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Tony Deng - ADCRR # 304373
ASPC - Eyman, Cook unit
P.O. Box 3200
Florence, AZ. 85132-3200
Petitioner, pro se

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SUPREME COURT, U.S.

In The Supreme Court Of United States

Tony Deng
pro se petitioner,

v.

David Shinn, et al.,
Respondent.

Supreme Court Of United States

NO. _____

Court of Appeals, 9th Circuit

NO. 22-15480

District Court of Arizona

NO. 2:21-CV-00546-SPL

Motion For Postponement Of Time To File
Petition For Writ Of Certiorari

Pursuant to USCS supreme ct. R. 13.5, Petitioner Tony Deng respectfully requests this court to postpone or set a new due date for him to file a petition for certiorari after the final disposition of his motion to vacate filed on 11/8/2022 in the 9th circuit court of appeals. The current due date for filing a petition for certiorari in this case is January 25, 2023. This request is timely and supported by the following reasons which establish good cause.

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On 3/31/2022, the federal district court of Arizona denied Deng's petition for a writ of habeas corpus and certificate of appealability (COA). Thereafter, Deng motioned the 9th circuit court of appeals for COA and the motion was denied by a two-circuit-judge-panel for failing to meet COA standards on 9/30/2022.

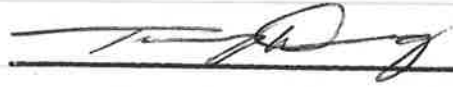
Subsequently, Deng timely filed a motion for rehearing and his motion was also denied, on 10/27/2022, by a panel different than the one who denied the original motion for COA.

Under Supreme Ct. R. 13.3, the time to file petition for writ of certiorari runs from the date of denial of motion for rehearing. However, after his motion for rehearing has been denied, Deng noticed that the court of appeals had abused its discretion, violating its own procedural rules, (9th cir. R. 27-10; and 9th cir. gen. Ord. 6.11) by assigning a different panel to rule on the motion for rehearing, Deng decided to file a timely motion, on 11/8/2022, pursuant to FRAP 27(b), requesting the court of appeals to vacate its order denying the motion for rehearing entered on 10/27/2022, and this motion to vacate is currently pending in the 9th circuit court of appeals.

Accordingly, Deng cannot file his petition for certiorari until the final disposition of the motion to vacate because he cannot predict the outcome of that motion which might determine how some of the questions presented for certiorari will be framed.

Based on the reasons mentioned above, good cause is apparent. Deng respectfully requests this court to postpone or set a new due date for him to submit a petition for writ of certiorari after the final disposition of his motion to vacate in the 9th circuit court of appeals.

Respectfully submitted this 18th day of November, 2022



Tony Deng
Petitioner, pro se

Proof of Service

I, Tony Deng, do swear or declare that on this 18th day of November, 2022, as required by Supreme Court Rule 29 I have sent the original of this motion by prison legal mail to: The Supreme Court of The United States at Washington, D.C. 20543-0001 and I have sent one copy of this motion by prison legal mail to: Maricopa County Attorney's Office at 301 west Jefferson street, suite #210 phoenix, Arizona 85003.



Tony Deng
Petitioner, pro se

Aspc-Eyman Cook unit
P.O. Box 3200
Florence, Az. 85132

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

OCT 27 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

TONY DENG,

Petitioner-Appellant,

v.

DAVID SHINN, Director; ATTORNEY
GENERAL FOR THE STATE OF
ARIZONA,

Respondents-Appellees.

No. 22-15480

D.C. No. 2:21-cv-00546-SPL
District of Arizona,
Phoenix

ORDER

Before: SCHROEDER and BYBEE, Circuit Judges.

Appellant's motion for an extension of time to file a motion for reconsideration (Docket Entry No. 4) is granted.

Appellant has filed a combined motion for reconsideration and motion for reconsideration en banc (Docket Entry No. 5).

The motion for reconsideration is denied and the motion for reconsideration en banc is denied on behalf of the court. *See* 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

No further filings will be entertained in this closed case.



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22-15480 Tony Deng v. David Shinn, et al "Motion Filed"

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United States Court of Appeals for the Ninth Circuit

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Case Name: Tony Deng v. David Shinn, et al

Case Number: 22-15480

Document(s): Document(s)

Docket Text:

Filed Appellant Tony Deng FRAP 27(b) motion to vacate, motion for disposition by original panel. Deficiencies: Case closed, no further filings per 10/27/2022 order. Served on 10/08/2022. [12582579] (QDL)

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Linley Wilson, Assistant Attorney General: linley.wilson@azag.gov

Case participants listed below will not receive this electronic notice:

Tony Deng
304373
#304373
ASPCE - ARIZONA STATE PRISON COMPLEX (EYMAN)
Cook Unit
P.O. Box 3200
Florence, AZ 85132

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