

IN THE SUPREME COURT OF THE UNITED STATES

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No. A-\_\_\_\_\_

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MARK JORDAN, APPLICANT

v.

UNITED STATES OF AMERICA

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APPLICATION FOR AN EXTENSION OF TIME  
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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To the Honorable Samuel A. Alito, Jr., Circuit Justice for the United States Court of Appeals for the Third Circuit:

Pursuant to Rules 13.5 and 30.2 of this Court, Mark Jordan respectfully applies for a 60-day extension of time, to and including August 23, 2024, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit in this case. The judgment of the court of appeals was entered on December 12, 2023. App., *infra*, 35a. On March 25, 2024, the court of appeals granted a petition for panel rehearing, issued an amended opinion, and denied a petition for rehearing en banc. *Id.* at 1a-18a. Unless extended, the time for filing a petition for a writ of certiorari will expire on June 24, 2024. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1).

1. By plea of guilty, Applicant Mark Jordan was convicted of violating 18 U.S.C. 924(c) and 2113(d). App., *infra*, 3a. Section 924(c) penalizes any person who

“uses or carries a firearm” during and in relation to a “crime of violence.” 18 U.S.C. 924(c)(1)(A). Section 2113(d) punishes an individual who “in committing, or in attempting to commit, any offense defined in subsections (a) and (b) of this section, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device.” 18 U.S.C. 2113(d). Subsections (a) and (b) of Section 2113 set forth various offenses involving entry into and taking money from banks and similar institutions. Mr. Jordan filed a motion under 28 U.S.C. 2255 claiming that his Section 924(c) convictions are unconstitutional because Section 2113(d) does not satisfy Section 924(c)’s force clause. *See* 18 U.S.C. 924(c)(3)(A) (defining “crime of violence” as a felony that “has as an element the use, attempted use, or threatened use of physical force against the person or property of another”). The district court denied Mr. Jordan’s motion but granted a certificate of appealability on the question whether Section 2113(d) satisfies the force clause. *See App., infra*, 4a.

2. The court of appeals affirmed. *App., infra*, 19a-35a. As is relevant here, the court of appeals held that Section 2113(d) is divisible into offenses that rely on the various underlying crimes in subsections (a) and (b), opining that “as a rule, federal nested crimes that depend on alternative predicate crimes are divisible.” *App., infra*, 31a. After determining that Mr. Jordan’s Section 2113(d) offense was predicated on subsection (a), the court of appeals concluded that Section 2113(a) requires a sufficient mens rea to satisfy the force clause. *Id.* at 32a-33a. In so holding,

the court of appeals rejected Mr. Jordan's argument that a general intent crime like Section 2113(a) does not satisfy the force clause.

3. Mr. Jordan filed a petition for panel rehearing and rehearing en banc, arguing that the court of appeals incorrectly applied the doctrine of stare decisis and that its divisibility analysis was erroneous. The court of appeals granted panel rehearing and issued an amended opinion. App., *infra*, 1a-18a. The revisions eliminated the discussion of stare decisis but did not change the court's conclusion, and the judgment affirming the district court remained in place. *See id.* at 17a-18a. The court of appeals denied rehearing en banc. *Id.*

4. Counsel for Mr. Jordan respectfully requests a 60-day extension of time, to and including August 23, 2024, within which to file a petition for writ of certiorari. The undersigned counsel is currently preparing an opening brief in the Third Circuit in *United States v. Ronnell Moses*, No. 23-30-78 (due June 20, 2024) and multiple reply briefs in district court in *United States v. Christian Graham* (due June 24, 2024). The undersigned counsel is also responsible for reviewing the cases of numerous individuals sentenced in the Western District of Pennsylvania and seeking sentence reductions under the retroactive provisions of Amendment 821 to the Sentencing Guidelines, including filing motions for individuals who are immediately releasable. Additional time is therefore needed to consult with Mr. Jordan and to prepare the petition in this case.

Respectfully submitted.

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