

No. \_\_\_\_\_

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IN THE  
*Supreme Court of the United States*

MICHAEL FIMBRES,

*Petitioner,*

v.

O'BRIAN BAILEY, Acting Warden,

*Respondent.*

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**APPLICATION FOR EXTENSION OF TIME TO FILE  
PETITION FOR WRIT OF CERTIORARI**

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To the Honorable Elena Kagan  
Associate Justice of the United States Supreme Court  
and Circuit Justice for the Ninth Circuit

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Attorneys for Petitioner  
MICHAEL FIMBRES  
*\*Counsel of Record*

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To the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

In accordance with 28 U.S.C. § 2101(c) and this Court's Rules 13.5, 21, 22, 29, 30.2, 30.3, and 33.2, Petitioner Michael Fimbres respectfully requests a sixty-day extension of time, up to and including April 21, 2025, to petition the Court for certiorari.

### **Background**

On November 22, 2024, in *Fimbres v. Bailey*, Case No. 21-5585, a Ninth Circuit panel affirmed the District Court's denial of habeas relief under 28 U.S.C. § 2254. The panel's opinion is attached as Exhibit A.

The jurisdiction of this Court is based on 28 U.S.C. § 1254(1). This application is unopposed.

### **Reasons for Granting an Extension of Time**

Undersigned counsel ("Counsel") is unable to file Fimbres's petition for a writ of certiorari by the current deadline of February 20, 2025, or before the requested deadline of April 21, 2025, for the following reasons:

- a. On December 1, 2024, Counsel was involved in a multi-vehicle accident where he sustained a closed head injury that required him to miss work for most of December 2024. Due to this injury and the holiday season, Counsel was unable to perform work on his cases for most of December 2024.

- b. On January 13, 2025, Counsel had oral argument in the Ninth Circuit in *Diaz v. Asuncion*, Case No. 21-55675.
- c. On February 4, 2025, Counsel had oral argument in the Ninth Circuit in *Price v. Schuyler*, Case No. 23-55324.
- d. On February 13, 2025, Counsel has objections to a report and recommendation due in a military habeas case in District Court in *Conrady v. Bradley*, Case No. 2:20-cv-10561.
- e. On March 7, 2025, Counsel has an opening brief due in the Ninth Circuit in *Walker v. Montgomery*, Case No. 24-5585.
- f. Counsel is also being assisted by a UCLA School of Law student who is enrolled in a part-time externship with the Federal Public Defender's Noncapital Habeas Unit (Law 814 in UCLA School of Law's curriculum). As part of the student's fieldwork for this externship, he has been assigned to assist Counsel in this petition for a writ of certiorari. The student, however, requires more time to complete his work and Counsel, consequently, will need more time to review and incorporate the student's work into the petition for a writ of certiorari. Counsel, of course, remains responsible for all the work in Fimbres's petition for a writ of certiorari.
- g. Respondent's counsel has informed Counsel that they are not opposed to this application.


For all the foregoing reasons, Fimbres respectfully requests a sixty-day extension of time, from February 20, 2025, up to and including April 21, 2025, to file a petition for a writ of certiorari.

Respectfully submitted,

CUAUHTEMOC ORTEGA  
Federal Public Defender

DATED: February 6, 2025

By:

  
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