

App. No. 23A483

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In The  
Supreme Court of the United States

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Salvador Magluta,

*Petitioner,*

v.

United States of America,

*Respondent.*

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PETITIONER’S APPLICATION TO EXTEND FURTHER THE  
TIME TO FILE PETITION FOR A WRIT OF CERTIORARI

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To the Honorable Clarence Thomas, as Circuit Justice for the United States Court of Appeals for the Eleventh Circuit:

1. Petitioner Salvador Magluta respectfully requests that the time to file a Petition for a Writ of Certiorari in this case be further extended for thirty days to February 5, 2024. One prior extension of time of 30 days for filing the petition (App. No. 23A483) was granted by Justice Clarence Thomas, and absent a further extension of time, the petition will be due on January 4, 2024. Petitioner is filing this Application at least ten days before that date. *See* S.Ct. R. 13-5. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

2. Petitioner seeks review of the decision of the United States Court of Appeals for the Eleventh Circuit based on substantial questions relating to that court’s resolution of

petitioner’s appeal from the denial of his motion for compassionate release, where petitioner, who is serving a sentence for money laundering, had been subjected by federal prison authorities to decades of punitive solitary confinement based on allegations of which petitioner was acquitted by a jury in his criminal trial. The Eleventh Circuit affirmed denial of petitioner’s compassionate release motion, maintaining its holding in *United States v. Bryant*, 996 F.3d 1243 (11th Cir. 2021)—which is at odds with all other circuits to consider the question—that compassionate release cannot be based on factors other than medical condition, certain family circumstances, or age-related physical or mental health deterioration. The Eleventh Circuit’s categorical ruling that prevented compassion from being afforded to petitioner despite the premature aging and mental deterioration arising from torturous solitary confinement conditions—imposed administratively based on acquitted conduct—merits certiorari review.

3. The Eleventh Circuit’s construction of the compassionate release statute is in conflict with the decisions of several other circuits. These issues may warrant granting a writ of certiorari and will require substantial legal research and review by the undersigned, including as to extent of circuit conflicts. Of particular concern is whether the November 1, 2023 amendment to the compassionate release guideline, U.S.S.G. § 1B1.13, offers any relief to petitioner or will instead fail to resolve the clear circuit conflict and whether the Sentencing Commission’s December 14, 2023 proposals addressing the acquitted conduct issue offer possible alternative relief. Due to case-related and other reasons, additional time is necessary and warranted for counsel to research the decisional conflicts, and prepare a clear, concise, and comprehensive petition for certiorari for the Court’s review.

4. The press of other matters makes the submission of the petition difficult absent an extension. Counsel has recently recovered from a Covid infection that kept him out of the office for three weeks and has been required to devote considerable time over the past several weeks to preparation of appellate briefs in multiple criminal appeals due in January 2024 (Eleventh Circuit Nos. 14-15140, 16-12218, 20-13971, 21-11311, 22-11676, 22-11853, 23-11322, 23-12445, 22-13312, and 23-13292).

5. The forthcoming petition is likely to be granted in light of, among other things, the need to clarify the federal statutory right to pursue sentence modification to due premature aging and mental deterioration arising from conditions and abuse experienced in serving a federal prison sentence.

### **Conclusion**

For the foregoing reasons, the time to file a Petition for a Writ of Certiorari in this matter should be extended thirty days to and including February 5, 2024.

Respectfully submitted,

/s/ Richard C. Klugh

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