

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

RICHARD VASQUEZ,

Applicant,

v.

ERIC GUERRERO, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent.

APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A
WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

To the Honorable Samuel Alito, Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

Pursuant to Rule 13.5 of the Rules of this Court, Richard Vasquez respectfully requests a 60-day extension of time, until Friday, May 29, 2026, within which to file a petition for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit issued its opinion on December 4, 2025, Case No. 25-70005. The Fifth Circuit denied rehearing and rehearing *en banc* on December 30, 2025. Unless extended, the time for filing a petition for a writ of certiorari will expire on March 30, 2026. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254.

1. This is a capital case. There is no execution date.
2. On June 23, 2023, the Fifth Circuit granted Richard Vasquez’s motion under 28 U.S.C. § 2244(b)(3)(A) for authorization to file a successive application for habeas relief asserting that his trial counsel had rendered ineffective assistance by failing to challenge critical evidence that everyone—even the State of Texas—now knows to be unreliable. In so ruling, the Fifth Circuit determined that Vasquez had made a prima facie case that “the factual predicate for the claim could not have been discovered previously through the exercise of due diligence.” *See* 28 U.S.C. § 2244(b)(2)(B)(i).
3. After Vasquez filed the application that the Fifth Circuit authorized, the District Court determined, notwithstanding the prima facie case discerned by the Fifth Circuit, that Vasquez had not made a final showing, under

(b)(2)(B)(i), that the factual predicate for his IAC claim could not have been discovered previously through the exercise of due diligence. The District Court applied a due-diligence standard under which the information that a “reasonable attorney” could have discovered by the time of his first-in-time application for habeas relief was imputed to Vasquez. The District Court applied this standard in the face of uncontroverted evidence that, when his first-in-time application was filed, Vasquez’s habeas counsel did *not* exercise reasonable diligence and instead lied to Vasquez about the available grounds for attacking his conviction.

4. The District Court failed to give any deference to the position of the prosecutor whose office had procured Vasquez’s conviction—the Nueces County District Attorney—that Vasquez should be afforded habeas relief.

5. On appeal from the District Court’s dismissal of his application, Vasquez raised multiple grounds for reversal, including that the “reasonable attorney” standard applied by the District Court has no textual support in the statute, is contrary to the approach taken by other circuits, and is illogical (by attributing to an applicant the information a reasonable attorney could have learned in an action in which the applicant has no right to an attorney).

6. Vasquez also demonstrated that a “reasonable attorney” standard would impermissibly erect a categorical ban to the assertion of IAC claims in successive petitions, which in turn would result in a constitutionally untenable result: an execution with no court ever having reviewed on the merits a substantial claim of the denial of effective assistance of counsel at a capital trial.

7. In addition, Vasquez demonstrated that the failure to give any deference to the position of the Nueces County District Attorney violated this Court's precedents. *See Sibron v. New York*, 392 U.S. 40, 58 (1968), *Young v. United States*, 315 U.S. 257, 258 (1942).

8. On December 4, 2025, in an opinion that ignores most of Vasquez's arguments, the Fifth Circuit affirmed the District Court's dismissal of Vasquez's habeas application. By adopting the "reasonable attorney" standard applied by the District Court, the Fifth Circuit deepened a circuit split that Vasquez will ask this Court to resolve, lest he be executed with no court having ever reviewed on the merits his claim that he received the ineffective assistance of counsel at trial in violation of the Sixth Amendment.

9. Vasquez also intends to raise in his petition for certiorari the refusal of the courts below to address his claims under *Brady v. Maryland*, 373 U.S. 83 (1963), *Napue v. Illinois*, 360 U.S. 264 (1972), and *Giglio v. United States*, 405 U.S. 150 (1972). This issue is particularly important, since the State of Texas has effectively conceded that its prosecutors were aware, before trial, that the most critical evidence offered against Vasquez was not reliable and was based on a toxicological report that was fundamentally flawed.

10. Vasquez seeks this extension to allow his pro bono counsel additional time to research and present these important and complicated issues. Counsel has been substantially engaged in other matters that will make meeting the current deadline difficult. Among other matters, counsel has been involved and

continues to devote substantial time to the following: post-trial briefing in a complex business dispute that was tried in December 2025; discovery and trial preparation in multiple cases arising from a Ponzi scheme perpetrated by a Texas lawyer; defense of a financial institution in multi-district litigation and in arbitrations arising from a Ponzi scheme arising from the sale of fraudulent certificates of deposit; defense of a non-profit sports organization in civil-rights cases and investigations across the country; trial preparation and summary-judgment briefing in a complex commercial dispute involving a 99-year contract for the sale and transportation of raw materials for the manufacture of chemicals; trial preparation in a case involving the impact of tariffs on the enforceability of a commodities contract; hearing preparation in a case involving the sale of allegedly contaminated oil; and coordinating for a financial services company the response to attorney-general investigations related to the discharge of loans in bankruptcy.

Accordingly, Richard Vasquez respectfully requests an extension to file a petition for a writ of certiorari to and including May 29, 2026.

Date: March 16, 2026

Respectfully submitted,

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