

No. _____

In the Supreme Court of the United States

MICAH CROFFORD BROWN,

Petitioner,

v.

ERIC GUERRERO, Director,
Texas Department of Criminal
Justice, Institutions Division,

Respondent.

On Petition for Writ of Certiorari
To the United States Court of Appeals for the Fifth Circuit

**UNOPPOSED APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR CERTIORARI**

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**UNOPOSED APPLICATION FOR AN EXTENSION OF TIME TO
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

To the Honorable Samuel Alito, Associate Justice, and Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

1. Micah Brown is an inmate on Texas' death row seeking relief under 28 U.S.C. § 2254. Brown is represented by the Office of the Federal Public Defender for the Western District of Texas, Capital Habeas Unit (CHU), in Austin, Texas. The United States District Court for the Western District of Texas has appointed the CHU to represent Brown pursuant to 18 U.S.C. § 3599. *See* Exhibit A. Undersigned counsel is an attorney with the CHU and a member of this Court's Bar.
2. On October 18, 2024, a panel of the Fifth Circuit issued an opinion denying Brown's motion for certificate of appealability pursuant to 28 U.S.C. § 2253. *See* Exhibit B, *Brown v. Lumpkin*, No. 23-70004 (5th Cir. Oct. 18, 2024).
3. Brown timely filed a motion for rehearing in the Fifth Circuit, which that court accepted and docketed as a motion to reconsider. On November 21, 2024, the Fifth Circuit denied Brown's motion to

have his case re-heard. *See Exhibit C, Brown v. Lumpkin*, No. 23-70004 (5th Cir. Nov. 21, 2024).

4. This Court has jurisdiction over the petition for writ of certiorari under 28 U.S.C. § 1254(1).
5. Brown has until February 19, 2025, to file a petition for writ of certiorari seeking review of the Fifth Circuit's decision. *See Sup. Ct. R. 13.1*. Counsel have begun the process of researching and preparing a petition for writ of certiorari. Given their obligations in other capital cases, however, counsel need additional time.
6. Pursuant to Rule 13.5 and Rule 30.3, Brown requests an extension of 60 days, up to and including April 21, 2025, in which to file his petition for writ of certiorari.¹ Brown makes this request 13 days before the current due date.
7. Brown's counsel has contacted counsel for the Respondent, who has stated that the Respondent is not opposed to the requested extension of time.

¹ If a 60-day extension is granted, the sixtieth day would fall on Sunday, April 20, 2025. Under Rule 30.1, the due date would then be Monday, April 21.

8. An extension is necessary because the issues Brown will present in his capital case are complex and significant. Moreover, counsel have had and still have obligations in other capital habeas cases that necessitate this request for an extension:

- a. On January 21, 2025, counsel filed a motion and brief for certificate of appealability in *Joubert v. Guerrero*, No. 24-70007 (5th Cir.).
- b. On January 31, 2025, counsel filed a reply in further support of petitioner's motion to expand the record in *Thuesen v. Guerrero*, No. 4:20-cv-0852 (S.D. Tex.).
- c. Counsel has been preparing an extensive and complex federal petition for writ of habeas corpus arising from *Ex Parte Broxton*, No. WR-42,781-04 (Tex. Crim. App.). That petition will be filed in March 2025.
- d. Counsel is managing multi-expert intellectual disability and guilt-innocence investigations in two cases, *Allen v. Guerrero*, No. 4:10-mc-00202 (S.D. Tex.), and *Gobert v. Guerrero*, No. 1:15-CV-042 (W.D. Tex.). Counsel expects to file a petition in the former case by summer 2025.

e. Counsel have been and remain engaged in extensive preparation for successor state habeas petitions in two cases in which motions to set execution dates are pending: *Texas v. Melendez*, No. 0580494D (372nd Judicial District, Tarrant County, Texas) and *Texas v. Ford*, No. 930D03565 (34th Judicial District, El Paso County, Texas).

CONCLUSION

For these reasons, Micah Brown respectfully requests that the time to file a petition for writ of certiorari be extended 60 days, up to and including April 21, 2025.

Respectfully submitted, this 6th day of February 2025,

Maureen Franco
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Tivon Schardl
Supervisor, Capital Habeas Unit

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PROOF OF SERVICE

I, Donna F. Coltharp, counsel of record for Petitioner Micah Brown, certify that on February 6, 2005, I have served a copy of this application for extension of time to the following counsel for Respondent, via Federal Express overnight delivery and by email:

Molly M. Knowles
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All parties have been served.

/s/ Donna F. Coltharp
Donna F. Coltharp
Counsel for Petitioner