

No. 19-8239

OCTOBER TERM, 2019

IN THE SUPREME COURT OF THE UNITED STATES

Robert Ybarra, Jr., Petitioner,

v.

William Gittere, Warden and Aaron Ford, Attorney General of Nevada,
Respondents.

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

RENE L. VALLADARES
Federal Public Defender of Nevada
RANDOLPH M. FIEDLER
Counsel of Record
Assistant Federal Public Defender
411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
(702) 388-5819 (Fax)
randolph_fiedler@fd.org

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 Robert Ybarra, Jr., respectfully requests this Court delay distribution of his petition for writ of certiorari in *Ybarra v. Gittere*, No. 19-8239, until the June 10, 2020 distribution date due to difficulties related to COVID-19.

1. Robert Ybarra, Jr., filed a petition for writ of certiorari on March 31, 2020, raising a constitutional question about applying *Hurst v. Florida*, 136 S. Ct. 616 (2016) to Nevada's capital sentencing scheme.

2. Respondent William Gittere filed his brief in opposition on May 11, 2020.

3. Based on the filing date of this brief in opposition, without an extension of time, Mr. Ybarra would need to file his reply brief by May 26, 2020. *See* S. Ct. R. 15(5)–(6).¹

4. Mr. Ybarra respectfully requests that this Court delay distribution of his petition for 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 COVID-19 related office projects. This work is in addition to the regular press of business. Additionally, the undersigned is working remotely from home, which brings daily challenges delaying progress.

5. This later distribution creates a sixteen-day extension of time on the reply brief.

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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¹ Because May 25, 2020 is a federal holiday, the two-week period contemplated under S. Ct. R. 15(5) would extend to May 26, 2020. *See* S. Ct. R. 30(1).

7. On May 11, 2020, I contacted counsel for Respondents, Chief Deputy Attorney General, Heather Dr. Procter. She indicated no opposition to this request.

DATED this 13th day of May 2020.

Respectfully submitted,
Rene Valladares
Federal Public Defender of Nevada

/s/ Randolph M. Fiedler
RANDOLPH M. FIEDLER
Counsel of Record
Assistant Federal Public Defender
411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
randolph_fiedler@fd.org
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby declare that on 13th day of May, 2020, I served this MOTION TO DELAY DISTRIBUTION OF A PETITION FOR WRIT OF CERTIORARI, on the State of Nevada by depositing an envelope containing the motion in the United States mail, with first-class postage prepaid, addressed to the following:

Heather D. Procter
Chief Deputy Attorney General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

Michael A. Wheable
White Pine County District Attorney
County Courthouse
801 Clark St., Suite 3
Ely, NV 89301

/s/ Randolph M. Fiedler
RANDOLPH M. FIEDLER
Counsel of Record
Assistant Federal Public Defender
411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
randolph_fiedler@fd.org
Counsel for Petitioner

Counsel for Petitioner