

No.

IN THE SUPREME COURT OF THE UNITED STATES

MANUEL OVANTE, JR., Petitioner,

vs.

STATE OF ARIZONA, Respondent.

CAPITAL CASE

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

GARRETT SIMPSON PLLC

Garrett W. Simpson (Arizona Bar No. 05172)

Counsel of Record

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Attorney for Petitioner Manuel Ovante, Jr.

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

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioner Manuel Ovante, Jr. respectfully requests a 60-day extension of time, up to and including Friday, April 7, 2023, within which to file a Petition for Writ of Certiorari to review the Order of the Arizona Supreme Court denying review of the Order of the Maricopa County, Arizona Superior Court dismissing Ovante's Petition for Post-Conviction Relief in this capital case. If not extended, the time for filing a Petition will expire on February 6, 2023. Consistent with Rules 13.5 and 30.2, this application is being filed at least ten days before that date. This Court has jurisdiction pursuant to 28 U.S.C. § 1257 and Supreme Court Rule 10. Jeffrey Sparks and Gregory Hazard, counsel for Respondent in this matter, have no objection to the requested extension of time.

JUDGMENT FOR WHICH REVIEW IS BEING SOUGHT

On November 8, 2022, in *State v. Ovante*, No. CR-20-0339-PC, the Arizona Supreme Court denied review of the Maricopa County Superior Court's dismissal of Mr. Ovante's Petition for Post-Conviction Relief. (Appendix A.)

REASONS FOR THE REQUESTED EXTENSION OF TIME

Counsel respectfully requests a 60-day extension of time in which to file a petition for certiorari seeking review of the Arizona Supreme Court's decision in this case, up to and including April 7, 2023. Mr. Simpson is currently sole

counsel in this case and is counsel of record in other capital post-conviction cases, each with their own pending responsibilities. Moreover, Mr. Simpson is a sole practitioner with no staff.

Additionally, this is a complex capital case involving multiple issues, including one specific to Arizona, as in Cruz v. Arizona, No. 21-846, currently pending before this Court. Mr. Ovante's case involves Respondent's clearly erroneous failure to apply the long-standing precedent of this Court to the voluntariness of guilty pleas to charges of capital murder where there were judicial assurances of parole eligibility when parole was never available as a matter of law, and the Respondent's ongoing resistance to fully applying *Lynch v. Arizona*, 578 U.S. 1154 (2016). Petitioner's counsel has been preparing the petition for this Court, but he needs additional time to adequately review all relevant legal authority to best present to this Court his challenges to the Arizona decision.

Finally, Mr. Simpson and his wife have prepaid travel plans to be in Hawaii to mark their 50th wedding anniversary, including on February 6th, the day petition is presently due.

For these reasons, counsel respectfully requests a 60-day extension of time in which to file the petition for writ of certiorari in this case. Mr. Simpson will work diligently to file Mr. Ovante's Petition for Writ of Certiorari on or before April 7, 2023.

CONCLUSION

For the foregoing reasons, Mr. Ovante respectfully requests an unopposed 60-day extension of time in which to file his Petition for Writ of Certiorari, up to and including April 7, 2023.

Respectfully submitted: January 4, 2023.

GARRETT SIMPSON PLLC

s/Garrett W. Simpson

Garrett W. Simpson (Arizona Bar No. 05172)

Counsel of Record

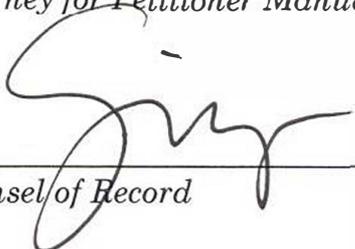
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