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J. VINCENT APRILE II

April 4, 2023

Associate Justice Brett M. Kavanaugh
Supreme Court of the United States
1 First Street, N. E.
Washington, DC
20543-0001

INDIANA OFFICE:
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JEFFERSONVILLE, INDIANA 47130
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RE: Alex Joseph Pedrin, Petitioner, v. Officer T. Middleton et al., Respondents;

Application, Pursuant to Supreme Court Rules 13.5 and 30.4, to Extend the Time to File a Petition for a Writ of Certiorari in *Pedrin v. Middleton et al.*, United States Court of Appeals for the Sixth Circuit, Case No. 21-6135

Justice Kavanaugh:

The petitioner, Alex Joseph Pedrin, by counsel, seeks, pursuant to Supreme Court Rules 13.5 and 30.4, an extension of sixty-days (60) days from Tuesday, April 18, 2023, to and including Saturday, June 17, 2023, in which to file his petition for writ of certiorari to review the decision of the United States Court of Appeals for the Sixth Circuit affirming his judgment of conviction and sentence.

On September 19, 2022 the Sixth Circuit Court of Appeals rendered its decision in petitioner Pedrin's appeal of the dismissal of his civil case in federal district court. *Pedrin v. Middleton et al.*, unpublished opinion, September 19, 2022.¹ Mr. Pedrin's rehearing petition was denied on January 18, 2023. Pedrin's petition for certiorari is due to be filed on or before Tuesday, April 18, 2023. Supreme Court Rules 13.5; 30.4. Jurisdiction is provided pursuant to 28 U.S. Code § 1254(1).

Undersigned counsel Aprile was not involved in representing Mr. Pedrin either in federal district court or on his direct appeal in the Sixth Circuit Court of Appeals. Mr. Pedrin proceeded pro se in both federal district court and through the Sixth Circuit Court's opinion affirming the district court's disposition of the case. Undersigned counsel Aprile only began representing Mr. Pedrin for the purposes of seeking reconsideration of the ruling affirming the federal district court's resolution of the case. Undersigned counsel Aprile has agreed to represent Mr. Pedrin on his petition for certiorari.

¹ A copy of *Pedrin v. Middleton et al.*, unpublished opinion, United States Court of Appeals for the Sixth Circuit, No. 21-6135, entered September 19, 2022, is enclosed as is the January 18, 2023 Order denying Mr. Pedrin's en banc rehearing petition.

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Because of a recent criminal conviction in federal district court, Mr. Pedrin, shortly after the January 18, 2023 denial of Mr. Pedrin's en banc rehearing petition, was placed in transit pending his transfer to a new federal prison, which has resulted during the previous ninety (90) days with Mr. Pedrin being unreachable by mail or phone calls. As a result, undersigned counsel has not had final confirmation that Mr. Pedrin still desires counsel to pursue the certiorari petition as he previously indicated prior to his prison transfer, but informed counsel that he would finalize that decision later. Mr. Pedrin has not yet contacted undersigned counsel as of the date of this request. Undersigned counsel is filing this extension request to ensure that Mr. Pedrin does not lose his opportunity to seek certiorari if he still so desires.

Undersigned counsel recently determined that Mr. Pedrin is no longer in transit within the Bureau of Prisons and is now apparently confined at Atwater USP in California. Counsel has begun efforts to communicate with Mr. Pedrin, but fears that contact may not be established before time expires to request an extension of the time to petition this Court for a writ of certiorari.

Consequently, undersigned counsel is ethically compelled to seek this extension to ensure that Mr. Pedrin's difficulties in contacting counsel does not result in the loss of this final avenue of review he has with regard to his civil claim. Should Mr. Pedrin inform counsel, once contact is established, that he does not wish to pursue a certiorari petition, counsel will immediately inform this Court.

For the above reasons, undersigned counsel Aprile is requesting a sixty-day extension. Of course, undersigned counsel Aprile will endeavor to complete and file the petition for certiorari as soon as possible once Mr. Pedrin confirms his desire to seek certiorari review taking into account his responsibilities to his other clients, both retained and appointed. Aprile is requesting an extension of sixty days out of an abundance of caution because Aprile has an ethical obligation to protect Mr. Pedrin's right to seek certiorari review. "A lawyer shall act with reasonable diligence and promptness in representing a client." Kentucky Rules of Professional Conduct, Rule 1.3, *Diligence*; Kentucky Supreme Court Rules (SCR) 3.130.

This application is being made by letter in accordance with the Supreme Court Rules.

This application is being forwarded to this Court on Tuesday, April 4, 2023, by means of a private courier for delivery on April 5, 2023 and also filed electronically on this Court's electronic filing system.

A copy of this application letter is being mailed on Tuesday, April 4, 2023, through the United States Postal Service by first-class mail, postage prepaid, to Hon. Haley Trogdlen McCauley, Assistant United States Attorney, Haley.McCauley@usdoj.gov.

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Undersigned counsel Aprile is a member of the bar of this Court and has been for some fifty (50) years, having been admitted on January 22, 1973. Aprile has represented clients before this Court where certiorari has been granted and oral argument held on four occasions.

This application is being filed more than ten (10) days before the filing date for Mr. Pedrin's certiorari petition. Mr. Pedrin seeks a sixty-day extension due to the circumstances of this case.

For the above reasons, petitioner Pedrin, by counsel, seeks, pursuant to Supreme Court Rules 13.5 and 30.4, an extension of sixty (60) days from Tuesday, April 18, 2023, to and including Saturday, June 17, 2023, in which to file his petition for writ of certiorari to review the September 19, 2022 decision of the Sixth Circuit Court of Appeals affirming the federal district court dismissal of Mr. Pedrin's civil litigation.

Respectfully submitted,

/s/ J. Vincent Aprile II

J. Vincent Aprile II
Attorney At Law

Member, Bar of the
Supreme Court of the United States

Counsel for Alex Joseph Pedrin
Petitioner

Enclosures