

No. _____

In The Supreme Court of The United States

Patrick J. McAllister,
Petitioner

v.

United States of America

APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE 9TH CIRCUIT

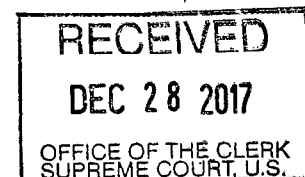
To the Honorable Anthony Kennedy of the Ninth Circuit:

Petitioner, Patrick J. McAllister, requests an extension of time to file his Petition for Writ of Certiorari. Petitioner is requesting an extension of 60 days to file Petition. The Final Judgment in the United States District Court, Western District of Washington, at Tacoma was entered on October 4th, 2017. Petition for Writ of Certiorari will expire January 4, 2018.

This Application is being filed no less than 10 days prior to the due date.

Attached are copies of majority and dissenting opinions. Statutes that the jurisdiction of this court is invoked under are: 28 U.S.C. § 2255, and F.R.Civ.P. Rule 60(b)(2), 60(b) (5) and Rule 60(b)(6)

Discuss briefly the validity the constitutional amendments or statutes involved may have on this case.



Indicate that there are important questions which were determined adversely by the court below.

On November 28, 2017, U.S. District Judge Ronald B. Leighton denied petitioner's motion to dismiss his conviction pursuant to rule (60b), and denied McAllister's motion to stay probation. Judge Leighton stayed the special conditions of supervision, No.'s 3 and 4 until such time as the government files a report, by December 13th, 2017. This report was to have addressed whether special conditions mandating sexual deviance evaluation and treatment are warranted. Petitioner did not receive the order of the court until December 16, 2017, and as of this date, has not received a copy of the report. Petitioner requests an extension of 60 days to allow him to obtain the government's report as to whether sexual deviancy evaluation and his participation in a sexual deviancy treatment program is warranted. The report Judge Leighton relied on in making his decision, stating special conditions No. 3 (dkt 62 at 4) requiring the defendant to participate in a sexual deviance evaluation as directed by the U.S. Probation Office is vacated; and special conditions of supervision No. 4 (dkt 62 at 4) requiring the defendant to participate in a sexual deviancy program as directed by the U.S. Probation Office is vacated.

All other special conditions of supervision contained in the judgment remain in full effect.

Petitioner believes the government's report is very relevant to his motion to dismiss his conviction pursuant to rule 60(b), and petitioner should be permitted to receive a copy of that report. Given the fact that the judge vacated the special conditions of supervision No.'s 3 and 4, based upon that report, petitioner has a right to receive a copy of that report.

The district court and the 9th Circuit Court did not follow case precedence as in United States v. Hadima, 160 Fed. Appx. 224 (3 Cir. 2005), 2005 U.S. App. LEXISA 28439. The court vacated the appellant's guilty plea conviction of falsifying an immigration document in violation of 18 U.S.C. §1546 (a), because, like defendant in instant case, this appellant was actually innocent of the charged crime, where he responded to the document in good faith, having express permission and consent to enter information in the immigration document. In McAllister's case, Mr. McAllister signed a UV Application with the advice of his attorney, an officer of the court. There was no knowing and intentional deception on the part of Mr. McAllister. The court should follow the precedence of Hadima.

In the order on the motion to dismiss conviction and motion to stay probation, dated November 29, 2017, the court stated that the 9th Circuit confirmed petitioner's conviction, 3..13-CR-5464-RBL. Dkt. 62 at 4. But, that was before Mr. McAllister submitted extensive evidence of Brady violations. The 9th Circuit was not aware of the Brady Violations, or that Mr. McAllister's state case had been overturned; a clear denial of his Constitutional due process rights. The court states that the government opposed McAllister's motion arguing that the vacated state convictions are immaterial to Mr. McAllister's federal convictions; and there are no grounds to delay the imposition of supervised release. But, Mr. McAllister will demonstrate how the two cases are 100% interrelated. McAllister was threatened by the AUSA with human trafficking, forced labor, and interstate domestic violence, when the government was withholding exculpatory evidence that would prove those charges were without merit, and had no basis in fact. Given this extension of time, Mr. McAllister will prove that his plea was not entered knowingly and intelligently, because the evidence that would have proven his innocence was withheld from petitioner; a clear violation of petitioner's Constitutional rights. There are more Constitutional violations that Mr. McAllister will bring forth in his Petition for Certiorari, upon the granting of

this extension of time for reasons stated below.

Give full details of why it is necessary for an extension of time.

My state conviction was overturned on July 25, 2017 in Division II Washington State Court of Appeals, Case No. 49417-5-II. I was released on October 20, 2017 with only shower shoes, shorts and a T-shirt. It has taken some time to get my legal property from the prison in Airway Heights, Washington which has delayed my progress in working on my legal defense. In addition, since my release on October 20, 2017, I have experienced continued medical issues, at times requiring emergency room visits due to blood clots in my right leg, and internal bleeding. I have no vehicle at my disposal, and it is difficult for me to walk long distances (a block or more). I also do not have assistance in working on my case, and I do not have a legal background. These combined factors have impacted my progress in working on my case.

Respectfully submitted,

A handwritten signature in black ink, reading "Patrick J. McAllister". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

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