

OFFICE OF THE PUBLIC DEFENDER

MARICOPA COUNTY

JAMES J. HAAS
Public Defender

November 16, 2018

VIA U.S. First-Class Mail and Electronically filed

Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First St., NE
Washington, D.C. 20543

RE: Request to Disregard the State's Letter Opposing an Extension of Time
State of Arizona v. Guy James Goodman
U.S. Supreme Court No. 18-391

Dear Mr. Harris:

I am writing to ask you to disregard the State of Arizona's response to my request for a 29-day extension of time within which to file a brief in opposition to the State's petition for a writ of certiorari.

The State's response is without procedural basis. Rule 30.4 of the Rules of the Supreme Court of the United States provides that, after a party submits a letter to the Clerk asking for an extension, "[t]he motion may be acted on by the Clerk in the first instance, and any party aggrieved by the Clerk's action may request that the motion be submitted to a Justice or to the Court." The State did not do so, choosing instead to stray from the rules into a premature discussion of the merits of their petition. Thus, I respectfully ask that you disregard the State's letter.

I must also correct several inaccuracies in the State's letter. The State has accused me of "gamesmanship" for waiving a response to the State's petition and then, when ordered to file a response, requesting additional time to file a response. However, I had no reason to begin work on a response to the State's petition prior to the Court's request because a response is optional and the Court acts on a very small percentage of briefs submitted to it. Nor do the rules require a formal waiver, and they allow a respondent to simply ignore the petition—as I was inclined to do. Further, the State has acted on its own timeline. The decision petitioned from was issued on May 25, 2018. *State v. Wein (Goodman)*, 417 P.3d 787 (Ariz. 2018). The State had 90 days to file a petition but requested (without opposition) an additional 30 days, and it ultimately filed its petition 122 days after the lower court's decision. If the State truly believed that "the decision below jeopardizes public safety each day that it remains in effect," the State would have filed its petition in a timely fashion allowing *both* parties to thoroughly prepare their arguments.

LAW FIRM

Downtown Justice Center • 620 West Jackson, Suite 4015 • Phoenix, Arizona 85003
(602) 506-7711 • FAX (602) 372-2922 • TT (602) 506-1646

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But public safety is not an issue. As the Arizona Supreme Court recognized, our rules and statutes allow a complete denial of bail to anyone who threatens community safety pending trial. The State must simply show that the accused “poses a substantial danger to another person or the community.” *Goodman*, 417 P.3d at 798 ¶ 37 (quoting A.R.S. § 13-3961(D)). This is essentially the same rule used in at least 45 states for a person accused of a crime not committed while already on release and with less than a capital or life sentence.

I respectfully ask for an extension of 29 days to and including January 4, 2019, to prepare a response that thoroughly and accurately allows the Court to decide whether to grant certiorari. This will be less than half the time taken by the State to prepare its brief and much less than the time the State’s amici have had to prepare their three briefs. As noted in my initial letter, I have diligently sought to prepare a response but I am the sole attorney on this matter, and I have duties to my other court-appointed clients, including one capital appeal, *State v. Allyn Smith*, CR-18-0295-AP, in the Arizona Supreme Court.

Thank you for your consideration of my request.

Very truly yours,

Maricopa County Public Defender


Nicholaus Podsiadlik
Deputy Public Defender

NP:sbf

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