

NO. 18-_____

IN THE SUPREME COURT OF THE UNITED STATES

ISRAEL ARCE,
PETITIONER,

VS.

CHICAGO TRANSIT AUTHORITY
RESPONDENT.

ON MOTION FOR 60-DAY EXTENSION FROM NOVEMBER 1, 2018 TO
DECEMBER 31, 2018 TO FILE PETITION FOR A WRIT OF
CERTIORARI

FROM THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH
CIRCUIT

VERIFIED MOTION FOR 60-DAY EXTENSION FROM
NOVEMBER 1, 2018 TO DECEMBER 31, 2018 TO FILE PETITION
FOR WRIT OF *CERTIORARI*

May It Please the Court:

Assignment of Error:

Petitioner Israel Arce (Israel), by his attorney, Steven H. Jesser, Attorney at Law, P.C., affiant, moves for a 60-day extension to file a petition for writ of *certiorari* for sole plaintiff Israel Arce, pursuant to Supreme Court Rule 13.1, 13.2. 13.3. The assigned error Israel hopes to argue is from Doc. 49, USCA-7 No. 16-2882, *Arce v. Chicago Transit* entered on August 3, 2018 and is a Final Order granting a Motion for Clarification. For some apparent reason which

undersigned attorney does not understand, there exists an associated appeal in the United States Court of Appeals for the Seventh Circuit, No. 17-1625, with the same parties, and an identical docket. For simplicity, Israel references only No. 16-2882 in this motion.

Assignment of Error:

Supreme Court Rule 13.3. *expressly* allows writs of *certiorari* from “.....date or entry of the judgment *or order* sought to be reviewed.....” (emphasis added). Final orders are appealable to this Court and not only judgments. Doc. 49 is a Final Order. With some infrequent exceptions, this Court requires finality of a U.S. Court of Appeals action before an appeal to this Court is ripe. Doc. 49, the Final Order, finalized the appeal in the United States Court of Appeals for the Seventh Circuit.

Presentation to the Court:

Israel is no longer exactly indigent, but he is near indigency, and his attorney Steven H. Jesser, is representing him on a modest means basis, because of his reverence for this Court and because of his professional belief that forthcoming assignments of error are meritorious. Israel and his wife Charlotte are unemployed because of work-related injuries, as explained below, and their sole income is from monthly Social Security benefits. According, Israel lacks funds for a professional Washington to professional print this motion, which undersigned attorney does not believe is required under the Supreme Court Rules, *in pari materia*. Furthermore, the Supreme Court of the United States Clerk of Court now has mandatory electronic filing, and undersigned attorney has registered for the Court’s electronic filing, and is waiting for approval, in order to electronically file this motion.

Furthermore, (a)working with a professional Washington printer requires of undersigned attorney two weeks because of numerous and necessary steps and (b) Israel will procure funds

for professional printing of his brief, if *certiorari* is granted, and if required, but lacks at this time funds for a Washington professional printer, the few of whom remaining charge significant fees.

Jurisdiction of the Court:

Jurisdiction of this Court is premised upon USC 28 U.S.C. § 1254 that “*Courts of appeals*; certiorari; certified questions.: Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;”.....(emphasis added).

Final Order to be Reviewed:

Doc. 49, USCA-7 No. 16-2882, *Arce v. Chicago Transit Authority* (annexed hereto) states:

