

No.

IN THE
SUPREME COURT OF THE UNITED STATES

Gary Byrd

v.

United States of America

Application for Extension of Time to File
A Petition For Writ Of Certiorari
To The Fifth Federal Court of Appeals

APPLICATION FOR EXTENSION OF TIME

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Now comes Gary Byrd, Petitioner Pro Se, with this application for an extension of time to file a Petition for a Writ of Certiorari to the Fifth Federal Circuit Court of Appeals. The Application is addressed to Associate Justice Samuel A. Alito, Jr. The case for which a Petition for Writ of Certiorari will be filed is United States of America v. Gary Jefferson Byrd, Fifth Circuit No. 16-31244 (USDC No. 6:16-CV-1372), Opinion 09/26/17, denying a petition for a writ of error coram nobis, with the Petition for Rehearing and Rehearing En Banc both denied and filed on 11/30/2017. Calculating from this 11/30/17 filing date, the 90th day would be February 28, 2018. The Petitioner Pro Se requests an extension of time to file his Petition for a Writ of Certiorari in this matter for 30 days which would be to March 30, 2018. This request for additional time is based upon good cause as will be detailed.

The petitioner pro se is a lay person with no formal education in law and he is currently incarcerated at the Bureau of Prisons facility Oakdale FCI. He is not represented by counsel. With this Application he has tendered the \$300.00 docketing fee. The instruction booklets of the Court permit a less onerous document preparation standard for unrepresented incarcerated inmates proceeding in forma pauperis. It was not clear in the

printed instructions whether an unrepresented incarcerated inmate filing pro se but paying the \$300.00 docketing fee would be held to those same standards. The petitioner pro se wrote to the Clerk with this question and received an extensive mailing but the precise question was not answered. A second letter was sent to a Case Analyst who also sent a precise answer along with several pamphlets. The precise answer was that the unrepresented pro se applicant filing from an incarcerated position but paying the \$300.00 docketing fee- "the petitions must comply fully with rule 33.1 -- there are no exceptions to this rule." The innate conditions and restrictions of FCI Oakdale result in significantly lengthening the time needed to complete the tasks of Booklet Format preparation, preparation of forty copies, and other specifications contained in Rule 33.1. Some of the specifications are especially difficult in the Oakdale FCI setting and some additional time is needed.

In addition to these chronic inherent difficulties, there have been a series of other difficulties which have arisen during the past several weeks. Because of electric transformer problems there have been intermittent power outages and during a power outage the inmates are restricted to their sleeping quarters and cannot access the Law Library. Separate from the power problem there have been lockdowns based on other factors which may be recurrent and are unpredictable. The single copy machine available to the inmates has been intermittently dysfunctional. The pro se inmate in these conditions can have several days removed from his available work time based on any one of these problems and up to a week or more for some of them. These are not speculative in nature but are historical in that such have been occurring repeatedly during the past several months and there is no firm assurance that they will cease. In addition to the above, as an unrepresented

pro se inmate in these conditions

pro se litigant I have an unrelated case on appeal in the Fifth Federal Circuit and the simultaneous demands of the two separate cases further consume available time.

It is my understanding that the vast majority of pro se, unrepresented incarcerated inmates proceed in forma pauperis and as such, the filing requirements and production of documents are significantly relaxed for that group. As I understand the communications with the Clerk, my requirements are the same as those for attorneys.

In summary, these requirements considered in light of the multiple factors which were discussed taken altogether constitute good cause and based on that good cause I request an additional 30 day extension in time allowed in which I will file my Petition for a Writ of Certiorari. This 30 day extension would move the deadline for filing from February 28, 2018 to March 30, 2018.

Respectfully submitted,

Gary Byrd

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