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IN THE
SUPREME COURT OF THE UNITED STATES

IN THE MATTER OF CAROLYN BARNES, Appellant

v.

BODA, ET AL, ALTER EGOS OF SUPREME COURT OF TEXAS,
Appellee

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF TEXAS
AUSTIN, TEXAS

MOTION TO DIRECT THE CLERK TO FILE AN OUT OF TIME
PETITION FOR WRIT OF CERTIORARI AND APPENDICES

Respectfully submitted:

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Pursuant to Rules 13.5, 21, 22, and 33(d) of the Rules of this Court, the Petitioner, Carolyn Barnes, respectfully submits this Motion to Direct the Clerk to File the Motion to Proceed, Motion to Enlarge, Petition for Writ of Certiorari and Appendices Out of Time, and in support of this motion would show this Honorable Court as follows:

1. Petitioner is entitled to egalitarian process under Rule 6 (d) and the mailbox rule.
2. This motion is filed in response to the letter dated August 5, 2019, which Petitioner just received on August 16, 2019.
3. This Court is aware that the federal courts have refused to grant Petitioner access to PACER, which is a common practice in dealing with those who are labeled "*pro se*" and "*pauper*" and "*prisoner*."
4. This Court is aware that the fastest any package or letter has ever reached Petitioner from the United States Supreme Court is five days. This last letter took 11 days.
5. Rule 6 (d) is a federal rule of procedure that recognizes the inequalities of mail service and provides that 3 days should be added to any due date when the U.S. mails are used to communicate with a party. "Pro se" or real people are parties and are the only parties impacted by this rule.
6. The common law mailbox rule provides that a document is filed the day it is properly placed in the mail. The mailbox rule is a common law principle that recognizes the inequalities between those who are located in

the same city as the court and can just hand deliver the pleadings or can access PACER and e-file documents with the courts and those who still have to rely upon the mail due to the distance between the court and the party filing documents and their lack of access to PACER.

7. If the federal courts are going to repeal or suspend this procedural rule and common law rule to deny equal access to the courts, then Petitioner is entitled to due process notice so that she could adjust her actions to comply with the new rules.

8. Petitioner had no notice whatsoever that either Rule 6 (d) or the mailbox rule had been repealed or suspended, or that they would not apply in this case.

9. Petitioner has at all times acted in utmost good faith within the financial and distance constraints she has been violently coerced to operate in.

10. The only rule cited in the Court's letter is Rule 14.5. However, Rule 14.5 does not explain the rejection.¹ While it seems the Court can manipulate the rule to reject petitions submitted timely and in good faith by not allowing Rule 6 (d) or the mail box rule that provides that 3 days are to be added to the due date when documents are mailed and that documents are filed the date they are placed in the mailbox, it is difficult to believe that the Court

¹ "If the Clerk determines that a petition submitted timely and in good faith is in a form that does not comply with this Rule or with Rule 33 or Rule 34, the Clerk will return it with a letter indicating the deficiency. A corrected petition submitted in accordance with Rule 29.2 no more than 60 days after the date of the Clerk's letter will be deemed timely."

would do this when these procedural and common law rules are ubiquitously recognized.

11. Petitioner went to mail her petition on Saturday, July 27, 2019, but the FedEx office said the mail would not go out until Monday. So, Petitioner returned the following Monday, July 29, 2019 and placed the corrected petition in the mail. The rules also provide that if the deadline falls on a weekend, the due date is the following business day.

12. Petitioner requests this Court to reconsider the application of the rules, or grant this Motion to Direct the Clerk to File an Out of Time Petition for Writ of Certiorari, Appendices, and other accompanying motions and extend the time, if necessary, to file these documents.

13. Good cause exists to reconsider the Clerk's position because Petitioner honestly believed that if the due date falls on a weekend, say for example Saturday, July 27, 2019, then the due date rolls over to the next business day, which was Monday, July 29, 2019. Further, under the federal rules, if a party is served by mail, as Petitioner is, then three days are added to the date.² So if one adds 3 days to May 28, 2019, the deadline to file the corrected petition is 60 days from June 1, 2019, or July 31, 2019. Further, the corrected petition is filed the day it is placed in the mail, which was July 29, 2019. Therefore, either way, the corrected petition was timely filed in good faith.

² This is not really enough because it takes at least five days and often more for Petitioner to receive mail from this Court. For instance, the rejection letter was dated August 5, 2019, but Petitioner did not receive the package until Friday, August 16, 2019. That is 11 days to go from Washington, D.C. to Leander, Texas.

14. Petitioner has successfully relied upon these rules for 30 years and never had notice that this manner of calculating due dates had changed.

