
IN THE SUPREME COURT OF THE UNITED STATES

No. _____

OSCAR LUNA-AQUINO,
Petitioner,
v.

UNITED STATES OF AMERICA,
Respondent.

**Application to the Honorable Elena Kagan for Extension of Time
to File a Petition for a Writ of Certiorari
to the United States Court of Appeals for the Ninth Circuit**

Application to the Honorable Associate Justice Kagan as Circuit Justice

March 11, 2022

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Attorneys for Petitioner

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To the Honorable Elena Kagan, Associate Justice of the Supreme Court for
the United States and Circuit Justice for the Ninth Circuit:

Petitioner, Oscar Luna-Aquino, through counsel, respectfully requests that
the time to file a petition for a Writ of Certiorari in this matter be extended for sixty
days up to and including May 20, 2022. The Court of Appeals issued its opinion on
December 20, 2021. Absent an extension of time, the petition would be due on or
before March 21, 2022. This application is being filed at least ten days before the

due date, in accordance with S. Ct. R. 13.5. This Court has jurisdiction under 28 U.S.C. § 1257.

Reasons Justifying an Extension of Time

Counsel respectfully requests a 60-day extension of time because:

1. Additional time is needed so that counsel can prepare the petition for certiorari and review it with her supervisor. Counsel is an Appellate Attorney at Federal Defenders of San Diego, Inc., a community defender organization. This case presents questions about the reach of the “knowing” mens rea in drug importation cases. This issue is of great importance to defendants in the Southern District of California, including a large proportion of Federal Defenders’ clients. Because of the importance of the issue, counsel for Mr. Luna-Aquino will need significant time and supervision to adequately prepare an effective petition on this weighty issue.

2. Counsel has a number of time-sensitive obligations in other Ninth Circuit Court of Appeals cases. Since December 20, 2021, counsel has filed a petition for rehearing in *United States v. Wooten*, No. 21-50126; completed most of the opening brief in *United States v. Kraft*, 21-50272, a time-sensitive supervised-release appeal that only recently became moot; and prepared three filings seeking to unseal evidence in *United States v. Rivera*, 21-50137. Going forward, the opening brief in the *Rivera* trial appeal is due on March 17, 2022. The opening brief in a second trial appeal, in *United States v. Orozco-Barron*, 21-50298, will be due on April 18, 2022.

3. Counsel also has assigned duties in district court cases. Counsel has been assigned to the trial team in *United States v. Morales*, 19-CR-3255-BTM, a multi-defendant forced-labor conspiracy trial, since last year. In that capacity, she attends weekly meetings and prepares and edits motions on an ongoing basis. Counsel expects to devote significant time in April to assisting with motions in limine, which are due on May 9. Counsel is also currently assigned to play the leading role in coordinating a district-wide challenge to the Southern District of California's grand and petit jury systems. In that capacity, counsel has written motions and prepared for hearings on an ongoing basis, and she will continue to do so. The next hearing is set for March 23, 2022. Finally, counsel is closely supervising two new attorneys as they appeal trials from magistrate court to district court (*United States v. Vera-Rivas*, 19-cr-03622-JLB-CAB, and *United States v. Navarro-Zuniga*, 19-MJ-23353-BTM-WVG).

4. As noted, counsel also must coordinate with her supervisor, Vincent Brunkow, to prepare an effective petition. Mr. Brunkow directly supervises eight appellate attorneys, sits on the management team for Federal Defenders, and maintains appeals of his own. The requested extension will ensure that Mr. Brunkow has sufficient time to assist in preparing the petition.

5. Additional time is not sought for the purpose of delay, but rather, to provide effective assistance of counsel to Mr. Luna.

For the reasons expressed above, Oscar Luna-Aquino, through counsel, respectfully requests that this Court grant him a sixty-day extension to file a petition for a writ of certiorari up to and including May 20, 2022.

Respectfully submitted,

Date: March 11, 2022

s/ Katie Hurrelbrink
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