

SUPREME COURT OF THE UNITED STATES

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KWAME ANDERSON,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent

Case No. _____

MOTION FOR EXTENSION OF TIME
TO FILE PETITION FOR CERTIORARI

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JOHN MERINGOLO, an attorney duly admitted to practice in this Court, affirms under penalty of perjury as follows:

1. On February 28, 2018, the Court of Appeals for the Second Circuit appointed me to represent Kwame Anderson on his motion for reconsideration or rehearing of the Second Circuit's denial of his direct appeal. *See United States v. Anderson*, 15-1579 (2d Cir.), at Docket No. 174.
2. On Mr. Anderson's behalf, I timely filed a motion for reconsideration on April 6, 2018. *United States v. Anderson*, 15-1579 (2d Cir.), at Docket No. 193. On April 23, 2018, Mr. Anderson, with the leave of the Court of Appeals, filed a supplemental *pro se* motion for reconsideration as well. *United States v. Anderson*, 15-1579 (2d Cir.), at Docket No. 198.
3. On April 27, 2018, the Court of Appeals denied both motions. *See United States v. Anderson*, 15-1579 (2d Cir.), at Docket Nos. 202, 203.
4. Mr. Anderson's petition for certiorari is, by my calculation, due on July 26, 2018.
5. The Second Circuit's Mandate issued on May 8, 2018. *See United States v. Anderson*, 15-1579 (2d Cir.), at Docket No. 207.
6. On May 8, 2018, I was appointed in the District Court to represent Mr. Anderson for the limited purpose of his re-sentencing hearing on the term of supervised release (which had

been the sole issue on which the district court's original decision had been reversed on direct appeal). *See United States v. Anderson*, 13-CR-414 (SHS) (SDNY), at Docket No. 707.

7. Accordingly, despite my conclusion based on a review of the record that there were no meritorious issues for certiorari on Mr. Anderson's behalf, I did not immediately move to be relieved as counsel on his behalf in the Circuit.

8. I advised Mr. Anderson by letter dated April 27, 2018, that I could not file a petition for certiorari for him because of the lack of issues, and provided him with the Court's template for a *pro se* petition for certiorari as well as instructions for filing the petition.

9. In June, Mr. Anderson advised my office via a communication in the Corrlinks email system that he was requesting that I file the petition for certiorari for him based on a provision in the Second Circuit's rules for Criminal Justice Act attorneys, despite my having informed him that I could not file a meritless petition.

10. Based on my ethical obligations to the Court, I cannot file a petition for certiorari that I believe is without merit. However, I am aware that other counsel may identify suitable issues for this Court's consideration.

11. I therefore again informed Mr. Anderson that I could not file a meritless petition for him and that I would, on the ground that he requested advice of counsel for the petition, move to be relieved and for appointment of new counsel in the Second Circuit to provide Mr. Anderson with advice and to file a petition for certiorari on his behalf if counsel identified any issues suitable for this Court's consideration.

12. I filed that motion on June 18, 2018. It remains pending in the Circuit. *See United States v. Anderson*, 15-1579 (2d Cir.), at Docket No. 208.

13. On July 12, 2018, the parties appeared before the Honorable Sidney H. Stein, United States District Judge for the Southern District of New York, who addressed Mr. Anderson's request for assistance of counsel with his petition for certiorari and advised me to seek advice from the Second Circuit on the motion to be relieved.

14. Thereafter, I spoke with the Clerk's Office in the Second Circuit and was advised to file this request for an extension of time in order to give the Circuit time to rule on the motion to be relieved and for appointment of new counsel.

15. Due to the brief delay required for my registration for the Court's electronic filing system, I am filing this request less than 10 days before the due date for the petition. I apologize for the short timeframe for the Court's consideration and respectfully ask the Court to grant this request and not to hold the filing date against Mr. Anderson.

Wherefore, on Mr. Anderson's behalf, I respectfully ask this Court to extend the deadline for the filing of a petition for certiorari for an additional 90 days in order to permit the Second Circuit to decide the motion for new counsel and for all appropriate proceedings thereafter.

Dated: July 20, 2018
Brooklyn, NY

/s/John Meringolo
John Meringolo, Esq.
Meringolo & Associates, PC
11 Evans Street
Brooklyn, NY 11201
(212) 397-7900
john@meringololaw.com