

OCTOBER TERM, 2023

IN THE SUPREME COURT OF THE UNITED STATES
CASE NO. _____

MANUEL SEPULVEDA,
Petitioner,
v.

SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS,
Respondent.

**PETITIONER'S MOTION FOR EXTENSION OF TIME FOR THE FILING OF
A PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT**

Petitioner, MANUEL SEPULVEDA, through counsel, respectfully moves for an extension of thirty (30) days to prepare and file his Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit. In support thereof, Petitioner submits as follows:

1. Mr. Sepulveda was sentenced to death in 2003. *Commonwealth v. Sepulveda*, 855 A.2d 783, 785–86 (2004). His conviction and sentences were affirmed on direct appeal. *Id.* at 794. The United States Supreme Court denied certiorari. *Sepulveda v. Pennsylvania*, 546 U.S. 1169 (2006).

2. On post-conviction review, the Pennsylvania Supreme Court affirmed the denial of relief as to all of Mr. Sepulveda's guilt-phase claims but held that trial counsel rendered constitutionally deficient performance with respect to the

development and presentation of mitigating evidence at the penalty phase. *Commonwealth v. Sepulveda*, 55 A.3d 1108, 1130 (2012). The Pennsylvania Supreme Court remanded to the Post-Conviction Review Act (“PCRA”) court to determine whether Mr. Sepulveda suffered prejudice as a result of counsel’s deficient performance.

3. The PCRA court held another hearing and determined that Mr. Sepulveda had suffered prejudice at the penalty phase and ordered a new sentencing hearing.

4. The Commonwealth elected not to pursue the death penalty and Mr. Sepulveda was resentenced to two concurrent life terms for the two first-degree murder convictions, plus twelve to twenty-four years imprisonment for conspiracy.

5. Following his resentencing, the District Court issued an opinion and an order denying habeas relief on Mr. Sepulveda’s remaining guilt phase claims as well as a certificate of appealability (“COA”).

6. Mr. Sepulveda filed a timely notice of appeal.

7. A panel of the United States Court of Appeals for the Third Circuit denied Mr. Sepulveda’s application for a COA and dismissed the appeal. *See Order, Sepulveda v. Sec’y, Pa. Dep’t Corr.*, No. 23-1813 (3d Cir. Sept. 29, 2023) (Attachment A).

8. Mr. Sepulveda’s timely petition for rehearing and/or rehearing en banc was denied on January 12, 2024. *See Order, Sepulveda v. Sec’y, Pa. Dep’t Corr.*, No. 23-1813 (3d Cir. Jan. 12, 2024) (Attachment B).

9. Pursuant to Rule 13 of the Rules of the Supreme Court of the United States, Mr. Sepulveda may file a writ of certiorari within 90 days of the Third Circuit's order denying rehearing, i.e. by April 11, 2024.

10. Mr. Sepulveda wishes to seek this Court's certiorari review of several of the issues presented to the Third Circuit. There is jurisdiction in this Court over such a petition under 28 U.S.C. § 1254(1).

11. Undersigned counsel, however, cannot meaningfully prepare a professionally appropriate certiorari petition by the current due date of April 11, 2024. Counsel is a public defender responsible for dozens of capital cases. Counsel's obligations include the filing of a petition for rehearing following the Third Circuit's recent denial of habeas relief in a capital case, and the preparation of an amended petition for habeas corpus that is due in a capital case in the Southern District of Ohio. As a result, it is not possible for counsel to adequately prepare the certiorari petition by its current due date.

12. This request for an extension is being filed and served more than ten (10) days in advance of the due date, as provided for in S.C.R. 13(5).

13. This request is made in good faith and is not predicated on an intent to delay.

WHEREFORE, Petitioner prays that the Court allow a thirty (30) day extension for the preparation and filing of his Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

Respectfully submitted,

/s/ Stuart B. Lev _____

Stuart B. Lev, Esq.

Federal Community Defender Office
for the Eastern District of Pennsylvania

Curtis Building, Suite 545 West

601 Walnut Street

Philadelphia, PA 19106

(215) 928-0520

Dated: March 25, 2024
Philadelphia, Pennsylvania