

No. _____

IN THE
Supreme Court of the United States

RHOBASHI HOLMES,
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 Rhobashi Holmes respectfully requests that the time to file a Petition for a Writ of Certiorari in his case be extended for 60 days, to and including Monday, December 30, 2024.

Basis for Jurisdiction

The district court had original jurisdiction over this criminal action pursuant to 18 U.S.C. § 3231. Petitioner pleaded guilty to two counts of possessing a firearm after being convicted of an offense punishable by more than one year of imprisonment, in violation of 18 U.S.C. § 922(g)(1).

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 The Fifth Circuit issued its unpublished opinion on August 2, 2024, affirming Petitioner's convictions and sentence. 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). The current deadline for filing a petition for writ of certiorari is October 31, 2024.

Judgment to be Reviewed and Opinion Below

The Fifth Circuit panel's opinion is available at *United States v. Holmes*, No. 23-30096, 2024 WL 3634197 (5th Cir. Aug. 2, 2024). A copy is attached as the Appendix at 1a–14a.

Reasons for Granting an Extension

Petitioner respectfully requests an extension for multiple reasons. First, due to undersigned counsel's current workload and recent deadlines, counsel requires additional time to research the complex legal issues for which this Court's review may be sought. Undersigned counsel did not prepare the original appellate briefing for this case but rather assumed responsibility for this matter after prior counsel went on leave. Counsel has been working diligently to get up to speed on the relevant issues, but due to numerous deadlines and court proceedings in other assigned cases, counsel has been unable to devote significant time in recent weeks to properly researching the complex legal issues involved in this case. Accordingly, an extension of time would ensure that undersigned counsel (or prior counsel upon her return) has sufficient time to fully research and brief the relevant issues and caselaw if Petitioner determines that he wants to seek further review from this Court.

An extension is also being requested because counsel has been unable to confer with Petitioner about filing a petition for writ of certiorari on his behalf and recently

learned that she will be unable to do so until after the current filing deadline. Petitioner is presently housed in a Bureau of Prisons facility in a different state, making communication difficult. After several unsuccessful attempts to reach his prison unit team, undersigned counsel was finally able to schedule a legal call, but it will not take place until next month. Accordingly, an extension of the deadline is needed to provide counsel adequate time to confer with Petitioner about the Fifth Circuit's decision and whether he desires to seek further review from this Court.

Finally, an extension is warranted because the legal issues for which Petitioner may seek this Court's review involve complex questions, new precedent, and actively evolving circuit splits regarding the constitutionality of § 922(g)(1). Specifically, petitioner argued on appeal: (1) that § 922(g)(1) is unconstitutional under the Second Amendment in light of this Court's decision in *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022); and (2) that the statute unconstitutionally exceeds Congress's authority to regulate interstate and foreign commerce under the Commerce Clause—at least as the statute has been interpreted by the Fifth Circuit. Given the importance of these issues and the changing state of the law, including new precedent established by this Court and the appellate courts after the briefing and decision in Petitioner's appeal, additional time is needed to fully research the current landscape in order to adequately present to this Court the reasons it should review the issues. Given the importance and far-reaching implications of the complex legal issues that may be raised in the petition and undersigned counsel's heavy caseload, counsel respectfully urges that a 60-day extension is warranted.

CONCLUSION

For all these reasons, Petitioner and undersigned counsel respectfully request that the Court grant an extension of 60 days to file a petition for writ of certiorari, to and including December 30, 2024.

Respectfully submitted this 18th day of October, 2024.

/s/ Samantha Kuhn

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