

No. _____

In The
SUPREME COURT OF THE UNITED STATES

RANDEEP SINGH MANN,

Petitioner,

v.

UNITED STATES,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Eighth Circuit

**APPLICATION FOR EXTENSION OF TIME
OF THIRTY DAYS TO FILE PETITION FOR CERTIORARI**

To the Honorable Neil M. Gorsuch, Circuit Justice:

Petitioner Randeep Singh Mann, M.D., prays the Court for its order under U.S.S.Ct.R. 13.5 granting him an extension of time of thirty (30) days in which to file his petition for a writ of certiorari to seek review of the order of October 31, 2017, of the United States Court of Appeals for the Eighth Circuit summarily denying his application for certificate of appealability (Attachment A)—petition for rehearing with suggestion for rehearing en banc denied December 28, 2017 (Attachment B)—leaving in place the trial court’s denial without discovery or an evidentiary hearing (Attachment C) of his motion for post-conviction relief under 28

U.S.C. § 2255. Petitioner attaches true and correct copies of these orders to this application. The certiorari petition is due on March 28, 2018.

Because the petitioner seeks review of the adverse orders of the court below by writ of certiorari, this Court has jurisdiction under 28 U.S.C. § 1254(1). Petitioner presents this application within the initial period of ninety days after the denial of rehearing allowed for petitions for certiorari, and more than ten days before the expiration of this period.

Yesterday, March 8, 2018, counsel for Dr. Mann was preparing the petition and appendix in this matter. He received an order to respond to a document relating to a capital case in which he represented the condemned man from 2008 to 2015. *Bucklew v. Luebbbers*, 03-3721 (8th Cir. Oct. 6, 2015) (granting motion for leave to withdraw). The Missouri Supreme Court has set a March 20 execution date against the former client. *State v. Bucklew*, No. SC80052 (Nov. 17, 2017). A prompt response to the order counsel received yesterday is especially appropriate under the circumstances.

As Dr. Mann's case did for his trial–direct-appeal counsel, Mr. Bucklew's case creates an immediate duty for Dr. Mann's present counsel that implicates Formal Opinion 10-456 of the American Bar Association's Standing Committee on Ethics & Professional Responsibility. Formal Opinion 10-456 construes A.B.A. Model Rule 1.6(b)—received in Missouri as Mo. S. Ct. R. 4-1.6(b) and in Arkansas as Ark. R. Prof. Cond. 1-6(b), and specifically the subparagraph (variously numbered according to whether the relevant state received other subparagraphs) creating a limited

exception to the duty of confidentiality when former counsel is subject to criminal prosecution, civil suit, or disciplinary action.

One of the principal issues from Dr. Mann's case in the courts below and in the certiorari petition in preparation is that trial–direct-appeal counsel in Dr. Mann's case were ***not*** facing criminal or civil liability or disciplinary sanctions, but nonetheless collaborated with counsel for the respondent to create evidence and arguments including ex post facto “strategic” reasons for not doing things Dr. Mann had asked them to do or additional things that present counsel argued they should have done. They and the respondent's counsel did this without judicial supervision or an opportunity for present counsel to object to breaches of the rule of confidentiality beyond what was reasonably necessary to respond to the averments, authorities, and reasoning in the section 2255 motion and filings in support of it.

By contrast, Dr. Mann's counsel intends to ***follow*** the Rule and the Formal Opinion construing it. He has a duty to the former client and to the legal system to confine the ***substance*** of his truthful answer to what is reasonably necessary to respond to the averments and conclusions in the document to which he has been ordered to respond. He has a separate duty to confine, to the best of his ability, the ***availability*** of response to the tribunal that ordered it.

He has already initiated and documented the latter part of his observance of Rule 1.6(b) and the Formal Opinion. If his response goes beyond the immediate entity directing him to respond, that violation would be by someone else.

Preparing the “complete written response” he has been ordered to submit while titrating it to remain within the Rule's limit of reasonable necessity will

require great care, much time, review of gigabytes of data, and intense tension. Despite his withdrawal with the consent of the client and by order of the relevant courts, and the complaint of a third party, counsel remains strongly of the informed belief that on the facts of the case as opposed to the showmanship of the trial prosecutor, Mr. Bucklew was never guilty of first-degree murder and hence subject to the death penalty, and that in light of his unusual physical malady, use of the proposed execution protocol would be a world-class human rights violation.

In view of the imminence of the execution date, and this Court's power to extend the due date for Dr. Mann's certiorari petition for twice the requested period, the present application is the appropriate action for counsel to take in order to be loyal to both the past and the present clients. Because this timely application involves a sentence of death, the special considerations informing this Court's capital jurisprudence militate in favor of its favorable consideration.

WHEREFORE, the petitioner prays the Court for its order as aforesaid.

Respectfully Submitted,

s/John William Simon

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