

App No. _____

In The
Supreme Court of the United States

United States of America

Respondent,

v.

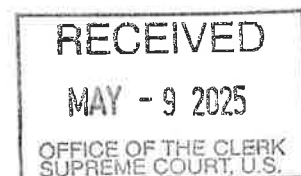
Brian Beland and Denae Beland,

Petitioners.

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

**PETITIONER'S APPLICATION TO EXTEND TIME TO FILE PETITION
FOR WRIT OF CERTIORARI**

Brian Beland
Denae Beland
75 Guadalupe Dr.
El Dorado Hills, CA 95762
Tel: 209-200-0118
Email: Belandda@tjssl.edu
Pro Se Petitioner



To the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

Pursuant to this Court's Rules 13.5, 22, 30.2, and 30.3, Petitioner's Brian and Denae Beland respectfully requests that the time to file their Petition for Writ of Certiorari in this matter be extended for 60 days up to and including July 21, 2025. The Court of Appeals issued its opinion on January 16, 2025. (Exhibit A) and denied rehearing en banc on February 20, 2025 (Exhibit B). Absent an extension of time, the Petition for Writ of Certiorari would be due on May 21, 2025. Petitioners are filing this Application more than ten days before that date. See S. Ct. R. 13.5. This Court would have jurisdiction over the judgment under 28 U.S.C. 1254(1).

BACKGROUND

On January 24, 2019 The government obtained an indictment charging defendant Brian Beland with three counts of Making and Subscribing a False Tax Return (I.R.C. § 7206(1)), and charging both Brian and Denae Beland with Corruptly Endeavoring to Impede the Due Administration of the Internal Revenue Laws (I.R.C. § 7212(a)). (26-ER-3644).

On February 28, 2022, Defendants filed a Motion to Dismiss the indictment. (17-ER-3018). On August 24, 2022, through August 31, 2022, the Court held an Evidentiary Hearing regarding Defendant's Motion to Dismiss. (8-ER-1481-14-ER-

2874). On September 1, 2022, the Court issued an Order denying the defendant's motion to dismiss. (1-ER-0053).

On March 7-17, 2023, a Jury Trial was held. (2-ER-55-6-ER-1247). On March 17, 2023, the jury returned a guilty verdict on all counts. On September 6, 2023, Brian Beland was sentenced to 21 months of confinement (1-ER-9) and Denae Beland was sentenced to 5 years of probation. (1-ER-3). Brian Beland's motion for bond pending appeal was granted. On September 19, 2023, the Belands timely filed their Notices of Appeal. (26-ER-3652, 3653).

On January 16, 2025, The Ninth Circuit Court of Appeals issued a non-published opinion affirming the District Courts decision. (Exhibit A).

On March 10, 2025 the District Court denied Brian Beland's motion for release pending petition of writ of certiorari under 19 U.S.C. § 3143(b).

This case involves substantial questions regarding when a taxpayers fourth and fifth amendment rights are violated by the IRS when conducting an examination, and what the remedy should be. The District Court found the IRS had a firm indication of fraud during the civil audit, did not stop and refer the matter to the Criminal Investigations Division at that point as required, and prejudiced the taxpayers' constitutional rights. (1-ER-45-46). Yet the District Court denied the motion to Dismiss/Suppress. The Ninth Circuit affirmed.

REASONS FOR GRANTING 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. Petitioners are in the process of securing appropriate counsel that can represent them in this matter. Counsel they believed they had, has chosen not to proceed and informed Petitioner's of this decision on May 5, 2025.
2. A substantial amount of legal research is necessary to articulate the findings of courts over the last 48 years regarding *Tweel* challenges. Applicant's request an extension in order to prepare a petition that fully addresses the important and far-reaching issues raised by the decision below and frames those issues in a manner that will be most helpful to the Court.
3. This case presents issues of importance to taxpayers nationwide who face potentially being called into a criminal examination under the guise of a civil audit and having their Constitutional Rights violated by the IRS. The panel opinion allows the aforementioned to occur as long as the taxpayer cannot provide "clear and convincing evidence that the audit no longer served any civil purpose." Exhibit A at 5. The panel gives no authority for this position.
4. A significant prospect exists that this Court will grant certiorari and reverse the Ninth Circuit. The Panel's ruling directly conflicts with a decision by the Seventh Circuit in *United States v. Peters*, 153 F.3d 445 (7th Cir. 1998). The

Court in *Peters* explained that: “If, during an examination, an examiner discovers a firm indication of fraud on the part of the taxpayer... the examiner shall suspend his/her activities at the earliest opportunity without disclosing to the taxpayer... the reason for such suspension. Internal Revenue Manual § 4565.21(1). *Peters* at 451. *Peters* further explains: "a civil audit evolves into a criminal investigation at the point when the auditors develop a firm indication of fraud." *Id.* The court held that it would "find that the revenue agents were engaged in a covert criminal investigation if they continued to audit defendant after they developed a firm indication of fraud." *Id.* Further, “if a revenue agent continues to conduct a civil audit after developing "firm indications of fraud, a court may justifiably conclude that the agent was in fact conducting a criminal investigation under the auspices of a civil audit.” *Id.* at 451-452. “[I]f the agents were in fact conducting a criminal investigation under the auspices of a civil audit, then they affirmatively misrepresented the nature of their investigation. See *United States v. Wadena*, 152 F.3d 831, 851 (8th Cir. 1998); *United States v. Grunewald*, 987 F.2d 531, 534 (8th Cir. 1993); *United States v. Nuth*, 605 F.2d 229, 234 (6th Cir. 1979); *United States v. Tweel*, 550 F.2d 297, 299 (5th Cir. 1977)” See also Internal Revenue Manual § 4.32.2.7.6(6)(June 4, 2018);

(stating that the IRS may not develop a criminal tax case under the guise of a civil audit).

5. An extension will not cause prejudice to Respondents, as this Court would likely hear oral argument and issue its opinion in the October 2025 Term regardless of whether an extension is granted. An extension will further ensure that Respondent need not prepare a brief in opposition during the summer holidays.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the time to file the Petition for a Writ of Certiorari in this matter be extended 60 days, up to and including July 21, 2025.

Dated: May 7, 2025

/s/ Brian Beland
Brian Beland
Pro Se Petitioner

/s/ Denae Beland
Denae Beland
Pro Se Petitioner