No_____

IN THE

Supreme Court of the United States

Frank L. Amodeo,
Petitioner,

v.

United States of America,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE PETITION FOR WRIT OF CERTIORARI

APPLICATION TO THE HONORABLE JUSTICE CLARENCE THOMAS

Coralice Diaz-Sampedro, Esq.
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Attorney for Applicant/Petitioner
Counsel of Record

August 25, 2021

APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Frank L. Amodeo hereby requests a 60-day extension of time within which to file a petition for a writ of certiorari up to and including Tuesday, November 23, 2021.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The opinion for which review is sought is *USA v. Frank A modeo, Case* No. 19-10960, consolidated with case No.18-12845 (November 30, 2020) (attached as Exhibit 1). The United States Court of Appeals for the 11th Circuit denied Applicant's motion for rehearing or modification on July 26, 2021 (attached as Exhibit 2).

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254(1). Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, the petition for a writ of certiorari is due to be filed on or before September 24, 2021. In accordance with Rule 13.5, this application is being filed more than 10 days in advance of the filing date for the petition for a writ of certiorari.

REASONS JUSTIFYING AN EXTENSION OF TIME

Applicant respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari seeking review of the decision of the United States Court of Appeals for the 11th Circuit in this case, up to and including November 23, 2021.

The extension of time is necessary because of the press of other client business. For example, in the coming months, several overlapping commitments representing other clients in the United States Court of Appeals for the 11th Circuit, including various Appellate Briefs and replies. Counsel currently has to work on the following: USA v. John Cao, Case No.21-10643, appellate brief due on August 30, 2021; USA v. Frank Amodeo, Case No. 21-11872, appellate brief due on September 21, 2021, Michael Watson v. USA, Case No. 20-14698, appellate brief due on October 22, 2021.

The extension of time is also necessary because the subject of this petition for certiorari comes from two cases which were consolidated by the Eleventh Circuit Court of Appeals. For the foregoing reason, counsel has to review and study both cases in order to provide effective assistance of counsel on this matter and needs the additional time to thoroughly review the voluminous number documentation, pleadings and orders in cases No. 19-10960 and No.18-12845.

A 60-day extension for the Applicant would allow counsel the necessary amount of time to effectively contribute to all open matters including Applicant's petition as well as other client business abroad.

Counsel for Petitioner intends to ask this Court to grant review on the question of whether a coram nobis petition based upon a retroactive change in law is subject to the doctrine of latches.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 60 days, up to and including November 23, 2021, within which to file a petition for a writ of certiorari in this Court.

Respectfully Submitted,

Coralice Diaz-Sampedro, Esq.
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August 25, 2021

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

July 26, 2021

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 19-10960-AA
Case Style: USA v. Frank Amodeo
District Court Docket No: 6:08-cr-00176-JA-KRS-1

The enclosed order has been entered on petition(s) for rehearing.

See Rule 41, Federal Rules of Appellate Procedure, and Eleventh Circuit Rule 41-1 for information regarding issuance and stay of mandate.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: T. L. Searcy, AA/lt
Phone #: (404) 335-6180

REHG-1 Ltr Order Petition Rehearing

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 18-12845-AA ; 19-10960 -AA

FRANK L. AMODEO,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA,

Respondent - Appellee.

Appeal from the United States District Court
for the Middle District of Florida

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

BEFORE: WILLIAM PRYOR, Chief Judge, NEWSOM and ANDERSON, Circuit Judges

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. (FRAP 35) The Petition for Panel Rehearing is also denied. (FRAP 40)

ORD-46

EXHIBIT 2

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

Nos. 18-12845, 19-10960
Non-Argument Calendar

D.C. Docket Nos. 6:18-cv-00316-JA-KRS; 6:08-cr-00176-JA-KRS-1

FRANK L. AMODEO,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeals from the United States District Court
for the Middle District of Florida

(November 30, 2020)

Before WILLIAM PRYOR, Chief Judge, NEWSOM and ANDERSON, Circuit Judges.

PER CURIAM:

Frank Amodeo, a federal prisoner, appeals the denial of his motions to appoint counsel and for relief from the judgment. Amodeo sought the assistance of counsel to litigate a petition for writ of error coram nobis in which he challenged an order of forfeiture entered more than eight years earlier in a criminal proceeding. The district court dismissed Amodeo's petition as barred by laches and then denied his related motion to appoint counsel as moot. Later, the district court ruled that Amodeo failed to present an adequate reason to justify relief from the judgment. *See* Fed. R. Civ. P. 60(b). Amodeo has abandoned any challenge that he could have made to the dismissal of his petition by raising in his initial brief only arguments about the denial of appointed counsel. *See Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 680 (11th Cir. 2014). We affirm.

We review the denial of appointed counsel and relief from a judgment for abuse of discretion. *See United States v. Webb*, 565 F.3d 789, 793 (11th Cir. 2009) (counsel); *Lugo v. Sec'y, Fla. Dep't of Corr.*, 750 F.3d 1198, 1207 (11th Cir. 2014) (relief from judgment). Under that standard, "we affirm unless we determine that the district court applied an incorrect legal standard, failed to follow proper procedures in making the relevant determination, or made findings of fact that are clearly erroneous." *Lugo*, 750 F.3d at 1207. We can affirm for any reason supported by the record. *United States v. Al-Arian*, 514 F.3d 1184, 1189 (11th Cir. 2008).

The district court did not abuse its discretion by denying Amodeo's motions for appointed counsel and for relief from that judgment. Amodeo had "no constitutional right to coram nobis counsel," *Toles v. Jones*, 888 F.2d 95, 99 (11th Cir. 1989), nor did "the interests of justice or due process" require the district court to appoint him counsel, *Schultz v. Wainwright*, 701 F.2d 900, 901 (11th Cir. 1983); 18 U.S.C. § 3006A(a)(1). The Rules of Civil Procedure provide only for the appointment of a legal guardian, which Amodeo has already. *See* Fed. R. Civ. P. 17(c). Amodeo also was not entitled to the appointment of counsel by statute because he did not "seek[] relief under section 2241, 2254, or 2255 of title 28." 18 U.S.C. § 3006A(a)(2). It would have been futile to appoint counsel to pursue a petition that Amodeo does not dispute is barred by laches. And Amodeo identified no extraordinary circumstance that merited relief from an order denying him appointed counsel more than eight months earlier. *See Lugo*, 750 F.3d at 1210; *see also* Fed. R. Civ. P. 60(c)(1) (requiring a Rule 60 motion be "made within a reasonable time").

We **AFFIRM** the denial of Amodeo's motions for counsel and for postjudgment relief.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

November 30, 2020

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 18-12845-AA ; 19-10960 -AA
Case Style: Frank Amodeo v. USA
District Court Docket No: 6:18-cv-00316-JA-KRS
Secondary Case Number: 6:08-cr-00176-JA-KRS-1

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing, are available at www.ca11.uscourts.gov. Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call T. L. Searcy, AA at (404) 335-6180.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Jeff R. Patch
Phone #: 404-335-6151

OPIN-1 Ntc of Issuance of Opinion