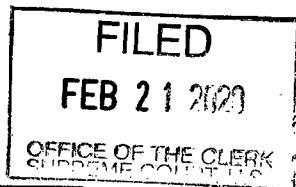


No. 19A869



In The  
SUPREME COURT OF THE UNITED STATES

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Michael Harrison Lowman, Jr.,

Applicant/Petitioner

v.

United States of America,

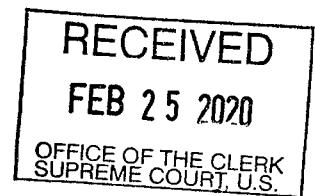
Respondent

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

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Wesley S. White  
State Bar No. 43916  
2300 E. 7<sup>th</sup> St. Suite 101  
Charlotte, NC 28204  
Telephone: (702) 824-1695  
E-mail: [wes@weswhitelaw.com](mailto:wes@weswhitelaw.com)  
Counsel of Record for Petitioner



**To the Honorable JOHN G. ROBERTS, JR., Chief Justice of the United States Supreme Court and Circuit Justice for the Fourth Circuit:**

Applicant-Petitioner, Michael Harrison Lowman, Jr., respectfully requests an additional extension of thirty (30) days within which to file a petition for writ of certiorari. Sup. Ct. R. 13.5. Pursuant to the Honorable Chief Justice's order of February 3, 2020, upon Applicant-Petitioner's initial motion, the deadline for applicant to file his petition is Thursday, March 5, 2020, which represents an initial 30-day extension from February 4, 2020. For good cause set forth herein, Applicant asks that this deadline be extended by thirty days, so that the new deadline would be April 6, 2020 (the 30<sup>th</sup> day actually falls on April 4, 2020, a Saturday, but pursuant to Supreme Court Rule 30, the deadline would extend to the following Monday).

#### **BACKGROUND**

This case arises from the Fourth Circuit's dismissal of Lowman's appeal from the District Court. On January 3, 2019, the District Court (Western District of North Carolina) sentenced the Petitioner to 300 months in prison, following his guilty plea to one count of sexual exploitation of a minor, (production), 18 U.S.C. §2251(a). In forming the sentence, however, the court relied on and accepted information proffered by the government which lacked reliability and fell short of the applicable standard of proof. The Petitioner argued on appeal that his sentence violated his right to due process.

The United States, however, filed a motion to dismiss the appeal, citing the Petitioner's waiver in his plea agreement. The Petitioner argued that the issue fell outside the scope of the plea agreement. The Fourth Circuit, however, ruled that "Lowman knowingly and voluntarily waived his right to appeal and that the issue Lowman seeks to raise on appeal falls squarely within the compass of his waiver of appellate rights", granted the government's motion, and dismissed the appeal. The order granting the motion is attached herein as Exhibit B, and the Judgment, filed November 6, 2020, is attached as Exhibit C.

#### **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 was initially due to be filed on or before February 4, 2020. The Petitioner's initial application requesting a 30-day extension was granted on February 3, 2020. The application is being filed at least ten days before the deadline for filing the petition.

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

Applicant respectfully requests the additional extension of thirty days within which to file the petition for a writ of certiorari seeking review of the decision of the Fourth Circuit in this case, up to and including April 6, 2020.

1. Undersigned attorney needs additional time to ensure his application to the Supreme Court bar is properly completed and approved prior to the filing of the petition. Undersigned attorney has not yet had the opportunity to complete this application. Undersigned counsel also wishes for additional time to prepare the writ, so that he can thoroughly ensure that all relevant authority for his position can be discussed, and thereby increase his chances of the petition being granted.
2. The extension rule allows up to 60 days, but the Petitioner asked for (and was granted) only 30 days initially, and therefore requests the standard and rule-contemplated additional 30 days. This request is made in good faith, and not for any purpose of delay or obstruction.

### CONCLUSION

For the foregoing reasons, applicant respectfully requests that this Court grant an additional extension of 30 days, up to and including April 6, 2020.

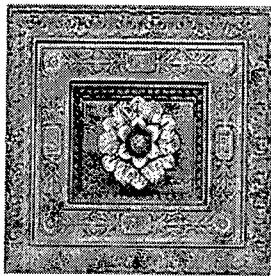
Respectfully Submitted,

February 21, 2020

/s/ Wesley S. White  
Wesley S. White  
State Bar No. 43916  
2300 E. 7<sup>th</sup> St. Suite 101  
Charlotte, NC 28204  
Telephone: (702) 824-1695  
E-mail: wes@weswhitelaw.com

## EXHIBIT A

EXHIBIT A



	Search documents in this case:	<input type="text"/>	<input type="button" value="Search"/>
<b>No. 19A869</b>			
Title:	<b>Michael Harrison Lowman, Jr., Applicant</b> v. <b>United States</b>		
Docketed:	February 3, 2020		
Lower Ct:	United States Court of Appeals for the Fourth Circuit		
Case Numbers:	(19-4103)		

DATE	PROCEEDINGS AND ORDERS
Jan 31 2020	Application (19A869) to extend the time to file a petition for a writ of certiorari from February 4, 2020 to March 5, 2020, submitted to The Chief Justice.
Feb 03 2020	Main Document      Lower Court Orders/Opinions      Proof of Service Application (19A869) granted by The Chief Justice extending the time to file until March 5, 2020.

NAME	ADDRESS	PHONE
Attorneys for Petitioner		
Wesley S. White	2300 E. 7th St., Suite 101 Charlotte, NC 28204  wes@weswhitelaw.com	(702) 824-1695
Party name: Michael Lowman		
Attorneys for Respondent		
Noel J. Francisco Counsel of Record	Solicitor General United States Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001  SupremeCtBriefs@USDOJ.gov	202-514-2217
Party name: United States		

## EXHIBIT B

EXHIBIT B

FILED: November 6, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-4103  
(1:17-cr-00128-MR-WCM-1)

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL HARRISON LOWMAN, JR., a/k/a Mellie L,

Defendant - Appellant.

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ORDER

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Michael Harrison Lowman, Jr., seeks to appeal his sentence. The Government has moved to dismiss the appeal as barred by Lowman's waiver of the right to appeal included in the plea agreement. Upon review of the plea agreement and the Fed. R. Crim. P. 11 inquiry, we conclude that Lowman knowingly and voluntarily waived his right to appeal and that the issue Lowman seeks to raise on appeal falls squarely within the compass of his waiver of appellate rights. Accordingly, we grant the Government's motion to dismiss.

Entered at the direction of the panel: Judge Niemeyer, Judge Wynn, and Judge Quattlebaum.

For the Court

/s/ Patricia S. Connor, Clerk

## EXHIBIT C

## EXHIBIT C

FILED: November 6, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-4103  
(1:17-cr-00128-MR-WCM-1)

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MICHAEL HARRISON LOWMAN, JR., a/k/a Mellie L

Defendant - Appellant

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JUDGMENT

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In accordance with the decision of this court, this appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK