

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Antonio M. Branco - Petitioner
Vs.
Commonwealth of Massachusetts - Respondents

APPLICATION TO INDIVIDUAL JUSTICE
TO EXTEND TIME TO FILE PETITION FOR A
WRIT OF CERTIORARI (S.Ct Rule 13.5)

Antonio M. Branco on behalf of himself requests that Honorable Justice Stephen G. Breyer, of the United States Supreme Court extend the time for filing a Petition for Writ of Certiorari to the United States Supreme Court, in the matter of Antonio M. Branco V. Commonwealth of Massachusetts, First Circuit Court of Appeals Docket No. 21-1310, from February 22, 2022 up and to include April 21, 2022.

GROUND FOR RELIEF

Judgements Below

1. On February 5, 2020 the Petitioner filed Petition for Writ of Habeas Corpus pursuant to 28 USC § 2254 to U.S. District Court for Massachusetts (Distr.). A copy is hereto attached.

2. On March 18, 2021 the District Court dismissed the Petition on procedural grounds (see attached copy of Distr. Ct. Docket #47 and 48).
3. On March 22, 2021 the Petitioner filed Objections to the District Courts Report and Recommendation (R & R). See Docket # 51
4. On April 19, 2021 the Petitioner duly Appealed the dismissal to the U.S. Court of Appeals for the First Circuit. (See Distr. Court Docket # 54).
5. On November 22, 2021 the First Circuit affirmed the lower Courts Order on procedural grounds (the basis for this Petition for Writ of Certiorari to this Most Honorable Court). A copy of that Order needed by this Court for inclusion with this Application is unavailable for same reason that Petitioner is requesting extension of time here (documents needed for inclusion in Appendix to Certiorari have been misplaced by agents of this Institution at Petitioners prior location at Norfolk, as has the original copy of the above 11-22-21 Order needed for this Application). The Petitioner has made various requests of lower Courts for a copy of the Order but remains awaiting the First Circuits response. That Order should however be available electronically from the First Circuits Record and Docket. The Petitioner

Headnote ① Attached please find copies of Petitioners requests dated [January 2, 2022, February 8, 2022 and March 11, 2022]

has no electronic abilities from Institution and thus respectfully refers this Most Honorable Court to the First Circuits Record and Docket for electronic copy of their 11-22-21 Order.

Jurisdiction

6. The Supreme Court will have jurisdiction over this matter because 28 USC § 1254 gives the Court jurisdiction over an Appeal of a final judgement of a United States Court of Appeals.

Reasons Why Relief From The Time Limit Is Needed

7. Under Supreme Court Rule 13.1, the time for filing a Petition for Writ of Certiorari in this matter expired on February 22, 2022.
8. As aforementioned, files - documents needed to prepare and include in the Record Appendix to Writ of Certiorari have been misplaced by agents of this Institution at Petitioners prior Norfolk location on evening of 12-31-21.
9. Upon reviewing this Courts 1-20-22 guide to filing Certiorari the Petitioner became aware that some of the documents required for inclusion in Record Appendix to Writ of Certiorari are among those misplaced by this Institution on 12-31-21.
10. As stated the Appendix to Petition for Writ of Certiorari does

require various documents from lower Court records. Those papers must be acquired and have been requested from the lower Courts. Please see Headnote ①, and copy of attached Order form filed with the U.S. District Court on March 10, 2022 requesting both the lower courts papers - documents respectively.

11. To date the Petitioner awaits response to those requests from the lower Courts,

12. On February 6, 2022, the Petitioner's "Original" Application to extend was timely filed with this Most Honorable Court. The Court acknowledged receipt of Application on 2-15-22 (a copy of this Courts letter is hereto attached), but returned it for "corrections" (including copy of First Circuits Order that the Petitioner has thrice requested but still hasn't received). Despite multiple attempts by Petitioner to acquire copy of Order (as stated, copies of requests are attached - ~~Headnote~~ ①), as well as the other documents needed for inclusion to Appendix to Certiorari Petition (those documents non availability the reason for Applying for Extension of Time), the Petitioner (without - absent any ability to electronic access necessary to retrieve and print those documents

directly from the lower Courts websites) remains awaiting lower Courts responses to those document copy requests. Thus the Petitioner respectfully refers this Court to the First Circuits Electronic site and Record for immediate access to a copy or official information relative to that Courts 11-22-21 Order needed on this Application.

Persuasive Grounds for Certiorari in this Case

13. The Violations of Petitioner's Constitutional Rights resulting from state system caused excessive Delay on Petitioner's direct appeal (that gave rise to Section 2254 Writ) raises grave Constitutional questions concerning the 5th and 14th Amendments to Constitution of the United States. Further the unlawfully procured conviction and indictment of Petitioner by way of Perjury and Subornation of Perjury at every stage of Process (including indictment and closing argument stages as well as at trial) by Prosecutor, give Merit to the Petitioner's state direct appeal in the underlying matter thereby also raising additional Constitutional questions concerning the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States. Taken separately and

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or in sum, the Violations reach far into our changing times.

If a Petitioner, whose conviction has not been prosecuted by the full process of law, and his guilt being merely provisional is to be effectively denied an appeal from unlawfully procured conviction and indictment, by state caused appeal delays that approach the entirety of Petitioner's sentence, thereby polluting any efficacy of law enforcement; none of the promises of our Constitution can any longer be trusted to be honored, none of the questions that torment our countrys spirit will be answered, and nothing just accomplished save for creating an ideological criminal judicial process by silencing, through impediments and inordinate Delays, the rightful pursuit of justice.

The Petitioner is currently presently serving a six to eight year sentence.

Dated: April 18, 2022


by Pro Se Petitioner, Antonio M. Branco

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PROOF OF SERVICE

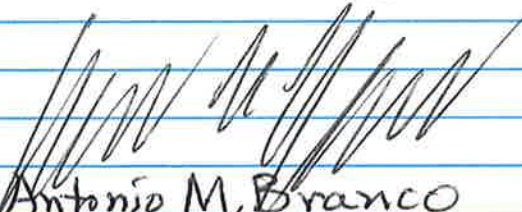
I, Antonio M. Branco, do swear and declare that on this date, April 20, 2022, as required by Supreme Court Rule 29, I have served the enclosed Application to Extend Time with attachments, on each party to the above proceeding or that party's counsel, and on every other person required to be served by depositing an envelope containing the above documents in this MCI Old Colony Correctional Center's Internal Mail System as Indigent Mail for approval and Appropriate Postage by this Institution's Treasurer - Mail Room respectively, for delivery via the United States Postal Service. This declaration is made pursuant to Rule 29 and in compliance with 28 USC § 1746.

The names and addresses of those served are as follows:

Eva M. Badway - Asst Attorney General at Office of the Attorney General - One Ashburton Place - Boston, Ma. 02108.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 18, 2022

by Pro Se Petitioner,  Antonio M. Branco

United States Court of Appeals For the First Circuit

No. 21-1310

ANTONIO M. BRANCO,

Petitioner - Appellant,

v.

COMMONWEALTH OF MASSACHUSETTS,

Respondent - Appellee.

Before

Kayatta, Barron and Gelpí,
Circuit Judges.

JUDGMENT

Entered: November 22, 2021

After carefully considering Petitioner's arguments and the record, we deny a certificate of appealability and terminate the appeal.

The district court dismissed Petitioner's 28 U.S.C. § 2254 petition without prejudice for the procedural reason that he failed to exhaust state court remedies. Petitioner does not make a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). Petitioner fails to show any error in the district court's procedural ruling, and he also fails to show a viable constitutional ground. See Slack v. McDaniel, 529 U.S. 473, 484 (2000) (COA standard). Among other difficulties, Petitioner does not address the problem that, while his § 2254 petition was pending, the state court dismissed his direct appeal for non-prosecution. Petitioner does not explain how, in the circumstances, his failure to exhaust was excusable, or how, in the circumstances, he was denied due process. See Layne v. Gunter, 559 F.2d 850, 851 (1st Cir. 1977) (exhaustion); United States v. DeLeon, 444 F.3d 41, 57-58 (1st Cir. 2006) (due process). Petitioner thus waives the dispositive issues. See United States v. Zaninno, 895 F.2d 1, 17 (1st Cir. 1990) (arguments not developed are deemed waived).

The request for a certificate of appealability is denied, and the appeal is terminated.

By the Court:

Maria R. Hamilton, Clerk

cc:

Antonio M. Branco
Eva Marie Badway

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