

Supreme Court, U.S.
FILED

FEB 28 2019

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No.

IN THE
SUPREME COURT OF THE
UNITED STATES

CHRISTOPHER WAYNE
FILLMORE,

Plaintiff/Appellant,

v.

AT&T, et al,

Defendant/Appellee.

ON APPLICATION TO INDIVIDUAL JUSTICE FOR
UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT
CASE: No. 18-2355

APPLICATION TO JUSTICE KAVANAUGH SEEKING
EXTENSION FOR FILING PETITION FOR CERTIORARI IN
THE U.S. SUPREME COURT

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

TO the Honorable Brett M. Kavanaugh, Associate Justice of the United States Supreme Court and Circuit Justice for the Seventh Circuit:

Applicant-Plaintiff, Christopher Wayne Fillmore (“Fillmore”) respectfully request an extension of time to file a petition for writ of certiorari. Sup. Ct. R. 13.5. The earliest deadline for Fillmore to file his petition is Thursday, March 28, 2019, which is ninety days from Friday, December 28, 2018, the date when the United States Court of Appeals for the Seventh Circuit issued an order for reasons, as explained below. For good cause set forth herein, Fillmore asks that this deadline be extended by sixty days so that the new deadline would be Monday, May 27, 2019.

BACKGROUND AND OPINIONS BELOW

This case arises from two lawsuits (one in 2015 and one in 2016) filed by Fillmore based on the same factual allegations that his former employer fired him in retaliation for complaining about race discrimination, among other things. He voluntarily dismissed his 2015 suit to further investigate his claims, brought and lost a second suit (the 2016 case) based on the same facts, and then sought to reinstate the 2015 case under Federal Rule of Civil Procedure 60(b).

The district court denied Fillmore’s motion to reinstate his case, which led to the appeal to the Seventh Circuit. The appeal concerned the district court’s denial of Fillmore’s motion to reopen the 2015 case and Fillmore’s later motion for reconsideration. The Seventh Circuit reasoned that the court did not abuse its discretion in deciding that Fillmore’s pro se status did not excuse him from the consequences of voluntarily dismissing his 2015 lawsuit; thus, they affirmed the judgment.

As noted, Fillmore brought forth two lawsuits against the same defendant. Both of which were ultimately dismissed on a technicality. Below in the 2015 case¹, the district court's decision flies in the face of extensive precedent calling for justice over technicality. The Seventh Circuit has previously and repeatedly emphasized that "the fundamental purpose of the Rule 60(b) motion is to prevent the judgment from becoming a vehicle of injustice." *U.S. v. Walus*, 616 F.2d 283, 288 (7th Cir.1980). Evidently, this golden rule is enjoyed only when highly paid attorneys make technical errors and seemingly is not to be enjoyed by pro se novices. The December 28 Order and Final Judgment of the United States District Court of the Seventh Circuit is reproduced at Appendix A.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1257.

REASONS EXTENSION IS JUSTIFIED

Supreme Court Rule 13.5 provides that "An application to extend the time to file shall set out the basis for jurisdiction in this Court, identify the judgment sought to be reviewed, include a copy of the opinion and any order respecting rehearing, and set out specific reasons why an extension of time is justified." Sup. Ct. R. 13.5. The specific reasons why an extension of time is justified are as follows:

1. Fillmore's attention and resources focused solely on drafting a petition for certiorari in the 2016 case. [18-3792] His petition was rejected by this court due initially to his accompanying motion to proceed in forma pauperis being

¹ No attorney for the defendant has appeared in this case, therefore a certificate of service will not accompany this motion.

denied (a motion that was otherwise granted by the lower courts given the relatively same financial information provided thereto) and his untimely action to remedy this by either paying the filing fee or moving to extend the time in order to do so. This blow to his morale left him despondent and drained.

2. That stated, in what appears to be the only other viable claim left, Fillmore must now devote the time and resources necessary to present a perfected petition under the current rules also with the associated filing fees. Of which requires longer than the provided time.

3. In sum, the heavy demands of an inexperienced, pro se litigant complying with the court's rules, fighting a multi-million-dollar corporate defendant on several fronts, in addition to his still very real in forma pauperis status not being recognized by this court, have occupied much of the ninety days afforded by the rules to applicants considering an appeal. Fillmore seeks a sixty-day extension to cope with these demands.

4. The requested extension also is necessary to accommodate pressing demands in Fillmore's matters outside of this case.

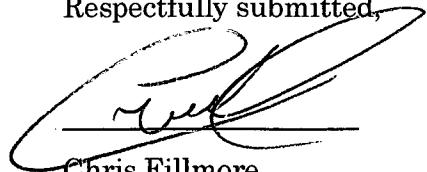
CONCLUSION

There is merit to Fillmore's claim, but the technical error in the proceedings below have precluded the merits from being brought before that court. Fillmore is fighting on several fronts in a matter whose opposition undoubtedly has the resources (most notably: financial) to mount a sophisticated defense. He has committed any available hours researching cases and law, and drafting briefs,

devoting all the time his outside life will allow; and now, in what appears to be his final, final front, is willing to financially commit if necessary — above and beyond such resources he has already expended in the preparation of prior filings.

Wherefore, Fillmore prays for a 60-day extension to Monday, May 27, 2019 in an effort to both prepare a suitable petition and gather the resources for the filing fee²; and prays, more importantly, that this Court will correct deficiencies in the filing process so as not permit his petition to be merely swept aside. Fillmore believes that this Court will allow him the reasonable opportunity for a proceeding on the merits but worries that this Court cannot uphold the right of pro se petitioners unless it first corrects deficiencies in the filing process of this Court. Only then can we the people have faith and confidence in the effectiveness of our judiciary.

Respectfully submitted,



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² Fillmore has filed his 2018 income taxes on February 2, 2019; and is expecting a substantial refund to arrive well before the requested date. Thus, among other things, his plan is to use part of those proceeds toward securing the \$300 docketing fee.