

IN THE WASHINGTON SUPREME COURT

STATE OF WASHINGTON)	No. <u>101475-9</u>
)	(CoA 52362-1-II)
Respondent,)	
)	MOTION TO
v.)	EXTEND TIME
)	TO FILE PETITION
MICHAEL LEON PALMER,)	FOR REVIEW
)	
Petitioner.)	

A. IDENTITY OF MOVING PARTY AND RELIEF SOUGHT

Due to circumstances beyond his control, Michael Palmer, the petitioner, asks this Court to extend the time to file his petition for review from December 7, 2022 to January 6, 2023.

B. GROUNDS FOR RELIEF AND ARGUMENT

The Court of Appeals issued its decision in Mr. Palmer's case on October 11, 2022. The Court reversed Mr. Palmer's convictions and remanded for a new trial. The Court rejected or did not address several claims in Mr. Palmer's statement of additional grounds, some of which could have offered

additional or greater relief. Mr. Palmer filed a motion for reconsideration, which the Court denied on November 7, 2022. This makes a petition for review due on December 7, 2022. RAP 13.4(a).

Mr. Palmer intends to seek review on the disposition of his statement of additional grounds. Counsel, however, is not filing a petition for review on Mr. Palmer's behalf.

Unfortunately, due to circumstances beyond his control, Mr. Palmer himself is unable to work on his petition for review. He is reasonably concerned that he will not be able to meet the deadline of December 7. For these reasons, he seeks an extension of 30 days to January 6, 2023.

This Court may extend the time to file a petition for review "only in extraordinary circumstances and to prevent a gross miscarriage of justice." RAP 18.8(b). "Extraordinary circumstances include instances where the filing, despite reasonable diligence, was defective due to excusable error or

circumstances beyond the party's control." Shumway v. Payne, 136 Wn.2d 383, 395, 964 P.2d 349 (1998) (cleaned up).

Here, Mr. Palmer, who is incarcerated, is attempting to act with reasonable diligence in filing his petition for review. However, the law library that Mr. Palmer needs to use has recently not been open as much as it should be. Mr. Palmer also recently lost access to his legal materials because they were seized by the Department of Corrections. He estimates that he will not be able to work on the petition for at least two weeks.

These are circumstances hinder or prevent Mr. Palmer from writing his petition for review and timely filing it. They are beyond his control. It is a gross miscarriage of justice for Mr. Palmer to not be able to seek this Court's review due to circumstances beyond his control. Thus, this Court should grant Mr. Palmer's request to extend the filing deadline by 30 days. See Scannell v. State, 128 Wn.2d 829, 833-35, 912 P.2d 489 (1996) (extending deadline due to innocent mistake in pro se

litigant's "understandable misinterpretation of recently amended rule").

C. CONCLUSION

The Court should extend the deadline for Mr. Palmer to file his petition for review by 30 days to January 7, 2023.

This document contains 457 words, excluding the parts of the document exempted from the word count by RAP 18.17

Respectfully submitted this 21st day of November, 2022.




Richard W. Lechich – WSBA #43296
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DECLARATION OF FILING AND MAILING OR DELIVERY

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date, the original document **Motion to Extend Time to File Petition for Review** to which this declaration is affixed/attached, was filed in the **Washington State Supreme Court** under **COA Case No. 52362-1-II**, and a true copy was mailed with first-class postage prepaid or otherwise caused to be delivered to the following attorney(s) or party/parties of record at their regular office or residence address as listed on ACORDS:

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Date: November 21, 2022

WASHINGTON APPELLATE PROJECT

November 21, 2022 - 2:55 PM

Filing Petition for Review

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: Case Initiation
Appellate Court Case Title: State of Washington, Respondent v. Michael L. Palmer, Appellant (523621)

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Motion to Extend Time to File Petition for Review

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