

Jan 28, 2020 Supreme Court, U.S.
FILED
JAN 28 2020
OFFICE OF THE CLERK

Attn of: Clerk for the U.S. Supreme Court

RE: 2nd Circuit Court of Appeals

Docket no: 18-3817 mandate issued Jan 22, 2020
and En Banc denied Jan 15, 2020

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FEB - 4 2020
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SUPREME COURT, U.S.

Dear Clerk:

Considering I have 90 days from En Banc denial to submit Writ of Certiorari, in addition that - this venue is new to a pro-se litigant like myself and I'm required to read and study the rules of this Court. Furthermore, taking into account the circumstances of said incarceration (ei- limited movements, access to Law Library, unforeseen prison lock-downs and etc)..then, I'm required to type Writ, then assemble the full record from below, starting with the Wyoming County Supreme Court (54 Misc.3d 1206(a) (july 19, 2014), Appellate Division Fourth Dept (145 Ad.3d 1464 (Dec 23, 2016), NYS Court of Appeals (29 NY.3d 907 (May 9, 2017), NYS (W) District Court in Albany County (2018 WL 6599019 (Dec 17, 2018), 2nd Circuit Court of Appeals (785 Fed.Appx. 20 (Nov 19, 2020) and En Banc denied (Jan 15, 2020)...I'm humbly asking for an additional 90 days to submit all necessary papers for this Court's consideration in granting Writ.

All state and Federal Courts are in agreement that: to revoke a granted privilege, discretion is the correct standard "...which is contrary to clearly established precedence out of this Supreme Court ruling that " the clear and convincing factual evidence standard is controlling, when it comes to revocations, which are to be based on substantiated and supported facts that a violation occurred during the granted privilege being excised by grantee, thus mandating revocation.

But, according to all the above mentioned state and federal courts, discretion is controlling. This U.S. Supreme Court must set the record straight that: discretion standard is to be utilized to grant any privilege and the Clear and convincing factual

standard that a violation occurred is to be used to revoke any privilege.
according to: Morrissey V. Brewer 408 U.S 471, 487 (1972); Greenholtz V. Inmates of Nebraska Penal and Correction Complex 442 U.S. 1, 9-11 (U.S.Neb. 1979); and Kentucky Dept of Corrections V. Thompson 490 U.S. 454, 459-464 (1989).. in which, all the courts were made aware of and cited by yours truly at all venues.

I thank you in advance for the requested additional 90 days extension, and or any other deadline this Court shall deem appropriate, considering the above forementioned circumstances surrounding my pro-se status and incarceration.

cc: none

Attica 09B2727
Sincerely, I am

Frank Garcia, 09B2727

Attica Correctional Facility

639 Exchange street

Attica, NY 14011-0149