

No. _____

In the Supreme Court of the United States

UNITED STATES OF AMERICA,

Plaintiff/Appellee,

v.

MANUEL LUCERO, III,

Defendant/Appellant.

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

**DEFENDANT/APPELLANT'S APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR A WRIT OF CERTIORARI**

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Dated: June 3, 2025

**DEFENDANT/APPELLANT'S APPLICATION FOR EXTENSION OF
TIME TO FILE PETITION FOR A WRIT OF CERTIORARI**

To the Honorable Neil M. Gorsuch, Associate Justice of the United States Supreme Court and Circuit Justice for the Tenth Circuit:

In accordance with Rules 13.5, 30.2, and 30.3 of the Rules of the Supreme Court of the United States, and for the reasons set forth herein, the undersigned counsel, on behalf of Defendant/Appellant, Manuel Lucero, III, respectfully applies to this Court for an order extending the time in which to file a petition for a writ of certiorari from June 9, 2025, until Friday, August 9, 2025, a period of sixty (60) days. In support of this Application, counsel for the Defendant/Appellant would show the Court as follows:

BACKGROUND

Mr. Lucero is incarcerated by the United States Bureau of Prisons under the conviction and sentence at issue in the lower-court proceedings. He is serving a sentence of one hundred twenty (120) months.

The undersigned counsel was appointed to represent Mr. Lucero on appeal by the United States Court of Appeals for the Tenth Circuit, as a member of its Criminal Justice Act Panel. The undersigned briefed Mr. Lucero's appeal. The undersigned raised several sentencing issues on appeal. The Tenth Circuit entered its Opinion on March 11, 2025, and affirmed Mr. Lucero's sentence in its entirety, rejecting all of the arguments raised by

counsel in a twenty-three-page published decision. A copy of the Tenth Circuit's Opinion is appended to this Application as Attachment A.

Recently, Mr. Lucero has indicated to the undersigned that one of the things he wishes to do is seeking certiorari from the United States Supreme Court on grounds that Mr. Lucero maintains must include a claim of ineffective assistance of appellate counsel against the undersigned.¹ The undersigned counsel believes that this gives rise to an actual conflict of interest which requires his withdrawal and the appointment of new counsel.

Section VII of the Tenth Circuit's CJA Plan provides that a motion to withdraw is appropriate in these circumstances, which the undersigned counsel believes is also required by the governing ethical rules. Counsel has, on June 3, 2025, filed such a motion. A copy of the July 3, 2025 Motion is appended to this Application as Attachment B.

¹ Mr. Lucero has also demanded that the undersigned counsel (i) represent him in seeking either executive clemency or a pardon, (ii) file what Mr. Lucero calls a "Havens Action" (the undersigned counsel believes that this is a reference to an action under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) against actors involved in his underlying arrest and prosecution), and/or (iii) direct his office staff to conduct various investigations in New Mexico to support one or more of the preceding issues. These actions are both outside the scope of the undersigned counsel's appointment and matters on which the undersigned counsel would decline to become involved in even if that were not the case.

ARGUMENT AND AUTHORITIES

Mr. Lucero has expressed his desire to seek certiorari of the United States Court of Appeals for the Tenth Circuit's decision in this case, though on grounds that give rise to an actual conflict of interest for the undersigned counsel. This Court's jurisdiction to consider the same arises in accordance with 28 U.S.C. § 1254(1). According to Supreme Court Rule 13.3, a petition for writ of certiorari to the United States Court of Appeals for the Tenth Circuit is due on or before June 9, 2025 (ninety days after the Tenth Circuit's Opinion). *See* Supreme Court Rule 13.1. But in this case, due to the unresolved motion to withdraw and status of the matter, additional time beyond that granted by Supreme Court Rule 13 is needed. Thus, counsel seeks for Mr. Lucero an extension of sixty (60) 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”).

While this Application is filed less than ten (10) days prior to the present due date as provided in Supreme Court Rule 13.5, it is because the conflict of interest and Mr. Lucero's related intentions only recently crystallized. Further, the requested extension is made in good faith and not for the purpose of delay. The requested extension is made because of the unique status of the issues presented, as explained herein and in the attached still-pending motion.

Counsel submits that a sixty (60) day extension is necessary and appropriate in order to allow the pending issues to be resolved, and Mr. Lucero to consult with conflict-free counsel and either file a petition with such counsel or potentially file a *pro se* petition if he wished.

WHEREFORE, in the interest of justice and for good cause shown, counsel submits that a reasonable extension of time should be granted within which to file a petition for certiorari on behalf of Mr. Lucero. Counsel respectfully requests, pursuant to Supreme Court Rule 13.5, this Court extend the current June 9, 2025 deadline until August 9, 2025.

Respectfully submitted,

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