

***IN THE SUPREME COURT OF THE UNITED STATES***

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LUIS RIVERA CARRASQUILLO, EDWIN BERNARD ASTACIO ESPINO,  
and RAMÓN LANZA VÁZQUEZ, Petitioners,

v.

UNITED STATES OF AMERICA, Respondent.

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**APPLICATION FOR EXTENSION OF TIME  
TO FILE PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT**

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TO THE HONORABLE STEPHEN BREYER, ASSOCIATE JUSTICE OF THE  
SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE  
FOR THE FIRST CIRCUIT:

Pursuant to Supreme Court Rules 13.5, 22.1–22.3, and 30.3, petitioners Luis Daniel Rivera Carrasquillo, Edwin Bernard Astacio Espino, and Ramón Lanza Vázquez pray for a 60-day extension of time to file their joint petition for certiorari in this Court to and including Monday, March 2, 2020 (as the sixtieth day falls on a Sunday, that is, March 1).

1. Timeliness. The judgment of the United States Court of Appeals for the First Circuit (per Thompson, J., with Howard, Ch.J. & Barron, J.), affirming the applicants' convictions and sentences, was filed August 2, 2019. Appx. A. The applicants filed a timely joint petition for rehearing, pursuant to an extension of time, on September 16, 2019, and denied on October 3, 2019. Appx. B. Pursuant to Rule 13.1 any petition for certiorari would be due to be filed within 90 days thereafter, that is, on or before January 1, 2020 (a holiday, making the petition

actually due January 2, 2020). This application is being filed on or before the tenth day prior to the due date, as required by this Court's Rule 30.2.

2. Opinions Below and Jurisdiction. A copy of the Opinion of the Court of Appeals, published at 933 F.3d 33, is attached as Appendix A. There is no published decision of the district court on any question to be presented. The jurisdiction of this Court is to be invoked under 28 U.S.C. § 1254(1).

3. Reasons for Granting the Extension.

a. The applicant-petitioners were three of 33 defendants named on June 20, 2012, in a superseding indictment in the U.S. District Court for the District of Puerto Rico. The government initially suggested that it was seeking capital punishment, but later withdrew the notice.

(i) The petitioners stood trial together for nine days in late 2013. Based on testimony describing their participation in a violent rivalry between two drug gangs, the jury convicted the three petitioners of numerous counts, including racketeering conspiracy ("RICO," 18 U.S.C. § 1962(d)) (Rivera, Astacio), drug distribution conspiracy near public housing (21 U.S.C. §§ 846, 860) (Rivera, Astacio), conspiracy to possess firearms, including machineguns, in aid of drug trafficking (18 U.S.C. § 924(o)) (Rivera, Astacio), violent crime (murder and attempted murder under Puerto Rico law) in aid of racketeering ("VICAR," *id.* § 1959(a)(1)) (Rivera, Astacio, Lanza), causing death by use of a firearm in furtherance of a crime of violence (*id.* § 924(j)) (Rivera, Astacio, Lanza), destruction of an aircraft resulting in death (*id.* §§ 32(a), 34) (Astacio), murder by drive-by shooting in aid of drug trafficking (*id.* § 36(b)(2)(A))

(Astacio), violence against persons on an aircraft (*id.* § 32(a)(6)) (Astacio), and possession of a machine gun (*id.* §§ 922(o), 924(a)(2)) (Astacio).

(ii) In June 2014, former Judge Fusté imposed life sentences, *inter alia*, on each of the applicants.

(iii) The petitioners appealed to the First Circuit raising, collectively, some eight issues arising out of their trial and post-trial proceedings. Most of the issues were directly applicable to all and were therefore cross-adopted under Fed.R.App.P. 28(i) in coordinated briefing. After argument (with one judge in attendance, one on speakerphone, and one absent), the panel issued a precedential opinion on August 2, 2019. Appx. A.

b. The applicants were represented by CJA-appointed counsel before the district court, and by the undersigned (one appointed and two retained) on appeal. They intend to seek review by this Court by filing a common petition. Due to other appellate deadlines, including filings in this Court, to their family Thanksgiving and upcoming Christmas holiday schedules, and because one of them has a new baby, counsel have not been and will not be able to complete the petition prior to the initial New Year's deadline. In light of the nature and severity of their sentences, neither the applicants nor the government would be prejudiced by an extension of up to 60 days.

c. In counsel's professional opinion, the case presents one or more issues worthy of presentation to this Court in a petition for certiorari, to wit:

(1) Is first degree murder, as broadly defined under the Puerto Rico Penal Code, categorically a "crime of violence" as interpreted in this Court's cases, for purposes of applying 18 U.S.C. § 924(j)?

(2) Did the Court of Appeals fail to follow this Court's precedent on the application of Fed.R.Crim.P. 52(b), when it refused, for two invalid reasons, to address the "crime of violence" issue that was raised for the first time on appeal: (i) that petitioners argued the "plain error" factors only once and not twice in support of this point, where they had presented two legal arguments in support of the same, single claim of "error"; and (ii) that the petitioners could not cite "controlling precedent," even though their position was clearly correct under the governing statutes (interpreted in light of this Court's cases).

d. For the reasons stated, the Applicants cannot file a petition meeting their own and this Court's high standards prior to the existing due date.

WHEREFORE, the Applicants-Petitioners pray that an Order be entered extending the time within which they may petition this Court for certiorari by sixty days, to and including Monday, March 2, 2020.

Dated: December 17, 2019

Respectfully submitted,

  
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