

No. _____

IN THE
Supreme Court of the United States

JAWAN FORTIA,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Pursuant to Rule 39 and 18 U.S.C. § 3006A(d)(7), Petitioner Jawan Fortia asks leave to file the accompanying Application to Extend the Deadline to File a Petition for Certiorari without prepayment of costs and to proceed in forma pauperis. Petitioner was represented by counsel appointed under the Criminal Justice Act, 18 U.S.C. § 3006A (b) and (c), both in the United States District Court for the Eastern District of Louisiana and on appeal to the United States Court of Appeals for the Fifth Circuit. *See United States v. Wilson, et al.*, No. 2:14-cr-131, Dkt. 64 (E.D. La. Aug. 29, 2014) (attached hereto); *United States v. McClaren, et al.*, No. 17-30524 (5th Cir. Oct. 11, 2017) (attached hereto).

WHEREFORE, Petitioner respectfully moves this Honorable Court for leave to proceed *in forma pauperis* and to file the accompanying Application to Extend the Deadline to File a Petition for Certiorari without prepayment of costs.

Respectfully submitted this 30th day of September, 2024.

/s/ Steven E. Spires
STEVEN E. SPIRES
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CR.NO. 14-131 N

ORDER

VERSUS

Appointing Counsel

Substituting Counsel For:

JAWAN FORTIA

Ratifying Prior Service

Extending Appointment For Appeal

CHARGE: VIOLATIONS OF THE FEDERAL CONTROLLED SUBSTANCES ACT AND
THE FEDERAL GUN CONTROL ACT

FELONY MISDEMEANOR

The defendant, having satisfied this Court that he/she: (1) is financially unable to employ counsel, and (2) does not wish to waive counsel, and because the interests of justice so require, the Federal Public Defender named below is hereby appointed to represent this defendant in the above designated case until relieved by order of the District Court:

**CLAUDE J. KELLY, FEDERAL PUBLIC DEFENDER, HALE BOGGS FEDERAL BLDG.,
RM 318, 500 CAMP ST, NEW ORLEANS, LA 70130 PHONE: (504)589-7930**

Federal Public Defender is appointed for the limited purpose of:

It appearing to the Court that although the defendant is financially unable to employ counsel, he/she is totally indigent.

IT IS FURTHER ORDERED that the defendant pay to the Clerk, U. S. District Court for services of counsel, the total amount of \$ _____ to be paid within 10 working days or by _____.

IT IS FURTHER ORDERED that the defendant is to pay to the Clerk, U.S. District Court, for services of counsel, \$ _____ per month. This amount is to be paid, beginning on _____, 20____, until further orders of the Court.

Dated at New Orleans, Louisiana, on AUGUST 29, 2014


UNITED STATES MAGISTRATE JUDGE

Copy to Financial Unit Clerk (*Only if defendant is ordered to pay*)

FINANCIAL AFFIDAVIT

IN SUPPORT OF A REQUEST FOR ATTORNEY'S FEES OR OTHER COURT SERVICES WITHOUT PREJUDICE TO THE

IN UNITED STATES MAGISTRATE DISTRICT APPEALS COURT or OTHER PANEL (Specify below)

IN THE CASE
 _____ V.S. _____

FOR _____
 AT _____

LOCATION NUMBER

PERSON REPRESENTED (Show your full name)
Jawan Fortia

- Defendant—Adult
- Defendant - Juvenile
- Appellant
- Probation Violator
- Parole Violator
- Habeas Petitioner
- 2255 Petitioner
- Material Witness
- Other

DOCKET NUMBERS
 Magistrate
 District Court
 Court of Appeals

CHARGE/OFFENSE (describe if applicable & check box →) Felony
 Misdemeanor

EMPLOYMENT	Are you now <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Am Self-Employed Name and address of employer: _____ IF YES, how much do you earn per month? \$ _____ IF NO, give month and year of last employment How much did you earn per month? \$ _____								
	If married is your Spouse employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, how much does your Spouse earn per month? \$ _____ If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____								
ASSETS	Have you received within the past 12 months any income from a business, profession or other form of self-employment or in the form of the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No RECEIVED SOURCES IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES \$ _____								
	Have you any cash on hand or money in savings or checking accounts? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, state total amount \$ _____								
PROPERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, GIVE THE VALUE AND \$ DESCRIBE IT <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">VALUE</th> <th style="width: 50%;">DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	VALUE	DESCRIPTION						
VALUE	DESCRIPTION								

