

No. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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RICKY D. ULLMAN, JR., – PETITIONER,

VS

COMMONWEALTH OF KENTUCKY – RESPONDENT

MOTION FOR AN EXTENSION OF TIME  
TO FILE A PETITION FOR CERTIORARI

The petitioner, Ricky D. Ullman, Jr., by counsel, seeks, pursuant to Supreme Court Rules 13.5 and 30.4, an extension of sixty-days (60) days from Wednesday, November 20, 2024, to and including Sunday, January 19, 2024, in which to file his petition for writ of certiorari to review the decision of the Kentucky Supreme Court reversing the judgments below that had granted him relief from his sentence and remanding his case to the trial court for proceedings on whether his parole revocation counsel denied him effective assistance of counsel, while affirming the judgment of conviction and sentence.

On April 18, 2024, the Kentucky Supreme Court, on discretionary review, rendered its decision in petitioner Ullman’s case. *Kentucky v. Ullman*, 2022-SC-0293-DG, to be published opinion, \_\_\_ S.W.3d \_\_\_, 2024 WL 1709800, April 18, 2024.<sup>1</sup> Mr. Ullman’s petition for certiorari

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<sup>1</sup> A copy of *Commonwealth v. Ullman*, 2022-SC-0293-DG, 2024 WL 1709800, \_\_\_ S.W.3d \_\_\_ (2024), Kentucky Supreme Court opinion, entered April 18, 2024, is enclosed.

is due to be filed on or before Wednesday, November 20, 2024. Supreme Court Rules 13.5; 30.4.<sup>2</sup>

The basis for this Court's jurisdiction over Petitioner Ullman's petition is 28 U.S. Code § 1257.

Petitioner Ullman's case began in the Oldham Circuit Court as a combination motion seeking to void under Kentucky law the trial court sentencing Ullman to conditions of probation because he had committed a sex offense and was a sexual offender, even though he had committed no sexual offense and was not legally designated a sex offender. The alternate prong of Ullman's motion was that his appointed counsel at his probation revocation hearing denied him his federal constitutional right to effective assistance of counsel. At the circuit court [trial level] Ullman was granted relief on the basis that his probation conditions were void, but that court did not address the issue of counsel's ineffectiveness at the probation revocation hearing.

The Commonwealth appealed that decision and on June 17, 2022 the Kentucky Court of Appeals affirmed the circuit court's decision granting Petitioner Ullman relief.

The Commonwealth sought discretionary review of the Kentucky Court of Appeals' decision, which was granted by the Kentucky Supreme Court. With the roles now reversed, the Commonwealth as the appellant sought the reversal of the Kentucky Court of Appeals' decision in favor of the now appellee, Petitioner Ullman.

On April 18, 2024, the Kentucky Supreme Court rendered its opinion in Ullman's case, reversing, reinstating and remanding. Ullman filed a timely petition for rehearing, modification

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The Kentucky Supreme Court's Order entered August 22, 2024 denying Petitioner Ullman's rehearing petition is also enclosed.

<sup>2</sup> As noted, Petitioner Ullman's rehearing petition was denied by the Kentucky Supreme Court on August 22, 2024.

and/or extension, which was denied on August 22, 2024.

On August 26, 2024, Petitioner Ullman filed a motion in the Kentucky Supreme Court to stay execution or enforcement of the opinion, which was denied on September 30, 2024. On October 25, 2024 Ullman filed a timely motion to reconsider the order denying the motion to stay the execution or enforcement of the court's opinion. That motion is pending in the Kentucky Supreme Court. At present in Mr. Ullman's case is the prospect of a hearing, most likely an evidentiary hearing, in the Oldham Circuit Court on the ineffectiveness of counsel at the probation revocation hearing as ordered by the Kentucky Supreme Court coupled with Petitioner Ullman's desire to petition this Court for certiorari on the other federal issues in the case as affirmed.

Undersigned counsel Aprile has assumed the responsibility for drafting the certiorari petition and it is he that is requesting this extension.

Due to the press of his caseload and other circumstances, Aprile is unable to complete Mr. Ullman's petition for a writ of certiorari in time to meet the November 20, 2024 filing deadline.<sup>3</sup> During the ninety-day filing period, undersigned counsel has filed a discretionary review motion in the Kentucky Supreme Court in a legal malpractice case, appeared for a resentencing in a criminal case in a Kentucky circuit court, filed a motion to alter and amend a final judgment in an Open Records Act case, filed the reconsideration motion of the stay order in this case, received and reviewed a final Sixth Circuit opinion in a federal habeas corpus action for a rehearing petition, and is preparing for a resentencing in a 2017 case in a Kentucky circuit court.

Additionally, Aprile, as a CJA appointee, represents with a Kentucky public defender co-

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<sup>3</sup> The 90-day filing period for Ullman's certiorari petition ends on Sunday, November 10, 2024, but continues to run until Tuesday, November 12, 2024, as November 11, 2024 is Veterans Day.

counsel a Kentucky death row inmate in the United States Court of Appeals for the Sixth Circuit Court on his appeal of the denial of his federal habeas corpus petition challenging his convictions and death sentences. Aprile has represented this client since 2003 in this federal action. That appeal has now been stayed by the Sixth Circuit during the briefing stage to allow counsel to pursue unexhausted claims in the state trial court. That state action is proceeding now.

These are just a few examples of counsel Aprile's obligations to other clients.

Undersigned counsel on October 29, 2024 had a combination oral/ENT surgery performed by two specialists to remove impacted wisdom teeth and remove infection from both sinus cavities caused by one of the wisdom teeth. Although performed as an out-patient procedure, such an extraction for a person of undersigned counsel's age<sup>4</sup> is difficult and somewhat dangerous. Following the procedure and upon return to his home, undersigned counsel has experienced mouth and primarily excessive nasal bleeding that has resumed at various intervals in his recovery process. The recovery period is taking longer than anticipated.

Undersigned counsel Aprile is a member of the bar of this Court and has been for some fifty-one (51) years, having been admitted on January 22, 1973. Aprile has represented clients before this Court where certiorari has been granted and oral argument held on four occasions.

This application is being filed at least ten (10) days before the date the certiorari petition due, Wednesday, November 20, 2024.

For the above reasons, undersigned counsel Aprile is requesting a sixty-day extension. Of course, undersigned counsel Aprile will endeavor to complete and file the petition for certiorari as soon as possible taking into account his responsibilities to his other clients, both retained and

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<sup>4</sup> Undersigned counsel is a member of the Silent Generation.

appointed. Aprile is requesting an extension of sixty days out of an abundance of caution because additional obligations, both anticipated and unanticipated, to his other clients, both retained and appointed, in the approaching months will preclude him from devoting all of his time to the completion and submission of Mr. Ullman's petition for certiorari.

WHEREFORE this Court should grant this motion and, pursuant to Supreme Court Rules 13.5 and 30.4, grant Petitioner an extension of sixty-days (60) days from Wednesday, November 20, 2024, to and including Sunday, January 19, 2024, in which to file his petition for writ of certiorari to review the decision of the Kentucky Supreme Court reversing the judgments below that had granted him relief from his sentence and remanding his case to the trial court for proceedings on whether his parole revocation counsel denied him effective assistance of counsel, while affirming the judgment of conviction and sentence.

Respectfully submitted,

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