

IN THE SUPREME COURT OF THE UNITED STATES

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No. A-\_\_\_\_\_

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JOHN DOE, A/K/A CHEYENNE MOODY DAVIS, APPLICANT

v.

UNITED STATES OF AMERICA

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APPLICATION FOR AN EXTENSION OF TIME  
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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Pursuant to Rules 13.5 and 30.2 of this Court, counsel for Mr. John Doe respectfully requests a 60-day extension of time, to and including July 15, 2019, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case. The court of appeals entered its judgment on February 15, 2019. App., infra, 1a. Unless extended, the time for filing a petition for a writ of certiorari will expire on May 16, 2019. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

1. Applicant John Doe a/k/a Cheyenne Moody Davis was indicted in the District of Maryland on various charges relating to identity theft. After a two-day trial, the judge instructed the jury that the applicable standard of guilt was "beyond a reasonable doubt," but gave no further explanation of what that standard meant. Fewer than three hours into its deliberations, the jury submitted a question to the Court, asking: "Can we have the proper

legal definition of ‘beyond a reasonable doubt’?” The district court refused to provide any clarification or explanation of the standard, relying on the evenly split *en banc* decision of the Fourth Circuit in United States v. Walton, 207 F.3d 694 (4th Cir. 2000), which holds that it is solely within the court’s discretion “whether to acquiesce to a jury’s request and define reasonable doubt.” Mr. Doe objected, and the district court again refused. The jury continued to deliberate for two days, until it found Mr. Doe guilty on all counts.

4. Applicant appealed pursuant to 28 U.S.C. § 1291, arguing, *inter alia*, that the district court’s refusal to provide an instruction on the meaning of the “beyond a reasonable doubt” standard constituted reversible error. The court of appeals affirmed. App., infra, at 4a.

The court of appeals, relying on prior 4th Circuit precedent, held that “district court[s] [are] not required to define reasonable doubt to the jury so long as the jury was instructed that the defendant’s guilt must be proven beyond a reasonable doubt.” Id. at 4a. The court of appeals recognized that this Court has yet to rule on the issue, and that in lieu of such ruling, it is bound by prior Fourth Circuit precedent. Id. at 4a (citing United States v. Bullard, 645 F.3d 237, 246 (4th Cir. 2011)).

5. Counsel for applicant respectfully requests a 60-day extension of time, to and including July 15, 2019, within which to file a petition for a writ of certiorari. Although undersigned counsel’s firm represented Mr. Doe on appeal, undersigned counsel

did not represent applicant in those proceedings. He accordingly requires additional time to review the record and decisions below.

Undersigned counsel also has proximate deadlines in other matters, including: (1) Atlantic Richfield Company v. Christian, No. 17-1498, in which any supplemental briefs responding to the Brief for the United States as Amicus Curiae are due on May 14; (2) Scoville v. Securities and Exchange Commission, No. 18A1057, in which the petition for certiorari is due on May 24; and (3) United States v. Greebel, No. 18-2667 (2d Cir.), in which the reply brief is also due on May 24. In addition, undersigned counsel has a long-scheduled family vacation from June 14-26, which would also conflict with the due date if counsel were to request a 30-day extension.

Additional time is therefore needed to prepare and print the petition in this case.

Respectfully submitted.

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May 3, 2019