

No. 24 - A65b

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA, *Plaintiff-Appellee*,

v.

JESSICA ARONG O'BRIEN, *Defendant-Appellant*,

and

JUDGES' RETIREMENT SYSTEM and STATE EMPLOYEES'
RETIREMENT SYSTEM, *Parties-in-Interest*

***PRO SE* MOTION FOR SIXTY (60) DAY EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI**

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ORIGINAL

DEC 27 2024

Pursuant to Supreme Court Rule 13, Jessica Arong O'Brien, Defendant-Appellant, respectfully requests a **sixty (60) day extension** of time to file a petition for a writ of certiorari following the decision by the Seventh Circuit Court of Appeals on October 2, 2024 (Docket # 23-2267), attached as Exhibit A. The current deadline for filing the petition is December 31, 2024. This is an initial filing for this matter at the Supreme Court, originating from the Seventh Circuit decision. Defendant-Appellant files this motion seeking to extend the filing deadline to February 29, 2025.

Partial list of reasons for requesting a 60-day extension:

1. **Complex Legal Issues:** The indictment at issue in this matter is dated April 11, 2017, encompasses a range of transactions spanning from 2004 through 2007. Crucially, these transactions, implicated in the scheme to defraud, occurred under a legal framework that did not classify or qualify the majority of the involved entities as “financial institutions” as they were not FDIC-insured lenders as defined in 18 USC § 20 prior to the enactment of the Fraud Enforcement and Recovery Act (FERA) on May 20, 2009. This points

to an unconstitutional expansion of the definition of a key element of the crimes charged—bank and mail fraud. Furthermore, the propensity arguments made by the prosecution and the subsequent restitution judgment sought against the defendant-appellant extended to loans of buyers beyond the \$73,000 attributed to Citibank, N.A., which was explicitly recognized by the district court as the 2007 executing transaction, as it is the only lender that was FDIC-insured. This context underlines the legal complexity and necessitates a thorough reevaluation to ensure that the principles of justice and statutory interpretation are correctly applied. Such nuances underscore the need for additional time to prepare a comprehensive appeal that fully addresses these substantive issues.

2. Coordination with Related Legal Matters: There are related matters currently pending before the Seventh Circuit under docket # 24-1207 arising from the same conviction. More specifically, Defendant-Appellant's Petition for a Certificate of Appealability is also before the Seventh Circuit Court of Appeals on her 28 U.S.C. § 2255 motion with new evidence that potentially impacts both the appellate and original trial judgments. Coordinating the legal

arguments across these platforms is essential to maintain consistency and enhance the efficacy of the appeals process. The complexity of integrating new forensic evidence related to prosecutorial misconduct and misrepresentations significantly increases the preparation required. Additional time is necessary to ensure that all submissions are strategically aligned and that the legal representations made are consistent across all judicial forums, thereby preserving the integrity of the arguments and facilitating a comprehensive judicial review.

3. **Preparation of a Comprehensive Petition:** The importance of the issues at stake requires the preparation of a comprehensive petition that clearly presents the constitutional questions involved. Additional time is needed to review the record, consult with legal experts, and draft a persuasive petition.
4. **No Previous Extensions:** This is the first request for an extension in this matter, demonstrating diligence on the part of the Defendant-Appellant.

Conclusion

Given the complexity of the issues and the need for careful preparation, this request for a sixty (60) day extension is made in the interest of justice. Granting this extension will ensure that the Court receives a well-considered petition that fully addresses the important legal questions presented by this case.

Date: December 27, 2024

Respectfully submitted,



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Defendant-Appellant
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Attachment Note: Attached to this motion is a copy of the Seventh Circuit Court of Appeals order dated October 2, 2024, marked and attached as Exhibit A.

