No. _____

In the Supreme Court of the United States

JOHN DOE,
Applicant/Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

**APPLICATION TO THE HONORABLE JUSTICE
SAMUEL A. ALITO, JR. AS CIRCUIT JUSTICE**

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September 10, 2019

Attorneys for Applicant/Petitioner

APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant John Doe hereby requests a 60-day extension of time within which to file a petition for a writ of certiorari in this case up to and including Monday, November 25, 2019.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The United States Court of Appeals for the Fifth Circuit issued its opinion in this case on June 27, 2019. (attached as Exhibit 1). No petition for rehearing was filed.

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254(1). Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for a writ of certiorari without an extension of time would be due on or before September 25, 2019. In accordance with Rule 13.5, this application is being filed more than 10 days before that date.

REASONS JUSTIFYING AN EXTENSION OF TIME

The time to file a petition for a writ of certiorari should be extended for 60 days for the following reasons:

1. This case presents the Court with a unique and important opportunity to make clear to lower courts whether a *reduction* in sentence under Fed. R. Crim. P. 35(b) should be evaluated under factors different than those statutorily mandated for the *imposition* of sentence. The Fifth Circuit's decision effectively holds that it should not, which decision runs counter to the law of a sister Circuit. *See United States v. Grant,* 636 F.3d 803 (6th Cir. 2011).

2. This case is cert-worthy. After Petitioner was originally sentenced, he

provided a herculean amount of assistance to law enforcement in a variety of criminal and administrative investigations over a number of years. Despite placing the safety of Petitioner and his family in significant risk for these efforts, Petitioner was never given any sentencing benefit for that assistance, and the legal issue that Petitioner would raise to the Court is related to the standard for sentencing under these circumstances. Thus, in addition to resolving an aforementioned split in the Circuits, this case presents the Court with an opportunity to remedy a clear injustice that could become commonplace if the Fifth Circuit's statutory interpretation is left unchecked.

3. Notably, the undersigned law firm has been handling this case on a pro bono basis. Initially, Petitioner indicated that he did not want to seek this Court's review. After he changed his mind, the undersigned set about to find competent appellate counsel to brief this case. Given Petitioner's indigency, this was not an easy task. However, appellate counsel has now been procured and is ready to proceed, but additional time is necessary for them to study the record below and the legal issues in the case and to prepare a petition.

4. The extension of time is also necessary because of the press of other client business. For example, the attorney who will draft the petition for certiorari also has the following responsibilities in the coming months: a September 25, 2019 appellant's opening brief in *Mares v. Swift Transportation Co. of Arizona, LLC* (Ninth Cir. Case No. 19-55065); a September 17, 2019 reply brief in support of a motion for judgment on the pleadings in *Dodson v. Smart & Final Stores LLC* (Los Angeles Superior Court Case No. BC717307); a September 20, 2019 reply brief in support of a motion to compel arbitration in *Rodriguez v. Tesla, Inc.* (Alameda Superior Court Case No. RG19013428); a motion to challenge class certification in *Fritsch v. Swift Transportation Co. of Arizona, LLC* (Central District of

certification in *Fritsch v. Swift Transportation Co. of Arizona, LLC* (Central District of California Case No. 5:17-cv-02226 VAP(KKx)); an October 15, 2019 reply brief in support of a motion for judgment on the pleadings in *Wasko v. Smart & Final Stores LLC* (Sacramento Superior Court Case No. 34-2017-00224484); and a motion for summary judgment in *McNutt v. Swift Transportation Co. of Arizona, LLC* (Case No. 3:18-cv-05668-BHS). A 60-day extension for the Applicant would allow Applicant's new appellate counsel the necessary amount of time to effectively contribute to all open matters including Applicant's petition as well as his other client business.

5.   Additionally, no prejudice would arise from the requested extension.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 60 days, up to and including November 25, 2019, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,

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