

No. 19A228

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

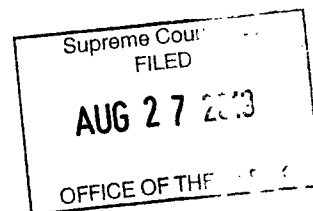
KELVIN MELTON,

Petitioner,

v.

UNITED STATES OF AMERICA,

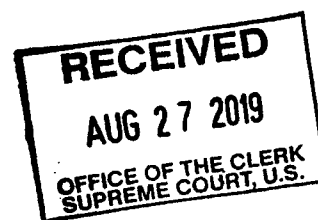
Respondent.



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

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and
Circuit Justice for the Fourth Circuit:

Under 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30 of this Court, petitioner Kelvin Melton respectfully requests a 60-day extension of time, up to and including November 1, 2019, in which to file a petition for a writ of certiorari in this Court. The Fourth Circuit entered final judgment against Melton on February 21, 2019, and denied the petition for rehearing on June 4, 2019. Melton's time to file a petition for certiorari in this Court expires on September 2, 2019. This application is being filed more than



10 days before that date. A copy of the Fourth Circuit's unpublished opinion in this case is attached as Exhibit 1. This Court has jurisdiction under 28 U.S.C. § 1254(1).

This petition will present the question of whether an appellant has the right to represent himself pro se on appeal. The Fourth Circuit denied Mr. Melton's numerous motions requesting new counsel based on his appointed appellate counsel (also his appointed trial counsel)'s failure to raise issues on appeal. The Fourth Circuit also denied his motions to represent himself, citing *Martinez v. Court of Appeals of Cal., Fourth Appellate Dist.*, 528 U.S. 152 (2000). That order is attached as Exhibit 2. This petition will ask the Court to reconsider *Martinez* and find a due process exception to the rule that there is no right to self-representation in appellate proceedings.

The requested extension is necessary to allow undersigned counsel to adequately research and draft a petition presenting this issue while simultaneously balancing a heavy, public-defender caseload. In addition to this case, counsel has a deadline before this Court in *United States v. Riley* (petition due August 31, 2019), and is also responsible for meeting deadlines in pending Fourth Circuit cases including *United States v. Fulton*, 19-6717 (reply brief due August 27, 2019), *United States v. Kilgore*, 19-4420 (opening brief due September 6, 2019), *United States v. Maupin*, 19-6817 (reply brief due September 6, 2019), *United States v. Johnson*, Fourth Cir. No. 19-4479 (opening brief due September 9, 2019), *United States v. Rumley*, No. 19-4412 (opening brief due September 10, 2019). Undersigned counsel also has a three-day jury trial the

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week of August 19, 2019 in the district court, as well as numerous other district court deadlines.

For these reasons, Melton respectfully requests that an order be entered extending the time to petition for certiorari up to and including November 1, 2019.

Respectfully submitted,

Juval O. Scott
FEDERAL PUBLIC DEFENDER FOR THE
WESTERN DISTRICT OF VIRGINIA

Lisa M. Lorish
Counsel of Record
401 E. Market St., Ste 106
Charlottesville, VA 22902
(434) 220-3388

August 19, 2019

Exhibit 1

United States

v.

Richard A. Wellbeloved-Stone,
No. 18-4572, 2019 WL 2474025