

No. \_\_\_\_\_ (CAPITAL CASE)

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IN THE  
**Supreme Court of the United States**

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**JUAN RAMON MEZA  
SEGUNDO,**

*Petitioner*

v.

**LORIE DAVIS,**

*Respondent*

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

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

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**UNOPPOSED APPLICATION FOR A 58-DAY EXTENSION OF TIME  
TO FILE A PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

To the Honorable Samuel Alito, Associate Justice, and Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

1. This is a capital habeas corpus proceeding. A panel of the Fifth Circuit issued an opinion on December 13, 2018, affirming the order of the district court construing Mr. Segundo's Motion for Relief from Judgment under Rule 60(b)(6) as a successive petition. (Ex. A.) *Segundo v. Davis*, 2018 WL 6595159 (5th Cir. Dec. 13, 2018). This Court has jurisdiction over the petition for writ of certiorari under 28 U.S. § 1254(1).
2. At present, Mr. Segundo has until March 13, 2019 to file a petition for writ of certiorari seeking review of the Fifth Circuit's decision. *See* U.S.S.Ct.R. 13.1. Counsel has begun the process of researching and preparing a petition for writ of certiorari. Given their obligations in other capital cases, however, counsel will require additional time to prepare the petition. This request is being filed 20 days prior to the due date.
3. Under Supreme Court Rules 13.5 and 30.3, this Court may extend the time for seeking certiorari for up to sixty additional days. Mr. Segundo seeks an extension of fifty-eight days, up to and including Friday, May 10, 2019.
4. Counsel for Mr. Segundo has consulted with counsel for Respondent at the Texas Office of the Attorney General, Mr. Erich Dryden. Respondent is not opposed to this request for extension of time.

5. The extension is necessary because the issues to be presented in Mr. Segundo's case are complex and significant. They include the proper interpretation and application of Federal Rule of Civil Procedure 60(b)(6) and the distinction between a proper Rule 60 Motion and a successive petition in the federal habeas context.
6. Counsel from the Capital Habeas Unit of the Office of the Federal Public Defender (CHU) currently serves as a lead counsel in this case. The CHU has an active caseload of seventeen cases. Since the Fifth Circuit's denial of Mr. Segundo's request for relief, the CHU has been co-counselling on two cases with active death warrants. Order, *Johnson v. Davis*, 4:11-cv-02466, ECF No. 70 (S.D. Tex. Feb. 5, 2019) (execution date May 2, 2019); Order, *Robertson v. Davis*, 3:13-cv-00728, ECF No. 98 (N.D.T.X. Feb. 19, 2019) (execution date April 11, 2019). Mr. Johnson's case includes significant claims under *Martinez v. Ryan*, 132 S. Ct. 1309 (2012), and the district court ordered the CHU to immediately undertake "a thorough, and independent, assessment" of these claims. *Id.*
7. In addition to death warrant litigation, the CHU has responsibilities for several other upcoming filings in capital cases, including filing a petition for writ of certiorari in this Court in a separate capital case on April 15, 2019, see Order Granting Application for Extension to File until April 15, 2019, *Ochoa v. Davis*, No. 18A839, and filing an amended petition for writ of habeas corpus in a capital case in federal district court on May 1, 2019, see *Cruz-Garcia v.*

*Davis*, No. 4:17-CV-03621 (S.D. Tex.). In yet another capital case, the federal district court has authorized discovery in advance of an evidentiary hearing and the CHU has been preparing detailed discovery motions as ordered by the court, as well as researching and consulting with expert witnesses whose disclosures and reports are ordered to be produced by May 17, 2019. Order, *Washington v. Davis*, No. 4:07-CV-00721, ECF No. 160 (S.D. Tex. Dec. 27, 2018). The CHU has undertaken much of the aforementioned work during a lapse in federal funding resulting in a partial government shutdown.

### CONCLUSION

Mr. Segundo respectfully requests that the Court grant his application for extension of time to file a petition for writ of certiorari, extending Mr. Segundo's time to file a petition for writ of certiorari for fifty-eight (58) days, until May 10, 2019.

DATED: February 21, 2019

Respectfully submitted,

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by

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