

CASE NO. _____

IN THE
Supreme Court of the United States

BARRY G. CROFT, Petitioner,

v.

UNITED STATES OF AMERICA, Respondent.

**UNOPPOSED APPLICATION TO EXTEND THE TIME TO FILE A
PETITION FOR WRIT OF CERTIORARI TO THE
U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Timothy F. Sweeney (OH 0040027)*
MEMBER OF THE BAR OF THIS COURT
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*COUNSEL OF RECORD

Counsel for Petitioner Barry G. Croft

To the Honorable Brett Kavanaugh, Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

1. For the specific reasons set forth below, Petitioner Barry G. Croft respectfully requests, under Supreme Court Rules 13.5, 22, and 30.3, a thirty-day extension of time to file his petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit, dated April 1, 2025, in *United States v. Barry G. Croft*, Case No. 23-1029, 134 F.4th 348 (6th Cir. 2025).

2. After a mistrial in April 2022 due to a first jury's inability to reach a verdict as to Croft and his co-defendant Adam Fox, a second jury in the U.S. District Court for the Western District of Michigan in August 2022 convicted Croft and Fox of various conspiracy and other offense arising from an alleged plan to kidnap Michigan's Governor, Gretchen Whitmer. Croft was convicted in Count 1 of conspiracy to kidnap Governor Whitmer in alleged violation of 18 U.S.C. § 1201(c), in Count 2 of conspiracy to use a weapon of mass destruction in alleged violation of 18 U.S.C. §§ 2332a(a)(2)(A), (C) and 921(a)(4), and in Count 3 for possession of an unregistered destructive device in alleged violation of 26 U.S.C. §§ 5861(d), 5871, and 5841. Croft was sentenced to 235 months in prison; Fox got 192.

3. Represented by the undersigned appointed CJA counsel for his appeal, Croft took a timely appeal to the Sixth Circuit. After the case was fully briefed and oral argument was conducted on May 2, 2024, the panel of the Sixth Circuit requested supplemental briefing from both sides on issues concerning the district court's application at trial of Fed. R. Evid. 801(d)(2)(D) to limit the defendants' use of out-of-

court statements of the several government agents/informants who had worked with the FBI in developing and investigating the alleged offenses by Croft and others. Such out-of-court statements were pertinent to, among other issues, Croft's affirmative defense of entrapment. The supplemental briefs were filed on June 10, 2024.

4. On April 1, 2025, the Sixth Circuit issued its decision affirming Croft's convictions in all respects. A copy of the judgment and opinion is attached.

5. Croft seeks for this Court to review the Sixth Circuit's underlying decision and judgment of April 1, 2025. Jurisdiction in this Court is appropriate under 28 U.S.C. § 1254(1). Under this Court's Rules, Croft's deadline to file a petition for a writ of certiorari is June 30, 2025.

6. Croft now seeks an extension of that deadline for an additional thirty (30) days, until July 30, 2025. Good cause exists to justify Croft's requested extension. His appointed CJA counsel requires additional time to draft a petition for a writ of certiorari due to his obligations to other capital and non-capital clients in various stages of state and federal litigation. Undersigned counsel has and continues to have substantial case filings due in June and July 2025 in other criminal cases in which he is appointed counsel in federal court and/or in Ohio state court. This has included a significant filing in an Ohio capital case that was due on June 4, 2025, and a brief due in the Sixth Circuit on July 7, 2025, in a drug conspiracy case in which a law enforcement officer was killed. Counsel also has had work for an oral argument in the Sixth Circuit on June 9, 2025, and other oral arguments and briefs in the Ohio state appellate court. He also has numerous other pressing matters in the months of

June and July.

7. Petitioner Croft's undersigned CJA counsel thus respectfully requests an extension of time to adequately prepare Croft's petition for a writ of certiorari. Counsel has been researching and outlining the petition. However, due to the press of the other obligations noted herein, among others, counsel needs the additional time to file the petition. This extension request is not for purposes of delay.

8. Counsel for the USA, Assistant U.S. Attorney Nils R. Kessler, has indicated to the undersigned that his office does not oppose this requested 30-day extension.

Therefore, Petitioner Barry G. Croft respectfully requests that an order be entered extending his time to file a petition for a writ of certiorari for thirty days, from June 30, 2025 until July 30, 2025.

Respectfully submitted,

/s/ Timothy F. Sweeney

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PROOF OF SERVICE

I, Timothy F. Sweeney, a member of the Bar of this Court, hereby certify that on June 11, 2025, a copy of this Unopposed Application for Extension of Time to File a Petition for a Writ of Certiorari in the above-entitled case was mailed, first class postage prepaid, to NILS R. KESSLER, United States Attorney's Office, Post Office Box 208, Grand Rapids, MI 49501-0208, counsel for respondent herein. I further certify that all parties required to be served have been served.

/s/ Timothy F. Sweeney

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