Order issued GRANTING motion for clarification as follows: On July 3, 2018, Mr. Arce submitted a Petition for Review or Reconsideration. After the panel denied the petition on July 19, Mr. Arce asked for leave to correct or amend his petition and clarified that his July 3 petition sought en banc review of the panel’s decision. This court reasonably understood Mr. Arce to be seeking panel rehearing because in the title of his petition he referenced Federal Rule of Appellate Procedure 40, which governs petitions for panel rehearing, and the document did not contain the words “en banc.” Mr. Arce says he included a notary sheet that said he was seeking en banc rehearing, but this sheet was not included in the filed version of his petition. This court denied Mr. Arce’s motions to correct or supplement his previously-filed petition for rehearing because the panel had already denied rehearing and his new requests for rehearing were late. See Fed. R. App. P. 35(b)(3) (a petition for panel rehearing and a petition for rehearing en banc are considered a single document for page limitations purposes); Fed. R. App. P. 40(a), 35(c) (a petition for panel rehearing or rehearing en banc may be filed within 14 days after entry of judgment). [6942313-3] SCR [49] [6942875] [16-2882, 17-1625] (ER) [Entered: 08/03/2018 04:15 PM]

Specific Reasons Why an Extension of Time is Justified:

1. Israel appeals from the August 3, 2018 final order of the U.S. Court of Appeals for the Seventh Circuit, finalizing the appeal in the Seventh Circuit.
2. In 2014 Israel filed an action in the United States District Court for the Northern District of Illinois, which was dismissed by the Court.

3. Israel complained of many work-related injuries, for which compensation thereof was severely restricted and inadequate, or refused by respondent Chicago Transit Authority.
4. Israel is still lame and sick as a result of these work-related injuries.
5. In 2016, Israel appealed from the dismissal to the U.S. Court of Appeals for the Seventh Circuit.
6. On August 3, 2018, The U.S. Court of Appeals for the Seventh Circuit entered a Final Order, *supra*, granting Israel's motion for clarification. Israel will also argue error by the U.S. Court of Appeals for the Seventh Circuit in rulings entered prior to August 3, 2018.
7. Israel appeals to the Supreme Court of the U.S. from this August 3, 2018 order and prior Rulings of the U.S. Court of Appeals for the Seventh Circuit.
8. Therefore, a petition for writ of *certiorari* would be due on November 1, 2018, 10+ days hence. A petition for writ of *certiorari* will be meritorious.
9. However, Israel has just emerged from indigency, because of his injuries, and was unable to engage counsel for this petition until October 12, 2018. He had to represent himself in the United States Court of Appeals for the Seventh Circuit, because of lack of funds.
10. In preparing for this petition for writ of *certiorari*, Israel had to again prepare by himself without counsel, for lack of funds.
11. However, on October 12, 2018, Israel engaged Steven H. Jesser, the affiant, who practices federal and state civil and criminal appellate law, to represent him before the Supreme Court of US.
12. Steven H. Jesser was admitted to practice before the Supreme Court of the U.S. on January 15, 1975, and has previously presented petitions for writ of *certiorari* to this

Honorable Court. He is filing an Appearance with the Clerk of Court, concomitant with this Motion.

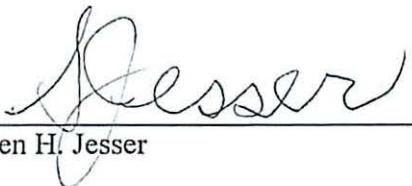
13. To prepare a petition for writ of *certiorari* before the Supreme Court of the United States, undersigned attorney needs far more time than the period of October 12, 2018 to November 1, 2018, only 20 calendar days, especially from a complex appeal from a complex district court action, as here.
14. In addition to Israel's chronic work-related injuries which forced him to prematurely retire, Mrs. Charlotte Arce, his wife, an automotive engineer, also had to retire prematurely, because of years of exposure to diverse chemicals in her employment, and has been diagnosed as suffering from the chronic, debilitating, and unusual disease of Multi-Chemical Sensitivity (MCS). Therefore, neither Mr. or Mrs. Arce are employed.
15. In addition, Israel and Mrs. Arce are raising a high school female student-athlete, which requires much energy of them, as all parents very gladly experience. The energy is positive, of course, but it is still much energy and exertion.
16. In light of all of the foregoing, Israel prays for a sixty-day extension, from November 1, 2018 to December 31, 2018, pursuant to Supreme Court Rule 13.

