

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

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ANTHONY RAY WELCH

*Applicant,*

v.

UNITED STATES OF AMERICA

*Respondent.*

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APPLICATION FOR EXTENSION OF TIME TO FILE A  
PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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Pia Rebecca Lederman  
Counsel of Record  
LEDERMAN LAW FIRM  
1117 W. Randol Mill Rd., Ste. B  
Arlington, Texas 76012  
(817) 860-8888  
[pia@ledermanlawfirm.com](mailto:pia@ledermanlawfirm.com)  
Attorney for Applicant

June 19, 2019

## PARTIES TO THE PROCEEDINGS

Applicant Anthony Ray Welch, a defendant in a proceeding in the District Court for the Northern District of Texas, appealed his conviction to the United States Court of Appeals for the Fifth Circuit. He was then the Appellant-Defendant in the United States Court of Appeals for the Fifth Circuit, which affirmed his conviction. The United States of America was the Plaintiff–Appellee in the United States Court of Appeals for the Fifth Circuit.

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To the Honorable Samuel Alito, Associate Justice of the United States Supreme Court and Circuit Justice for the Fifth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30.3 of the Rules of this Court, applicant Anthony Ray Welch respectfully requests an extension of time for 60 days, to and including Friday, August 23, 2019, within which to file a petition for a writ of certiorari to review the judgment of the United State Court of Appeals for the Fifth Circuit in this case. The United State Court of Appeals for the Fifth Circuit entered its judgment affirming Mr. Welch's conviction on March 26, 2019 (see Ex. A

(judgment)). The petition for a writ of certiorari would therefore be due on June 24, 2019. To be granted, this application is therefore relying on extraordinary circumstances as set forth herein.

Initially, undersigned counsel's had never applied for an extension in a case before this Court until this date. Although undersigned counsel was aware that an extension request was required by the rules of this Court to be filed within the time period sought to be extended, counsel failed to note the requirement that such a request should be filed at least 10 days prior to the filing deadline. Such failure was inadvertent and not intentional; rather, it was unintentional and was not the result of indifference or conscious disregard of this Court's Rules. Further, to deny the requested extension for failure to observed the 10 day advance filing requirement would punish Mr. Welch for the mistake of his counsel.

The 60-day extension is necessary because undersigned counsel has a heavy trial and appellate case load and has not had sufficient time to confer adequately with the client and to prepare the petition and appendix, which counsel seeks to ensure will thoroughly present this important sentencing guideline question pertaining to U.S.S.G. § 2D1.1(b)(5). Section 2D1.1(b)(5)

allows for a two-level total offense increase where the government has shown that the offense involved the importation of methamphetamine. Critically, precedent of the United State Court of Appeals for the Fifth Circuit does not require any scienter regarding that importation on the part of the Defendant, a holding which arguably runs afoul of this Court's recent opinion in *Elonis v. United States*, \_\_U.S.\_\_, 135 S.Ct. 2001, 192 L.Ed.2d 1 (2015).

Accordingly, applicant Anthony Welch respectfully requests that the time within which to file a petition for a writ of certiorari be extended for 60 days, to and including Friday, August 23, 2019.

Respectfully Submitted,

/s/ Pia Lederman  
Pia Lederman  
LEDERMAN LAW FIRM  
1117 W. Randol Mill Rd., Ste. B  
Arlington, Texas 76012  
(817) 860-8888  
pia@ledermanlawfirm.com  
Counsel for Applicant

June 19, 2019

## EXHIBIT A

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 18-10457  
Summary Calendar

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D.C. Docket No. 4:17-CR-198-3

United States Court of Appeals  
Fifth Circuit

**FILED**  
March 26, 2019

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

ANTHONY RAY WELCH,

Defendant - Appellant

Appeal from the United States District Court for the  
Northern District of Texas

Before KING, SOUTHWICK, and DUNCAN, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

It is ordered and adjudged that the judgment of the District Court is affirmed.