

COMBINED MOTION TO DOCKET PETITION FOR WRIT OF CERTIORARI AND FOR A 60 DAY
ENLARGEMENT OF TIME IN WHICH TO RESEARCH, PREPARE, AND FILE THE PETITION

Pro se Petitioner Stephen Aguiar respectfully moves the Court to grant him a 60 day enlargement of time in which to file his opening brief in this Petitioner for a Writ of Certiorari in this case from December 13, 2023 to February 12, 2024.

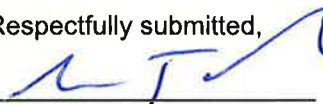
The filing deadline on which the Petitioner must file his Petition to this Court in this case is December 13, 2023 based on the date of the Second Circuit Court of Appeals' Orders. See Attached final orders/judgments.

The Petitioner seeks a 60 day enlargement of time that would extend the deadline on which he must file his complete Petition to February 12, 2024. There is good cause to docket this case, issue a docket number, and grant the Petitioner the 60 day enlargement of time for which he seeks to research, file, and his complete Petition for the Court. First, the Petitioner is self-represented and must perform much needed research that requires access to the law library. Second, access to the law library is severely limited with repeated closures due to security reasons or lack of staff and prison officials have removed law library access to prisoners in the housing units. Last, the Petitioner has a diagnosed traumatic brain injury and has a learning disability and requires the help of fellow prisoners to file his Petition.

For the above detailed reasons, the Petitioner therefore moves the Court to grant this combined motion, docket the Petition, grant the Petitioner a 60 day enlargement of time in which to file his complete Petition for the Court and order that the complete Petition be filed on or before February 12, 2024.

I certify under penalty of perjury, see 28 U.S.C. Section 1746, that I am a prisoner confined to an institution and relying on the prison mailbox rule of *Houston v. Lack* I gave this parcel to prison officials on December 4, 2023 by certified United States Mail with postage fully prepaid and his motion is therefore timely filed on December 4, 2023.

Respectfully submitted,



Stephen Aguiar, pro se
Reg. No. 03722-082
FMC Devens
P.O. Box 879
Ayer, MA 01432

Dated: December 4, 2023

CERTIFICATE OF SERVICE

I, Stephen Aguiar, do hereby also certify that I caused a copy of the foregoing to be served on the opposing party by First Class United States Mail with postage fully prepaid by mailing a copy to the Solicitor General's Office at 950 Pennsylvania Avenue, NW, Washington DC.



Stephen Aguiar, pro se

Dated: December 4, 2023

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 14th day of September, two thousand twenty-three.

Present:

Reena Raggi,
Raymond J. Lohier, Jr.,
Susan L. Carney,
Circuit Judges.

Stephen Aguiar,

Petitioner-Appellant,

v.

23-6443

23-6446

United States of America,

Respondent-Appellee.

It is hereby ORDERED that the proceeding docketed at 23-6446 is DISMISSED as duplicative.

Appellant, pro se, moves for a certificate of appealability and in forma pauperis status to appeal the denials of his Rule 60(b) and 59(e) motions. He also moves to hold the appeal in abeyance or alternatively, for remand. Upon due consideration, it is hereby ORDERED that the motions are DENIED and the appeal in 23-6443 is DISMISSED because Appellant has failed to show that “(1) jurists of reason would find it debatable whether the district court abused its discretion in denying the Rule 60(b) motion, and (2) jurists of reason would find it debatable whether the underlying habeas petition, in light of the grounds alleged to support the [Rule] 60(b) motion, states a valid claim of the denial of a constitutional right.” *Kellogg v. Strack*, 269 F.3d 100, 104 (2d Cir. 2001) (per curiam); see *Jackson v. Albany Appeal Bureau Unit*, 442 F.3d 51, 54 (2d Cir. 2006) (applying the *Kellogg* standard to Rule 59(e) motions).

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk of Court