

No.

**In The
Supreme Court of the United States**

OCTOBER TERM, 2023

GERARDO MADEROS LORETO,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for a 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**

Gerardo Maderos Loreto
Reg Number: 20102-085
USP Terre Haute
P.O. Box 33
Terre Haute, IN 47808
Pro-Se Petitioner

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

COMES NOW the Petitioner, Gerardo Maderos Loreto (“Loreto”), *pro se*¹, and respectfully asks for an extension of time in which to file a petition for writ of certiorari. The Petition is currently due on April 26, 2023. Petitioner requests a 60-day extension, until June 26, 2023. Petitioner was originally tried and sentenced in the United States District Court for the Eastern District of Washington. His conviction was affirmed by the United States Court of Appeals for Ninth Circuit on January 8, 2021 in a reported decision. See: *United States v. Gerardo Maderos Loreto*, 840 Fed. App’x 952 (9th Cir. 2021).

On August 18, 2021 Loreto filed a timely motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. §2255 (“§2255 Motion”) with the United States District Court for the Eastern District of Washington. On January 13, 2022, the District Court denied Loreto’s §2255 Motion and declined to issue a certificate of appealability. Thereafter, Loreto petitioned the United States Court of Appeals for the Ninth Circuit for the issuance of a certificate of

¹ Because Loreto is proceeding in this matter without the benefit of counsel, he respectfully requests that this Court apply a liberal interpretation to the questions and arguments asserted herein. See: *Hughes v. Rowe*, 449 U.S. 5, 15 (1980) (“An unrepresented litigant should not be punished for his failure to recognize subtle factual or legal deficiencies in his claims”).

appealability; by unpublished opinion date September 30, 2022 the Appellate Court declined to issue a certificate of appealability. See: United States v. Gerardo Maderos Loreto, No. 22-35191 (Sept. 30, 2022). On January 18, 2023 Loreto filed a petition for rehearing, which the Court denied on January 26, 2023. Attached are copies of the opinion below and the order denying reconsideration.

Loreto's §2255 Motion involved multiple Constitutional claims of error. However, for the purposes of his Petition, Loreto will focus on two closely related issues. The first being: does counsel render ineffective assistance by failing to fully and properly explain the consequences of rejecting a plea offer and proceeding to trial -- when the United States has the potential of filing a superseding indictment, alleging more crimes. The second being: does speculation as to the potential of a lower sentence satisfy Strickland's prejudice prong in the context of a rejected plea offer based upon ineffective assistance. There is a split amongst the Circuits on both of these issues.

Loreto is proceeding in this matter without benefit of counsel, as the United States District Court for the Eastern District of Washington declined to appoint counsel to represent him in his §2255 Motion. That said, Loreto is confident that he can prepare and present a Petition but requires additional

time to ensure that he has an opportunity to review controlling legal authority and draft the Petition. As an incarcerated litigant, Loreto has limited access to legal reference materials – the additional time will ensure that even with the limited access he can prepare a well-reasoned Petition for the Court's consideration. Loreto is not seeking an of time to cause any undue prejudice to the United States and is making his request in good faith.

For all of the foregoing reasons and in the interest of justice, Loreto prays that he is granted a 60-day extension of time in which to file his Petition for a writ of certiorari.

Respectfully Submitted,

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