

**IN THE SUPREME COURT OF FLORIDA**

**STATE OF FLORIDA,**  
PETITIONER,

v.

**JOHNATHAN DAVID GARCIA,**  
RESPONDENT.

CASE No. SC20-1419

L.T. CASE No. 5D19-0590

**SECOND UNOPPOSED MOTION TO EXTEND TIME TO FILE  
THE ANSWER BRIEF**

The Respondent, Johnathan David Garcia, by and through the undersigned counsel, respectfully moves the Court, pursuant to Florida Rule of Appellate Procedure 9.300(a), for a second 30-day extension of time in which to serve his Answer Brief.

The Court accepted jurisdiction on December 8, 2020, to address the interdistrict conflict between the Fifth District Court's ruling in 5D19-0590 and the Second District Court's ruling in *State v. Stahl*, 206 So. 3d 124 (Fla. 2d DCA 2016). The Court ordered Petitioner to file its Initial Brief by December 28, 2020. Petitioner moved, unopposed, for two extensions to file the Initial Brief on December 15, 2020, and February 19, 2021, seeking 60-day and 14-

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day extensions, respectively. The Court granted both motions and ordered Petitioner to file its Initial Brief by March 12th.

On March 12th, Petitioner filed its Initial Brief. Petitioner's brief is extensive, containing roughly 57 pages and citing to 64 cases from Florida courts, other state courts, and federal courts. In addition to the certified questions from the Fifth District Court, Petitioner's Initial Brief raises several other arguments, including: it was improper for the Fifth District Court to issue a writ of certiorari; Respondent will not suffer harm until trial because the Fifth Amendment's Self-Incrimination Clause is not violated until trial; Respondent's harm can be adequately remedied on direct appeal; and that the Respondent should have sought an evidentiary hearing asserting he is not the owner of the phone before invoking his Fifth Amendment right against self-incrimination. While Respondent's counsel is working diligently to prepare the brief, more time is required to complete the Answer Brief with counterarguments to the points raised in Petitioner's Initial Brief.

Respondent previously moved unopposed for a 30-day extension on March 31, 2021. The Court granted that extension, setting May 13th as the current due date for the Respondent's

Answer Brief. As May 13th approaches, it has become clear that Respondent's counsel underestimated the amount of additional time needed to finish the Answer Brief. Counsel believes the brief will be completed and served on or before June 14th if the Court grants another 30-day extension.

Respondent's counsel has consulted with counsel for the Petitioner, and the Petitioner has no objection to the extension sought in this motion.

Respondent respectfully requests a second 30-day extension, up to and including June 14th, 2021, in which to serve his Answer Brief.

Respectfully submitted,

ROBERT WESLEY  
PUBLIC DEFENDER

By: 

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing motion has been furnished via electronic service through the Florida Courts E-Filing Portal to:

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on this the 5th day of May, 2021.

ROBERT WESLEY  
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