

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JONATHON WILLIAM-DURAND NEUHARD – PETITIONER,

VS

UNITED STATES OF AMERICA – RESPONDENT

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

The petitioner, Jonathon William-Durand Neuhard, by counsel, seeks, pursuant to Supreme Court Rules 13.5 and 30.4, an extension of sixty-days (60) days from Thursday, January 23, 2025, to and including Monday, March 24, 2025, in which to file his petition for writ of certiorari to review the decision of the United States Court of Appeals for the Sixth Circuit, *Neuhard v. United States of America*, 119 F.4th 1064 (6th Cir. 2024), affirming the judgment of the district court that had denied him habeas corpus relief from his conviction and sentence.

On October 25, 2024, the Sixth Circuit Court of Appeals rendered its decision in petitioner’s case, *Neuhard v. USA, supra*, affirming the district court’s denial of petitioner’s §2255 habeas corpus motion.¹ Mr. Neuhard’s petition for certiorari is due to be filed on or before Thursday, January 23, 2025. Supreme Court Rules 13.5; 30.4.

¹ A copy of *Neuhard v. USA* opinion, entered October 25, 2024 is enclosed. Neither party filed a rehearing petition.

The basis for this Court’s jurisdiction over Petitioner Neuhard’s petition is 28 U.S. Code § 1254.

A jury convicted petitioner Neuhard of producing, receiving and possessing child pornography. That conviction was affirmed on direct appeal by a panel of the Sixth Circuit Court of Appeals. Neuhard then filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. §2255, arguing ineffective assistance of trial and appellate counsel.

The district court found that “reasonable jurists could debate (1) whether trial counsel provided ineffective assistance by failing to present evidence of Neuhard’s autism at trial, (2) whether trial counsel provided ineffective assistance by failing to request an evidentiary hearing regarding the Government witness’ polygraph testimony, and (3) whether appellate counsel provided ineffective assistance by failing to raise the denial of trial counsel’s oral motion for mistrial on appeal” and granted COAs as to those issues. The district court, however, “decline[d] to grant a” COA “with respect to any of the other grounds raised” in his motion, including his claim that trial counsel was ineffective for failing to adequately present evidence of Neuhard’s autism as a mitigating factor at sentencing. The Sixth Circuit also denied Neuhard’s application for a COA on that claim.

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. Neuhard’s petition for a writ of certiorari in time to meet the January 23, 2025 filing deadline. During the ninety-day filing period, undersigned counsel has filed a lengthy motion to alter and amend a final judgment in an Open Records Act case in a Kentucky trial court, filed the

reconsideration motion of the denial of a stay order in the Kentucky Supreme Court, received and reviewed the final Sixth Circuit opinion in this case for a possible rehearing petition, and is preparing for a resentencing in a 2017 felony case in a Kentucky circuit court on January 9, 2025.

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

Aprile is also presently preparing a separate petition for certiorari to be filed in this Court on or before January 21, 2025. *Ricky D. Ullman, Jr., Applicant, v. Kentucky*, No. 24A481.

Aprile has also been approved as an expert witness by a federal district court in Arizona to testify for a petitioner in his habeas corpus action. 18 U.S. Code § 3006A(e). Although the evidentiary hearing in that habeas corpus action was originally scheduled for November 12, 2024, the hearing, on the government's motion, has been rescheduled for April 22-23, 2025 in Arizona. Due to the original November 12 hearing date, Aprile spent significant time in early November 2024 reviewing the court records in connection with the habeas corpus petition and doing relevant research.

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 impacted wisdom teeth. Although performed as an out-patient procedure, such

an extraction for a person of undersigned counsel's age² is difficult and somewhat dangerous. Following the procedure and upon return to his home, undersigned counsel experienced excessive nasal and mouth bleeding that resumed at various intervals in his recovery process. The recovery period has taken longer than anticipated. In addition to the removal of two impacted wisdom teeth, the oral surgeon also removed two benign tumors or cysts. As a result of this surgical procedure and the recovery process, Aprile has had to continue certain legal matters as he recuperates.

Undersigned counsel Aprile is a member of the bar of this Court and has been for some fifty-two (52) 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 is due, Thursday, January 23, 2025.

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 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. Neuhard'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 Thursday, January 23, 2025, to and including Monday, March 24, 2025, in which to file his petition for writ of certiorari to review

² Undersigned counsel is a member of the Silent Generation.

the decision of the United States Court of Appeals for the Sixth Circuit, affirming the district court's denial of petitioner's §2255 habeas corpus motion.

Respectfully submitted,

/s/ J. Vincent Aprile II

J. Vincent Aprile II

Attorney At Law

Member, Bar of the Supreme Court of the United States

Counsel for Jonathon William-Durand Neuhard
Petitioner