OBLIGATIONS & DEBTS	MARITAL STATUS <input checked="" type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED	Total No. of Dependents <input checked="" type="checkbox"/>	List persons you actually support and your relationship to them _____ _____ _____
	DEBTS & MONTHLY BILLS (LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	APARTMENT OR HOME:	Creditors
\$ _____ \$ _____ \$ _____ \$ _____		\$ _____ \$ _____ \$ _____ \$ _____	\$ _____ \$ _____ \$ _____ \$ _____

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date) 8/29/14

SIGNATURE OF DEFENDANT (OR PERSON REPRESENTED) **Jawan Fortia**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATE OF AMERICA * CRIMINAL ACTION
*
VERSUS * CASE NO.: 14-131
*
JAWAN FORTIA * SECTION: "N"
*
*

ORDER

Considering the foregoing (Rec. Doc. 767):

IT IS ORDERED, that PAUL C. FLEMING,, JR., be removed as counsel of record for defendant, JAWAN FORTIA, in these proceedings for all purposes other than the restitution hearing currently scheduled December 6, 2017.

IT IS FURTHER ORDERED, that the Federal Public Defender's Office appoint counsel to represent Jawan Fortia for appellate purposes.

SO ORDERED, this 10th day of October, 2017, at New Orleans, Louisiana.


HONORABLE KURT D. ENGELHARDT
UNITED STATES DISTRICT J U D G E

Please serve:

Claude Kelly
Barbara Daigle
Federal Public Defender's Office
500 Poydras St
Suite 318
New Orleans, LA 70130

No. _____

IN THE
Supreme Court of the United States

JAWAN FORTIA,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

To: The Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court and Circuit Justice for the Fifth Circuit.

Pursuant to Title 28, United States Code, Section 2101(c) and Supreme Court Rule 13.5, Petitioner Jawan Fortia respectfully requests that the time to file a Petition for a Writ of Certiorari in this case be extended for 58 days, to and including Thursday, December 19, 2024.

Basis for Jurisdiction

The district court had original jurisdiction over this criminal action pursuant to 18 U.S.C. § 3231. The Fifth Circuit had jurisdiction over the direct appeal under 18 U.S.C. § 3742(a) and 28 U.S.C. § 1291. The Fifth Circuit issued its unpublished opinion on July 24, 2024. This Court has the power to grant or deny this motion pursuant to 28 U.S.C. § 2101(c), and it will have jurisdiction to review the Fifth Circuit's judgment under 28 U.S.C. § 1254(1).

Judgment to be Reviewed and Opinion Below

The Fifth Circuit panel's final opinion is available at *United States v. Fortia*, No. 23-30873, 2024 WL 3520165 (5th Cir. July 24, 2024), reprinted on pages 1a–2a of the appendix.

Reasons for Granting an Extension

Petitioner requests an extension because undersigned counsel has assumed responsibility for this matter while prior counsel is on maternity leave, and because Petitioner's convictions implicate critically important and complicated legal issues involving the limits of the federal government's interstate-commerce regulatory authority. Given the complexity of these issues, Petitioner's counsel needs additional time to complete the petition for certiorari.

Specifically, Petitioner's convictions under the Racketeer Influenced and Corrupt Organizations Act (RICO) and the related Violent Crimes in Aid of Racketeering Act (VICAR) contain constitutionally-mandated jurisdictional elements requiring prosecutors to prove in each case that the charged enterprise's activities affected interstate commerce. This case involved issues of first impression as to what type of evidence satisfies that jurisdictional element, and the record below includes more than 13,000 pages. Notably, the precise interstate-commerce element embedded in RICO and VICAR is also mirrored in dozens of statutes throughout federal law, covering a broad swath of activity ranging from tampering with consumer products, 18 U.S.C. § 1365, to the most widely applied federal firearm regulation, § 922(g). In other words, the Fifth Circuit's interpretation of RICO and VICAR's interstate-

commerce element has broad and complicated implications throughout the law that require extensive work to untangle.

Petitioner's convictions also implicate application of *Taylor v. United States*, 136 S. Ct. 2074 (2016), and *Gonzales v. Raich*, 545 U.S. 1 (2005), critically important commerce clause decisions involving the complex issue of so-called "aggregation" of the interstate commerce effects of particular classes of activity as a means of broadening federal authority to reach traditionally local affairs. The Fifth Circuit's application of *Taylor*, in particular, appears to represent newly charted territory and an apparent expansion of *Taylor*'s reach to new areas of the law. Thus, determining the potential effects of the Fifth Circuit's jurisprudence requires intensive survey of multi-circuit and multi-statute caselaw.

CONCLUSION

For all these reasons, Petitioner and undersigned counsel respectfully request that the Court grant a fifty-eight-day extension, to and including December 19, 2024, for the deadline to file a petition for certiorari.

Respectfully submitted this 30th day of September, 2024.

/s/ Steven E. Spires
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