

SC App. No - 19A683

Motion to direct (request) the clerk to file petition out of time

Dear Clerk of Supreme Court of United States

Sub: Coronavirus (COVID-19) impact on corrected petition-resubmission deadline.

Petitioner is a whistleblower on behalf of United States of America in anti- Cancer clinical trial drug fraud & misuse of federal government grants for clinical Cancer research by defendant Dave. S.B. Hoon & Diego M Marzese of John Wayne Cancer institute California.

Petition for a writ of certiorari was due to be filed by (including) 14th Feb 2020 (Please note weekend & observance of president's day on 17th Feb).

In accordance with Rule 13.5, this Petition for a writ of certiorari application was timely filed on next business day (i.e. 18th Feb 2020).

However, the petition was returned for corrections by the office of clerk and asked to resubmit by 20

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Due to the sudden Lockdown (in light of ongoing public health crisis of COVID-19) and Curfew measures implemented in both countries (India and USA), it was not possible to resubmit this writ of certiorari in April. difficulties relating to COVID-19 and circumstances hindered the resubmission internationally through May.

Local restrictions and Curfews in certain areas across the U.S.A and internationally outside US (red zone of India) caused unavoidable delays. Sudden spike in COVID-19 after the reopening caused service delays.

As soon as the lockdown was lifted whistleblower petitioner again mailed paper copy of corrected format 2nd time on Tuesday 9th June 2020, paper copy of the foregoing (an original + 10 copies) by priority international mail courier to the Clerk of the Court of the United States Supreme Court.

However, the petition was again returned on 1st July 2020 and mailed back to india.

On 23rd March 2020 supreme court had issued an order extending deadline to file writ of certiorari was extended by 150 days due to public health crisis of COVID-19. it was further ordered that Motion for extension of time rule 30.4 will be granted if grounds for application is difficulty relating to covid-19.

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This Petition for a writ of certiorari was returned 3 times since its first "timely" submission on 18th Feb 2020 to Supreme court, the returned documents were then forwarded to international mailing address and got with-held / jammed by U.S Customs and border service that accumulated in delay in processing.

Petitioner tried to reach office of the clerk of supreme court of United states several time via phone in-between April to June but was greeted with voice mail only.

In light of ongoing public health crisis of COVID-19 had the Supreme court allowed E-Filing (electronic filing) instead of regular paper filing protocol the correction deadline would have been accomplished without hurdles.

it is humble request to Office of clerk of united states to file this petition out of time.

A handwritten signature in black ink, appearing to be the initials 'MS' or a similar stylized mark.

MS on behalf of United States of America

712 H. St, NE Washington DC 20002

Monday July 27, 2020

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 18 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

M. S.,

Petitioner,

v.

DAVE S.B. HOON, John Wayne Cancer
Institute; OFFICE OF CHIEF
ADMINISTRATIVE HEARING OFFICER,

Respondents.

No. 18-71918

DHS No. 17B00060

MEMORANDUM*

On Petition for Review of an Order of the
Department of Homeland Security

Submitted June 11, 2019**

Before: CANBY, GRABER, and MURGUIA, Circuit Judges.

M.S. petitions pro se for review of the Office of the Chief Administrative Hearing Officer's ("OCAHO") order dismissing her complaint alleging national origin and citizenship status discrimination, retaliation, and misuse of documents in violation of the Immigration Reform and Control Act, 8 U.S.C. § 1324b. We

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction under 8 U.S.C. § 1324b(i)(1). We review de novo the Administrative Law Judge's ("ALJ") conclusions of law, and for substantial evidence the ALJ's findings of fact. *Mester Mfg. Co. v. INS*, 879 F.2d 561, 565 (9th Cir. 1989). We deny the petition for review.

The ALJ properly dismissed M.S.'s complaint because M.S. failed to file a timely charge with the Department of Justice's Immigrant and Employee Rights Section before filing her complaint with OCAHO. *See* 8 U.S.C. § 1324b(d)(3); *cf.* *Dakarapu v. Arvy Tech, Inc.*, 13 OCAHO 1308, *4 (Feb. 16, 2018) (emails must contain sufficient information to put agency on notice of allegations of 8 U.S.C. § 1324b discrimination to constitute a timely charge under 8 U.S.C. § 1324b(d)(3)). We do not consider any argument or evidence M.S. failed to raise or include in her response to the order to show cause issued by the ALJ regarding the timeliness of M.S.'s complaint. We reject as unpersuasive M.S.'s equitable tolling argument. *See Chaffer v. Prosper*, 592 F.3d 1046, 1048 (9th Cir. 2010) ("A petitioner seeking equitable tolling bears the heavy burden of showing . . . some extraordinary circumstance stood in [her] way." (internal quotation marks omitted)).

The district court did not abuse its discretion in denying M.S.'s motion for reconsideration because M.S. failed to establish any basis for such relief. *See Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir.

1993) (standard of review and setting forth grounds for reconsideration).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

We reject as unpersuasive M.S.'s contentions regarding disqualifying respondent Hoon's counsel, error by the ALJ, the False Claims Act, and fiduciary duty.

M.S.'s motion to treat her correspondence filed at Docket Entry No. 44 as her reply brief (Docket Entry No. 53) is granted. The brief has been filed and considered.

M.S.'s correspondence filed at Docket Entry No. 54 is construed as a motion to strike respondents' excerpts of record and is denied.

PETITION FOR REVIEW DENIED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 17 2019

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U.S. COURT OF APPEALS

M. S.,

Petitioner,

v.

DAVE S.B. HOON, John Wayne Cancer
Institute; OFFICE OF CHIEF
ADMINISTRATIVE HEARING OFFICER,

Respondents.

No. 18-71918

DHS No. 17B00060
Homeland Security

ORDER

Before: CANBY, GRABER, and MURGUIA, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See Fed. R. App. P. 35.*

M.S.'s petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 64) are denied.

No further filings will be entertained in this closed case.

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