15. Petitioner has no control over the mail, the distance between Leander, Texas and Washington, D.C., or the application of long-standing rules. Petitioner is entitled to substantive due process and egalitarian treatment under Rule 6 (d), the mailbox rule, and the next business day rule.³ Discriminatory acts or unequal applications of law are unconstitutional *per se*.⁴

16. The rejection of the corrected Petition for Writ of Certiorari when such constitutional issues are involved is a cruel and unusual punishment imposed without due process. The Clerk's decision to reject the documents and return them was clearly erroneous or an abuse of discretion.⁵

17. Petitioner is only requesting a fair and reasonable interpretation and application of Rule 6 (d) and the common law mailbox rule in the best interest of fairness and justice. Rules should never be used to repeal the bill of rights or block an appeal on constitutional issues. This elevation of rules over rights is the same tactics employed in the Texas courts to deprive Petitioner of any right to be heard or to present her appeals for over eight years now. This was the same tactic employed by Justice Alito to cruelly deny the review of the void, fraudulent, and wrongful conviction, which is based on

³ *Houston v. Lack*, 487 US 266, 108 S.Ct. 2379 (1988).

⁴ U.S. Const. Art. IV, §2, cl. 1; U.S. Const. Amend. 14; Tex. Const. Art. I, §§3, 3a.

⁵ The Clerk refused to acknowledge the 3 days added for mail delivery and the effect of the mailbox rule in order to reject the petition. No one provided any semblance of due process before stripping Barnes of equal protection under Rule 6 (d) and the mailbox rule.

pure misogynous malice with retaliatory animus and continues to be used to impose further, additional, excessive, disproportionate, cruel, and unusual punishments and permanent disfranchisements to nullify Petitioner's human rights.

18. Once again, by the time Petitioner is made aware of the misuse of procedural rules to obstruct review of a series of serious and significant violations of the Constitution and laws of the United States and Texas, it is too late; there is no remedy available to correct a good faith error caused by a justifiable reliance on the law. This is an artificial impediment to fair and equal access to the courts.

19. The law also requires the courts to consider the intent behind the rules when applying the rules and interpret the rules in a manner that would best serve fairness, equality, and justice. When the result is punitive and case determinative, the rules should be construed liberally in favor of the person injured thereby and against the author of the rules. Rules cannot be used to disfranchise the people of fundamental rights, as Petitioner has been robbed of her fundamental human rights for over 8 years now. For Petitioner to enjoy equal protection under the law, she must be granted equal footing with others, but misogynous malice is ubiquitous and rampant. Politically coalesced juridical officials can so easily collude to disfranchise anyone they desire. These white privileged male juridical officials inflicted torture with

impunity; Petitioner was deprived any avenue of relief and denied any remedy under the law.⁶

20. Justice Alito and his Clerks allow lower courts who target political prisoners, manipulate jurisdiction and deadlines, and distort the law and facts to cut-off review by this Court. The onerous burdens, hardships, and obstruction are falling in an unequal manner on these political targets who are summarily reduced to “pauper,” “pro se,” and “prisoner” status to manipulate this Court to reject their constitutional claims so that the judiciary can continue to oppress, abuse, disfranchise, and punish at will or on a capricious whim with retaliatory animus, official bigotry, and misogynous malice. This is a willful obstruction of justice that has lasted for over eight years. Now, in the one Court left, Petitioner is still being denied a right to be heard due to stereotyping prejudices that lead to unjust treatment under the law and unfair application of the rules.⁷

21. It is patently unfair to ignore Petitioner’s pleas for assistance, while calculating ways to reject and send back her petitions for writ of certiorari.

⁶ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984) Sec. 1: As used herein, the term “torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” CAT § 1.

⁷ Petitioner filed her election to be heard on June 15, 2010 and she did not ever waive or withdraw that right; yet, it has been denied to her at all times. These artificial impediments to equal access to the courts are used to suspend the bill of rights on an *ad hoc* basis to deprive political targets of their due process rights and deny them access to their courts to redress their grievances or secure their liberties.

Whether they are rejected or denied after Petitioner is required to amend, cut, delete, and abandon claims, the result is the same. White men in positions of power to abuse others are free to do so at will with impunity in the United States of America. If they can do this to Petitioner, they can do it to anyone.

22. Rules of court are oppressively imposed or arbitrarily suspended to repeal the bill of rights and allowed lower courts to play games to manipulate this Court and deprive those aggrieved by political oppression from ever obtaining a fair and impartial review of criminal conduct by the judiciary. That is why these atrocities continue to be repeated and yet always escape review.

23. The courts cannot formulate rules and suspend them without warning to circumvent the presentation of a redress of grievances when it deals with constitutional issues. There is no way available for Petitioner to enforce her fundamental rights when the judiciary is the department infringing upon them and no way to vindicate the violation of those fundamental rights when it is the judiciary that tramples them.

24. Texas Courts have routinely used its own rules to regulate and obstruct access to the courts in violation of Tex. Const. Art. 2, Sec. 1 and Tex. Const. Art. 1, Sec. 13, 19, and 29. No rule of court can circumvent, abrogate, infringe upon, interfere with, or impair the fundamental rights retained by the people. Petitioner has been consistently deprived of the rights guaranteed by the 1st, 4th, 5th, 6th, 8th, 9th, 10th, and 14th amendments to the United States

Constitution for over eight years. It is a perplexing coincidence that all of the members of the judiciary, at every level, are from the same political party as the prosecutors who framed Petitioner and as the party who paid the bribe to the false accuser from misappropriated state funds.

