

App. No. 17A1055

In The
Supreme Court of the United States

David H. Brooks,

Petitioner,

v.

United States of America,

Respondent.

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

To the Honorable Ruth Bader Ginsburg, as Circuit Justice for the United States Court of Appeals for the Second Circuit:

Petitioner David H. Brooks respectfully requests that the time to file a Petition for a Writ of Certiorari in this case be further extended for 28 days to June 11, 2018. One prior extension of time of 30 days for filing the petition (App. No. 17A1055) was granted by Justice Ginsburg, and absent a further extension of time, the petition will be due on May 14, 2018. Petitioner is filing this Application at least ten (10) days before that date. *See* S.Ct. R. 13-5. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

Background

Petitioner seeks review of the decision of the United States Court of Appeals for the

Second Circuit based on substantial questions relating to the application of the abatement doctrine upon the death of a defendant during the direct appeal of criminal convictions and related penalties. The decision below deepens a circuit conflict relating to whether a restitution judgment and other penalties imposed on a criminal defendant who dies during the pendency of an appeal must be vacated and all convictions abated, or whether there are exceptions to the rule of abatement in cases involving a guilty plea or for certain types of penalties imposed by the trial court. The issues are complex. Briefing in the Second Circuit was very extensive, and the litigation in the Second Circuit extended over a period of five years and involved a eight-month jury trial and nearly 2,000 docketed pleadings in the district court. The important issues, the clear circuit conflict, and the collateral impact of the Second Circuit's decision are such that substantial additional research and review by counsel are required, including review of relevant state court decisions applying due process principles. Hence, petitioner seeks this further extension of time.

Reasons For Granting An Extension Of Time

The time to file a Petition for a Writ of Certiorari should be further extended for 28 days for the following reasons:

1. 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.
2. The press of other matters makes the submission of the petition difficult absent an extension. Counsel presently faces oral argument settings in two appeals in the Eleventh

Circuit (Nos. 15-12697 and 15-13325) on May 15, 2018, and counsel faces appellate filing deadlines in numerous cases from May 1, 2018 to June 4, 2018, including in Second Circuit No. 13-3874, Fifth Circuit No. 17-60721, and Eleventh Circuit Nos. 18-10755, 17-15714, 17-15383, 17-15047, 17-15030, 17-14825, 17-12805, 16-11882, and 16-11049.

3. The forthcoming petition is likely to be granted in light of, among other things, the need to address multiple important circuit conflicts regarding the scope and application of the abatement doctrine.

Conclusion

For the foregoing reasons, the time to file a Petition for a Writ of Certiorari in this matter should be extended 28 days to and including June 11, 2018.

Respectfully submitted,

/s/ Richard C. Klugh

Richard C. Klugh
Counsel for Petitioner
25 S.E. 2nd Avenue, Suite 1100
Miami, Florida 33131
Telephone No. (305) 536-1191
Facsimile No. (305) 536-2170

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