

No.:

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IN THE SUPREME COURT OF THE UNITED STATES

LISA FERRARO,

Applicant,

v.

UNITED STATE OF AMERICA

Respondent.

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**ON APPLICATION FOR EXTENSION OF TIME  
TO FILE PETITION FOR WRIT OF CERTIORARI  
TO ASSOCIATE JUSTICE SAMUEL A. ALITO, JR.**

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

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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 Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Third Circuit -

Pursuant to Rules 13.5, 21, 22, and 30.2 of this Court, Lisa Ferraro (“Applicant”) respectfully requests that the time to file a petition for a writ of certiorari to the United States Court of Appeals for the Third Circuit be extended for 45 days, to and including August 29, 2026.

The Court of Appeals for the Third Circuit issued its decision enforcing the appellate waiver, dismissing the appeal and summarily affirming the District Court’s Judgment, on April 16, 2026 (Appendix A). Applicant is filing this application at least ten days prior to the current due date of July 15, 2026. *See* S. Ct. R. 30.2. This Court would have jurisdiction over the judgment pursuant to 28 U.S.C. § 1254(1).

**BACKGROUND**

On July 26, 2024, Dr. Lisa Ferraro, the Applicant, entered into a plea agreement with the United States Attorney, District of New Jersey, in which she agreed to plead guilty to a one count Information charging her with conspiracy to distribute and dispense, outside the usual course of professional practice and not for a legitimate medical purpose, mixtures and substances containing a detectable amount of oxycodone, a Schedule II controlled substance, contrary to Title 21, United States Code, Sections 841(a) and (b)(1)(C), in violation of Title 21, United States Code, Section 846.

The Plea Agreement further provided that,

"As set forth in Schedule A and the paragraph below, [the Applicant] waive[s] certain rights to appeal, collaterally attack or otherwise challenge the judgment of conviction or sentence.

\* \* \*

No provision of this agreement shall preclude [the Applicant] from pursuing in an appropriate forum, when permitted by law, a claim that she received ineffective assistance of counsel."

Schedule A to the plea Agreement, par. 16, in relevant part provides that,

"16. If the term of imprisonment does not exceed 135 months, and except as specified in the next paragraph below, [the Applicant] will not challenge or seek to reduce by any means any component of the sentence imposed by the sentencing judge for any reason other than ineffective assistance of counsel. The term 'any means' includes a direct appeal under 18 U.S.C. § 3742 or 28 U.S.C. § 1291 \* \* \*"

On October 2, 2024, the Applicant, assisted by counsel, pleaded guilty, before the Hon. Susan D. Wigenton, U.S.D.J., in accordance with the plea agreement. The plea was accepted by the District Court, and the matter was set down for sentencing.

Sentencing was scheduled for January 22, 2026, before the Hon. Susan D. Wigenton, U.S.D.J. In anticipation of the sentencing, defense counsel communicated with the District Court concerning her objections to proceeding, and the authority of the United States Attorney, District of New Jersey, to appear, which was being challenged under the Federal Vacancies Reform Act.

The District Court, acknowledging that there were "issues" but declined to "take any position on them," sentenced the Applicant to the custody of the Bureau of Prisons to a term of eighty-seven months, and upon her release, to be placed on supervised release for a term of three years.

The Applicant filed a timely Notice of Appeal.

On March 6, 2026, the United States Attorney, District of New Jersey, filed a motion in the United States Court of Appeals for the Third Circuit to enforce the plea waiver and summarily dismiss the appeal. The Applicant opposed and, as a Supplement to her Sur-Reply, filed April 14, 2026, informed the court that,

"On March 3, 2026, the Supreme Court of the United States heard oral arguments in *Hunter v. United States*, No. 24-1063, in which the United States Court of

Appeals for the Fifth Circuit, after conducting a *de novo* review, enforced a waiver of the right to appeal pursuant to a plea agreement (*United States v. Hunter*, 2024 WL 5003582, \*1 (5th Cir. 2024).

The Supreme Court granted certiorari on October 19, 2025 (146 S. Ct. 288).”

As such, the Applicant requested the Third Circuit to hold in abeyance a decision on the government's motion to enforce the appellate waiver and dismiss the appeal until *Hunter* was decided.

