

IN THE SUPREME COURT OF THE UNITED STATES

Derrick Williams,)
Petitioner,) Supreme Court Case No. _____
v.)
United States of America,) Tenth Circuit Case No. 18-1299
Respondent.)

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

To the Honorable Sonya Sotomayor, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Tenth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5 and 30.1 of the Rules of this Court, Petitioner Derrick Williams respectfully requests a 60-day extension of the deadline, or until April 13, 2020, to file his petition for certiorari in this Court. The deadline for Mr. Williams’s petition for certiorari began to run on November 14, 2019, when the Tenth Circuit issued its opinion affirming the district court, and Mr. Williams’s petition for certiorari is presently due on February 12, 2019. This application is being filed more than 10 days before that date.

A copy of the Tenth Circuit’s decision is attached hereto. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

As shown by the opinion below, this case presents the question of whether border agents had a sufficient predicate to search Mr. Williams’s electronic device as he was entering the country. What sort of predicate border agents must have for such a search is the subject of a circuit split. The decision below holds that

electronic device searches at the border require at most reasonable suspicion of “criminal activity,” and it rejects the notion that the reasonable suspicion must be tethered to the Government’s particular interests at the border. *United States v. Williams*, 942 F.3d 1187, 1190–91 (10th Cir. 2019). The Fourth and Ninth Circuits, by contrast, hold that reasonable suspicion of ordinary criminal activity is not enough and that the predicate for an electronic device search at the border must be tethered to the Government’s particular interests at the border. *See United States v. Aigbekaen*, 943 F.3d 713, 720–21 (4th Cir. 2019); *United States v. Cano*, 934 F.3d 1002, 1016–18 (9th Cir. 2019). Mr. Williams’s case is a serious candidate for a grant of certiorari and deserves a substantial investment of counsel’s time.

Due to other pressing professional and personal responsibilities, however, counsel for Mr. Williams cannot complete an adequate petition for certiorari by the present due date.

Since the Tenth Circuit issued its decision in Mr. Williams’s case, counsel’s time has been largely consumed by completing the following, which had deadlines that could not be extended (or could not be further extended):

- Oral Argument, *United States v. Tony*, No. 18-2182 (10th Cir. Nov. 21, 2019);
- Supplemental Brief, *United States v. Lawless*, No. 17-1148 (10th Cir. Dec. 2, 2019);
- Appellant’s Brief, *United States v. Wieck*, No. 19-6075 (10th Cir. Dec. 16, 2019);
- Oral Argument, *United States v. Moore*, No. 17-1224 (10th Cir. Jan. 21, 2020); and

- Petition for a Writ of Certiorari, *Bush v. Sharp*, No. 19-7455 (U.S. Jan. 24, 2020).

In addition, counsel has invested (and will be required to continue to invest going forward) a significant amount of time in preparing for resentencing proceedings in *United States v. Brewington*, No. 1:15-CR-00073-PAB-1 (D. Colo.), and *United States v. Lawless*, 1:11-CR-00278-WYD-1 (D. Colo.), which are on remand from appeals in which the undersigned was counsel for the appellants.

Further, undersigned counsel has two small children who have both gotten the flu. The necessity of caring for them has required counsel to be away from the office for substantial periods.

Going forward, counsel must finish drafting and file a reply brief in *United States v. Moses*, No. 19-6036 (10th Cir.), which is due on a final deadline of February 4, 2020, before turning in earnest to Mr. Williams's certiorari petition.

For these reasons, counsel for Mr. Williams respectfully requests a 60-day extension of time, or until April 13, 2020, to file his petition for certiorari in this Court.

Respectfully submitted,
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