

No. _____

Supreme Court, U.S.

FILED

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In The
Supreme Court of the United States

ANGEL RAZ-ALVAREZ,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondents.

**APPLICATION FOR EXTENSION OF TIME TO
FILE PETITION FOR WRIT OF CERTIORARI**

To the Honorable William Breyer,
Associate Justice of the United States Supreme Court
and Circuit Justice for the First Circuit

ANGEL PAZ-ALVAREZ
PROCEEDING PRO-SE
REG. NUM. 40827-069
P.O. BOX 340
SALTERS, SC 29590

Proceeding-Pro Se

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SUPREME COURT, U.S.

The Honorable William Beyer, Associate Justice of the United States Supreme Court and Circuit Justice for the First Circuit:

Applicant-Petitioner, Angel Paz-Alvarez (“Applicant”) respectfully request a thirty (30) extension of time to file a petition for writ of certiorari. Sup. Ct. R. 13.5. The earliest mandate for Applicants to file his petition is December 4, 2019, which is ninety days from the date when the Appeals Court for the First Circuit entered its mandate. *See, Addendum A, Docket Sheet* attached herein. *Addendum B*. The First Circuit denied Petitioner’s motion for rehearing on October 16, 2019. *See Addendum C*.

Background Facts

In September 2012, a grand jury returned an indictment charging Paz and twelve co-defendants with: one count of conspiring to possess with intent to distribute controlled substances, in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(A)(ii); and one count of conspiring to import a controlled substance, in violation of 21 U.S.C. §§ 963, 952, 960(a)(1), and 960(b)(1)(B). (DE 3 at 1-4). The Indictment also included a drug forfeiture allegation, averring that, upon conviction, the defendants, including Paz, “shall forfeit to the United States of America any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offenses and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense(s).” (DE 3 at 9-10).

On Appeal the First Circuit Court erroneity held that petitioner Paz was a third-party to his *own* property, in the indictment, which basically turns the criminal forfeiture process on its head. *See Order attached as Addendum A*:

Pro se appellant Angel Paz-Alvarez appeals from the denial of a motion to strike a preliminary order of forfeiture. The forfeiture order entered in June 2013, but Paz-Alvarez waited until July 2018 to file the motion to strike. *There are multiple issues with the timing and manner of the challenge, any one of which, standing alone, would warrant affirmance. See United States v. Davenport, 668 F.3d 1316, 1320 (11th Cir. 2012) ("A codefendant in a criminal case is properly viewed as a third party with regard to another defendant's forfeiture of property."); United States v. Catala, 870 F.3d 6, 9 (1st Cir. 2017) ("[21 U.S.C. § 853(n)] sets forth the procedures through which a third party can challenge a preliminary order of forfeiture."); 21 U.S.C. § 853(n)(2) (establishing a 30-day window during which any third party who wishes to assert an interest in criminally forfeited property may file a petition for a hearing).*

In any event, even if those issues might be set to the side, after careful review of the record and the filings of the parties, we conclude that the district court did not err in denying the motion. *See United States v. George, 886 F.3d 31, 39 (1st Cir. 2018) ("Where ... a claim of error directed at a forfeiture order has been duly preserved, we review challenges to the ordering court's legal conclusions de novo and challenges to its factual findings for clear error.").*

Order, addendum A.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1257.

REASONS EXTENSION IS JUSTIFIED

Supreme Court Rule 13.5 provides that "An application to extend the time to file shall set out the basis for jurisdiction in this Court, identify the judgment sought to be reviewed, include a copy of the opinion and any order respecting rehearing, and set out specific

REASONS FOR GRANTING THE EXTENTION

The Appellant had a statutory right to have the judge determine the forfeit ability of his property in accordance with Rule 32.2 (c) of the Federal Rules of

Criminal Procedure. (DE 289 at 5) . The defendant was not required to contest the criminal forfeiture under 21 U.S. C. S 853 (n) and Rule 32.2 (c) of the Federal Rules of Criminal Procedure, simply because the criminal action was plainly directed at him. Mr. Paz was not required to file a claim nor requested to have to request a hearing pursuant to Rule 32.2 (c) of the Federal Rules of Criminal Procedure and 21 U.S. C. S 853 (n) . See, S. Union Co. v. United States, 132 S. Ct. 344, 2350—51 (2012) (extending federal criminal forfeiture as in fines) ; (citing Oregon v. Ice, 555 U.S. 160, 168 (200 9) ; see also Honeycutt v. United States, No. 16—142. Argued March 29, 2017—Decided June 5, 2017 :

Because forfeiture pursuant to §853(a)(1) is limited to property the defendant himself actually acquired as the result of the crime, that provision does not permit forfeiture with regard to Terry Honeycutt, who had no ownership interest in his brother's store and did not personally benefit from the illegal sales. Pp. 3–11.

Section 853(a) limits forfeiture to property flowing from, §853(a)(1), or used in, §853(a)(2), the crime itself—providing the first clue that the statute does not countenance joint and several liability,

See, id.

CONCLUSION

For the foregoing reasons and good cause shown, Applicants respectfully request a thirty (30) day extension and that this Court grant this application for an extension of time to file a petition for writ of certiorari.

RESPECTFULLY SUBMITTED.

s/ ANGEL PAZ-ALVAREZ

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