

No. 19-8090

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OCTOBER TERM, 2019

IN THE SUPREME COURT OF THE UNITED STATES

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Joseph Weldon Smith, Petitioner,

v.

William Gittere, Warden, et al., Respondents.

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On Petition for Writ of Certiorari to the  
Nevada Supreme Court

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**MOTION TO DELAY DISTRIBUTION OF A PETITION FOR WRIT  
OF CERTIORARI**

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**CAPITAL CASE**

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Counsel for Petitioner

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

Pursuant to this Court's March 19, 2020 Order, Petitioner Joseph Weldon Smith respectfully requests this Court delay distribution of his petition for writ of certiorari in *Smith v. Gittere*, No. 19-8090, until the June 10, 2020 distribution date due to difficulties related to COVID-19.

1. Joseph Smith filed a petition for writ of certiorari on March 20, 2020, and it was placed on the docket March 24, 2020. In the petition, Mr. Smith argued that the Nevada Supreme Court violated his constitutional rights by making the outweighing requirement an afterthought for the jury, used only to lessen a death sentence to life imprisonment.

2. Respondent William Gittere filed his brief in opposition on April 21, 2020.
3. Based upon the filing date of the brief in opposition, without an extension of time, Mr. Smith's reply brief would need to be filed with the Court by the May 6, 2020 distribution deadline.
4. Mr. Smith respectfully requests that this Court delay distribution of his petition for a writ of certiorari until the June 10, 2020 distribution deadline based upon difficulties resulting from the COVID-19 crisis. As the lead attorney and drafter of the Reply, the undersigned's efforts to draft the reply will be hampered by his involvement in two COVID-19 projects within the office. The work on the projects is in addition to the regular press of business. Additionally, the undersigned is working remotely from home, which has brought daily challenges.

5. The later distribution date creates a thirty-day extension of time on the reply brief which is reasonable given the circumstances.

6. This request comes well before the two days prior to the current distribution date, as specified in the March 19, 2020 order.

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7. Respondent does not object to this request.

DATED this 21st day of April, 2020.

Respectfully submitted,

RENE VALLADARES  
Federal Public Defender of Nevada

/s Brad D. Levenson  
BRAD D. LEVENS  
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## CERTIFICATE OF SERVICE

I hereby declare that on 21st day of April, 2020, I served Petitioner's MOTION TO DELAY DISTRIBUTION OF A PETITION FOR WRIT OF CERTIORARI by depositing an envelope containing the Motion in the United States mail, with first-class postage prepaid, addressed as follows:

Jonathan E. VanBoskerck  
Chief Deputy District Attorney  
200 Lewis Avenue  
Las Vegas, NV 89155

*/s Brad D. Levenson* \_\_\_\_\_  
BRAD D. LEVENS  
Assistant Federal Public Defender