

AUG 01 2019

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

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In the  
Supreme Court of The United States

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Roxann J. Franklin Mason,  
Petitioner

v.

The United States  
Respondent

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

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PETITIONER'S APPLICATION TO EXTEND TIME TO FILE A PETITION FOR A WRIT  
OF CERTIORARI  
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Roxann J. Franklin Mason,  
POB 40357  
Washington, D.C. 20016  
301 906-1494

*Pro Se Petitioner*

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To the Honorable John G. Roberts Jr., as Chief Justice of the United States and Circuit Justice  
for the United States Court of Appeals for the District of Columbia Circuit:

Petitioner Roxann J. Franklin Mason respectfully requests that the time to file a petition  
of Writ of Certiorari in this matter be extended for 90 days to and including November 12, 2019.  
The Court of Appeals issued its opinion on March 8, 2019 (see App. A, *infra*). On May 14, 2019,  
the Court of Appeals denied Petitioner's request for rehearing (see App. B, *infra*). Absent an  
extension of time, the Petition would therefore be due on August 12, 2019. Petitioner is filing  
this application at least ten days before that date. This Court would have jurisdiction over the  
judgment under 28 U.S.C. §1254(1).

## **BACKGROUND**

On October 31, 1996, Roxann Franklin Mason filed suit in the United States District Court for the District of Columbia against the United States Department of Respondent, her then former employer, for discrimination, retaliation and constructive discharge in Civil Action No. 96-cv-02505-RWR-JMF ("Franklin Mason I").

On April 7, 1999, the parties filed a Stipulation of Settlement and Order, and Mrs. Franklin Mason returned to the Respondent. From December 10, 1999 to November 9, 2001, Mrs. Franklin Mason filed the first of four motions to enforce the terms of the Stipulation of Settlement and Order and for sanctions. While she was seeking judicial relief under the court order, on April 28, 2003, Mrs. Franklin Mason filed this civil action against defendant for unlawful retaliation in violation of Title VII ("Franklin Mason II"). Civil Action No. 03-cv-00945-JEB. On June 3, 2004, Mrs. Franklin Mason was constructively terminated for the second time from her employment with the Respondent.

Petitioner's motion to enforce the settlement agreement and Court Order was litigated in the District Court before a Magistrate Judge. After evidentiary hearings, the Magistrate Judge filed a Report and Recommendation granting, in part, Mrs. Franklin Mason's motion to enforce the Stipulation of Settlement and Order. The District Court for the District of Columbia Judge Richard Roberts later transferred the case to the United States Court of Federal Claims, pursuant to the Tucker Act. The Court of Federal Claims subsequently transferred the case back to the District Court since the agreement had been reduced to a Consent Decree and the District Court retained jurisdiction.

After the Petitioner's case was transferred back to the District Court, the Court issued a Final Order, denying Franklin Mason's motion to enforce the Stipulation of Settlement and Order

pursuant to the Tucker Act.

Petitioner appealed to the United States Court of Appeals for the District of Columbia Circuit. On February 14, 2016, the D.C. Circuit vacated the District Court's order dismissing Petitioner's motion to enforce and remanded the case for transfer to the Court of Federal Claims under the Tucker Act.

Petitioner then brought an action against the United States under the Tucker Act for breach of contract, breach of the duty of good faith and fair dealing and fraudulent inducement. On March 30, 2016, the Court of Federal Claims issued a Memorandum Opinion denying Petitioner's Motion for Summary Judgment and granting the Respondent's Cross Motion. Petitioner appealed to the United States Court of Appeals for the Federal Circuit. On July 14, 2017, the Federal Circuit issued an opinion without decision. On October 4, 2016, the Federal Circuit denied Petitioner's request for rehearing, and on April 3, 2018, Petitioner's Petition for Certiorari was denied by this Court. *Franklin-Mason v. The United States*, 138 S. Ct. 1703 (2018).

Meanwhile, *Franklin Mason II* remained pending in the District Court, and on September 8, 2016, a jury trial began before Judge James E. Boasberg. On September 19, 2016, the jury advised it was unable to render a verdict and a mistrial was declared.

On May 1, 2017, a retrial on *Franklin Mason II* began. On May 8, 2017, the jury rendered a verdict in favor of defendant and final judgment was entered. A notice of appeal was filed on June 1, 2017.

#### **APPEAL TO THE D.C. CIRCUIT**

Petitioner appealed to the D.C. Circuit Court of Appeals. Her opening and reply briefs argued that the trial court erred in applying collateral estoppel based upon the rulings related to

breach of contract by the Court of Federal Claims and the parol evidence rule to preclude her from adducing at trial factual evidence that were relevant to Respondent's discriminatory intent, motive and pretext. Petitioner also argued that the trial court erred in allowing Respondent to actually read to the jury portions of Judge Braden's order granting it summary judgment on the issue of the breach of the settlement agreement as it precluded the jury from making credibility determinations that were irrelevant to Judge Braden's assessment. Petitioner's briefs sought to explain that the trial court's application of collateral estoppel to issues the Court of Federal Claims was incompetent to adjudicate and the parol evidence rule to preclude her from adducing evidence relevant to discriminatory intent, motive and pretext infringed on her statutory right to a fair trial and a *de novo* trial as to of her discrimination claims.

In affirming the judgment below, the panel made absolutely no effort to address Petitioner's substantive arguments that the application of collateral estoppel and the parol evidence rule violated her statutory rights to a *de novo* trial on the merits of her Title VII claims of retaliation and constructive discharge as mandated by Congress and Supreme Court precedent. Accordingly, the panel's determination was inconsistent with settled authority by the Supreme Court and Congressional intent in fashioning remedies to ameliorate discrimination in the workplace.

#### **REASONS FOR GRANTING AN EXTENTION OF TIME**

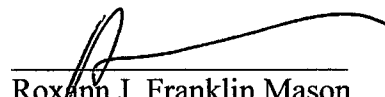
The time to file a Petition for a Writ of Certiorari should be extended for the requested days for these reasons:

1. Petitioner is seeking additional time to retain counsel with Supreme Court expertise to represent her in this matter. Petitioner has interviewed several such counsel and is working to finalize her retention of counsel. July and August, however, is vacation time for many

counsel that Petitioner has contacted or attempted to interview, and additional time is needed due to their unavailability. Accordingly, Petitioner's prospective counsel, or Petitioner herself as a pro se litigant, will need additional time to prepare the Petition.

2. Petitioner's husband has continued to receive treatment for a serious health condition. Petitioner's assistance as her husband's primary care-taker will further require additional time in order to continue interviewing counsel and preparing the Petition.

Respectfully submitted,



Roxann J. Franklin Mason  
POB 40357  
Washington, D.C. 20016  
301 906-1494

*Pro Se Petitioner*

Dated: August 1, 2019

**CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of August 2019, I caused to be sent, via U.S. post a copy of the foregoing to:

Fred Haynes, Esq.  
Assistant United States Attorney  
United States Attorney's Office for the District of Columbia  
555 4<sup>th</sup> Street, N.W.  
Washington, D.C. 20530

*Counsel for Defendant-Respondent*

\_\_\_\_\_  
Roxann J. Franklin Mason