

***IN THE SUPREME COURT OF THE UNITED STATES***

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**JOHN D. GLENN, JR. Petitioner,**

v.

**UNITED STATES, Respondent.**

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

TO THE HONORABLE SAMUEL A. ALITO, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE THIRD CIRCUIT:

Pursuant to this Court's Rules 13.5 and 30.2, petitioner-applicant John D. Glenn, Jr., prays for a 30-day extension of time to file his petition for a writ of certiorari in this Court to and including December 2, 2021.

1. Timeliness and Jurisdiction. On March 9, 2021, the United States Court of Appeals for the Third Circuit filed a non-precedential opinion affirming the applicant's convictions and sentence. Appx. A. The Third Circuit denied his timely petition for rehearing on August 4, 2021. Appx. B. As a result, pursuant to this Court's Rules 13.1 and 13.3, a petition for certiorari would be due on or before November 2, 2021. This application is being filed at least ten days before that date. See Rule 30.2. The jurisdiction of this Court is to be invoked under 28 U.S.C. § 1254(1).

2. Opinions Below. The Third Circuit's March 9, 2021, opinion, authored by Judge Fisher and joined by Judges McKee and Porter, is attached as Appendix A. It is published in the Federal Appendix at 846 Fed.Appx. 110. The district court did not publish any opinion.

3. Reasons for Granting the Extension.

a. The applicant was convicted after a jury trial of bank fraud and conspiracy to commit bank fraud and sentenced to 168 months' imprisonment. The theory of fraud was that the victim financiers were financial institutions because they each qualified as "mortgage lending businesses" under the Third Circuit's broad interpretation of 18 U.S.C. §§ 20, 27, 1344, 1349.

b. On appeal, the applicant challenged the jury instructions as missing an element: that the jury must find that the victim entity was a financial institution. Instead, the district court had the jury presume each victim financier was a "mortgage lending business." The applicant also challenged his conviction for conspiracy to commit bank fraud because one victim financier was not legally a mortgage lending business and so the jury could have convicted him of conspiracy based on an illegal object.

c. The court of appeals disagreed with appellant's arguments and affirmed. Appx. A. Rehearing was denied. Appx. B.

d. In undersigned counsel's professional opinion, this case presents one issue that may meet this Court's standards for granting certiorari. Counsel anticipates that the petition will present the following question:

(1) Is the Third Circuit's interpretation of "mortgage lending business" pursuant to 18 U.S.C. §§ 20, 27, 1344, 1349, as announced in *United States v. Fattah*, 914 F.3d 112 (3d Cir. 2019) and applied to this applicant, an overbroad application of a federal statute?

e. Undersigned counsel, Assistant Federal Public Defender, whose practice focuses on federal criminal appeals, and, during the COVID-19 pandemic, also carries a substantial caseload of compassionate release cases in the District of New Jersey, has the following concurrent appellate deadlines: (1) an opening brief due in the Third Circuit on October 21, 2021; and (2) a reply brief due in the Third Circuit on November 3, 2021, both appeals from jury trials at which undersigned counsel was not trial counsel. In addition, counsel filed a reply in a motion for compassionate release on October 11, 2021, and will file another two motions for compassionate release in the next several weeks. As a result of these circumstances, counsel cannot manage to file the petition in this case by the November 2, 2021, due date and still satisfy her own or this Court's standards.

f. Mr. Glenn is currently incarcerated, serving the 168-month sentence. He does not seek delay for any tactical reason. For the same reason, the government would not be prejudiced by the requested extension.

WHEREFORE, the Applicant-Petitioner prays that an Order be entered extending the time within which he may petition this Court for certiorari by 30 days, to and including December 2, 2021.

Respectfully submitted,

Dated: October 12, 2021

*s/ Alison Brill*

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