

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Rudolfo Gill — PETITIONER
(Your Name)

VS.

Lumpkin — RESPONDENT(S)

PROOF OF SERVICE

I, Rudolfo Gill, do swear or declare that on this date, March 28, 2023, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Sarah M. Harp, Assistant Attorney General
PO Box 12548, Capitol Station
Austin, TX, 78711

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

Executed on 28th day of March, 2023

Rudolfo Gill
(Signature)

IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR CERTIORARI § SECOND MOTION FOR EXTENSION OF TIME
TO REVIEW A DECISION § TO DIRECT THE CLERK TO FILE A
OF THE FIFTH CIRCUIT COURT § PETITION FOR WRIT OF CERTIORARI
OF APPEALS NO. 22-10407 § OUT-OF-TIME

Now comes Petitioner, Gill, as pro se and in forma pauperis to the above entitled petition for a writ of certiorari, originally postmarked January 20, 2023, and moves the Clerk of this Court to file said petition out-of-time by showing:

I. FACTS

Gill received a letter from this Court, dated April 6, 2023, indicating his petition is time-barred insofar that the date of the lower Court's judgment was dated October 21, 2022. "Therefore, the petition was due on or before January 19, 2023." Also, Rule 13.2. states that the Clerk will not file any petition for a writ of certiorari that is jurisdictionally out-of-time.

II. ARGUMENT

Petitioner shows otherwise; he deposited said petition included herein in the T.D.C.S. internal mail system (the outgoing indigent mailbox) on the last day for filing. That is, January 19, 2023. Therefore, he asserts the petition is timely under Rule 29.2.

"If submitted by an inmate confined in an institution, a [petition] is timely filed if deposited in the institution's internal mail system on or before the last day for filing." *Id.* See Attachment A's signature date.

T.D.C.S. Administrative Directive (A.D.) 14.09(III)(E) states that:

"The Unit Indigent Supply Program shall be operational at least three non-consecutive days per week, such as Monday, Wednesday, and Friday,..."

At the T.D.C.S. Dohart Unit, said indigent program is operational on Mondays, Wednesdays, and Fridays. Thus, supplies (stamps, envelopes) are issued only on said days to indigents.

Though petition was timely deposited in the Unit Indigent Supply Program outgoing mailbox as per Supreme Court Rule 29.2., said supply program did not become functional until the following day, this being January 20, 2023, when stamps and envelopes were supplied, petition was postmarked, and forwarded to this Court.

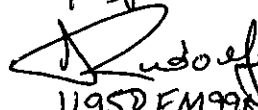
III. PRAYER

Wherefore all premises considered, Gill prays that this motion, in all things, be granted and that his petition for certiorari be filed.

IV. OATH DECLARATION

Gill swears on this 14th day of April 2023 that all things stated here are true, and that a true and correct copy of this motion is also being served today on the attorney for Respondent via U.S.S. to Sarah M. Harp, Assistant Attorney @ PO Box 12548, Capitol Station Austin TX. 78711

Respectfully Submitted,


11950 FM 998
Dohart TX 79022
4/14/23

