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In The  
SUPREME COURT OF THE UNITED STATES  
October Term 2019

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Michael Terrill Faircloth,  
*Applicant/Petitioner,*

v.

United States,  
*Respondent.*

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**Application for an Extension of Time Within Which to File  
a Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Eleventh Circuit**

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**APPLICATION TO THE HONORABLE  
CLARENCE THOMAS AS CIRCUIT JUSTICE**

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July 17, 2019

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## **APPLICATION FOR EXTENSION OF TIME**

Pursuant to this Court's Rule 13.5, Applicant Michael Terrill Faircloth hereby requests a 60-day extension of time within which to file a petition for a writ of certiorari up to and including Thursday, October 3, 2019.

### **JUDGMENT FOR WHICH REVIEW IS SOUGHT**

The judgment for which review is sought is *United States v. Michael Terrill Faircloth*, No. 17-12998 (May 6, 2019), which is attached as Exhibit A.

### **JURISDICTION**

The U.S. Court of Appeals for the Eleventh Circuit entered judgment on May 6, 2019. This Court's jurisdiction will rest on 28 U.S.C. § 1254(1). Under Rules 13.1, 13.3, and 30.1 of this Court, a petition for a writ of certiorari is due to be filed on or before August 5, 2019. In accordance with Rule 13.5, Applicant is filing this application more than 10 days in advance of that due date.

### **REASONS JUSTIFYING AN EXTENSION OF TIME**

Applicant respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari seeking review of the decision of the U.S. Court of Appeals for the Eleventh Circuit in this case, up to and including October 3, 2019.

1. An extension is warranted in part because of the importance of the issues presented here. Applicant was convicted for possession of a firearm by a felon in violation of 18 U.S.C. § 922(g)(1). On appeal to the Eleventh Circuit, Applicant argued that the district court erred by refusing to give the jury "innocent transitory possession" instruction as a defense as the court held in *United States v. Mason*, 233 F.3d 619, 624 (D.C. Cir. 2000). Applicant further argued that he provided legally sufficient evidence for an innocent transitory possession defense. The Eleventh

Circuit affirmed the district court's decision, stating that the facts in *Mason* were peculiar and that a § 922(g) offense only requires that the defendant knowingly possessed the firearm. The Eleventh Circuit's decision created a direct conflict with the D.C. Circuit. Undersigned counsel respectfully submit that the brief extension of time requested here is warranted in light of the importance of these issues and because of the schedules of a number of the lawyers involved in preparing the petition.

2. Additionally, Applicant has requested that the Northwestern University School of Law Supreme Court Practicum assist in the preparation of his petition. An extension of time will permit the students the time necessary to complete a cogent and well-researched petition.

3. Applicant requests a 60-day extension of time because this period will allow the Northwestern Practicum adequate time to research and complete the petition after they begin the academic calendar for fall 2019 on September 3, 2019.

4. Counsel further represents that counsel's efforts will be diverted from preparation of several other overlapping Northwestern Practicum client commitments in this Court, including petitions for writs of certiorari in *Ackies v. United States*, No. 18-1478 (1st Cir.), due September 12, 2019; *Razzaq v. Kansas*, No. 114,325 (Kan.), due September 16, 2019; *Clay v. United States*, No. 17-60538 (5th Cir.), due October 6, 2019; *Vereen v. United States*, No. 17-11147 (11th Cir.), due August 29, 2019; and *Beers v. United States*, No. 17-3010 (3d Cir.), due September 18, 2019. The Northwestern Practicum also has a reply in support of a petition for writ of certiorari in *Lopez v. Massachusetts*, No. 18-8739, due August 23, 2019; a reply

brief on the merits in *Kahler v. Kansas*, No. 18-6135, due August 30, 2019; and a brief for petitioner in *Shular v. United States*, No. 18-6662, due on August 12, 2019.

5. Furthermore, undersigned counsel respectfully requests an extension of time due to the press of client business outside the commitments of the Northwestern Practicum. These obligations include reply briefs in support of a petition for writ of certiorari in *Gospel v. Asia, Inc. v. Murphy*, No. 18-969, due August 26, 2019; *Norfolk S. Ry. v. Sumner*, No. 18-1367, due August 5, 2019; and a reply brief on the merits in *CITGO Asphalt Ref. Co. v. Frescati Shipping Co.*, No. 18-565, due October 10, 2019. The extension requested here would therefore allow counsel adequate time to prepare the petition in this case.

## CONCLUSION

For the foregoing reasons, Applicant respectfully requests an extension of 60 days, to and including October 3, 2019, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,



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