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February 5, 2019

SENT VIA FEDERAL EXPRESS

Supreme Court of the United States
Clerk's Office
1 First Street, NE
Washington, D.C. 20543

**Re: Edward Nolan Norwood, Petitioner vs. United States of America,
Respondent - -Petitioner Edward Nolan Norwood's Request to File Untimely
Petition for Writ of Certiorari Based on Excusable Neglect**

To the Clerk of The United States Supreme Court,

Petitioner, Edward Nolan Norwood, respectfully requests leave to file the enclosed Petition for Writ of Certiorari in the above referenced matter, beyond 90 days from entry of final judgment as required by Rule 13.

The Ninth Circuit Court of Appeal's Order denying petition for panel rehearing and rehearing en banc in this matter was issued on August 22, 2018. See, Exhibit 2 to attached Petition for Writ of Certiorari. On November 20, 2018, in an effort to timely file in compliance with Rule 13, undersigned counsel prepared a Motion for Leave to Proceed in Forma Pauperis, Petition for Writ of Certiorari, relevant exhibits and directed my staff to file these documents electronically, *mail ten copies through the United States Post Office to the Clerk of the Supreme Court*, and serve copies on the United States Attorney's Office and Solicitor General. From November 20, 2018 until today, it was my understanding that all of the above was accomplished in compliance with Court rules and that the Court was considering the Petition.

Today, for the first time, I inquired with the Court regarding the status of this Petition. I was informed by the Court Clerk's Office, that in fact the Court had not received any physical copies of the Petition and there were other technical mistakes with the e-filing, e.g. the Petitioner was incorrectly identified by my law firm's name, and not Mr. Norwood. I immediately checked with my staff and confirmed that although the e-filing was made timely on November 20, 2018,

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and copies were sent to the United States Attorney's Office and Solicitor General, my office unfortunately did not send 10 copies to the Court as directed. I immediately directed my office to remedy this by resubmitting the Petition correctly. I also checked the e-filing system and was made aware, again for the first time, that the e-filing was rejected stating "You will receive a separate email regarding the reason for rejection." I have diligently searched my email and my staff's email listed on the notification list, and we did not receive such a notice.

I sincerely apologize for the filing error in this case. I diligently attempted to comply with Rule 13 and file the Petition within 90 days of the final order below. The failure to file the 10 copies was an unfortunate clerical error and oversight on behalf of my office. I understand that the time limitation to Petition this Court is not jurisdictional, and this Court retains jurisdiction to consider a criminal case after the 90 days has lapsed. *See e.g. Taglianetti v. U.S.* 394 U.S. 316 (1969). Given the substantial attempted compliance with Rule 13 (electronic filing and service on all opposing parties), excusable neglect and due diligence, and the potential prejudice to Mr. Norwood, I respectfully request that this Court consider his Petition.

Sincerely,


/s/ David S. McLane

David S. McLane
Kaye, McLane, Bednarski, & Litt, LLP.
Attorney for Petitioner
Edward Nolan Norwood