

Supreme Court, U.S.
FILED

OCT 13 2023

OFFICE OF THE CLERK

CASE NO. _____

NINTH CIRCUIT COURT OF APPEAL CASE NO: 22-30012

UNITED STATES OF AMERICA,
Plaintiff-Appellee-Respondent

vs.

TRENT DREXEL HOWARD
Defendant-Appellant-Movant

DEFENDANT'S MOTION FOR EXTENSION OF TIME TO FILE
PETITION FOR CERTIORARI

TRENT DREXEL HOWARD, #21815-085
Federal Correctional Institution
Terminal Island
P.O. Box 3007
San Pedro, CA 90733

Defendant-Appellant-Movant
in Pro Se

ORIGINAL

Defendant-Appellant-Movant, TRENT DREXEL HOWARD ("Mr. Howard") hereby respectfully moves this Court for an Extension of Time by which to file a Petition for Certiorari from the Circuit Court for the Ninth Circuit's denial of his Petition for Rehearing due to the denial of his appeal.

This Motion is based on the following Memorandum of Points and Authorities, and the Affidavit of Trent Drexel Howard and the exhibits attached thereto.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Mr. Howard was sentenced to 23 years of imprisonment after the District Court denied his motion to dismiss the indictment for failure to bring him to trial timely, in violation of his Sixth Amendment right and the Speedy Trial Act. In total, 839 days elapsed between the filing of the indictment and his trial, with 89 days passing between the filing and his arrest in Kazakstan, and 427 days of imprisonment in Kazakstan in which he waited to be returned to the United States.

Since his sentencing, Mr. Howard has been in the custody of the Bureau of Prisons ("BOP"), and has filed a timely appeal and a Petition for Rehearing upon the decision by the Ninth Circuit to affirm the District Court's denial of his motion to dismiss.

Mr. Howard's appeal was decided on April 17, 2023. (See Affidavit of Trent Drexel Howard ("Aff."), Exh. 1). On or about May 1, 2023, Mr. Howard filed a Petition for Rehearing. (Aff., Exh. 2). The United States Circuit Court for the Ninth Circuit denied his Petition on July 18, 2023 (Aff., Exh. 3), and he was notified of this denial on or about July 25, 2023.

Over the course of the following several months, Mr. Howard was in discussion with an attorney in Georgia regarding the filing of a Petition for Writ of Certiorari, wherein the attorney quoted Mr. Howard in his family a certain sum of money for said services. Mr. Howard's family was able to obtain the sum quoted in approximately 6 weeks; however, upon contacting the attorney again, Mr. Howard

and his family were informed that the attorney would be unable to represent him because the attorney did not feel comfortable filing the Petition as the attorney did not have experience with the Supreme Court. Mr. Howard and his family frantically attempted to hire another attorney to no avail because all attorneys they spoke with stated they are not interested or that they do not have enough time.

Accordingly, with no other choice, Mr. Howard must represent himself, but has been unable to obtain his entire file and the trial transcripts from his trial attorney yet to be able to submit a proper Petition for Writ of Certiorari. Mr. Howard therefore respectfully requests that this Court grant him an extension of time of no less than 30 days to obtain the file from his attorney at his current institution and prepare a Petition which deals with not only violations of his Sixth Amendment speedy trial rights, but the Government's behavior preventing him from doing so when he was first charged.

II. ARGUMENT

While not a favored process, Supreme Court Rule 13.2 provides in pertinent part that an individual justice may, for good cause shown, extend the time for filing a petition for a writ of certiorari. (Supreme Court Rules 13.2 and 13.6; see also Brody v. United States, 77 S. Ct. 910 (1957), Boumediene v. Bush, 127 S. Ct. 1725 (2007)).

A. Good Cause Exists To Grant Mr. Howard's Motion

On or about July 25, 2023, Mr. Howard received a letter from his then-counsel that the Petition for Rehearing was denied. Since then, Mr. Howard has been diligent about attempting to secure counsel to file a Petition in this Court, and was then told that the attorney will not do so. Mr. Howard attempted to obtain counsel afterwards, but no attorney agreed to take his case. Mr. Howard has no other choice but to proceed pro se, but he has not gotten the case file from his former attorney to enable him to properly submit a Petition for Writ of Certiorari.

Upon the search of his home while he was on assignment in Kazakstan for work,

Mr. Howard asked the FBI if he should come home. The Government indicated that he should continue to work in Kazakstan and they would contact him if the needed him. Without his knowledge, an indictment was thereafter filed and his passport was revoked. He continued to ask the Government if he should return, and they said no. Several months later, he was arrested in Kazakstan and was detained there for 427 days seeking to come home. After returning home, he spent an additional approximately 400 days before his trial.


Mr. Howard is facing 23 years of imprisonment, after the Government assured him he did not have to return to the United States, and then had him arrested in Kazakstan and held there for 427 days, where his health declined. Testimony at the trial court revealed there was no cause for this delay, and the Ninth Circuit affirmed the denial of Mr. Howard's motion to dismiss for violation of his Sixth Amendment right and Speedy Trial Act based on mistake of facts that are clearly in the record. Mr. Howard requires this record to show why a Petition for Certiorari should be granted in this case, but has been unable to secure his case file timely due to circumstances out of his control.

