

No. 23A \_\_\_\_\_  
(CAPITAL CASE)

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IN THE  
**Supreme Court of the United States**

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DAVONE UNIQUE ANDERSON, APPLICANT,

v.

COMMONWEALTH OF PENNSYLVANIA, RESPONDENT.

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**APPLICATION FOR AN EXTENSION OF TIME  
TO FILE A PETITION FOR A WRIT OF CERTIORARI  
TO SUPREME COURT OF PENNSYLVANIA**

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December 23, 2024

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## APPLICATION

To the Honorable Samuel A. Alito, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Pennsylvania Supreme Court:

Pursuant to Rule 13.5 of the Rules of this Court and 28 U.S.C. § 2101(c), applicant Davone Unique Anderson respectfully requests a 60-day extension of time, to and including April 21, 2025, within which to file a petition for a writ of certiorari to review the judgment of the Pennsylvania Supreme Court in this case.

1. The Pennsylvania Supreme Court issued its decision on September 26, 2024. *See Commonwealth of Pennsylvania v. Davone Unique Anderson*, 323 A.3d 744 (Pa. 2024) (Appendix A). Mr. Anderson petitioned for reargument, which was denied on November 22, 2024. *See Order, Commonwealth of Pennsylvania v. Davone Unique Anderson*, No. 801 CAP (Pa. Nov. 22, 2024) (Appendix B). Unless extended, the time to file a petition for certiorari will expire on February 20, 2025. This application is being filed more than ten days before the petition is currently due and is supported by good cause, as set forth below. *See* Sup. Ct. R. 13.5. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1257(a).

2. This case presents an important question of federal law: whether a court must take into account a person's mental health crisis in assessing the voluntariness of custodial, non-*Mirandized* statements.

3. Mr. Anderson was convicted of two counts of first-degree murder, one count of first-degree murder of an unborn child, and two counts endangering the

welfare of children. App. 2a. He was sentenced to death. App. 2a. The Pennsylvania Supreme Court affirmed. And on November 22, 2024, it denied Mr. Anderson’s timely Motion for Reargument. App. 31a (Appendix B).

4. Among the issues the Pennsylvania Supreme Court addressed was whether the voluntariness of Mr. Anderson’s statements after his arrest and invocation of his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966). App. at 15a–17a. The Court denied the claim, holding the statements were spontaneous and, therefore, did not implicate *Miranda*. App. 17a.

As highlighted in Justice Daniel McCaffery’s concurrence, the disputed statements were made during a “mental health crisis” and “to the corrections officer **after he was put on suicide watch for attempting to kill himself while in custody.**” App. 27a (emphasis in original). At that time, he had been “in custody for nearly 12 hours without access to the counsel he requested upon his arrest.” App. 28a. And yet, Petitioner’s mental illness was not even mentioned by the Court in assessing the voluntariness of his statements. App. 15a–17a. That failure is flatly contrary to this Court’s precedent, which require there to be an assessment of the totality of the circumstances in light of the what the state knew at the time of the statements and its misconduct. *See Colorado v. Connelley*, 479 U.S. 157, 167 (1986). Here, the state was unquestionably aware of Mr. Anderson’s crisis — the county prison had placed him on suicide watch — and yet the state court did not consider that in its assessment of whether *Miranda* was violated. For this reason, the case presents an

opportunity for the Court to clarify its jurisprudence on the use of custodial statements from those in a mental health crisis.

5. Applicant has recently retained undersigned counsel's non-profit law practice, Phillips Black, Inc. to file a petition for a writ of certiorari for him. Our office did not become involved in the proceedings below until the Motion for Rehearing. We must therefore now familiarize ourselves with the proceedings, including the record and arguments presented to and relied upon by the Pennsylvania Supreme Court.

Undersigned counsel, Mr. Mills has multiple competing obligations in capital cases that make it impossible to competently complete the petition in the given timeframe. In capital cases, Mr. Mills is responsible for the preparation of a petition in three separate state-court matters, an undertaking that consumes most of his time. He also has primary responsibility for directing the litigation of many more other capital cases in various postures in the state and federal court. He is also serving as lead counsel in this Court in *Andrew v. White*, No. 23-6573 (U.S.) and anticipates a ruling imminently, which, regardless of the outcome, will likely precipitate the immediate need for substantial litigation.

Mr. Dunham is Director of the Death Penalty Policy Project and a consultant to the NAACP Legal Defense Fund ("LDF"). In addition to his policy work, he has primary responsibility for producing LDF's *Death Row USA* census of the United States death row population as of January 1, 2025. He also is lead counsel in

preparing an Arizona capital-case petition for review with a February deadline and is investigating and drafting a capital habeas petition for another client sentenced to death in Pennsylvania.

Accordingly, applicant respectfully requests that an order be entered extending the time to file a petition for certiorari to and including April 21, 2025.

Respectfully submitted,

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