

No. _____

In the United States Supreme Court
Of The United States

JEFFRI DAVILA-REYES,
Petitioner

,

Appellee,

v.

UNITED STATES,

Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITIONER'S APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR A WRIT OF CERTIORARI

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PETITIONER'S APPLICATION FOR EXTENSION OF
TIME TO FILE A PETITION FOR A WRIT OF
CERTIORARI

To the Honorable Supreme Court

Petitioner, Jeffri Davila-Reyes, respectfully applies to this Court for an order extending the time in which to file his petition for writ of certiorari from January 5, 2024 until February 5, 2024, a period of thirty (30) days. This Court has jurisdiction under 28 U.S.C. §1257. In support of this Application, Mr. Davial-Reyes states as follows:

1. On October 5, 2023, the United States Court of Appeals for the first Circuit issued an opinion in Case No. 16-2089 (attached), wherein the *en banc* Court affirmed the judgment of the United States District Court for the District of Puerto Rico in Case No. 3:15-cr-00721.

2. Davila-Reyes raises important questions regarding clearly established federal law that creates a circuit split that must be resolved by the Supreme Court. Mr. Davila-Reyes contends that his unconditional guilty pleas did not waive his challenge to the jurisdiction of the district court, because the challenge concern whether his vessel was "subject to the jurisdiction of the United States" under the MDLEA. This requirement in the MDLEA places a limit on a federal court's subject matter jurisdiction and thus a federal court's jurisdiction under Article III of the United States Constitution. In consequence, Mr. Davila-Reyes contend, his challenges take aim at the Article III jurisdiction of the District Court and so are both not waivable by an unconditional

guilty plea and subject to de novo (rather than plain error) review whether his challenge was raised below or not.

Mr. Davila-Reyes challenges the First Circuit opinion in *United States v. González*, 311 F.3d 440 (1st Cir. 2002), where it held that the Maritime Drug Law Enforcement Act ("MDLEA") 46 U.S.C. § 70503(e)(1) does not establish a limitation on a court's subject matter jurisdiction, *contrary* to what other circuits have also concluded. (See *United States v. Miranda*, 780 F.3d 1185, 1191-97 (D.C. Cir. 2015) and *United States v. Tinoco*, 304 F.3d 1088, 1106 (11th Cir. 2002); *United States v. Bustos-Useche*, 273 F.3d 622, 626 (5th Cir. 2001) The First Circuit sided with the Second Circuit citing *United States v. Prado*, 933 F.3d 121, 132-51 (2nd Cir. 2019).

3. Mr. Davila-Reyes now seeks a writ of certiorari for the United States Court of Appeals for the First Circuit with respect to its *en banc* decision. This Court's jurisdiction to grant the same arises pursuant to 28 U.S. C. § 1254 (1).

4. According to Supreme Court Rule 13.3, a petition for writ of certiorari is due on or before January 5, 2024. See Supreme Court Rule 13.3 ("the time to file the petition for a writ of certiorari . . . runs from the date of the denial of rehearing or, if rehearing is granted, the subsequent entry of judgment"). However, the time granted by Supreme Court Rule 13 will be insufficient to allow Petitioner's counsel to do justice to the issues at hand, which are of vast import. Therefore, the Petitioner seeks an extension of thirty (30) days in which to file his petition for a writ of certiorari. See Supreme Court Rule 13.5 ("[A] Justice may extend the time to file a petition for writ of certiorari for a period

not exceeding 60 days”).

5. In accordance with Supreme Court Rule 13.5, this Application is submitted at least ten (10) days prior to the present due date. Further, the requested extension is made in good faith and not for the purposes of delay. Indeed, the requested extension is made because of the vital importance associated with the issues at hand – the right to a fair and reliable sentence. This Court has repeatedly emphasized that “our duty to search for constitutional error with painstaking care is never more exacting than it is in a capital case.” *Burger v. Kemp*, 483 U.S. 776, 785 (1987). It is respectfully submitted that counsel’s duty to present all authorized claims of constitutional error with care is of equal import. Thus, it is important that counsel be granted additional time to prepare Mr. Davila-Reyes’ petition with the care demanded of such cases.

6. Other obligations, including on behalf of clients who have been sentenced to life have precluded counsel from being able to direct adequate time and attention to the preparation of a petition for writ of certiorari on Petitioner’s behalf. Therefore, in light of counsel’s current obligations and the importance of the constitutional issues that will be presented in this case, counsel submit that a thirty (30) day extension is necessary and appropriate in order to effectively prepare the petition for certiorari on Mr. Davila-Reyes’ behalf.

Wherefore, in the interest of justice and for good cause shown, counsel for Mr. Davila-Reyes respectfully requests that this Court extend the current January 5, 2024, deadline until February 5, 2024.

Respectfully submitted,

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