

No. 19-8192

OCTOBER TERM, 2019

IN THE SUPREME COURT OF THE UNITED STATES

John Bejarano, Petitioner,

v.

William Gittere, Warden, et al., Respondents.

On Petition for Writ of Certiorari to the
Nevada Supreme Court

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

CAPITAL CASE

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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 John Bejarano respectfully requests this Court delay distribution of his petition for writ of certiorari in *Bejarano v. Gittere*, No. 19-8192, until the June 10, 2020 distribution date due to difficulties related to COVID-19.

1. John Bejarano filed a petition for writ of certiorari on March 31, 2020, and it was placed on the docket April 6, 2020. In the petition, Mr. Bejarano raised two arguments: (1) 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; and (2) whether the Court should

overrule *Clemons v. Mississippi* as inconsistent with *Apprendi* and its progeny to the extent it allows an appellate court to independently reweigh factors against mitigation to uphold a death sentence.

2. Respondent William Gittere filed his brief in opposition on May 6, 2020.

3. Based upon the filing date of the brief in opposition, without an extension of time, Mr. Bejarano's reply brief would need to be filed with the Court by the May 20, 2020 distribution deadline.

4. Mr. Bejarano 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 twenty-one-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 8th day of May 2020.

Respectfully submitted,

RENE VALLADARES
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/s/ Brad D. Levenson
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CERTIFICATE OF SERVICE

I hereby declare that on 8th day of May 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:

Jennifer Noble
Chief Deputy District Attorney
Washoe County District Attorney Office
One South Sierra Street
Reno, NV 89501

/s/ Brad D. Levenson
BRAD D. LEVENSON
Assistant Federal Public Defender