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Counsel for Petitioner

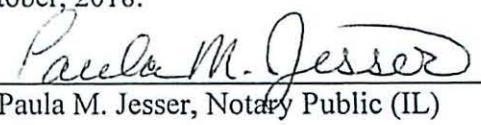
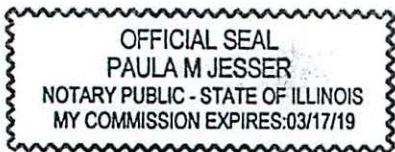
VERIFICATION

I, Steven H. Jesser, attorney, swear upon oath that all of the foregoing is true and correct, according to his knowledge, information, and belief.



Steven H. Jesser

Sworn and subscribed before me this 14th Day of October, 2018.



Paula M. Jesser
Paula M. Jesser, Notary Public (IL)

Respectfully submitted,

/s/ Steven H. Jesser
Steven H. Jesser
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Counsel for Petitioner

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RESPONDENT.

PROOF OF SERVICE

I, Steven H. Jesser, attorney at law, declare that on October 15, 2018 as required by Supreme Court Rule 29, I served the foregoing and within motion for 60-day extension file to petition for a writ of *certiorari* upon each party below to the above proceeding, by depositing the same containing the above document with the United States Postal Service, properly addressed, with first class Priority Mail postage prepaid, from the Glenview, IL Post Office. Undersigned attorney has registered for the Court's electronic filing, and is waiting for approval, in order to electronically file this motion. The names and addresses of those served are as follows:

Clerk of the Supreme Court of the U.S.
1 First Street, NE
Washington, DC 20543-0001

General Counsel
Chicago Transit Authority
Law Department
567 West Lake Street, 6th Floor
Chicago, IL 60661-1498

ele

/s/ Steven H. Jesser

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UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
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ORDER

August 3, 2018

By the Court:

Nos. 16-2882 and 17-1625	<p>ISRAEL ARCE, Plaintiff - Appellant v. CHICAGO TRANSIT AUTHORITY, Defendant - Appellee</p>
Originating Case Information:	
<p>District Court No: 1:14-cv-00102 Northern District of Illinois, Eastern Division District Judge Gary Feinerman</p>	

Upon consideration of the MOTION FOR CLARIFICATION AS TO (1) EXPLANATION OF DENIAL OF PETITION OF REVIEW EN BANC. PLAINTIFF'S INITIAL MOTION FOR RECONSIDERATION WAS "EN BANC" WITH REQUESTED REPORT. PLAINTIFF DID NOT RECEIVE "EN BANC" RECONSIDERATION OR REPORT, filed on August 1, 2018, by pro se Appellant Israel Arce,

IT IS ORDERED that Israel Arce's motion for clarification is GRANTED as follows. On July 3, 2018, Mr. Arce submitted a Petition for Review or Reconsideration. After the panel denied the petition on July 19, Mr. Arce asked for leave to correct or amend his petition and clarified that his July 3 petition sought *en banc* review of the panel's decision.

EX. A

Nos. 16-2882 and 17-1625

Page 2

This court reasonably understood Mr. Arce to be seeking panel rehearing because in the title of his petition he referenced Federal Rule of Appellate Procedure 40, which governs petitions for panel rehearing, and the document did not contain the words "*en banc*." Mr. Arce says he included a notary sheet that said he was seeking *en banc* rehearing, but this sheet was not included in the filed version of his petition.

This court denied Mr. Arce's motions to correct or supplement his previously-filed petition for rehearing because the panel had already denied rehearing and his new requests for rehearing were late. See Fed. R. App. P. 35(b)(3) (a petition for panel rehearing and a petition for rehearing *en banc* are considered a single document for page limitations purposes); Fed. R. App. P. 40(a), 35(c) (a petition for panel rehearing or rehearing *en banc* may be filed within 14 days after entry of judgment).

form name: c7_Order_BTC(form ID: 178)