

No. 19A-_____

In the Supreme Court of the United States

Jason Correa, PETITIONER

v.

UNITED STATES OF AMERICA, RESPONDENT

*APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT*

TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE SEVENTH CIRCUIT:

Pursuant to this Court's Rules 13.5 and 30.2, petitioner Jason Correa prays for a 60-day extension, or until June 3, 2019, to file his petition for a writ of certiorari in this Court.

1. Timeliness, Jurisdiction, and Opinion Below. On November 5, 2018, the United States Court of Appeals for the Seventh Circuit issued an affirming Mr. Correa's conviction for drug offense in violation of 21 U.S.C. § 841(a), 841(b)(1)(B), and 841(b)(1)(A).

The Seventh Circuit's decision is contained in Appendix A, as well as its decision to deny rehearing en banc on January 4, 2019. A petition for writ of certiorari would be due, pursuant to this Court's Rules 13.1, 13.3, and 30.1 on or before April 4, 2019. This application is being filed less than ten days before that date. *See* Rule 30.2. The jurisdiction of this Court is to be invoked under 28 U.S.C. § 1254(1).

2. Reasons for Granting the Extension.

a. Procedural History.

The applicant, Jason Correa, was convicted for being in possession with the intent to deliver at least five kilograms cocaine and heroin. He was sentenced to the mandatory minimum sentence of 120 months in prison and three years of supervised release. Mr. Correa entered a conditional guilty plea, following the unsuccessful litigation of a motion to suppress, contesting the warrantless search and seizure of items located in an apartment by Federal agents. Federal agents located the building using a garage opener and key fob that agents had obtained from Mr. Correa. Without a search warrant, agents used the garage open to search over several City blocks in Chicago until the opener's signal engaged a door on the garage of the building. Agent then used the key fob and key to enter the secured apartment building and used a key to

locate the apartment's unit number by matching the key to a mailbox in the secured lobby of the building. The agents eventually asked Mr. Correa for consent to enter the apartment and the district court found the alleged consent valid. The apartment appeared to be a stash house utilized by Mr. Correa and a codefendant. The district court denied his motion to suppress, and the Seventh Circuit Court of Appeals affirmed, with a concurrence, and denied rehearing *en banc*. Undersigned counsel represents Mr. Correa on appeal and represented him in the district court.

b. Grounds for Certiorari Exist.

In undersigned counsel's professional opinion, this case presents a federal issue worthy of presentation to this Court in a petition for writ of certiorari: whether law enforcement can make warrantless use of a person's electronic device – here, the garage opener and key fob – to conduct a search over several city blocks, and locate a building by using the garage opener as a homing device, and then use the key fob and keys to enter a secured common area to locate a particular apartment.

3. The need for an extension of time.

The petition is currently due April 4, 2019. The extraordinary circumstances here concern a last minute promise by a friend of Mr. Correa's to cover costs related to the printing of the petition. Mr. Correa is serving his federal prison sentence. Mr. Correa and his family are of some means, but are

neither wealthy nor indigent. Unfortunately, Mr. Correa's family members, who had agreed to cover the cost of the petition, had fallen out of touch with counsel, despite repeated attempts to contact them. We have made repeated efforts over the last two months to reach them without success, and kept Mr. Correa up on our efforts. Pursuant to counsel's agreement with Mr. Correa and his family, they would provide those cost upfront. With Mr. Correa's understanding, we agreed that the petition would not be filed unless those costs were paid, and he was resigned to the fact that the petition would not be filed. On March 29, 2019, a friend of Mr. Correa's contacted counsel and agreed to made good on their commitments on March 30, 2019. That said, Mr. Correa had previously expressed strong interest in continuing to appeal his case. It would be impossible to get the printing done by April 4, 2019, and due to the last minute nature of the cost resolution, we make this request to preserve Mr. Correa's opportunity to petition.

In addition, counsel requires more time to complete the research and writing that is required to support a fully-developed writ of certiorari. Counsel is a member of a two-attorney law firm, with one assistant/paralegal. Counsel's law partner has been only sporadically available to share the burdens of our law practice over the last month due to his advanced age and reoccurring health problems. He has been completely out of the office for the lase week, dealing with his health.

Several different commitments have prevented counsel from having adequate time to complete the petition. These other commitments have included multiple court appearances and hearings (including contested hearings and bond hearings); several pre-scheduled meetings with various clients (who are both in and out of custody), prosecutors, other lawyers, and clients' families; and other day-to-day tasks associated with undersigned counsel's practice—including reviewing discovery, researching and filing pretrial motions, negotiating with prosecutors, and corresponding and communicating with clients. In addition, undersigned counsel and his family have a pre-planned family vacation for April 5-10, 2019.

An additional 60 days past the current deadline of April 4th, 2019 is required as undersigned counsel's calendar is crowded for the remainder of April, and a pending attempt murder trial set for May 7, 2019, where a client faces a mandatory minimum prison term of 25 years' imprisonment.

WHEREFORE, the Applicant-Petitioner requests that an Order be entered extending by 60 days the time within which he may petition this Court for certiorari, to and including June 3, 2019.

Respectfully submitted,

Jason Correa, *Applicant-Petitioner*

s/ **Timothy R. Roellig**
Novelle & Roellig LLC
Attorney for the Defendant

47 W Polk Suite M11
Chicago, IL 60605
timothy.roellig@earthlink.net
Phone: (312) 786-1100
Fax: (312) 786-1102

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CERTIFICATE OF SERVICE

Pursuant to this Court's Rule 29.5(b), I certify that I am a member of the Bar of this Court representing the party on whose behalf service is made. I further certify that on March 29, 2019, at the time of express delivery to this Court, I served the foregoing Application, pursuant to Rules 29.3 and 29.4(a), on counsel for the respondent, by depositing a copy of the same, first class postage prepaid, in the United States mails, addressed to:

Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Ave. N.W.
Washington, D.C. 20530

AUSA Mathew Madden
Office of the United States Attorney
219 South Dearborn Street
Fifth Floor
Chicago, IL 60604

As a result, I state pursuant to Rule 29.5 that all parties required to be served have been served.

s/ **Timothy R. Roellig**
Timothy R. Roellig

Novelle & Roellig LLC
Attorney for the Defendant
47 E Polk Suite M11
Chicago, IL 60605
timothy.roellig@earthlink.net
Phone: (312) 786-1100
Fax: (312) 786-1102

March 29, 2019

INDEX TO APPENDIX

Seventh Circuit's decision App. A

Seventh Circuit's denial of review *en banc* App. B