
In The
SUPREME COURT OF THE UNITED STATES
October Term 2017

Wendell Rivera-Ruperto,
Applicant/Petitioner,

v.

United States of America,
Respondent.

Application for an Extension of Time Within
Which to File a Petition for a Writ of Certiorari to the
United States Court of Appeals for the First Circuit

APPLICATION TO THE HONORABLE JUSTICE
STEPHEN G. BREYER AS CIRCUIT JUSTICE

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May 2, 2018

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APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Wendell Rivera-Ruperto hereby requests a 60-day extension of time from the current required filing date of May 28, 2018 within which to file a petition for a writ of certiorari up to and including Friday, July 27, 2018.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought are two related published decisions of the First Circuit in *United States v. Wendell Rivera-Ruperto*, Nos. 12-2364, 12-2367 and 13-2017, issued on January 13, 2017 and the First Circuit's denial of the Applicant's request for a rehearing and rehearing en banc to review both decisions which was entered by the First Circuit on February 27, 2018. A copy of this order and the concurring opinion are attached as Exhibit 1.

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254(1). Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for a writ of certiorari was due to be filed on or before May 28, 2018.

REASONS JUSTIFYING AN EXTENSION OF TIME

Applicant Rivera-Ruperto respectfully requests a 60-day extension of time, up to and including July 27, 2018, within which to file a petition for a writ of certiorari seeking review of both of the decisions of the United States Court of Appeals for the First Circuit in both of Applicant's appeals, Nos. 12-2364, 12-2367

(*reported at 852 F.3d 1*) and 13-2017 (*reported at 846 F.3d 417*), for the following reasons:

1. The extension of time is necessary because of the complexity of the proceedings and legal issues in these multiple appeals of applicant's convictions and sentences. Appeal Case No. 12-2364 and Appeal Case No. 12-2367 (*reported at 852 F.3d 1*) are appeals from the convictions and sentences in two separate cases consolidated in the District Court. Appeal Case No. 13-2017 (*reported at 846 F.3d 417*) is a related appeal of yet another conviction in a separate but related case in the District Court that was not consolidated. Applicant Rivera-Ruperto received a combined sentence of 126 years and 10 months for his convictions in the District Court cases related to Appeal Nos. 13-234 and 2367, and a separate consecutive sentence of 35 years for his convictions in the District Court case related to Appeal No. 13-2017. All three appeals raised the same issues about Applicant's "forever sentence", 884 F.3d at 30, of 161 year sentence and 10 months imprisonment.

2. The procedural and legal complexity of these separate but related appeals is evidenced by the fact that the oral arguments in both of these appeals were heard on November 2, 2015, and the First Circuit took over 14 months to issue the original opinions affirming Applicant's convictions and sentences on January 13, 2017, a decision that included a lengthy and detailed dissent. Then, when the Applicant filed his petitions for rehearing and rehearing en banc on April 4, 2017, the First Circuit took almost 11 months before issuing the order

denying rehearing or rehearing en banc for all of Applicant's appeals, but included a lengthy and detailed 25 page concurring opinion acknowledging the Court's obligation to deny the Applicant relief under this Court's current precedent, but urging this Court to act to change dated and questionable binding precedent, a concurrence that was joined or agreed to by every active judge currently serving on the First Circuit Court of Appeals. See Ex. 1.

3. Also, an extension of time is needed because of the press of other client business of the undersigned counsel of record, H. Manuel Hernández. For example, the undersigned counsel of record recently received five appointments under the Criminal Justice Act in the Middle District of Florida and has been attending hearings related to these appointments for the last two weeks, and all of these cases are being set for pretrial hearings and trial in the next several months. Lead counsel is also appointed appellate counsel in various other appeals including: *United States v. Guzmán-Matías*, No. 17-1771 (1st Cir.); *United States v. McKenzie Calixte*, No. 1:18-AP-10408 (11th Cir.); *United States v. Abdullah Hamidullah*, No. 17-10960 (11th Cir.); and retained appellate counsel *Persaud v. State of Florida*, No. 5D18-0186 (Fla. Dist. Ct. App.). The undersigned is also responsible for numerous other criminal cases involving ongoing federal and state investigations.

4. The extension of time is also necessary because of the press of other client business of the attorney supervising and working with the Northwestern Practicum and co-counsel for the Applicant, Jeffrey T. Green. For example, in the

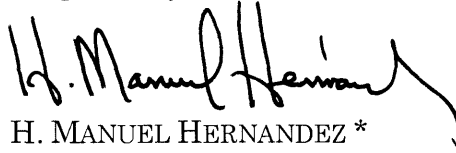
coming months, the Northwestern Practicum has several overlapping commitments representing other clients in this Court, including a brief in opposition in *Ryan v. Poyson* (17-), petitions for certiorari in *Arjune v. Washington* (17-), *Dixon v. United States* (17-) and *Miscevic v. Estate of M.M., et al.* (17-), and a certiorari stage reply brief in *Martinson v. Arizona* (17-7407). Mr. Green is also appointed counsel in six appeals in the District of Columbia Court of Appeals, specifically: *Best v. United States*, No. 12-CF-1590; *Givens v. United States*, No. 14-CF-712; *Gray v. United States*, No. 15-CF-388; *Johnson v. United States*, No. 13-CF-493; *Walker v. United States*, Nos. 14-CF-839 and 14-CF-840; and *General v. United States*, No. 16-CF-0822, and has ongoing litigation in the District Court for the District of Columbia.

A 60-day extension for the Applicant would allow both counsel of record and co-counsel the necessary amount of time to effectively coordinate their efforts in representing the Applicant, as well as fulfill their professional obligations to their other clients, and would also allow the Northwestern Practicum students sufficient time for research and drafting efforts to assist Mr. Hernández and Mr. Green.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 60 days, up to and including July 27, 2018, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,



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