

**IN THE
SUPREME COURT OF THE UNITED STATES**

No. 17A371

SLORNAVEED PATOLILLO GONZALEZ,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

**APPLICATION TO THE HON. ANTHONY M. KENNEDY
FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE
A PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

Petitioner hereby moves by his undersigned counsel, pursuant to Rule 13(5) of the Rules of this Court, for an extension of time of 15 days, to and including January 5, 2017, for the filing of a petition for a writ of certiorari to review the decision of the United States Court of Appeals for the Ninth Circuit dated June 30, 2017 (Exhibit 1), on which a timely petition for rehearing or rehearing en banc was denied on August 8, 2017 (Exhibit 2). The jurisdiction of this Court is based on 28 U.S.C. § 1254(1).

1. The petition for a writ of certiorari was originally due on November 6, 2017. On October 5, 2017, Justice Kennedy extended that deadline 45 days, to and

including December 21, 2017. Accordingly, the date within which the petition for certiorari would be due, if not extended, is December 21, 2017.

2. Extraordinary circumstances exist for the requested extension for the following reason. Petitioner's Counsel of Record in this case (Assistant Federal Public Defender Molly A. Karlin) is also counsel to the defendant in *United States v. Alahmedalabdaloklah*, No. 12-cr-001263 (D. Ariz.), a federal criminal jury trial expected to last at least two months with a current trial date of January 23, 2018, in which the Government has alleged acts of terrorism and seeks multiple life terms of imprisonment. Yesterday, December 12, 2017, the district court in that case ordered expedited briefing on a dispositive motion, setting the deadline for defendant's reply brief at noon on December 19, 2017, and scheduling oral argument on the motion for one o'clock on December 21, 2017—i.e., the same day the petition for a writ of certiorari in this matter is presently due. In addition, the defendant's reply brief in another dispositive motion in that case is due on December 15, 2017. Oral argument on the latter motion has also been scheduled for December 21, 2017.

3. It will not be possible for Petitioner's counsel—who has been appointed pursuant to 18 U.S.C. § 3006A in both this case and the *Alahmedalabdaloklah* matter—to complete an appropriate petition for consideration by this Court for submission by the current deadline of December 21, 2017 while also satisfying her Sixth Amendment obligations to the defendant in the *Alahmedalabdaloklah* case.

4. This case presents an important question of federal law on which the Ninth Circuit stands alone: namely, whether a court performing the modified categorical approach may rely upon the allegations in a charging document to which the defendant did *not* plead guilty to conclude that the offense to which he *did* plead guilty constitutes a crime of violence. In holding here that such reliance is permissible, the Ninth Circuit diverged from “every other circuit to address this question.” *United States v. Martinez*, 756 F.3d 1092, 1093 (8th Cir. 2014).

5. Petitioner is scheduled to be released from the custody of the Bureau of Prisons on January 10, 2018, upon completion of the 41-month custodial sentence imposed by the district court. As Petitioner will inevitably complete his custodial sentence prior to this Court’s disposition of his intended petition regardless whether the extension of time requested herein is granted, such extension will not delay service of his sentence or otherwise prejudice respondent.

6. For the foregoing reasons, petitioner hereby requests that an extension of time of 15 days, to and including January 5, 2017, be granted within which petitioner may file a petition for a writ of certiorari.

Respectfully submitted,

JON M. SANDS
Federal Public Defender

s/ Molly A. Karlin

MOLLY A. KARLIN
Assistant Federal Public Defender
Counsel of Record
850 West Adams Street, Suite 201
Phoenix, Arizona 85007

Counsel for Petitioner

December 13, 2017