

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

EDGAR BALTAZAR GARCIA, *Defendant-Petitioner*

v.

UNITED STATES OF AMERICA, *Plaintiff-Respondent*,

ON WRIT OF CERTIORARI TO THE
COURT OF APPEALS FOR THE FIFTH CIRCUIT

UNOPPOSED MOTION TO EXTEND TIME TO FILE
PETITION FOR A WRIT OF CERTIORARI

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CAPITAL CASE

OPINIONS BELOW

The opinion of the Fifth Circuit Court of Appeals denying Mr. Garcia's motion to recall the mandate is at *USA v. Mark Snarr et. al.*, 10-40525 (5th Cir. 7/25/2018) and is reprinted in the Appendix at App. A.

JURISDICTION

Petitioner invokes this Court's jurisdiction to grant the Petition for a Writ of Certiorari to the Fifth Circuit Court of Appeal on the basis of 28 U.S.C. § 1254. The Court of Appeal denied Petitioner's motion to recall the mandate on July 25, 2018. This motion is filed greater than ten days before the petition is due.

UNOPPOSED REQUEST FOR EXTENSION OF TIME TO FILE PETITION FOR CERTIORARI

Petitioner respectfully requests an extension of sixty (60) days of the time to file a petition for certiorari from the current date of October 23, 2018, to November 22, 2018. Undersigned counsel has conferenced this request with AUSA Traci Kenner, counsel for the government, and she has advised that the request for extension is not opposed.

Petitioner requests this extension in light of undersigned counsel's workload during the period from the Fifth Circuit's ruling to the current deadline, including the following: Counsel is appointed in the pre-trial capital case of *U.S.A v Age. et al.*, 16-32 (E.D.La.) and has been required to file extensive briefing on five separate

discovery motions in reply to the Government's opposition to discovery. Counsel is appointed in the pre-trial capital case of *State v. McCoy*, B-163572 (26th JDC) and, following reversal by this Court, has prepared and filed eighteen pre-trial motions. Counsel is appointed in the capital case of *Freeney v. Davis*, 16-70007 (5th Cir.) in which a petition for certiorari is due before this Court on November 12, 2018. Counsel is appointed in the formerly capital case of *State v. Maxie*, 13-072522 (11th JDC), in which extensive post-hearing briefing on a constitutional challenge to Louisiana's system of majority verdicts under the Equal Protection Clause was filed. Counsel is serving as *pro bono* counsel in two cases on review which have required additional work: *Boyer v. Vannoy*, 17-7930 (S. Ct.) (filing reply in support of certiorari and supplemental briefing) and *Langley v. Prince*, 16-30486 (5th Cir.) (filing opposition to state's application for en banc rehearing). In addition, undersigned counsel serves as Director of a non-profit law office and has managerial and administrative responsibilities as well as the regular day-to-day tasks of the remainder of his caseload.

Undersigned counsel is appointed to represent the petitioner, Mr. Garcia, in his proceedings under 28 U.S.C. §2255. However, his representation of Mr. Garcia in respect of this proceeding arising from Mr. Garcia's direct appeal is not funded under that appointment and is being undertaken on a *pro bono* basis.

In other circumstances, thirty days would be a sufficient period of extension for counsel to complete the required work. However, an extension of only thirty days would largely coincide with the preparation period for the certiorari petition due in

this Court on November 12 in *Freeney (supra)*. For this reason, the additional time is sought.

CONCLUSION

Petitioner respectfully requests that this Court grant an extension of sixty (60) days for the filing of his petition for certiorari.

Respectfully submitted,

/s/ Richard Bourke

RICHARD BOURKE, *Counsel of Record*
Attorney for Petitioner

Dated: October 10, 2018