

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

CLAUD R. KOERBER - PETITIONER
vs.
UNITED STATES OF AMERICA - RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

APPLICATION TO EXTEND TIME
FOR FILING A PETITION FOR A WRIT OF CERTIORARI

CLAUD R. KOERBER (FED. REG. NO. 16324-081) - PRO SE
FCI TERMINAL ISLAND - P.O. BOX 3007
SAN PEDRO, CALIFORNIA 90733-3007
FEDERAL INMATE

To: Neil M. Gorsuch, Associate Justice



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Petitioner, Claud R. Koerber is a federal inmate confined at FCI Terminal Island in San Pedro, CA. On March 7, 2022, the Tenth Circuit Court of Appeals denied a Petition for Rehearing in United States v. Koerber, No, 19-4147 (10th Cir.) pertaining to that court's August 26, 2021 decision affirming Petitioner's conviction. Pursuant to Rule 13.3 of the Rules of the Supreme Court of the United States, the deadline for Petitioner to file a Petition for a writ of certiorari is "90 days" from March 7, meaning June 6, 2022.

Petitioner makes this application because until recently he was represented by legal counsel. However, on March 25, 2022, he received a letter from his attorney (dated March 16, 2022) stating that he was no longer represented. The

reason for the change is that Petitioner could not pay the outstanding balance of fees owed to his appellate counsel or the new fees required for representation filing a Petition for Writ of Certiorari. Prior to being represented by attorney Dick Baldwin (of the ZimmermanBooer lawfirm), Petitioner was represented by the Utah Federal Defendant's office because he is indigent. He was only able to hire retained counsel for his appeal due to the unsolicited generosity of a family member. However, Petitioner has no means to pay Mr. Baldwin and no means to hire any other counsel. Petitioner is therefore proceeding as a pro se party.

Petitioner seeks to raise meritorious grounds in his Petition for a Writ of Certiorari pertaining to the Court of Appeals' decision announcing a new rule limiting the application of federal common-law issue preclusion (which rule conflicts with precedent from multiple federal circuits and this Court); and pertaining to speedy trial issues after the Court of Appeals found that the district court's prior (undisputed) findings that a "pattern of widespread and continuous misconduct" by prosecutors (including strategic "tactical delay") had "fundamentally compromised this case" and "undermine[d] Defendant's possibility of receiving a fair trial" upon reprosecution was insufficient to compel a dismissal with prejudice under 18 U.S.C. § 3162 or pursuant to the Sixth Amendment's speedy trial guarantee.

Unfortunately, based on the timing of his attorney's letter notifying him that he is no longer represented by counsel, combined with the current modified prison operations at FCI Terminal Island due to continuing COVID-19 restrictions, the remaining 59 days to prepare and file his Petition

is a near to impossible timeframe. Currently, at FCI Terminal Island, while operations have recently opened up some, inmates are still restricted on how and when they can access the prison law library. This is where the typewriters, and legal research terminals are located. Further, the time it will take to obtain case files and materials from his attorney further complicates timing because mail to FCI Terminal Island is also delayed related to modified COVID operations (taking approximately 7-9 days normally for mail sent from Utah, Wyoming or Colorado to FCI Terminal Island).

Specifically, due to the modified operations schedule, Petitioner has access to the law library only during three modified recreation periods during weekdays and one modified recreation period on Saturdays. During this time, inmates are only allowed 10 minute windows in/out of the law library and upon staying inside, must compete with other inmates who are backlogged (because of the pattern of delay and lack of access to the law library for the last 24 months due to COVID) for access to five typewriters and a half-dozen legal research terminals (serving approximately 900 inmates currently). On a good day, Petitioner is able to spend one to two hours logged in to the research terminals; on other days he is able to spend 30 to 60 minutes at a typewriter. Occasionally, during Petitioner's work hours he is also able to type or research to get extra time.

Exacerbating these factors, Petitioner is currently awaiting transfer to a prison camp. The prison does not tell inmates when transfers will happen for operational and security reasons. However, at any time - any day now - when

this prison transfer is initiated; Petitioner will have no access to his legal materials and no ability to access a typewriter (all materials are boxed for transport). Transports are notorious for taking weeks (even months) stopping at various facilities (often without access to legal materials until reaching the final destination). As such, there is a very high and real risk that whatever time Petitioner is able to use and whatever work he is able to accomplish on the Petition now - the situation will become even more difficult before the June 6 deadline. In the event Petitioner's anticipated transfer does interrupt the preparation of his Petition it is very realistic that he will not have the resources to even notify the Court (for days or weeks at a time).

Based on these exceptional circumstances, Petitioner respectfully requests an extension of time for filing his Petition for Writ of Certiorari. Specifically, Petitioner requests an extension of 60 days - until August 5, 2022.

Respectfully submitted: April 8, 2022.

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

x Claud R. Koerber
Claud R. Koerber, pro se
Fed. Reg. No. 16324-081
Federal Correctional Institution
Terminal Island
P.O. Box 3007
San Pedro, CA 90733

I also declare under penalty of perjury that this motion was deposited in the K-Unit outgoing mailbox at FCI Terminal Island for First Class delivery via United States Postal Service to the Court, postage prepaid and affixed, on April 8, 2022.

x Claud R. Koerber