

No. \_\_\_\_\_ (CAPITAL CASE)

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IN THE  
**Supreme Court of the United States**

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RAMIRO FELIX GONZALES,

*Petitioner*

v.

LORIE DAVIS,

*Respondent*

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ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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

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**UNOPPOSED APPLICATION FOR A 60-DAY EXTENSION OF TIME  
TO FILE A PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

To the Honorable Samuel Alito, Associate Justice, and Circuit Justice for the  
United States Court of Appeals for the Fifth Circuit:

1. This is a capital habeas corpus proceeding. A panel of the Fifth Circuit issued an opinion on September 17, 2019, denying a certificate of appealability from the order of the district court denying Mr. Gonzales's Motion for Relief from Judgment under Rule 60(b)(6). (Ex. A.) *Gonzales v. Davis*, 2019 WL 4455078, \_\_ F. App'x \_\_ (5th Cir. 2019) (unpublished). This Court has jurisdiction over the petition for writ of certiorari under 28 U.S. § 1254(1).
2. At present, Mr. Gonzales has until December 16, 2019, to file a petition for writ of certiorari seeking review of the Fifth Circuit's decision. *See* U.S.S.Ct.R. 13.1. Counsel has begun the process of researching and preparing a petition for writ of certiorari. Given their obligations in other cases, however, counsel requires additional time to prepare the petition.
3. Under Supreme Court Rules 13.5 and 30.3, this Court may extend the time for seeking certiorari for up to sixty additional days. Mr. Gonzales seeks an extension of sixty days, up to and including Friday, February 14, 2020.
4. Counsel for Mr. Gonzales has consulted with counsel for Respondent at the Texas Office of the Attorney General, Mr. Matthew Ottoway. Respondent is not opposed to this request for extension of time.

5. The extension is necessary because the issues to be presented in Mr. Gonzales's case are complex and significant. They include the proper interpretation and application of Federal Rule of Civil Procedure 60(b)(6), the relationship between improper denials of funding under 18 U.S.C. 3599 and "substantial" ineffective assistance of counsel claims, and whether and when a change in decisional law might constitute extraordinary circumstances under *Gonzalez v. Crosby*, 545 U.S. 524 (2005) such that Rule 60(b)(6) relief is warranted.
6. Counsel from the Capital Habeas Unit of the Office of the Federal Public Defender (CHU) currently serves as counsel of record in this case. The CHU has an active caseload of nineteen cases. Three of those cases have active death warrants that require continued litigation. *Runnels v. Davis*, No. 2:12-CV-00074 (N.D. Tex.) (execution scheduled for December 11, 2019); *Ochoa v. Davis*, No. 3:09-CV-02277 (N.D. Tex.) (execution scheduled for February 6, 2020); *Mays v. Davis*, No. 6:19-CV-00426 (E.D. Tex) (execution scheduled for May 13, 2020). In addition to death warrant litigation, the office has responsibilities for several other upcoming filings in capital cases that includes the following:
  - a. A response to the Director's motion for summary judgment due on November 29, 2019, in *Cruz-Garcia v. Davis*, No. 4:19-cv-03621 (S.D. Tex.);
  - b. A petition for writ of certiorari due on December 12, 2019, in *In re Johnson*, 935 F.3d 284 (5th Cir. 2019);
  - c. An amended federal habeas petition due on January 17, 2020, in *Rubio v. Davis*, No. 1:18-CV-00088 (S.D. Tex.);
  - d. An initial federal habeas petition due on February 13, 2020, in *Andrus v. Davis*, No. 4:19-CV-00717 (S.D. Tex.);

- e. An amended federal habeas petition due on February 28, 2020, in *Marshal v. Davis*. No. 4:14-CV-03438 (S.D. Tex.).
7. Co-counsel Michael Gross is appointed under § 3599 and has represented Mr. Gonzales in prior proceedings. Mr. Gross also maintains a private practice in San Antonio and in support of this application for extension would show: on October 29, 2019, he filed a brief in a murder case in the Texas Court of Criminal Appeals in *Gonzalez v. State*, Cause No. PD-0983-19; on October 30, 2019, he had a habeas hearing in a capital murder case in the 63rd District Court, Val Verde County, Texas in *State v. Legare*, Cause No. 11362-A; on November 11, 2019, he filed a brief in a sexual assault case in the Texas Thirteenth Court of Appeals in *Dougherty v. State*, Cause No. 13-18-00163-CR; on November 15, 2019, he filed a brief in a fraud case in the Fifth Circuit in *United States v. Comstock*, Cause No. 18-50979; he has a habeas hearing on November 21, 2019 in a murder case in the 178th District Court, Harris County, Texas in *State v. McClain*, Cause No. 941903-A; he is set for trial in a fraud case on December 2, 2019 in the 227th District Court, Bexar County, Texas in *Texas v. Rose*, Cause No. 2017-CR-6341; his is set for trial in a fraud case on December 16, 2019 in the Federal District Court, District of New Mexico in *United States v. Medeiros*, Cause No. 1:18-CR-01966-JCH; and he has a brief due in a fraud case on December 23, 2019 in the Fifth Circuit in *United States v. Dubin*, Cause No. 19-50891.

## CONCLUSION

Mr. Gonzales respectfully requests that the Court grant his application for extension of time to file a petition for writ of certiorari, extending Mr. Gonzales's time to file a petition for writ of certiorari for sixty (60) days, until February 14, 2020.

DATED: November 26, 2019

Respectfully submitted,

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by

/s/ Jeremy Schepers

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