

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

TRAVIS SOTO, PETITIONER

v.

THE STATE OF OHIO, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

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

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To the HONORABLE SONIA SOTOMAYOR, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Sixth Circuit:

Petitioner, Travis Soto, respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to the Supreme Court of Ohio for thirty days until and including February 28, 2020. The final judgment and opinion of the Supreme Court of Ohio that Petitioner seeks to appeal were entered on October 31, 2019. *Apx. 0001-21, attached*. Without the requested extension, the time for filing the petition will conclude on January 29, 2020. This application is timely because it has been filed more than ten days prior to the date on which the time for filing the petition is to expire.

This case presents an important question of federal law that has not been, but should be, settled by this Court: Whether the rights preserved under the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution attach to charges that are dismissed as a condition of a plea agreement. Ohio's interpretation of the intersection of double-jeopardy principles and constitutionally sanctioned voluntary plea agreements will undermine the administration of justice throughout both the state and federal court systems. This Court's jurisdiction is derived from 28 U.S.C. § 1257(a).

Petitioner Soto agreed in 2006 to enter a guilty plea to the crime of child endangering, Ohio Revised Code 2919.22(A), in return for dismissal of a separate charge of involuntary manslaughter, Ohio Revised Code 2903.04(A), both of which were predicated on the death of his minor child in an All-Terrain Vehicle ("ATV")

accident. *Apx. 00010-11*. He was sentenced to five years in prison, and he served his time. *Apx. 00011*. Several years after his release from prison, Petitioner Soto went to the Putnam County Sheriff's Office, claimed he had invented the ATV accident, and told the authorities that he had beaten his child to death. *Id.*

Petitioner Soto was indicted in the summer of 2016 for, among other things, aggravated murder, Ohio Revised Code 2903.01(C), and murder, Ohio Revised Code 2903.02(B), the latter of which was predicated on an underlying charge of felonious assault, Ohio Revised Code 2903.11(A)(1). *Apx. 00011*. He filed a motion to dismiss both murder charges, claiming that they were barred by the Double Jeopardy Clause after the lesser included offense of involuntary manslaughter had been dismissed in return for his guilty plea roughly one decade prior. *Id.* The trial court denied the motion, but that order was reversed by the intermediate appellate court upon an interlocutory appeal. *Apx. 00012-13*. The Supreme Court of Ohio accepted the discretionary appeal of the State of Ohio and appointed the Office of the Ohio Public Defender to represent Petitioner Soto. *Apx. 00022-23*. After briefing and argument, the judgment of the court of appeals was reversed, and the matter was remanded to the trial court to resume proceedings. *Apx. 0001*.

As justification for the requested extension, counsel for Petitioner Soto have been engaged in substantial briefing commitments through the holiday season and into the new year. On December 18, 2019, Paul W. Flowers and Louis E. Grube submitted to this Court a petition for a writ of certiorari in *Anderson Law Offices v. Common Benefit Fee and Cost Committee*, No. 19-791. On January 7, 2020, they filed

a merit brief in the Supreme Court of Ohio in *Menorah Park Center for Senior Living v. Rolston*, S.Ct. Ohio No. 2019-0939. On January 17, 2020, they will file a brief in the United States Court of Appeals for the Sixth Circuit on behalf of the appellants in *First Choice Chiropractic v. DeWine*, 6th Cir. Nos. 19-4092, 20-3038. In addition, Louis E. Grube is counsel of record in this case, and he will be preparing to present oral argument on February 6, 2020, before a panel of the United States Court of Appeals for the Sixth Circuit in *The United States of America v. Osborne*, 6th Cir. Nos. 17-4045, 17-4047, and 19-3182.

During this same time period, Carly M. Edelstein has had a number of briefing commitments, including filings before the Supreme Court of Ohio and multiple state courts of appeals. *E.g.*, *State v. Berry*, S.Ct. Ohio No. 2019-0939; *State v. Beem*, 5th Dist. Court of Appeals, Licking County No. 2019 CA 00062. She has led a team of attorneys working on a state-post-conviction case that has required extensive investigation. *See State v. Garcia-Toro*, Court of Common Pleas, Cuyahoga County No. CR-17-621593-A. And she is part of a separate team reviewing dozens of convictions that may have been corrupted by the ongoing misconduct of a former judge in Scioto County, Ohio.

As further justification, Counsel for Petitioner Soto have worked to marshal *amici curiae* for this Court, which has and will require additional time to address the relevant issues.

CONCLUSION

For the foregoing reasons, Petitioner Soto respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to the Supreme Court of Ohio for thirty days until and including February 28, 2020.

Respectfully Submitted,

/s/ Louis E. Grube

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