

CAPITAL CASE

19-_____

**IN THE
SUPREME COURT OF THE UNITED STATES
October Term 2018**

**FABIAN HERNANDEZ,
Applicant / Petitioner**

v.

**LORIE DAVIS, Director,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION,
Respondent**

**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A
PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE
UNITED STATES**

**APPLICATION TO THE HONORABLE JUSTICE
SAMUEL A. ALITO, JR. AS CIRCUIT JUSTICE**

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ATTORNEYS FOR APPLICANT / PETITIONER
FABIAN HERNANDEZ

APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Supreme Court Rules 13 and 22, Petitioner Fabian Hernandez, hereinafter the Applicant, requests a 30 day extension of time, up to and including February 26, 2019, to file a petition for a writ of certiorari.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The Applicant is seeking review of the decision by United States Court of Appeals for the Fifth Circuit in Fabian Hernandez v. Lorie Davis, Director, No. 17-70015 (5th Cir. 2018). This is a Capital Case. The court issued its opinion and final judgment October 29, 2018 and the deadline to file a petition for a writ of certiorari is January 27, 2019.

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254(1). Rule 13.5 requires an application for extension be filed more than ten (10) days in advance of the filing date for the petition for a writ of certiorari. Due to the sudden and extremely serious need for the extension, counsel for the Applicant is filing three (3) days before the deadline. Applicant respectfully requests a 30 day extension of time within which to file a petition for a writ of certiorari

REASON JUSTIFYING AN EXTENSION OF TIME

William S. Harris and Carl David Medders were appointed by the District Court for the Western District of Texas to represent the Applicant in this case pursuant to 18 U.S.C. § 3599. Mr. Harris has served as lead counsel for all filings and client matters. On Thursday, January 24, 2019, Mr. Harris' wife suffered a life threatening medical emergency, namely a brain hemorrhage. Mr. Harris is understandably focusing solely on her as she remains in serious condition while the physicians work to determine the cause of her condition.

This is a capital case which raises substantial and important questions of federal law. The Applicant would not be effectively served by counsel focusing on serious family medical issues. The additional 30 days will allow both counsel to reallocate their resources and division of labor in preparation of the petition and hopefully bring a favorable resolution to the medical emergency.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 30 days, up to and including February 26, 2019, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,

By: /s/ Carl David Medders

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