

**In The Supreme Court  
Of The United States of America**

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Abimael Ayala-Gonzalez,  
Petitioner - Pro Se

**RULE 13(5)  
APPLICATION FOR AN  
EXTENSION OF TIME TO  
FILE A WRIT OF  
CERTIORARI**

v.

**THE PEOPLE OF THE STATE OF NEW YORK**  
Respondent.

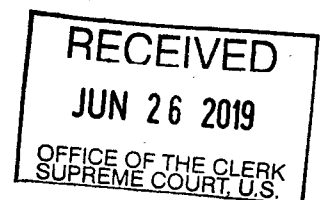
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To Circuit Justice for the Second Circuit

The petitioner, Abimael Ayala-Gonzalez, request that the time for petitioning be extended to an including August 25, 2019.

This application is submitted more than 10 days prior to the scheduled filing date for the petition. The pertinent dates are:

- 12/21/18      The date that the Appellate Division, Fourth Department issued its decision stating that although the evidence was entirely circumstantial, the evidence was sufficient to support my conviction, and that the Erie County Supreme Court did not err in denying my trial counsel's request for a racial identification charge (see Exhibit B).
- 01/07/19      The date that my appellate counsel filed his discretionary leave application with the New York State Court of Appeals (see Exhibit C).
- 03/25/19      The date the New York State Court of appeals denied leave (see Exhibit A).



Based on Rule 13(1), a petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with this Court within 90 days after entry of the order denying discretionary review (see Rule 13).

Here, as indicated above, the Court of Appeals denied my appellate counsel's application for leave on 03/25/19. This means that I had a June 23, 2019 to file my petition for a writ of certiorari. However, due to circumstances beyond my control, I cannot meet the June 23 deadline to file my petition for certiorari, and therefore would like to request a 60-day extension of time to file my petition, which would make my new deadline date August 23, 2019.

### **GOOD CAUSE FOR ALLOWING THE EXTENSION OF TIME**

There are 4 reasons that establish "good cause" for the granting of my request for a 60-day extension of time to file my petition for certiorari.

First, I am a non-English speaking inmate, and have to rely on an inmate translator to help me understand the intricacies of the law. This is complicated by the fact that there is only presently only one bi-lingual inmate during the periods I am in the law library. Moreover, since he has to be present when I am conversing with the inmate law clerk (who is not bi-lingual) who was assigned to assist me, this takes up additional time.

Second, Clinton Correctional Facility has undergone some serious security upgrades since the escape of Richard Matt and David Sweat. Chief amongst which is a strict rule wherein inmates may only attend the law library during their non-program hours (see Exhibit D). When you couple this with the fact that Clinton Correctional Facility's Law Library only has 25 available spots for each program module, but there are at least about 35-40 inmates vying for those spots, an inmate generally attends law library sessions two to three times a week. Each session is about two hours long, and in that time we must research, write and type our submissions.

Third, Clinton Correctional Facility has undergone another 60-man riot in the main yard, and the entire Eastside of the jail is shut down. This has made it nearly impossible for me to have emergency access to the law library from the date of the initial right (i.e. June 11, 2019), until today.

And fourth, these issues (i.e. refusal of a racial identification charge, legal sufficiency of the evidence based on circumstantial evidence, etc) are of nationwide importance, and need to be reined in light of the alarming rate in which prosecutors are now using provocative methods to shift the burden of proof to defendants, and by the way that prosecutors, as here, are mishandling identification issues.

Based on the foregoing, I am requesting that I be granted until August 23, 2019 to file my writ of Certiorari, and for any other and further relief as to this Court may deem just and proper.

***Statement Pursuant to 28 U.S.C. § 1746, I Declare, under the Penalty of Perjury under the laws of the United States of America, that the foregoing is True and Correct.***

***Signed this 14<sup>th</sup> Day of June, 2019***

Respectfully submitted  
  
Abimael Ayala-Gonzalez

Sworn to before me this

\_\_\_ Day of June 2019

*No Notary Available*

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NOTARY PUBLIC