

No. _____

In the Supreme Court of the United States

MARK ISAAC SNARR,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondents.

***ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT***

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

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**APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO FILE
A PETITION FOR WRIT OF CERTIORARI**

To the Honorable Samuel A. Alito, as Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

Applicant Mark Isaac Snarr respectfully requests an extension of 60 days in which to file his petition for writ of certiorari, seeking review of the Fifth Circuit's decision in *United States v. Snarr*, Case No. 10-40525 (5th Cir. July 25, 2018), a copy of which is attached to this application.

In support of this application, Applicant provides the following information:

1. The Fifth Circuit issued its decision on July 25, 2018.

Accordingly, the petition for certiorari is currently due October 23, 2018.

Granting this extension would make it due on December 22, 2018.

2. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

3. As the attached decision shows, this case focuses on the standard a defendant must meet to receive funds for expert services. Mr. Snarr and his co-defendant, Mr. Garcia, challenged the lower court's decision to deny them funds for specific experts. The point was raised in Mr. Snarr's appeal, but the Fifth Circuit affirmed.

In contrast, last term this Court held in *Ayestes v. Davis* that the Fifth Circuit had required too much by forcing those seeking funds to show a "substantial need" for expert funds, rather than merely show that funds are "reasonably necessary" as required by statute. *Ayestes v. Davis*, 138 S.Ct. 1080, 1092–1094 (2018) (interpreting 18 U.S.C. § 3559). Mr. Snarr challenged

the court’s decision to deny him funds for experts, arguing that *Ayestes* rendered the decision in his case “demonstrably wrong.” Resisting the holding in *Ayestes*, the Fifth Circuit denied Mr. Snarr’s motion to recall the mandate so that his funding claim could be considered under the correct standard.

Based on this denial, Mr. Snarr has determined he will seek review via a petition of certiorari.

4. This application is not sought for purposes of delay. Undersigned counsel is the Federal Public Defender for the District of Utah. Besides the normal administrative burdens that accompany that role, counsel is also the lead attorney on several pending criminal cases. For example, when the Fifth Circuit issued the decision that is the subject of the petition of certiorari, undersigned counsel was preparing for the trial of a complex fraud case that was subsequently tried for three weeks. As soon as that case reached a verdict, undersigned counsel began preparing to defend another complex case. Because the latter case involves classified discovery, and there is no other attorney in the office with sufficient clearance, undersigned counsel must personally review terabytes of discovery at a remote, secure location.

There are currently no other attorneys in the Federal Public Defender office who are familiar enough with the record in Mr. Snarr’s case to be capable of preparing a petition by the current due date.

5. Mr. Snarr, through counsel, has conferred with the government regarding this application for an extension of time, and the government through its counsel has stipulated to this application.

For the foregoing reasons, Mr. Snarr requests a 60-day extension of time in which to file a petition for a writ of certiorari.

Dated and signed this 5th day of October, 2018.

Respectfully submitted,

/s/ Kathryn N. Nester

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CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2018, a copy of this Application for an Extension of Time to File a Petition for Writ of Certiorari was served via U.S. Mail, First-Class and post prepaid, upon the following counsel:

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