

No. _____

In The Supreme Court of the United States

JUSTIN MARQUES HENNING, AKA J-Stone

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**APPLICATION FOR A 60-DAY EXTENSION OF TIME WITHIN WHICH TO
FILE A PETITION FOR A WRIT OF CERTIORARI**

**TO: The Honorable Elena Kagan, Associate Justice of the United States
Supreme Court and Circuit Justice for the Ninth Circuit**

Petitioner Justin Henning respectfully seeks a 60-day extension of time within which to file a petition for a writ of certiorari to review the Ninth Circuit Court of Appeals' judgment in this case, up to and including May 19, 2025. Absent an extension, the deadline for filing the petition will be March 20, 2025. This application is being filed on March 10, 2025 – more than 10 days before the petition is due. *See* S. Ct. R. 13.5.

In support of this request, the applicant states as follows:

1. A motions panel of the Ninth Circuit issued an order granting the government's motion for summary reversal is granted in part on June 20, 2024. On December 20, 2025, the Ninth Circuit Court of Appeals issued an order denying

Justin Henning's timely petition for panel rehearing and rehearing en banc of a dispositive order. Copies of those orders are attached to this application.

2. This case arose out of a string of robberies between 2014 and 2016 that resulted in the government bringing fourteen counts against twelve defendants. Petitioner Justin Henning was charged with seven counts: one count of conspiracy to commit robbery; four counts of robbery; and two counts of violating 18 U.S.C. Sections 2(a) and 924(c)(1)(A)(ii).

3. The case went to trial against multiple defendants and after four days' deliberation, the jury acquitted Henning on four counts (specifically those arising out of three of the robberies) and found him guilty on three counts: (1) conspiracy to commit robbery; (2) the so-called Del Amo robbery; and (3) the Section 924(c) count related to that robbery.

4. The district court subsequently acquitted Henning on all counts of conviction and in the alternative ordered a new trial. The Ninth Circuit reversed the acquittal but agreed that a new trial was required due to "significant issues with the evidence." *United States v. Henning*, 785 F. App'x 430, 431 (9th Cir. 2019) (mem.).

5. On remand, Henning immediately asserted his constitutional and statutory rights to a speedy trial. At no point did he agree to or ask for an extension of that time. Instead, he asked to go to trial and consistently objected to any continuance, but the government nonetheless sought one.

6. Finding the government's arguments in support of a continuance unpersuasive and concluding that retrial within 70 days was both required under the Constitution and practical under the Speedy Trial Act, the court denied the motion.

7. Henning then moved to dismiss the charges against him, alleging Sixth Amendment and Speedy Trial Act violations. The court granted that motion, holding that the delay in prosecution violated "Mr. Henning's right to a public and speedy trial under the Sixth Amendment and the Speedy Trial Act" and dismissed the indictment with prejudice.

8. The government appealed and, after an extended stay, moved for summary reversal in June, 2022. That motion remained pending until June 20, 2024, when a motions panel issued a dispositive motion vacating the district court's order and remanding for the district court to reconsider its decision under *United States v. Olsen*, 995 F.3d 683, as amended and superseded upon denial of rehearing en banc, 21 F.4th 1036 (9th Cir. 2022) (per curiam). Mr. Henning subsequently petition for rehearing and rehearing en banc.

9. The motions panel's decision is in tension with this Court's decisions and those of other appellate courts as to the power of a motions panel to grant relief beyond the scope allotted to it under the Circuit's rules, and the constitutional speedy trial acts.

10. Applicant respectfully requests a 60-day extension of time to file a petition for a writ of certiorari seeking review of the Court of Appeals' ruling and submit that there is good cause for granting the request. Mr. Henning is currently

involved in discussions with the government that might resolve the case without need to file a petition for certiorari or further appellate proceedings. However, he requires additional time to see those proceedings through. Applicant's counsel of record, is also heavily engaged with other appellate matters, including an opening merits brief in the California Supreme Court on March 12, 2025, an opening brief in *Service Now v. Whitaker* in the California Court of Appeal on March 13, 2025, an opening brief in the Ninth Circuit in *United States v. Ybarra* on March 14, 2025, oral argument before the Ninth Circuit on March 24, 2025 in *Navarro v. Exxon Mobil Corp.*, oral argument before the Ninth Circuit on March 25, 2025 in *United States v. Duru*, and oral argument before the Ninth Circuit in *Pakootas v. Teck Metals* on April 17, 2025. Counsel also has other appellate briefs due in March and April in the Second Circuit, the Federal Circuit, and the Ninth Circuit,

11. Applicant sought opposing counsel's position on this request but did not hear back with a substantive response on the request before filing.

CONCLUSION

For the foregoing reasons, the Petitioner respectfully requests that the Court extend the time within which to file a petition for a writ of certiorari in this matter up to and including May 19, 2025.

Respectfully submitted on this 10th day of March, 2025.

/s/ Anne M. Voigts

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 20 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

v.

JUSTIN MARQUES HENNING, AKA J-
Stone,

Defendant-Appellee.

No. 21-50027

D.C. No. 8:16-cr-00029-CJC-7
Central District of California,
Santa Ana

ORDER

Before: SILVERMAN, BUMATAY, and SANCHEZ, Circuit Judges.

Appellant's motion (Docket Entry No. 24) for summary reversal is granted in part. We vacate the district court's order dismissing the indictment and remand to the district court to apply the specific factors outlined in this court's opinion in *United States v. Olsen*, 21 F.4th 1036 (9th Cir.), *cert. denied*, 142 S. Ct. 2716 (2022).

VACATED and REMANDED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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The motion (Docket Entry No. 39) for panel reconsideration is denied, and the motion for reconsideration en banc is denied on behalf of the court. *See* 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.