Exhibit A

United States Court of
Appeals for the Seventh
Circuit Order
Dated October 2, 2024

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted October 2, 2024*

Decided October 2, 2024

BeforeMICHAEL B. BRENNAN, *Circuit Judge*MICHAEL Y. SCUDDER, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 23-2267

UNITED STATES OF AMERICA,
*Plaintiff-Appellee,**v.*JESSICA ARONG O'BRIEN,
*Defendant-Appellant,**and*JUDGES' RETIREMENT SYSTEM and
STATE EMPLOYEES' RETIREMENT
SYSTEM,*Parties-in-Interest.*Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 17 CR 239-1

Thomas M. Durkin,
Judge.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

O R D E R

Jessica O'Brien appeals the district court's approval of the government's motion to turn over assets from her retirement accounts to satisfy her restitution debt. The court properly ruled that, consistent with her sentencing judgment, it could order O'Brien to satisfy her restitution by turning over those retirement assets; thus we affirm.

This dispute stems from O'Brien's convictions for mail fraud, 18 U.S.C. § 1341, and bank fraud, 18 U.S.C. § 1344, which we affirmed. *United States v. O'Brien*, 953 F.3d 449 (7th Cir. 2020). After O'Brien was released from her prison term, the government moved for an order that O'Brien's two state retirement accounts turn over a lump sum of about \$117,000 to apply to her outstanding restitution judgment. That judgment required her to pay the restitution amount of \$660,000 in a "lump sum" within 30 days "after release from imprisonment," consistent with the court's payment plan. The plan scheduled monthly installments of "at least" 10% of her net monthly income.

O'Brien objected to the motion on three grounds. First, she characterized it as an improper modification of her restitution judgment, which she interpreted as limited to 10% of her net monthly income, without regard to her available assets. Second, she argued that accessing the retirement funds would impose a heavy tax obligation on her and deprive her family of their survivorship rights in the accounts. Finally, she contended that she had a right to a hearing on the matter.

The district court rejected these arguments and granted the motion. It explained that O'Brien's restitution debt obligated her to pay as much as she can now and the government can access any nonexempt assets, including retirement savings, to satisfy that debt. Moreover, tax liability and the potential future property interest of O'Brien's family did not affect the government's entitlement to her retirement funds. Finally, because the court did not change her judgment, O'Brien had no right to a hearing.

We pause to comment on two matters outside the scope of this appeal. First, in the district court, O'Brien moved to reconsider the turnover order and, before the court ruled, appealed it. We stayed proceedings in this court while the district court resolved her motion to reconsider. Once it did, O'Brien never filed a fresh appeal of the district court's denial of any motion for reconsideration. Because her notice of appeal addresses only the district court's original grant of the government's turnover motion, we do not address the motion to reconsider. *See Fogel v. Gordon & Glickson, P.C.*, 393 F.3d 727, 731 (7th Cir. 2004). Second, many of O'Brien's arguments on appeal dispute the calculation of restitution and relitigate her charges by alleging prosecutorial misconduct, ineffective

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assistance of counsel, and government suppression of evidence. This appeal, though, concerns only whether the government may reach O'Brien's retirement assets to satisfy the restitution judgment. Any challenges to O'Brien's conviction or how the sentencing court computed the restitution amount are beyond this appeal.

O'Brien's only relevant contention on appeal is unpersuasive. She argues that the government waived a right to her retirement accounts because her accounts are not listed in the restitution order as sources of repayment; thus the district court modified the judgment impermissibly through the turnover order. But she cites no authority for her assertion that a criminal judgment must specify all assets from which the government may satisfy restitution. Nor could she, for 18 U.S.C. § 3613(c) specifies that an order of restitution is a "lien in favor of the United States on all property and rights to property of the person fined." See *Stacy v. United States*, 70 F.4th 369, 377 (7th Cir. 2023). This entitles the government to seek a lump-sum distribution from retirement funds. *United States v. Sayyed*, 862 F.3d 615, 619–20 (7th Cir. 2017). Given this authority, and the judgment's decree that O'Brien pay restitution from available assets in a lump sum 30 days after her release from prison, the court's order that O'Brien's retirement accounts turn over assets was thus a proper exercise of its power to enforce the restitution debt of \$660,000. With O'Brien developing no further, relevant challenges to the turnover order, we have no reason to disturb it.

AFFIRMED.