



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
SOLICITOR GENERAL'S OFFICE

DOMINIC DRAYE
SOLICITOR GENERAL
DIRECT PHONE NO. (602) 542-8255
DOMINIC.DRAYE@AZAG.GOV

November 15, 2018

Scott S. Harris
Clerk of Court
Supreme Court of the United States
One First Street NE
Washington, DC 20543

Re: *Arizona v. Goodman*, No. 18-391

Dear Mr. Harris,

I write in response to Respondent Guy James Goodman's request for a 29-day extension of time within which to file a brief in opposition to the State of Arizona's Petition for Writ of Certiorari. Although the State does not oppose an extension up to December 12, 2018, the State opposes granting a longer extension because it would prevent the Court from deciding this public-safety case during the current Term.

First, the decision below jeopardizes public safety each day that it remains in effect. The State constitutional provision at issue denies bail when a judge, after a full adversarial hearing, finds substantial evidence—more than just probable cause—that a defendant committed sexual assault. Ariz. Const. art. 2, § 22(A)(1); Ariz. Rev. Stat. § 13-3961(A)(2). Even the decision below recognized that this law is a regulatory measure that focuses on protecting the public by preventing addition crimes. *State v. Wein*, 417 P.3d 787, 792 (2018) (citing *Simpson v. Miller*, 387 P.3d 1270, 1276 (2017)). Each day that Arizona's bail restriction remains invalidated presents additional risk that someone unsafe will be released to reoffend.

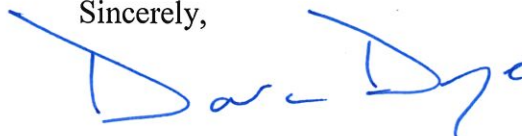
Second, the Court should deny Respondent's request for an extension beyond December 12th because Respondent has already given himself 43 additional days in which to consider the State's Petition by waiting until the last moment to waive his brief in opposition. The State filed its Petition on September 24, 2018. This case, filed by a State and supported by three amicus briefs, is not "clearly without merit."¹ Stephen M. Shapiro, *et al.*, *Supreme Court Practice* 509 (2013 10th ed.). Even if it were, waiver of a brief in opposition is typically "filed promptly" with the goal of "speeding up . . . the disposition of the case." *Id.* at 510. Respondent waited nearly a month—until October 22, 2018—before waiving his right to oppose. Unsurprisingly, on

¹ Review of this case was also specifically "urge[d]" by three dissenting Justices of the Arizona Supreme Court. *State v. Wein*, 417 P.3d 787, 800 (2018).

November 6th, the Court ordered Respondent to file a response and allowed a fresh 30 days in which to do so. After Respondent's delayed waiver and the 30 additional days the Court already afforded Respondent, the State's offer of another brief extension until December 12, 2018 is entirely reasonable. The Court should not encourage gamesmanship by giving Respondent additional time.

For these reasons, the State opposes an extension beyond December 12, 2018. A longer extension will prevent the Court from considering this matter of public safety until next Term.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dominic Draye". The signature is stylized with a large initial "D" and a long, sweeping underline.

Dominic Draye
Solicitor General

DD/nmn

cc: Nicholaus Anthony Podsiadlik
Kyle Douglas Hawkins
Allyson Ho
Elbert Lin