
No.

IN THE
SUPREME COURT OF THE UNITED STATES

MATTHEW O'REILLY

Petitioner, Pro Se

v.

ADAM TSOTTLES and WASTE MANAGEMENT,
Respondents

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

MOTION TO DOCKET AN APPLICATION FOR EXTENSION
OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

Matthew O'Reilly
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Phone: (704) 906-3422

Petitioner

MOTION TO DOCKET AN APPLICATION FOR AN EXTENSION OF TIME
TO FILE A PETITION FOR A WRIT OF CERTIORARI,
OR IN THE ALTERNATIVE TO GRANT AN EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI

On 20 December, believing that my Application for an Extension of Time within which to file a petition for writ of certiorari was jurisdictionally out-of-time, the Clerk of this Court refused to docket the Application, stating, "the Court no longer has the power [...] to consider an application for an extension of time to file the petition." I very respectfully disagree with the Clerk's conclusion, and submit that it is irreconcilable with this Court's recent jurisprudence.

28 U.S. Code § 2101(c) allows a Justice of this Court to extend the time to petition for certiorari by sixty days, but crucially does not specify that the application must be submitted within the original ninety day petition period. Supreme Court Rules 13.5 and 30.2 are more restrictive than the statute, providing that an application for extension "must be filed [with the Clerk] at least 10 days before [...], except in [the most] extraordinary circumstances."

As held last year in Boechler, P.C. v. Commissioner of Internal Revenue, 596 U.S.____ (2022), this Court treats "a procedural requirement as jurisdictional only if Congress 'clearly states' that it is". Similarly, Hamer V. Neighborhood Housing Servs. Of Chicago, 583 U.S.____ (2017) held that "[...] a time limit prescribed only in a court-made rule is not jurisdictional. It is a mandatory claim-processing rule [...]" Here, as the additional condition is imposed by Rule rather than statute, it is necessarily a claim-processing rule and thus non-jurisdictional.

While the ninety-day petition and sixty-day extension periods within 28 USC § 2101 themselves are jurisdictional, the timing requirement for the extension *request* is not. The Chief Justice does indeed have the power – both in jurisdiction and authority – to consider and grant the extension until 01 February 2024, whether or not the request was made during the petition period.

Pursuant to Rules 13.5 and 30.2, this is an extraordinary circumstance, as the Petition presents a substantial and critically important question of Constitutional and procedural law: whether District Courts and Courts of Appeal are permitted to knowingly and deliberately disregard or ignore precedent from this Court and state High Courts when adjudicating *pro se* cases. The District Court of Maryland has selectively ignored *stare decisis* in dozens of cases, and the Fourth Circuit has now split from all of its sister Circuits and this Court by deciding that continuing to do so constitutes "no reversible error". These decisions will unfairly harm innumerable litigants if not quickly curbed.

For these reasons, I humbly ask the Court to direct the Clerk to docket my Application for an Extension of Time to File a Petition for a Writ of Certiorari as timely filed, or in the alternative to grant the extension, or direct the Clerk to docket the Petition for Writ of Certiorari out-of-time. I have provided copies of both the Petition and Application as required by Rules 33.1 and 33.2, respectively.

Thank you, once again, for your time and consideration.

Respectfully submitted this 26th day of December, 2023.

_____/s/_____
Matthew O'Reilly, *Petitioner Pro Se*

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Petitioner

APPENDIX A

The Clerk's letter, as delivered on 22 December, 2023:

Dear Mr. O'Reilly:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case was postmarked December 18, 2023 and received December 20, 2023. The application is returned for the following reason(s):

The application is out-of-time. The date of the lower court judgment or order denying a timely petition for rehearing was September 5, 2023. Therefore the application for an extension of time was due on or before December 4, 2023. Rules 13.1, 30.1 and 30.2. When the time to file a petition for a writ of certiorari in a civil case has expired (including any habeas action), the Court no longer has the power to review the petition or to consider an application for an extension of time to file the petition.

You may submit your petitions along with a motion to direct the Clerk to file out-of-time.

Sincerely,
Scott S. Harris, Clerk
By: _____/s/_____
Redmond K. Barnes
(202) 479-3022

APPENDIX B

As filed on 18 December, the full text of my Application for Extension of Time to File a Petition for a Writ of Certiorari in *Matthew O'Reilly v. Adam Tsottles & Waste Management*, 21-1194, (4th Cir. 2021) follows.