25. It is in the best interest of justice, fairness, and public policy to grant the requested relief and to suspend or override any rules of court that are impeding access to and a review by this Court. The reasons for granting review in this case are just as compelling as the reason to grant the requested relief and allow the filing of the petition for writ of certiorari even if Rule 6 (d) and the mailbox rule are ignored or distorted to make the filing appear to be "out of time."

26. Petitioner entered into a social compact with the government presuming that the government would be acting in good faith and in the interest of fairness and justice. The social compact continues to be breached by the government. Petitioner has not ever voluntarily waived any of her rights, they were violently stripped from her. Petitioner never agreed to the degradation of her rights down to mere privileges that can be revoked at the whim of the government. Petitioner has not had any rights, legal capacity, or standing in any of the courts for over eight years. Petitioner did not knowingly, intelligently, and voluntarily agree to forfeit her right to review by higher courts; yet, at every stage she has been obstructed, blocked, and

refused entrance, standing, legal capacity, and right to redress grievances or vindicate the violation of her fundamental rights.

27. Rule 10 of this Court's Rules provides that “[r]eview on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons.” Those same compelling reasons should also permit the proper application of Rule 6 (d) and the mailbox rule for just cause, in the best interest of justice and fairness, and on public policy grounds to ensure that all people have equal and fair access to the courts and are not deprived of access based on semantics and misunderstandings of procedural rules.

28. Petitioner demonstrated that the Texas judiciary completely annihilated over 75 years of clear constitutional law established by this Court and willfully, knowingly, intentionally, and deliberately decided an important federal question in a way that conflicts with the decision of other state courts of last resort and denied Petitioner the equal protection and treatment under the law and due process; and Petitioner proved that the Texas judiciary decided an important question of federal law that has not been, but should be, settled by this Court, or decided an important federal question in a way that conflicts with relevant decisions of this Court; yet, this Court looked away after Justice Alito required Petitioner to gut her Petition to coerce it within the arbitrary page limit. There was more than just cause to enlarge the page limit. Justice compels this Court to review the actions of the Texas judiciary

in this matter because procedural rules do not override or repeal fundamental human rights protected by CLUST. Petitioner is only seeking relief and review so that justice may be done and the greater good of society can be served. Petitioner is only seeking a fair and just consideration of the compelling issues in this case because no citizen of the United States should ever be subjected to pretrial torture and pretrial punishment, oppression, and cruel and unusual punishment and permanent disfranchisement for political, social, religious, or other oppressive reason or based on gender suppression.

29. Petitioner requests leave of this Court to file the corrected Amended Petition for Writ of Certiorari and the accompanying documents mailed to this Court on July 29, 2019, and requests that this Court direct the clerk to accept and file the documents even though they may be viewed as "out of time" because they were filed in good faith and the failure to file them earlier was the direct result of having relied upon Rule 6 (d) FRCP and the common law mailbox rule.

30. It is not like Petitioner thumbed her nose at the law or willfully and intentionally missed the deadline or even exhibited a conscious disregard for the deadline when she has diligently jumped through every hoop and hurdle thrown up by the clerks for the past several years.

31. Due process should provide for timely notice of any defect and parties should be given an opportunity to show cause why some adverse action or consequence should not be taken or result from any such defect before any

harm and expense is imposed. The stress of responding and the costs of mailing the documents is overwhelming to someone in Petitioner's position who has been targeted by one's own government for summary destruction and betrayed by the courts upon which she placed her confidence for 30 years.

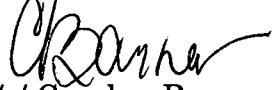
32. Good and just cause exists to grant this motion to direct the clerk to file the Petition for writ of certiorari and any amendments thereto and all Appendices and to extend time for filing same. Good and just cause exists and it is in the best interest of justice for this Court to grant the relief requested herein.

34. Petitioner prays that this Court grant the requested relief and direct the clerk to file the Petition for Writ of Certiorari and any amendments thereto along with the Appendices and any other documents required by this Court even if they appear to be "out of time." Petitioner sincerely and honestly believes that the documents were timely filed. Petitioner relied in good faith on the language of the rules and substantially changed her position in reliance upon that belief. Had Petitioner known that Rules would be applied as interpreted and applied by the Clerk, Petitioner would have filed this motion or a motion to extend time for filing the corrected Amended Petition for Writ of Certiorari at the time it was filed.

35. Petitioner prays for such other and further relief to which she may show herself to be justly entitled, including the relief requested in the Motion to Enlarge Page Limit filed on even date herewith.

Dated: August 22, 2019.

Respectfully submitted,


/s/ Carolyn Barnes

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DECLARATION OF CAROLYN BARNES

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I am filing this motion 6 days after receiving the letter dated August 5, 2019 on August 16, 2019. I have read the foregoing motion and all the facts stated therein are within my personal knowledge and are true and correct. I declare these facts under declaration of the penalty of perjury.

Executed this 22nd day of August 2019 at Leander, Texas.



/s/ Carolyn Barnes

CAROLYN BARNES, J.D., PH.D.

**Additional material
from this filing is
available in the
Clerk's Office.**