

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

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SAMMY L. PAGE,  
Petitioner/Appellant,

v.

AUDREY KING,  
Respondent/Appellee.

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

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

Appellant and Petitioner Sammy L. Page respectfully requests that the time to file a Petition for writ of Certiorari in this matter be extended for sixty (60) days to and including June 24, 2022. The Court of Appeals issued its memorandum decision on October 7, 2021. App. A. On October 22, 2022, appellant filed (1) a petition for rehearing or rehearing en banc and (2) a request that the court excuse his lateness and issue an order allowing late filing of the rehearing petition; absent any response, on December 16, 2021, appellant filed a Notice alerting the court that the matter was outstanding and a ruling was needed. App. B. On December 17, 2021, the Court of Appeals issued an order granting appellant's motion to accept a late petition for rehearing and/or rehearing en banc, and accepting the filing of the petition filed October 22, 2021. App. C. On January 24, 2022, the Court of Appeals issued an order denying the petition for rehearing and/or rehearing en banc. App. D. Absent an extension of time, the Petition for Writ of Certiorari would be due on Monday April 25, 2022. On April 5, 2022, counsel emailed Deputy Attorney General Max Feinstat, counsel for Respondent, Max.Feinstat@doj.ca.gov (916) 210-7746 to alert him to this request for a 60-day extension of time, to which counsel for Respondent replied that his office had no objection to this request. This Court has jurisdiction over the judgment under 28 U.S.C. § 1254(1).

## **Reasons for Granting an Extension of Time**

The time to file a petition for a writ of certiorari should be extended for sixty days for the following reasons.

Since the Court of Appeals denied Mr. Page's petition for rehearing and rehearing en banc on January 24, 2022, petitioner's counsel, appointed under the Criminal Justice Act, has been occupied with other significant case obligations and unforeseen personal matters. When the order denying Mr. Page's petition for rehearing and rehearing en banc was denied, that petition had been longstanding for several months, despite the case having been granted Calendar Priority. Meanwhile, counsel was engaged in various time-sensitive matters, as described further below.

Since mid-January 2022, counsel has been working on a court-appointed (CJA) case for which the district court set an evidentiary hearing on a coram nobis petition based on a claim of ineffective assistance of counsel in connection with errors and omissions advising and negotiating a plea bargain that resulted in devastating immigration consequences. Counsel is newly appointed and has had to familiarize herself with more than 1,800 pages of documents spanning multiple proceedings.

In addition, at the time the Court of Appeals denied Mr. Page's petition for rehearing and rehearing en banc, counsel was preparing for a trial, then set for April 5, 2022, of a prisoner's civil rights case in the Eastern District of California. That trial date has since been vacated and counsel discharged in a series of unusual and time-

consuming proceedings in February and March of 2022 concerning permission for leave to withdraw and transfer of discovery produced “For Attorneys Eyes Only” pursuant to a stipulated confidentiality order.

In March of 2022, counsel’s elderly mother in Florida fell and broke her hip and clavicle, requiring surgery and in-patient rehab; while in rehab, her husband (counsel’s stepfather) died, all resulting in immediate and ongoing family needs in Florida.

Difficulties specific to this case further warrant the requested 60-day extension of time. Mr. Page is a pretrial civil committee challenging a state court order from the year 2006 finding probable cause to hold detain him under California’s Sexually Violent Predatory (SVP) Act. The undersigned counsel was newly appointed in August 2019, upon remand following *Page v. King*, 932 F.3d 898 (9<sup>th</sup> Cir. 2019). For most of the years of this pretrial detention (since 2006), Mr. Page represented himself in pro se in federal proceedings. The proceedings were numerous and complex, spanning several thousands of pages. The undersigned counsel has necessarily worked closely with Mr. Page throughout their attorney-client relationship. However, due to the COVID-19 pandemic, the state hospital unit where Mr. Page is held was on lockdown for several months; as a result, Mr. Page had no access to legal research tools until March 2022. With the restoration of access to lexis/nexis in March 2022, Mr. Page performed legal research which he wrote up in three letters to counsel. Counsel has received two of those letters (dated March 22, 2022 and March 28, 2022), but not the main letter, dated

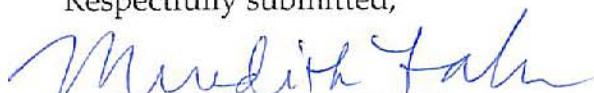
March 21, 2022. Rather, on or about April 5, 2022, that letter was returned to Mr. Page with a yellow sticker marked “Vacant – return to sender”—this was a mistake not the fault of Mr. Page or his counsel. Mr. Page contends this to be the most important and lengthy of his recent letters to counsel, without which, the other two letters will not make sense. Mr. Page is re-sending that March 21, 2022 letter to counsel. Ample time is needed for counsel to receive that letter and then to confer further with Mr. Page on the draft cert. petition—and to allow a time buffer in case any other glitches might ensue.

This case presents an important issue of whether federal constitutional due process is implicated in a habeas corpus challenge to state SVP proceedings, brought under 28 U.S.C. § 2241. And, this case presents the further question of whether such due process claim is viable, and not “doomed” by *Manuel v. City of Joliet*, 137 S. Ct. 911, 919, 197 L. Ed. 2d 312 (2017). See *Page v. King*, 932 F.3d 898, 905; compare *id.* with *Boumediene v. Bush*, 553 U.S. 723, 777, 128 S. Ct. 2229, 171 L. Ed. 2d 41 (2008), *Hilton v. Braunskill*, 481 U.S. 770, 775, 107 S. Ct. 2113, 95 L. Ed. 2d 724 (1987).

Wherefore, petitioner respectfully requests that an order be entered extending the time to petition for certiorari to and including Friday June 24, 2022.

Respectfully submitted,

Dated: April 11, 2022



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