

No.

IN THE
SUPREME COURT OF THE UNITED STATES

NICOLOS SUBDIAZ-QSORIO—PETITIONER,

vs.

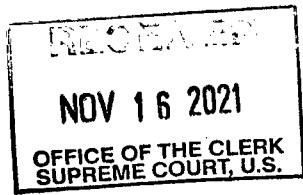
JON NOBLE—RESPONDENT.

**PETITIONER'S MOTION TO FILE OUT-OF-TIME HIS
PETITION FOR WRIT OF CERTIORARI**

The Petitioner, Nicola Subdiaz-Osorio (Mr. Subdiaz) , appears pro se before the Court to respectfully request that his petition for writ of certiorari be filed out-of-time, as a result of the COVID-19 restrictions that hindered his ability to timely comply with the applicable filing requirements.

FACTS OF RELEVANCE

On March 19, 2020, the United States Supreme Court issued an order in light of the ongoing public health concerns relating to COVID-19, to extend all filing deadlines “to 150 days from the date of the lower court judgment.” (*See Attachment A*). The Court’s mandate further stated that motions requesting extensions of time “will ordinarily be granted by the clerk as a



matter of course if the grounds for the application are difficulties relating to COVID-19 and if the length of the extension requested is reasonable under the circumstances.” (*Id.*).

During the duration of the COVID-19 lockdown restrictions implemented at the Kettle Moraine Correctional Institution (KMCI), prison officials prohibited inmates from accessing and utilizing the institution’s law library. KMCI’s inmate movement restrictions also hindered the efficiency of inmates’ capability to obtain assistance from other inmates to act as a source of guidance to conduct the necessary research and composition of their legal filings.

Due to the 2020 COVID-19 pandemic Mr. Subdiaz had encounter grave hardships in regards to adequately filing his petition for a writ of certiorari. Mr. Subdiaz’s ability to either speak or comprehend the English language is extremely limited to a few phrases; consequently, the research and composition of his writ had to be completed by another inmate.

As a result of KMCI’s restrictive inmate movement policies and procedurals that precluded Mr. Subdiaz from assessing the prison’s law library to receive assist from another inmate, Mr. Subdiaz repeatedly wrote the Court to request extensions to file his writ. Mr. Subdiaz’s requests for an extension of the deadline went unanswered until the Court responded on December 6, 2020. “The application for an extension of time within which to file a petition for a writ of certiorari … is returned in light of the order of March 19, 2020. “That order extended an additional 60 days to all petitions due on or after that date. Sixty days is the maximum amount of time that may be extended and the Court is therefore not accepting applications for additional extensions.” (*See Attachment B*).

In an attempt to change the Court’s position on this issue, Mr. Subdiaz wrote the Court again to describe the circumstances—KMCI’s COVID-19 restrictions—that obstructed his ability to timely file a petition for a writ of certiorari. Within a letter dated June 2, 2021, the

Court stated, “[i]f you intend to file a petition for writ of certiorari, please do so as soon as possible.” (See *Attachment C*). The facts surrounding KMCI’s COVID-19 restrictions failed to alter the Court’s contempt for the obstacles that prevented the untimely filing of Mr. Subdiaz’s writ. On September 1, 2021, the Court rejected Mr. Subdiaz’s writ as an untimely file petition.

On October 1, 2021, Mr. Subdiaz sought reconsideration of the Court’s decision; in a October 21, 2021, the Court stated, “The Rules of this Court make no provision for the kind of document you are attempting to file. You may resubmit your petition with a motion directing the Clerk of the Court to file it out-of-time.”

I.

THE COURT’S ACCEPTANCE OF MR. SUBDIAZ’S PETITION IS FUNDAMENTAL TO THE CORRECTION OF THE LOWER COURTS’ ERRONEOUS INTERPRETATION OF THE PRECEDENT ESTABLISHED IN *MIRANDA*

The Court has never committed an intentional relinquishment of its position that “the fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law.” *Bounds v. Smith*, 430 U.S. 817, 828 (1977). KMCI’s prison officials denial of access to the courts was performed as a legitimate penological basis to prevent / contain the spread of a communicable disease—COVID-19—declared to be a global pandemic.

The furtherance of the lower courts’ erroneous interpretation of the constitutionality of the law enforcement officer’s violation of the procedural safeguards established in *Miranda v. Arizona*, 384 U.S. 436 (1966), is at stake if the Court were to decline to take into consideration

the infringement of Mr. Subdiaz's constitutional rights in this case. Therefore, for the foregoing reasons, Mr. Subdiaz respectfully request that the Court reconsider accepting the filing of his petition for a writ of certiorari.

Dated this 10th day of November, 2021.

Respectfully Submitted By,

A handwritten signature in black ink, appearing to read "Nicolas Subdiaz O." The signature is fluid and cursive, with "Nicolas" and "Subdiaz" connected, and "O." at the end.

Nicolas Subdiaz-Osorio