

No. 19A\_\_\_\_\_

**Case Number in the Fourth Circuit: 17-4488**

**IN THE SUPREME COURT OF THE UNITED STATES**

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JAMES MICHAEL FARRELL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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**APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR  
WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE FOURTH CIRCUIT, WITH CONSENT**

TO THE HONORABLE JOHN G. ROBERTS, CHIEF JUSTICE OF THE  
SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE  
FOR THE FOURTH CIRCUIT

Pursuant to Rules 13.5 and 30.2 of the Supreme Court of the United States, petitioner James Michael Farrell, through undersigned counsel, respectfully requests a 30-day extension of time, until August 5, 2019, to file his petition for a writ of certiorari to this Court. We apologize for not submitting this request more than ten days before our due date. The United States, through Assistant United States Attorney Sandra Wilkinson, has kindly consented to this request.

On April 5, 2019, the United States Court of Appeals for the Fourth Circuit issued a published opinion affirming Mr. Farrell's convictions for money laundering and obstruction of justice-related offenses. Any petition for writ of certiorari would be due on or before July 5, 2019, pursuant to Rules 13.1, 13.3, and 30.1 of the Supreme Court of the United States. This request is being filed nine days before that date. Rule 30.2. The jurisdiction of this Court is to be invoked under 28 U.S.C. § 1254(1).

Mr. Farrell was convicted of one count of money laundering conspiracy under 18 U.S.C. § 1956(h), six counts of money laundering in violation of 18 U.S.C. § 1956(a)(1)(B)(i), two counts of attempted tampering with official proceedings in violation of 18 U.S.C. § 1512(c)(2), and one count of attempted tampering with a witness in violation of 18 U.S.C. § 1512(b)(3). He was sentenced to 42 months of incarceration and 18 months of supervised release, and remains incarcerated. Undersigned counsel represented Mr. Farrell at trial and on appeal.

We respectfully submit that this case presents significant issues that would warrant a grant of Mr. Farrell's forthcoming petition for writ of certiorari: Whether the use of a willful blindness instruction in place of actual knowledge improperly lowers the burden of proof and thus infringes on a defendant's due process rights, and whether prosecuting a criminal defense attorney for money

laundering using the willful blindness doctrine in place of actual knowledge violates the Sixth Amendment to the United States Constitution.

Prior to his arrest and subsequent conviction, Mr. Farrell was a lawyer who practiced for more than 32 years in federal and state courts. He handled a large number of criminal matters. Earlier this month, Mr. Farrell was extradited from his place of incarceration – FCI Fort Dix New Jersey -- to Philadelphia, Pennsylvania related to a pending petition for *habeas corpus* relief filed by a former client pursuant to the Post Conviction Relief Act. Mr. Farrell was brought to Philadelphia to testify at a hearing on June 6, 2019, and was in Philadelphia on that date. However, when the Assistant District Attorney who had filed the extradition request asked that Mr. Farrell be brought to the courtroom, he was told by the Sheriff's Department that Mr. Farrell was not in its custody. The hearing then was continued to September 2019. Consequently, from June 6, 2019 until June 18, 2019, Mr. Farrell was held in solitary confinement in Philadelphia, inaccessible to us and to his family. This terrified Mr. Farrell, who suffers from a psychiatric disorder. He was returned to FCI Ft. Dix on June 18, 2019. Within the last few days, Mr. Farrell again obtained access to his Federal Bureau of Prisons e-mail account and resumed communications with undersigned counsel. The loss of this time is the principal reason for our request for additional time.

While we are familiar with the underlying record, additional time is needed to perform the required research and writing to sufficiently prepare a writ of certiorari to this Court. In addition to Mr. Farrell's recent unavailability described above, undersigned counsel has had a number of professional commitments that precluded our having sufficient time to prepare our petition, including preparation for a contested sentencing proceeding on July 9, 2019, in which we represent, *pro bono*, a law enforcement officer who faces the risk of substantial prison time. That case is State v. Sewell, Case Number 23-K-16-00289, in the Circuit Court for Worcester County, Maryland.

Accordingly, we respectfully submit that a thirty-day extension of time is appropriate and would allow us to communicate with Mr. Farrell and complete preparation of his petition for a writ of certiorari.

Respectfully Submitted,

*/s/ Barry Coburn*

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## **CERTIFICATE OF SERVICE**

Pursuant to Rule 29.5(b) of the Supreme Court of United States, I certify that I have been appointed to represent Mr. Farrell on appeal in the United States Court of Appeals for the Fourth Circuit pursuant to the Criminal Justice Act. I further certify that on June 26, 2019, at the time of filing this motion, I served it via the Court's electronic filing system, via email and via first-class mail as follows:

Sandra Wilkinson, Esq  
Office of the United States Attorney for the District of Maryland  
6406 Ivy Lane 8<sup>th</sup> Fl.  
Greenbelt, MD 20770

and via first-class mail upon:

Solicitor General of the United States  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

/s/ Barry Coburn

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Barry Coburn