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Admitted in Massachusetts and New Hampshire

David H. Mirsky

Joanne T. Petito

November 26, 2024

Scott S. Harris, Clerk
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Re: Timothy R. Brown, Petitioner v. Commonwealth of Massachusetts, Respondent:
Motion for Extension of Time to File Petition for Certiorari.

Dear Mr. Harris:

Enclosed please find for filing in the above-captioned matter:

- 1) the original and ten copies of Petitioner's Motion for Extension of Time to File Petition for Certiorari, addressed pursuant to Rule 22 to Associate Justice Ketanji Brown Jackson;
- 2) an Affidavit of Timely Filing by Mail; and
- 3) 2) a Certificate of Service.

The Affidavit of Timely Filing by Mail and Certificate of Service are contained within the motion.

Thank you for your assistance.

Sincerely yours,


David H. Mirsky, Esquire

(US Supreme Court Bar #246794;

MA B.B.O. # 559367; NHBA #9351)

Counsel of Record for Petitioner

Mirsky & Petito, Attorneys at Law

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Tel. 603-580-2132

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cc: Timothy R. Brown; Attorney General Andrea Joy Campbell, Commonwealth of Massachusetts, One Ashburton Place, Boston, MA 02108

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November 26, 2024

The Honorable Ketanji Brown Jackson, Associate Justice
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Re: Timothy R. Brown, Petitioner v. Commonwealth of Massachusetts, Respondent; Motion for Extension of Time to File Petition for Certiorari.

Dear Justice Jackson:

Pursuant to the provisions of Rule 22 and Rule 30, the petitioner, Timothy R. Brown, hereby moves for an extension of time to February 3, 2025, to file the petitioner's petition for certiorari pertaining to his appeal from convictions affirmed in Commonwealth v. Timothy R. Brown, Massachusetts Appeals Court No. 2022-P-0558 (May 30, 2024), application for further appellate review denied, Commonwealth v. Timothy R. Brown, Massachusetts Supreme Judicial Court No. FAR-29837 (September 5, 2024). The petition is currently due on or before December 4, 2024.

This case involves, inter alia, two convictions, on resentencing, of second degree murder and concurrent sentences of life with the possibility of parole.

The principal question presented by this petition would be as follows:

1. Whether the Fourteenth Amendment's Due Process Clause requires a State to apply to the resentencing of a criminal defendant, a rule of law defining an element of a criminal offense that was new with respect to the case when announced in the decision on direct appellate review, but was no longer new at the time of resentencing.
2. I am requesting additional time to file the petitioner's petition for certiorari because of medical issues that pertain to counsel's medical need to upgrade my cardiac pacemaker, which was installed in June of 2016 and now requires upgrading. The consequences of the need for upgrading have included a decrease in counsel's capacities. There were multiple appointments involved during the period in which the petition would have been prepared, and a procedure was started and halted due to medical circumstances uncovered during the procedure. The upgrading is expected to be completed via surgery to be scheduled for early January, 2025.

Thank you for your consideration.

Sincerely yours,



David H. Mirsky, Esquire
(US Supreme Court Bar #246794;
MA BBO #559367; NHBA #9351)
Counsel of Record for Petitioner
Mirsky & Petito, Attorneys at Law
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Exeter, NH 03833
Tel.: 603-580-2132
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cc: Timothy R. Brown; Attorney General Andrea Joy Campbell, Commonwealth of
Massachusetts, One Ashburton Place, Boston, MA 02108

No.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2024-2025

TIMOTHY R. BROWN,
Petitioner,

-v.-

COMMONWEALTH OF MASSACHUSETTS
Respondent

ON PETITION FOR WRIT OF CERTIORARI TO
THE APPEALS COURT FOR
THE COMMONWEALTH OF MASSACHUSETTS

AFFIDAVIT OF TIMELY FILING BY MAIL

David H. Mirsky, on oath, deposes and says:

1. I submit this affidavit in accordance with Rule 29 of this Court.
2. The motion for extension of time to file petition for certiorari enclosed herewith is being mailed today, November 26, 2024, by United States mail, first class, postage prepaid, delivered to the United States Post Office in Exeter, New Hampshire 03833 and addressed to:

Scott S. Harris, Clerk
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543.

3. The mailing is within the permitted time for filing a motion for extension of time to file a petition for certiorari, to be reviewed under the “most extraordinary circumstances” standard of Rule 30(2).

Made this 26th day of November, 2024, at Exeter, NH under the penalties of perjury.


David H. Mirsky

No.

IN THE SUPREME COURT OF THE UNITED STATES

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COMMONWEALTH OF MASSACHUSETTS
Respondent

ON PETITION FOR WRIT OF CERTIORARI TO
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THE COMMONWEALTH OF MASSACHUSETTS

CERTIFICATE OF SERVICE

I, David H. Mirsky, hereby certify that on this 26th day of November, 2024, I served the Motion for Extension of Time to File Petition for Certiorari on all parties to be served. In accordance with Rule 29(3) of the Supreme Court Rules, said service has been made by first class mail, postage prepaid, to the office of Attorney General Andrea Joy Campbell, Office of the Attorney General, Commonwealth of Massachusetts, One Ashburton Place, Boston, MA 02108. I also certify that I mailed a copy to the petitioner Timothy R. Brown.


David H. Mirsky, Esquire
(US Supreme Court Bar #246794;
MA BBO #559367; NHBA #9351)
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Mirsky & Petito, Attorneys at Law
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