

April 13, 2022

Scott S. Harris  
Clerk of Court  
The Supreme Court of the United States  
1 First Street Northeast  
Washington, DC 20543

Re: Protective motion for extension of time filed in *Escobar v. Texas*,  
No. 21A602 \*\*\* CAPITAL CASE \*\*\*

Dear Clerk Harris:

I am writing on behalf of the movant in the above-captioned matter, regarding the protective motion for extension of time to file the petition that was docketed today. Below, we explain why we filed the motion, and why we invite denial of the motion as unnecessary if we have misapprehended the relevant date from which to calculate the time to file the petition.

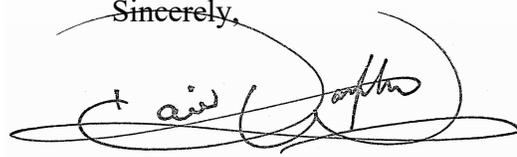
As set forth in the motion, Areli Escobar—the Texas prisoner who will be filing the forthcoming petition—was denied habeas relief by the Court of Criminal Appeals of Texas on January 26, 2022. Ext. Mot., App. A. Thereafter, the State filed a “Suggestion for Reconsideration” with the Court of Criminal Appeals, Ext. Mot., App. C, which the court denied on April 4, 2022, Ext. Mot., App. D.

Texas does not have a formal procedure to file a motion for reconsideration in a matter such as this. However, there is a practice by which parties can file a “Suggestion for Reconsideration” after the Court of Criminal Appeals decides a matter, and the court sometimes rules on such suggestions pursuant to its *sua sponte* power to reconsider cases that it has already decided. Given that there is no formal procedure for reconsideration, Mr. Escobar filed the protective motion for extension of time based on the January 26, 2022 date of decision, which would make the due date of the petition for a writ of certiorari without an extension April 26, 2022. However, the Clerk’s Office advised that the correct starting date is April 4, 2022—the date on which the Court of Criminal Appeals denied the State’s Suggestion for Reconsideration, which would make the due date of the petition without an extension July 5, 2022.

We believe the Clerk’s Office is correct. Pursuant to Supreme Court Rule 13, “if the lower court appropriately entertains an untimely petition for rehearing or *sua sponte* considers rehearing, the time to file the petition for a writ of certiorari for all parties (whether or not they requested rehearing or joined in the petition for rehearing) runs from the date of the denial of rehearing.” And we of course trust the work and expertise of the Clerk’s Office. But especially given that this

is a capital case, we believed it prudent to file a protective motion for extension. And we informed the Clerk's Office that we would file the protective motion, followed by this letter.

Thus, if Justice Alito agrees that the relevant date from which to calculate the due date for the petition is the April 4 date on which the Court of Criminal Appeals denied the State's suggestion for reconsideration, we think it would be appropriate for Justice Alito to deny the motion as unnecessary. It might also be useful for the order to indicate that this was the reason for the denial.

Sincerely,  
  
Daniel Woofter

cc: Counsel of Record