

No. _____

In The
Supreme Court of the United States

GABRIEL GALINDO-SERRANO

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

**APPLICATION FOR EXTENSION OF TIME TO
FILE PETITION FOR WRIT OF CERTIORARI**

To the Honorable Stephen Breyer,
Associate Justice of the United States Supreme Court
and Circuit Justice for the First Circuit

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To the Honorable Stephen Breyer, Associate Justice of the United States Supreme Court and Circuit Justice for the First Circuit:

Applicant-Defendant, Gabriel Galindo-Serrano (“Applicant”), represented by the undersigned attorney of record assigned on January 3, 2017 pursuant to the Criminal Justice Act under 18 U.S.C. section 3006.A, respectfully requests an extension of time to file a petition for writ of certiorari. Sup. Ct. R. 13.5. The earliest deadline for Applicant to file his petition is Friday, October 18, 2019, which is ninety days from Friday, July 19, 2019, the date when the Court of Appeals For the First Circuit issued an order denying his Petition for Rehearing and Petition for Rehearing En Banc. For good cause set forth herein, Applicant asks that this deadline be extended by sixty (60) days so that the new deadline would be Tuesday, December 17, 2019. This application is filed ten (10) days prior to the due date.

BACKGROUND AND OPINIONS BELOW

There are important questions, which were determined adversely by the court below, which affirmed the District Court’s denial of Galindo’s suppression motion. The Court stated that even if the confession should have been suppressed pursuant to McNabb-Mallory, the Court have no occasion to consider whether Galindo’s was prejudiced thereby as noted, his suppression claim was waived. The Opinion and Order stated that it was ‘troubled’ by the District Court’s explanation for why it found that the eighteen-hour delay in bring Galindo before a magistrate judge “was not unreasonable” and “was necessary”. Thus, notwithstanding the waiver, the Court explained the source of the concern in order to clarify the law in this area. There are important constitutional issues presented and the interplay with the Federal Rule of Criminal Procedure 5 (a) (1), in line of precedent that begins with McNabb v. U.S. (1943) and Mallory v. U.S.

(1957), generally making inadmissible confessions made during periods of detention that violate the prompt presentation requirement of Rule 5 (a). The validity of this claim in the case involves an important constitutional protection and but for a two-day delay by the federal public defendant to file a motion to suppress, the 50-year sentence received by Applicant Galindo and the denial of the motion to suppress the confession, would have been error to vacate the judgment of the District Court. The Opinion and Order is against precedent. Corley v. U.S. (2009).

Attached hereto are copies of the May 30, 2019 Opinion and Order affirming the district court's judgment and the July 19, 2019 Order denying the Petition for Rehearing and the Petition for Rehearing En Banc.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. §1254(1).

REASONS EXTENSION IS JUSTIFIED

Supreme Court Rule 13.5 provides that “An application to extend the time to file shall set out the basis for jurisdiction in this Court, identify the judgment sought to be reviewed, include a copy of the opinion and any order respecting rehearing, and set out specific reasons why an extension of time is justified.” Sup. Ct. R. 13.5. The specific reasons why an extension of time is justified are as follows:

1) From August 27, 2019 to September 4, 2019, the law office was closed due to the preparation and passing of Hurricane Dorian. 2) The undersigned attorney attended numerous specialist physician medical visits at the Jackson Medical Group and the Bascom Palmer Medical Hospital, University of Miami, in August and September 2019, and underwent a medical procedure with biopsy at the University of Miami Health

System on August 12, 2019. 3) The Applicant Galindo is a mental health patient with over 21 severe diagnosed disorders and, despite responding to only one correspondence since his appeal, was unknowingly transferred again during this period to another institution, USP Coleman II, Florida. 4) All Applicant's legal mail has been recently returned. 5) Applicant Galindo had no contact with CJA counsel for most of the court case and he has been denied access to counsel, legal mail and other legal resources as he has been segregated and housed in the Special Housing Unit at USP Terre Haute and USP Coleman. 6) Applicant Galindo has attempted suicide on no less than two occasions since his incarceration outside of Puerto Rico and he is of limited assistance because of the lack of his mental capacity. 7) The nature of the case is complex and has competing interests in constitutional protections for timely taking defendants before a magistrate judge contrasted with procedural criminal rule making and deadline adherence. According, good cause exists for the additional time that is need to adequately prepare and file the petition.

NOTICE TO OPPOSING COUNSEL & CONSENT

The United States Attorney's Office in Puerto Rico, attorney for respondent, has been notified of the intent to file this application and was requested to advise if there was any objection to the filing. To date, no objection has been received.

CONCLUSION

For the foregoing reasons and good cause shown, Applicant respectfully request that this Court grant this application for an extension of time to file a petition for writ of certiorari.

Dated: October 7, 2019

s/ Mauricio Hernandez Arroyo

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