

No.

IN THE
Supreme Court of the United States

BARRY C. GARCIA, PETITIONER,

V.

STATE OF NORTH DAKOTA, RESPONDENT.

On Petition For A Writ Of Certiorari To
The Supreme Court of North Dakota

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

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TO THE HONORABLE NEIL M. GORSUCH,
Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Eighth Circuit:

Petitioner, Barry C. Garcia, by and through undersigned counsel, and pursuant to 28 U.S.C. § 1257(a) and Supreme Court Rule 13.5, respectfully requests an extension of time of 30 days within which to file his Petition for a Writ of Certiorari to the Supreme Court of North Dakota.

In this case, four relevant decisions have been issued: The corrected opinion of the Supreme Court of North Dakota was filed on May 24, 2019 (attached as Appendix A), which affirmed the denial of relief of the lower court (attached as Appendix B), as well as an opinion and order from earlier litigation in the case from the Supreme Court of North Dakota (attached as Appendix C) and the District Court (attached as Appendix D).

Counsel for the State, Birch Burdick, has consented to this request.

Mr. Garcia's time to petition for a Writ of Certiorari in this Court expires on August 22, 2019. Petitioner shows the following good cause in support of this request:

1. Undersigned counsel Mills has primary responsibility for the briefing before this Court. Although he has been working expeditiously to complete the briefing, his case obligations and work schedule will make it impossible for him to compe-

tently complete the petition in advance of the deadline.

2. Between now and the current deadline, Mills has a petition for writ of habeas corpus due in a capital case (July 30), a merits brief due in a capital direct appeal (July 19), a Reply Brief in a juvenile life without parole case (August 12), and oral argument in a state capital post-conviction case (August 9). Shortly after the present deadline, Mills has two merits stage briefs due before this Court, one in a capital case (August 20) and one in a juvenile life without possibility of parole case (August 27).

3. Counsel's work schedule also includes family vacation scheduled for August 10-15. In light of these obligations, the extension is warranted.

4. A Petition for a Writ of Certiorari is essential as there are several federal constitutional issues implicated by the lower court's adjudication, including issues likely to be addressed by this Court in *Mathena v. Malvo*, 18-217, where the Court has already granted merits review. To preserve Petitioner's rights, it is essential to pursue relief before this Court.

5. Undersigned counsel can adequately present the relevant issues to this Court only upon the receipt of further time to adequately prepare. Accordingly, counsel respectfully requests that this Court grant an extension.

WHEREFORE, undersigned counsel respectfully requests an extension of time of thirty days within which to file a Petition for a Writ of Certiorari, up to and including Saturday, September 21, 2019.

Respectfully submitted,

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