

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

PASHTOON FAROOQI — PETITIONER
(Your Name)

vs.

STATE OF CALIFORNIA — RESPONDENT(S)

**APPLICATION TO EXTEND TIME TO FILE
PETITION FOR WRIT OF CERTIORARI**

*TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE
SUPREME COURT OF THE UNITED STATES, FOR WHOM
APPLICATIONS FROM THE NINTH CIRCUIT ARE MADE:*

Under the provisions of Rule 13.5 of this Court, petitioner PASHTOON FAROOQI (hereafter "petitioner") respectfully applies for an extension of time of 30 days within which to file his petition for writ of certiorari.

While normally an application for such extension should be filed at least 10 days before the date the petition is due, the Court may accept such

application in extraordinary circumstances. Petitioner suggests that this application falls into the category of extraordinary circumstances because of interference with and obstruction of the petition by the respondent(s).

Jurisdiction: 28 U.S.C. § 1257. This case arises from the courts of the State of California, specifically the California Court of Appeal, ~~Third~~^{Fourth} Appellate District, Division Three, which rendered its written decision on July 2, 2018. A copy of its written opinion is attached hereto as required, and is labeled “Attachment A.” This opinion affirmed the judgment of commitment of petitioner to indefinite civil commitment under the California Sexually Violent Predators Act (SVPA).

A petition for review in the California Supreme Court was denied on September 12, 2018. Thereon, under the provisions of Rule 13.1 of this Court, petitioner’s petition for writ of certiorari was due on or before December 12, 2018. (See Attachment A.)

Petitioner is completely illiterate in law and has sought the assistance of inmate legal assistants under the provisions of this Court’s decision in *Johnson v. Avery*, 393 U.S. 483 (1969) [a State and its officers may not abridge or impair a person’s right to apply to a federal court for postconviction relief]. Please see the declaration of petitioner’s legal assistant which is attached hereto and labeled “Attachment B.” The

declaration shows that the officials responsible for the Department of State Hospitals (DSH) and Department of State Hospitals-Coalinga (DSH-Coalinga) have obstructed and interfered with the process of preparing legal documents for the courts, including this Court, by—suddenly and without warning—closing down the law library and shutting down the only available computer lab,^{1/} making the only digital media on which the documents are stored unavailable to petitioner and his legal assistant. No backups are permitted or allowed. See true and correct copies of the memoranda issued by DSH-Coalinga with the dates and times of closure of CPS-operated (DSH-Coalinga Central Program Services) programs causing the delay for which an extension is requested, attached hereto and labeled “Attachment C” and “Attachment D.”

Without the interruption in access to legal materials and the means with which to prepare the petition for writ of certiorari, petitioner would have filed his certiorari petition with this Court on time, under this Court’s provisions of *Houston v. Lack*, 487 U.S. 271, 276 (1988) [document constructively filed on the date of mailing]. In fact, petitioner and his legal

¹ While petitioner has no “right” to use a computer or word processor to prepare documents for the courts, DSH-Coalinga has opted to provide a number of them to prepare personal and legal documents, and also to printed material from the SOTP; and this is in lieu of providing sufficient numbers of typewriters or writing paper for patients.

assistant are now preparing the certiorari petition; nevertheless, petitioner is requesting another 30 days in the event that DSH and/or DSH-Coalinga might further obstruct or interfere with petitioner's access to the courts.

Petitioner respectfully reminds the Court that there has never been a decision from this Court on the constitutionality of the California SVPA. The subjects of petitioner's petition for writ of certiorari are:

- 1) The California SVPA is a classic Bill of Attainder (Bill of Pains and Penalties);
- 2) The California SVPA clearly violates the precedents of this Court (*Kansas v. Hendricks*, 521 U.S. 346 (1997));
- 3) The California DSH has departed from professional standards in the operation of the California SVPA (*Youngblood v. Romeo*, 457 U.S. 307 (1982), *Foucha v. Louisiana*, *supra*, and *Seling v. Young*, 531 U.S. 250 (2001));
- 4) The California SVPA is void for vagueness (*Sessions v. Dimaya*, 584 U.S. ___, 138 S.Ct. 1204, 1223-1234 (2018));
- 5) Testimonial hearsay evidence of expert witnesses violates the Confrontation Clause and prejudices the defendant, including this petitioner (violating the provisions of *Crawford v. Washington*, 541 U.S. 35 53-56);

6a) The State of California's denial of a jury instruction (a unanimous jury finding where multiple acts are argued in the alternative to constitute a single crime)—requiring the finding of the “mental disorder that predisposed [petitioner] to commit sexually violent behavior”) denied petitioner his rights to Due Process of Law and a jury trial (*Richardson v. United States*, 526 U.S. 813, 816-817 (1999); *Schad v. Arizona*, 501 U.S. 624, 634, fn 5 (1991);

6b) The State of California's departure from professional standards require reversal and dismissal in this case by this Court because of insufficient evidence to find petitioner was a sexually violent predator who suffered from an actual “diagnosed mental disorder” (*ibid.*)

6c) Petitioner's civil commitment should be reversed because of an impermissibly vague jury instruction, i.e., CALCRIM No. 3454 (*ibid.*).

CONCLUSION

Granting this Application to Extend Time to File a Petition for Writ of Certiorari is necessary because of obstruction and interference by the respondents to this action.

DATED: December 10, 2018

Respectfully submitted,

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PASHTOON FAROOQI
Petitioner, *pro se*