

IN THE SUPREME COURT OF THE UNITED STATES

No. A-_____

JAMES BAXTER

v.

UNITED STATES

APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A
PETITION FOR A WRIT OF CERTIORARI TO THE U.S. COURT OF AP-
PEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Pursuant to Rules 13.5 and 30.2 of this Court, counsel for James Baxter respectfully request a 60-day extension of time, to and including July 20, 2019, within which to file his petition for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the District of Columbia Circuit in this case.

1. Petitioner James Baxter was charged in an indictment in the United States District Court for the District of Columbia. Jurisdiction in that court was pursuant to 18 U.S.C. § 3231. Petitioner was convicted. During his supervised release, the Washington Teachers Union filed a motion for adjustment of defendant's restitution payment schedule based on his settlement with the United States concerning a medical negligence matter that arose during his incarceration in this case. Over objection, Judge Leon granted this motion and ordered that Mr. Baxter pay the lion's share of the settlement towards restitution in this case. Petitioner appealed this order to the United States Court of Appeals for the District of Columbia Circuit.

2. The United States Court of Appeals for the Fourth Circuit entered its judgment on February 20, 2019. See Exhibit 1. Unless extended, the time for filing a petition for a writ of certiorari will expire on May 20, 2019. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1).

3. In his Petition for Writ of Certiorari, petitioner intends to request that the United States Supreme Court review the substantial question raised in his appeal, whether the settlement from negligence of him during his incarceration could be ordered payable towards his restitution.

4. Pursuant to Rule 13.5, for good cause shown, counsel for petitioner respectfully requests an extension of time, to and including July 20, 2019, within which to file a petition for a writ of certiorari. Counsel has extensive work for pre-trial and appellate matters. Counsel has significant personal family matters as well. Counsel therefore not had enough time to finalize the petition for Mr. Baxter and additional time is therefore needed to prepare the petition in this case.

Respectfully submitted,
JAMES BAXTER,
BY AND THROUGH

/s/

JENIFER WICKS
LAW OFFICES OF JENIFER WICKS
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April 22, 2019

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were sent by first class mail, postage prepaid and electronic mail, to:

Oliver W. McDaniel, Assistant U.S. Attorney
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on this 22nd day of April, 2019.

/s/

Jenifer Wicks

EXHIBIT 1

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-3031

September Term, 2018

1:03-cr-00516-RJL-1

Filed On: February 19, 2019

United States of America,

Appellee

v.

James Odell Baxter, II,

Appellant

Washington Teachers' Union,
Intervenor

BEFORE: Henderson, Srinivasan, and Millett, Circuit Judges

ORDER

Upon consideration of the motions for summary affirmance, the opposition thereto, the replies, and the supplement to the government's reply, it is

ORDERED that the motions for summary affirmance be granted. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). The Washington Teachers' Union was specifically authorized by statute to move for an adjustment of appellant's restitution schedule. See 18 U.S.C. § 3664(k) (permitting "any party, including the victim," to move the court to adjust a restitution payment schedule). Assuming without deciding that a de novo standard of review applies, the district court did not err in concluding that appellant's receipt of \$40,000 as part of a settlement agreement constituted a material change in his economic circumstances that justified requiring appellant to pay \$36,000 toward his outstanding restitution obligations. See United States v. Simpson-El, 856 F.3d 1295, 1296 (10th Cir. 2017).

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-3031

September Term, 2018

The Clerk is directed to publish this order and to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam