

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

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IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2024

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**JEFFREY WEINHAUS,**

*Petitioner,*

vs.

**RICHARD ADAMS, Warden, Eastern Reception, Diagnostic  
and Correctional Center,**

*Respondent.*

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APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR WRIT OF  
CERTIORARI  
TO THE MISSOURI SUPREME COURT

TO THE HONORABLE BRETT KAVANAUGH, CIRCUIT JUSTICE

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**TO THE HONORABLE BRETT KAVANAUGH, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE OF THE EIGHTH CIRCUIT:**

Pursuant to Rule 13.5, Applicant Jeffrey Weinhaus, an indigent prisoner in the Eastern Reception, Diagnostic and Correctional Center in Bonne Terre, Missouri, respectfully requests a forty-day extension of time, through May 1, 2025, within which to file a Petition for Writ of Certiorari to review a judgment of the Missouri Supreme Court issued on December 23, 2024. In the absence of an extension, the deadline within which to file a petition for writ of certiorari will expire March 24, 2025. This Court's jurisdiction will be invoked under 28 U.S.C. § 1257(a).

This case involves important questions of federal law arising from a decision of the Missouri Supreme Court that “that conflicts with relevant decisions of this Court,” Sup. Ct. R. 10(c), specifically, whether a faultless habeas petitioner who discovers concealed, exculpatory evidence impeaching a material witness can have his due process claim heard in a State forum specifically reserved for the litigation of such claims. The ruling below summarily rejecting Mr. Weinhaus' uncontradicted allegations of non-disclosure conflicts with this Court's decisions in *Smith v. Cain*, 565 U.S. 73 (2012), and *Wearry v. Cain*, 577 U.S. 385 (2016). The officer who shot Mr. Weinhaus multiple times accused him of attempting to draw a pistol, which Mr. Weinhaus denied. The State concealed that the officer was terminated after the shooting because his Post Traumatic Stress Disorder, diagnosed years before he shot Mr. Weinhaus, rendered him unfit for duty. In the officer's own words, he was “fearful of pulling a gun and shooting someone

when they are merely reaching into their back pocket for a wallet.” *Weinhaus v. Adams*, Mo. S. Ct. No. 100827, Exhibits in Support of Petition for Writ of Habeas Corpus, Exhibit 6, p. 9 (filed October 28, 2024).

The State record reflects that Mr. Weinhaus’ trial counsel requested discovery of exculpatory evidence, and of the officer’s statements regarding the shooting incident, and he inquired about the officer’s health and medication status, but that the State’s response to those requests was misleading and affirmatively concealed the evidence of the officer’s impaired condition. The evidence came to light only when the Missouri Court of Appeals published its opinion in *Folsom v. Missouri State Highway Patrol, et al.*, 580 S.W.3d 645 (Mo. App. 2019), affirming the denial of the officer’s lawsuit for wrongful termination based on his disability. Mr. Weinhaus’ appeals and postconviction motions had been denied long before the officer’s complaint was discoverable.

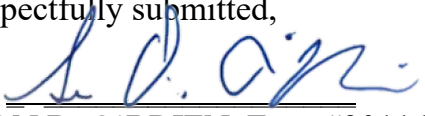
Missouri law authorizes review of constitutional claims on habeas corpus pursuant to Missouri Rule 91 if the petitioner can demonstrate cause-and-prejudice to excuse the failure to include a claim in his initial postconviction motion. *State ex rel. Bailey v. Horsman*, 700 S.W.3d 1 (Mo. App. 2024). Concealment of exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), satisfies the cause-and-prejudice standard under Missouri law. *State ex rel. Engel v. Dormire*, 304 S.W.3d 120 (Mo. 2010). Nevertheless, Missouri courts summarily denied Mr. Weinhaus’ prima facie due process claim without allowing any form of fact development or a hearing, in violation of the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Mr. Weinhaus wishes to petition this Court for a Writ of Certiorari to review this decision of the Missouri Supreme Court.

Counsel for Mr. Weinhaus are in need of additional time to prepare a petition for writ of certiorari for Mr. Weinhaus in this case. Mr. O'Brien is a full-time Professor at UMKC School of Law, where he teaches criminal law and procedure and supervises clinic students on cases in active litigation. In addition, he is under contract with federal and state public defenders in jurisdictions across the country to advise and assist in pending capital habeas cases. Co-counsel Mr. Nick Hergott is a civil practitioner working on multiple cases with impending statute of limitations deadlines, and he will be out of the country from March 6 to March 22, 2025, and will not have access to electronic communications in his absence. There is good cause for extending the time in this matter to allow counsel adequate time to prepare Mr. Weinhaus' meritorious petition for writ of certiorari.

Wherefore, Mr. Weinhaus respectfully requests an extension of time up to and including May 1, 2025, in which to file a petition for a writ of certiorari.

Respectfully submitted,

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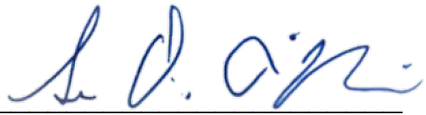
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CERTIFICATE OF SERVICE

I hereby certify that I am a member of the bar of this Court and that the original plus two true and correct copies of Petitioner’s Application to Extend the Time to File his Petition for a Writ of Certiorari to the Missouri Supreme Court were forwarded, postage prepaid, to:

Scott S. Harris, Clerk  
United States Supreme Court  
One First Street N.E.  
Washington, DC 20543.

One copy was forwarded, postage prepaid, to Mr. Andrew Bailey, Missouri Attorney General, attn: Mr. Michael Spillane, Assistant Attorney General, P.O. Box 899. Jefferson City, MO 65102, this 7th day of March, 2025.

  
Sean D. O'Brien  
Counsel of Record for Petitioner