The granting of this Motion is not only in the interest of justice; the Constitution and an accused's right to a speedy trial requires it as this issue is extremely important to criminal defendants in this country. Unless this Motion is granted and Mr. Howard has a chance to file a Petition for Writ of Certiorari, he will have no other recourse than a petition pursuant to 28 U.S.C. § 2255, and will leave the Ninth Circuit with conflicting case law about the Sixth Amendment.

III. CONCLUSION

Based on the foregoing, Mr. Howard respectfully requests that the Court grant his motion and provide him with 60 days, or no less than 30 days, by which to file a Petition for Writ of Certiorari and properly brief this Court on the issues presented.

Date: 10.12.2023


TRENT DREXEL HOWARD
Defendant-Appellant-Movant in Pro Se

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Defendant-Appellant-Movant

AFFIDAVIT OF TRENT DREXEL HOWARD

TRENT DREXEL HOWARD #21815-085
Federal Correctional Institution
Terminal Island
P.O. Box 3007
San Pedro, CA 90733

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AFFIDAVIT OF TRENT DREXEL HOWARD

I, TRENT DREXEL HOWARD, hereby affirm, declare, and state as follows:

1. My name is Trent Drexel Howard, and I am the Defendant in the case entitled United States v. Trent Drexel Howard, United States District Court Case No. 4:19-cr-06036-SMJ out of the Eastern District of Washington, Richland. I am over the age of 18, and have personal knowledge of the matters stated in this declaration/Affidavit. I offer this Affidavit in support of my motion to extend the time for me to file a Petition for Writ of Certiorari.
2. I am currently incarcerated at the Federal Correctional Institution, at Terminal Island in San Pedro, California. I was sentenced to 23 years of imprisonment.
3. In or about 2019, I was working in Kazakstan when I became aware that a search warrant was executed at my home in Washington State. Once I became aware of such search, I contacted law enforcement and was informed the search involved the FBI. I then contacted the FBI and spoke to one of the agents that searched my home. I asked if I should return to the United States from work and he informed me that I should not worry and keep living my life and once they need me they will contact me; I provided the agent with my information.
4. Several months later, I was arrested in Kazakstan and placed in a prison or jail there. I met with the American Consul several times and advised them of my willingness to be returned to the United States. Nevertheless, I was not returned to the United States for approximately 427 days.
5. I am informed and believe, and thereon allege, that my attorney, Jess Johnson from Georgia, filed a motion to dismiss the indictment against me and that such motion was denied. I was thereafter sentenced to 23 years, and believe filed a timely appeal.
6. I am informed and believe that my appeal was denied on or about April 17, 2023. (Attached hereto and incorporated herein is a true and correct copy of

the Court of Appeal's opinion as "Exhibit 1").

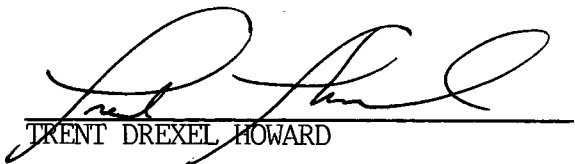
7. I am informed and believe that on or about May 1, 2023, my attorney, Mr. Johnson, filed a Petition for Rehearing because the Court of Appeals made its decision on mistakes of facts that were in the record. (Attached hereto and incorporated herein is a true and correct copy of the Petition for Rehearing as "Exhibit 2").
8. On or about July 25, 2023, I received a letter from Mr. Johnson dated July 20, 2023, that the Petition for Rehearing was denied on July 18, 2023. (Attached hereto and incorporated herein is a true and correct copy of the order denying the Petition as "Exhibit 3").
9. Immediately upon receiving the letter, I asked my family to contact Mr. Johnson to retain him for an appeal to the Supreme Court. For the following 6 weeks or so, my family continued to inform me that they are raising the money for Mr. Johnson's retainer fee. However, in mid-September of 2023, my family informed me that Mr. Johnson would no longer agree to represent me. I thereafter requested that they contact every attorney they could to see if someone would represent me. For the next several weeks, I spoke with my family constantly, but they were unable to find an attorney that would be willing to take my case.
10. During this time, I also started to learn in the law library and was being assisted by another inmate who showed me how to use the Lexis Nexis data base, and I realized I only had 90 days to file a Petition for Writ of Certiorari, but I did not have my case file. I immediately told my family to ask Mr. Johnson to send me my file, but to date, I have not received it.
11. Unfortunately, the inmate that was assisting me was transferred and I have yet to obtain my file. I am therefore respectfully asking, and pleading, that this Honorable Court allow me 60 days to be able to obtain my file and file a proper Petition. I have recently found another inmate that is willing and able to assist me, and I just need a little more time to

properly prepare my Petition and brief this Court on the denial of my Sixth Amendment right and the Speedy Trial Act that was caused by the Government in my case.

12. As the Court can see from the exhibits I attached, the Court of Appeal made findings on clearly erroneous facts, which has now left contradictory case law in the Ninth Circuit. My freedom and liberty may depend on the Petition for Writ I seek to file.
13. I did my best to get this motion ready as fast as I could, and was able to find a priority mail envelope to send it to the Court as soon as I could. I do not want my inability to find counsel after being left high-and-dry to risk my freedom. I will not ask for another extension.

I declare and affirm under the Penalty of Perjury under the laws of the United States of America, that the foregoing is true and correct, except those matters stated on information and believe, which I believe to be true.

Executed on this 12th day of October, 2023, at San Pedro, California.


TRENT DREXEL HOWARD