

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JERRY ADAMS, JR.

Petitioner,

v.

GARY SWARTHOUT, WARDEN,

Respondent.

**APPLICATION TO THE HON. ELENA KAGAN
FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT**

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

Petitioner Jerry Adams respectfully requests that the time to file a Petition for Writ of Certiorari in this matter be extended for thirty (30) days to and including March 29, 2019 due to an unforeseen family medical emergency. The Court of Appeals issued its memorandum decision on September 5, 2018. App. 1. On November 29, 2018, the Court of Appeals

denied Mr. Lopez's timely petition for rehearing and rehearing en banc. App. 2. Absent an extension of time, the Petition would be due on February 27, 2019. Petitioner is filing this Application at least ten days before that date. S. Ct. R. 13.5. Today, Deputy Attorney General Jennifer Jadovitz, counsel for Respondent, informed counsel that she has no objection to this request for more time. This Court has jurisdiction over the judgment under 28 U.S.C. § 1254(1).

Reasons for Granting an Extension of Time

The time to file a petition for writ of certiorari should be extended for thirty days for the following reasons.

Since the Court of Appeal denied Mr. Adams's petition for rehearing and rehearing en banc on November 29, 2018, petitioner's counsel appointed under the Criminal Justice Act, has been occupied with other significant case obligations. When the petition for rehearing was denied, petitioner's counsel was in the midst of finalizing a reply brief due in the 9th Circuit, which was filed on December 10. Counsel was thereafter out of the office (and out of State) starting December 15 until the end of the calendar year.

On January 10, counsel filed a petition for writ of certiorari in this Court for another case. Thereafter, counsel had to prepare a petition for

rehearing, which was filed in the 9th Circuit on January 23, followed by a habeas petition in state appellate court, filed on February 11.

Counsel has been working diligently on these tasks, along with the certiorari petition in this case, but will be unable to finalize this petition before its current due date. Counsel has been out of the office for more than a week due to an unexpected family medical emergency and does not expect to be able to return until the week the petition is currently due, at which point counsel must focus his attention towards an informal reply and a habeas petition, both of which are due in state court in early March. In order to more thoroughly research the legal issues and prepare an appropriate petition for consideration by this Court, Counsel proposes to file the petition for writ of certiorari on March 29.

This case presents an important issue regarding whether the Ninth Circuit applied the wrong standard under 28 U.S.C. § 2254(d) in reviewing a claim under *Batson v. Kentucky*, 476 U.S. 79 (1986). The California trial judge denied the *Batson* claim even though it found the prosecutor's reasons were not credible or rational.

Wherefore, petitioner respectfully requests that an order be entered extending the time to petition for certiorari to and including Friday, March 29, 2019.

Respectfully Submitted,

LAW OFFICES OF TARIK S. ADLAI

FEBRUARY 15, 2019.

/s/
Tarik S. Adlai
Counsel of Record
Attorney for Petitioner

DECLARATION OF VERNA WEFALD

I, Verna Wefald, hereby declare the following:

I am an attorney licensed to practice in the State of California and a member of the bar of this Court. I am a colleague of Tarik Adlai, who has been out of the office for more than a week after his father became gravely ill. Today I contacted Deputy Attorney General Jennifer Jadvotiz, counsel for Respondent, and she informed me that she has no objection to this request for an extension of time.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 15th day of February at Pasadena, California.

/s/
VERNA WEFALD, Declarant