On April 16, 2026, the court, granting the Applicant's request to file a Sur-Reply, nevertheless granted the government's motion to enforce the appellate waiver, and dismiss the appeal, construing it as a motion to affirm summarily the District Court's Judgment.

On June 18, 2026, this Court vacated and remanded in *Hunter*, writing at the outset:

“Plea agreements between a criminal defendant and the Government often include an appeal waiver - a promise by the defendant not to appeal his conviction or eventual sentence. In this case, we address a dispute about when such a promise is unenforceable in the sentencing context. We principally hold that an agreement not to appeal a sentence is unenforceable when it would result in a miscarriage of justice - meaning, when it would leave in place the kind of egregious error that would bring the judicial system into disrepute.” (608 U.S. \_\_\_, 2026 WL 1751815, \*4 [2026]).

### **REASONS FOR GRANTING AN EXTENSION OF TIME**

1. In deciding the government's motion to enforce the appellate waiver and summarily affirm the District Court's Judgment, on April 16, 2026, the Court of Appeals did not have the benefit of this Court's, June 18, 2026 decision in *Hunter v. United States*, which held the waiver of the right to appeal in that case unenforceable. A motion to the Court of Appeals, first, to reconsider in light of *Hunter* is appropriate.

The issue to be presented on appeal, if on reconsideration, the Court of Appeals were to agree that the waiver is unenforceable, involves the presence at the Applicant's sentencing, and active participation, by someone who was not lawfully authorized/designated to represent the

government as the United States Attorney (*see United States v. Giraud*, 164 F.4<sup>th</sup> 390 [3d Cir. 2025]), thereby calling into question the legitimacy of a judicial proceeding, *i.e.*, the sentencing (*see, Gardner v. Florida*, 430 U.S. 349, 358 [1977], *citing Mempa v. Rhay*, 389 U.S. 128 [1967]; *Santobello v. New York*, 404 U.S. 257 [1971]).

We submit that this issue is not waived within the “meaning” of *Hunter*, 2026 WL 1751815, \*4, and to that extent the waiver is not enforceable.

2. A combination of recent family illnesses, including emergency cardiac surgery for my wife, and scheduling issues on other legal matters, while waiting until June 18, 2026, for a decision in *Hunter*, to determine how best to proceed on this matter, has limited my ability to prepare the Petition for a writ of certiorari sufficiently addressing the issues to be raised.

3. An extension should not cause prejudice to Respondent, being that the issues to be raised implicate the sentencing, and not the underlying plea of guilty.

### CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the time to file the Petition for a writ of certiorari in this matter be extended 45 days, up to and including August 29, 2026.

Dated: New York, New York  
July 2, 2026

Respectfully submitted,

/s/Richard E. Mischel  
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## **APPENDIX**

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OF APPEALS FOR THE THIRD CIRCUIT, FILED  
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UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

ACO-068

No. 26-1228

UNITED STATES OF AMERICA

v.

LISA FERRARO,  
Appellant

(D.N.J. No. 2:24-cr-00642-001)

Present: PORTER, FREEMAN, and AMBRO, *Circuit Judges*

1. Motion by Appellee to Summarily Dismiss Appeal.
2. Response by Appellant.
3. Reply by Appellee In Support.
4. Request by Appellant to File Sur-Reply to Response In Opposition to Summarily Dismiss Appeal and Sur-Reply.
5. Supplement by Appellant to Request to File Sur-Reply to Response In Opposition to Summarily Dismiss Appeal and Sur-Reply.

Respectfully,  
Clerk/tmm

ORDER

Appellant's request to file a sur-reply is granted.

Appellee's motion to summarily dismiss this appeal is construed as a motion to summarily affirm the District Court's judgment. *See, e.g., United States v. Gwinnett*, 483 F.3d 200, 206 (3d Cir. 2007) (enforcing an appellate waiver by affirming the district court's judgment). So construed, the motion is granted.

By the Court,

s/Arianna J. Freeman  
Circuit Judge

Dated: April 16, 2026

Tmm/cc: Mark E. Coyne, Esq.

Richard J. Ramsay, Esq.

Linda George, Esq.

Richard E. Mischel, Esq.