

No. _____
(Capital Case)

In The
Supreme Court of the United States

STEPHEN C. STANKO, Applicant/Petitioner

v.

BRYAN STIRLING, Director, South Carolina Department of Corrections,
and Lydell Chestnut, Deputy Warden Broad River Correctional Institution,
Respondents

**APPLICATION FOR EXTENSION OF TIME TO FILE A PETITION FOR
WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT**

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Counsel for Applicant/Petitioner Stephen C. Stanko

To the Honorable John Roberts, Chief Justice of the Supreme Court of the United States and Circuit Justice for the Fourth Circuit Court of Appeals:

APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of the Court, Applicant Stephen C. Stanko respectfully requests a 60-day extension of time to file his petition for a writ of certiorari, up to and including Friday, January 24, 2025.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The order and judgment for which review is sought was issued by the United States Court of Appeals for the Fourth Circuit on August 26, 2024, in *Stanko v. Stirling*, No. 22-3 Doc. 138 & No. 22-2 Doc. 171.¹ Exhibit A. This is the order summarily denying Applicant’s Petition for Rehearing and Request for Rehearing En Banc. The original opinion affirming denial of Applicant’s 29 U.S.C. § 2254 petition for writ of habeas corpus issued on July 29, 2024. Exhibit B (No. 22-3 Doc. 134 & No. 22-2 Doc. 167).

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari pursuant to 28 U.S.C. § 1254(1). Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for writ of certiorari is due to be filed on or before November

¹ Interlocutory appeal, Case No. 22-2, was consolidated with the appeal of the final judgment, Case No. 22-3.

25, 2024. In accordance with Rule 13.5, this application is being filed more than ten days in advance of the filing date for the petition for a writ of certiorari.

REASONS JUSTIFYING AN EXTENSION OF TIME

An extension of time is necessary due to the gravity and complexity of the issues in this case in addition to undersigned counsel's pressing obligations in other capital representation.

This case raises important questions of federal law, including whether an actual conflict of trial counsel adversely affecting the representation may be waived, whether waiver of such a conflict is valid when the client was not advised of the consequences of waiver, and questions related to denial of the opportunity to utilize expert services deemed "reasonably necessary" pursuant to 18 U.S.C. § 3599(f).

Co-counsel Grose filed an opening brief in the Fourth Circuit Court of Appeals in *Macon v. Stirling*, Case No. 24-6979, on November 4, 2024, has a petition for writ of certiorari in *Stafford v. State*, Appellate Case No. 2024-000979, due on November 18, 2024, has a Brief of Petitioner in *State v. Dent*, Appellate Case No. 2024-000355, due on November 29, 2024, and is preparing for a jury trial in *Spade v. State*, Case No. 2011-GS-42-04171, scheduled to begin on December 9, 2024.

Mr. Perkovich is counsel for a capital petitioner ordered by the Supreme Court of Mississippi to file a successive petition anticipated to be filed on December 18, 2024. *State v. Carr*, No. 23-DR-00503-SCT.

In addition, Messrs. Perkovich and Welling represent a capital civil litigant in lethal injection litigation in Texas state courts wherein a certiorari petition to the Supreme Court of Texas is due on November 18, 2024, seeking review of an intermediate appellate court reversal of a trial court denial of certain jurisdictional defenses on behalf of defendant-personnel of the Texas Department of Criminal Justice. *Canales v. Texas Department of Criminal Justice, et al.*, Ct. App. No. 03-23-00248-CV (Ct. App. 3rd Judicial Circuit, Austin, Tex.). Also, Messrs. Perkovich and Welling are attorneys for the capital petitioner in a complex initial post-conviction case in Arizona., wherein pleadings and extensive briefing concerning the necessity, pursuant to Arizona precedent, for the petitioner's competency in his post-conviction proceedings are due January 13, 2025. *State v. Joseph*, CR2005-014235-001

Further, Mr. Welling and Mr. Perkovich are appointed in state successor post-conviction litigation in Arizona, in *State v. McCray*, CR2001-015915. They filed the amended petition on July 3, 2024, and the State's response is currently due on December 19, 2024, contemplating the reply due on January 2, 2025.

Additionally, Mr. Welling is appointed on two other successor post-conviction cases in Arizona, and is pending appointment in another. In *State v. Patterson*, CR2006-114651-001, an amended petition is currently due on December 20, 2024. In *State v. Chappell*, CR2004-037319-001, petitioner's Motion for Rehearing, filed on October 24, 2024, is pending in the post-conviction court. Mr. Welling's motion for appointment as co-counsel in *State v. VanWinkle*, CR2008-128068-001, is set for hearing on November 25, 2024, and the state's response is currently due on November 22, 2024, contemplating a reply due December 2, 2024.

Recent appellate litigation has also occupied Messrs. Perkovich and Welling in their representations of a death row prisoner appealing the denial of federal habeas corpus relief in the Seventh Circuit. *Weisheit v. Neal*, No. 23-2906 (7th Cir.) (submitted after oral argument on September 25, 2024), and a death row prisoner defending in the Fifth Circuit a conditional grant of the habeas corpus writ from the Northern District of Mississippi. *Pitchford v. Cain*, No. 23-70009 (5th Cir.) (submitted after oral argument on September 4, 2024).

CONCLUSION

For the foregoing reasons, Applicant respectfully requests this Court grant an extension of 60 days, up to and including January 24, 2025, within which to file a petition for writ of certiorari in this case.

Respectfully submitted,

/s/ E. Charles Grose, Jr.

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November 13, 2024