

No. _____

In the

Supreme Court of the United States

CHRISTIAN GIESEKE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

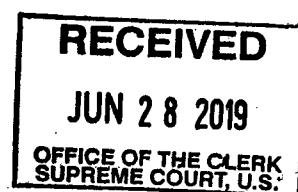
**MOTION FOR EXTENSION OF TIME TO FILE
PETITION FOR A WRIT OF CERTIORARI**

CHRISTIAN GIESEKE

Pro se

Reg. No. 43476-177
FMC Fort Worth
P.O. Box 15330
Fort Worth, Texas 76119-0330
No Phone

Petitioner



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

Petitioner Christian Gieseke respectfully requests that the time for a petition for writ of certiorari in this matter be extended for 61 days to and including Monday, September 9, 2019.

The Court of Appeals issued an order denying Petitioner a certificate of appealability (COA) on April 11, 2019 (see Appendix A, *infra*).

Petitioner's petition for relief from this Court therefore would be due on July 10, 2019, absent an extension. Petitioner is filing this application at least ten days before that date.

The Court has jurisdiction over the judgment under 28 U.S.C. & 1254(1).

Petitioner was convicted in the U.S. District Court for the Northern District of Texas on a guilty plea to a one-count superseding information charging receipt of child pornography pursuant to 18 U.S.C. § 2252A(a)(2) & (b)(1).

Petitioner filed a timely *Motion to Vacate, Set Aside, or Correct Sentence Filed by A Person in Custody Pursuant to 28 U.S.C. § 2255* ("§ 2255 Motion"), arguing *inter alia* that defense counsel was ineffective for failing to investigate and interview his family members, failing to object to the admissibility of evidence that was authenticated by perjury, and failing to move to suppress evidence obtained in an illegal search.

The district court ruled that any admissibility objection would have been meritless, that Petitioner should have encouraged his family – from his jail cell – to contact his defense attorney, and that counsel could have reasonably believed that any motion to suppress would not be supported by defendant's family members who were witnesses to the events, and that it would have lacked merit.

Order in Case No. 3:15-cv-3907-B.

Petitioner timely filed a notice of appeal to the U.S. Court of Appeals for the Fifth Circuit, and filed an application for a certificate of appealability. Case No. 18-10712. The application was denied. *See Appendix A.*

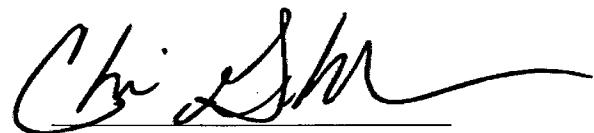
The time to file a petition for a writ of certiorari should be extended for 90 days for the following reasons:

1. Petitioner is an incarcerated pro se litigant, and thus requires more time than a trained legal practitioner with freedom to devote full attention to the matter through the application of such resources as he or she desires to bring to the question.
2. The issues raised are several: First, Petitioner argues that the district court erred by denying Petitioner an evidentiary hearing on evidence that clearly established a genuine issue of material fact, and which – if true – would have entitled him to relief. The issue calls for a long-needed sharpening of the standards for an evidentiary hearing under 28 U.S.C. § 2255 established in *Machibroda v. United States*, 368 U.S. 487 (1962).

3. Second, Petitioner raises an issue of law enforcement malfeasance in false testimony to conceal procedural irregularities in handling evidence. The issue calls for exploration of the effect of such misconduct on a defendant's decision to enter a guilty plea, and the enforcement of a presumed waiver of the right to collaterally attack such conduct when it is subsequently discovered. Just as *Lee v. United States*, --- U.S. ---, 137 S.Ct. 1958, 198 L.Ed.2d 475 (2017), addressed the question of whether subjective facts could be relied upon to undo a plea, the issue explores whether subsequent discovery of official misconduct can be relied upon as extrinsic evidence that a guilty plea was not intelligent or voluntary.
4. Finally, Petitioner raises a substantial issue of ineffective assistance of counsel, and what duties an incarcerated pretrial detainee might have to act to mitigate such ineffectiveness.
5. By extending the date for the petition in this case, the Court is more likely to have the benefit of the rulings in other cases when deciding whether to grant Petitioner's petition. The Court also may have certiorari petitions in those other appeals that it could consider along with Petitioner's petition.
6. An extension will not prejudice Respondents. Petitioner is currently incarcerated and will continue to serve his sentence. Furthermore, the judgment served as the mandate of the Court of Appeals. (See Appendix A, *infra*).

For the foregoing reasons, the Court should extend the time to file a petition for a writ of certiorari in this appeal 61 days to and including September 9, 2019.

Executed June 26, 2019



Christian Gieseke
Reg. No. 43476-177
FMC Fort Worth
P.O. Box 15330
Fort Worth, Texas 76119-0330