

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JULIO CESAR GOMEZ,

Petitioner,

- v -

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to
the United States Court of Appeals
for the Ninth Circuit

**APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI**

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PARTIES

Petitioner Julio Cesar Gomez was the Defendant-Appellant in the proceedings in the United States Court of Appeals for the Ninth Circuit.

The United States of America was the Plaintiff-Appellee in the Ninth Circuit proceedings.

APPLICATION FOR EXTENSION OF TIME

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

Under Supreme Court Rule 13.5, Petitioner Julio Cesar Gomez respectfully requests that the time to file his Petition for a Writ of Certiorari in this matter be extended for 60 days, to and including July 17, 2022. In support of this application, Mr. Gomez states:

1. In the underlying case, Mr. Gomez was convicted for drug and firearms offenses and received a sentence of 210 months.
2. On appeal, the United States Court of Appeals for the Ninth Circuit affirmed both the convictions and sentence in a published opinion filed on July 28, 2021, in *United States v. Gomez*, 6 F.4th 992 (9th Cir. 2021) (attached as Exhibit A). In doing so, the Ninth Circuit held that the district court did not err when it allowed the government to admit extremely prejudicial gang and criminal history evidence to preemptively rebut an entrapment defense that was never raised – it was not even mentioned in an opening statement – and that the district had indicated it was likely to preclude. One of the three judges on the Ninth Circuit panel dissented.
3. On September 29, 2021, Mr. Gomez filed a timely petition for panel rehearing and rehearing en banc, and after being ordered to respond, the government filed a brief in opposition on December 10, 2021.

4. On February 17, 2022, the Ninth Circuit denied Mr. Gomez's petition for panel rehearing and rehearing en banc. A copy of that order is attached as Exhibit B.

5. Accordingly, absent an extension of time, Mr. Gomez's Petition for a Writ of Certiorari is due on May 18, 2022. *See* S. Ct. Rule 13.3.

6. Mr. Gomez is filing this application more than ten days before that date. *See* S. Ct. Rule 13.5.

7. This Court has jurisdiction under 28 U.S.C. §1254(1).

8. Mr. Gomez is seeking a 60-day extension because his counsel, Todd Burns, has just completed the seventh week of representing a client in a criminal trial that is estimated to take four months, in *United States v. Newland, et al.*, S.D. Cal. No. 17-cr-0623. That case involves a massive amount of discovery and allegations of a United States Navy bribery conspiracy running from 2006 until 2014, and Mr. Burns is sole trial counsel for his client in that case. The work in that case has monopolized most of Mr. Burns's time for the last several months, and will continue to do so for the ensuing few months. Accordingly, other aspects of Mr. Burns's legal practice have ground to a halt.

9. Mr. Gomez and his counsel believe this case presents an important issue warranting a carefully-prepared Petition, as the Ninth Circuit's resolution of the issue relating to anticipatory rebuttal of an entrapment defense is contrary to holdings of other circuit courts and to fundamental fairness.

10. Counsel for Mr. Gomez believes that a 60-day extension will be sufficient to allow for trial in the *Newland* case to conclude and then for him to have sufficient time to prepare and finalize a Petition for filing in this Court.

11. Notably, counsel for Mr. Gomez was appointed to represent Mr. Gomez in this case under the Criminal Justice Act. Accordingly, there is no other attorney that is up-to-speed on the legal and factual issues in the case, and to which preparing the petition could therefore be delegated.

12. Counsel for Mr. Gomez has not sought the position of counsel for Respondent with respect to this application because the matter will be handled for Respondent by the Solicitor General's Office, but the matter has not yet been referred to that Office and thus counsel for Mr. Gomez does not have a point of contact with respect to seeking Respondent's position on this application.

13. For the foregoing reasons, Mr. Gomez respectfully requests that the time to file a Petition for a Writ of Certiorari in this matter be extended 60 days, to and including July 17, 2022.

Respectfully submitted,

s/ Todd W. Burns

Date: April 15, 2022

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