

No:

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2023

CHARLES JONES,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**MOTION FOR EXTENSION OF TIME
WITHIN WHICH TO FILE
A PETITION FOR WRIT OF CERTIORARI**

**TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE
JUSTICE OF THE SUPREME COURT OF THE UNITED
STATES AND CIRCUIT JUSTICE FOR THE
ELEVENTH CIRCUIT:**

Pursuant to Supreme Court Rules 13.5, 22, and 30.3, Charles Jones respectfully requests a 30-day extension of time within which to file a petition for writ of certiorari to the United States Court of Appeals for the Eleventh Circuit. Mr. Jones has not previously sought an extension of time from this Court.

This is a case that presents issues regarding mandatory life sentences under 18 U.S.C. §3559(c), jurisdictional issues under 28 U.S.C. §2255(h)(2), and this Court's precedent regarding the establishment of new retroactive rules of substantive Constitutional law.

Mr. Jones was convicted of federal bank robbery in violation of 18 U.S.C. §2113; using a firearm in connection with the bank robbery in violation of 18 U.S.C. §924(c); and felon-in-possession of a firearm in violation of 18 U.S.C. §922(g). The government enhanced Mr. Jones' sentence on the §924(c) firearm count to mandatory life pursuant to 18 U.S.C. §3559(c). Mr. Jones filed a direct appeal and post-conviction motions which were denied.

In 2016, Mr. Jones was granted an application to file a second-or-successive ("SOS") §2255 motion based on *Johnson v. United States*, 576 U.S. 591 (2015), to challenge his mandatory life sentence under §3559(c). He argued that his mandatory life sentence was based on the residual clause of §3559(c), and that *Johnson* invalidated §3559(c)'s residual clause.

Initially, Jones' SOS §2255 motion was denied, and he pursued appellate relief. While his appeal was pending, this

Court issued *Sessions v. Dimaya*, 138 S.Ct. 1204 (2018) and *United States v. Davis*, 139 S.Ct. 2319 (2019).

After *Davis*, the parties agreed that Jones was eligible for relief, and they made a joint request to remand the case to the district court for resentencing without the §3559(c) enhancement. The Eleventh Circuit rejected that joint request and appointed *amicus curiae* to defend the district court's denial of Jones' SOS §2255 motion.

After oral argument, the Eleventh Circuit issued an opinion on September 14, 2023, which found that the court lacked jurisdiction under 28 U.S.C. §2255(h)(2) to adjudicate the merits of Jones' SOS §2255 motion challenging §3559(c)'s residual clause. Thus, it ordered that Jones' case be remanded and dismissed. The Eleventh Circuit's decision was a split panel with a lengthy dissent. (*See* attached Exhibit A, *Jones v. United States*, 82 F.4th 1039 (11th Cir. 2023)). Mr. Jones sought rehearing which was denied on December 8, 2023. (attached Exhibit B). Mr. Jones now seeks to file a petition for writ of certiorari with this Court to review the decision of the Eleventh Circuit.

The petition is due March 7, 2024. This motion for extension of time is being filed more than ten days before the cert petition

filing date. See S.Ct. Rule 13.5. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1). A copy of the Eleventh Circuit's opinion is attached as Exhibit A. The Eleventh Circuit's denial of rehearing is attached as Exhibit B.

This case presents important issues involving mandatory life sentences under 18 U.S.C. §3559(c), jurisdictional issues relating to SOS §2255 proceedings, and issues regarding this Court's ability to establish new retroactive rules of substantive Constitutional law. Counsel believes that additional time will be important for the careful preparation of the petition for writ of certiorari in this matter which was delayed by the heavy press of earlier assigned cases to undersigned counsel. Such cases included *United States v. Daughtry*, 23-11695 (11th Cir.); *United States v. Blanc*, 22-14128 (11th Cir.); *United States v. Baird*, 23-13648 (11th Circuit); and several proceedings which have arisen from the new 2023 guideline amendments and 2023 retroactive guideline amendments which became effective February 1, 2024.

In light of the above, Mr. Jones seeks a 30-day extension of time within which to file a Petition for Writ of Certiorari.

No party will be prejudiced by the granting of this request.

Accordingly, petitioner respectfully requests that this Court extend the time to file a petition for writ of certiorari by 30 days, to and including April 8, 2024. S.Ct. Rule 30(1).

Respectfully submitted,

MICHAEL CARUSO
FEDERAL PUBLIC DEFENDER

Fort Lauderdale, Florida
February 23, 2024

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