduct. Michigan law generally requires all sentences to be imposed to run concurrently, which would have resulted in a total sentence length of 25 to 75 years. However, the trial court imposed three of his first-degree criminal sexual conduct sentences consecutive to one another based on judicial fact-finding that the three offenses occurred during the same transaction. The Michigan courts found that this judicial fact-finding was constitutional based on *Oregon v. Ice*, 555 US 160 (2009). However, in light of the Court's decision in *Alleyne v. United States*, 570 US 99 (2013), any factor that increases the punishment for a crime, not only one that increases the statutory maximum, must be found by a jury. In light of *Alleyne*, *Ice* must be reconsidered.

2. In this case, good cause exists for an extension of time to prepare a petition for a writ of certiorari. Undersigned counsel was not the attorney who represented Mr. Cowhy in state court. Counsel is working diligently to prepare a petition for certiorari, but other pressing deadlines and court hearings have interfered with his ability to draft the petition. The undersigned has two federal felony trials scheduled in November and December, which require significant preparation over the next three months. Both these trials are outside of the district in which counsel resides and maintains his office. Both trials require considerable

travel. Both trials are anticipated to proceed as scheduled and have pretrial filing deadlines that interfere with preparing the petition in this case.

3. This request is filed more than ten days before the current deadline for filing a petition.

For the foregoing reasons, the application for a 60-day extension of time, to and including December 30, 2024, within which to file a petition for a writ of certiorari should be granted.

Respectfully submitted,

/s/ James R. Gerometta

LAW OFFICE OF JAMES GEROMETTA
27 E. FLINT ST.
SUITE 2
LAKE ORION, MI 48183
JAMES@GEROMETTALAW.COM
(313) 530-9505

October 18, 2024