

**CASE NO. \_\_\_\_\_ (CAPITAL CASE)**  
**IN THE SUPREME COURT OF THE UNITED STATES**  
**October Term, 2023**

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**JAMES H. ROANE, JR.,**

**Petitioner,**

**v.**

**UNITED STATES OF AMERICA,**

**Respondent.**

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**APPLICATION FOR EXTENSION OF TIME TO FILE  
A PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT**

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TO THE HONORABLE JOHN ROBERTS, Chief Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Fourth Circuit:

1. Pursuant to Rule 13.5 of the Rules of this Court, Petitioner James H. Roane, Jr., a federal death-sentenced prisoner acting through undersigned counsel, respectfully moves for an extension of sixty (60) days to prepare and file a Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

2. Petitioner seeks certiorari review of the Fourth Circuit's March 18, 2024, opinion denying his challenge to his § 18 U.S.C. § 924(c) convictions following this Court's holdings in *United States v. Davis*, 588 U.S. 445 (2019), and *Borden v. United States*, 593 U.S. 420 (2021).

A timely petition for rehearing was denied on May 14, 2024. A copy of the March 18, 2024, opinion and May 14, 2024, order denying rehearing are attached.

3. Petitioner invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1254(1). Petitioner's certiorari petition is currently due on August 12, 2024. *See* Sup. Ct. R. 13.3 (time for filing petition for writ of certiorari runs from the date of the denial of rehearing). In accordance with this Court's rules, Petitioner makes this request at least ten (10) days in advance of the current due date. *See* Sup. Ct. R. 13.5. In support of his request, Petitioner respectfully submits as follows:

4. Petitioner's case presents complex and important questions regarding how to determine whether an 18 U.S.C. § 1959(a) (VICAR) offense constitutes the "crime of violence" predicate necessary to support a § 924(c) conviction following this Court's holdings in *Davis* and *Borden*. Specifically, the question presented is whether this determination requires the court to "look through" to the state or federal statute underpinning the VICAR offense and assess whether the underlying statute categorically requires the intentional or knowing use of violent force, as required by *Borden*, or whether, instead, the court can impute the required *mens rea* from VICAR's purpose element, and thus satisfy *Borden* without considering the state or federal statute defining the VICAR offense at all. The Fourth Circuit's approach to this question differs from that of other circuits.

5. Given the complexity and importance of these questions, Petitioner requests additional time to present them fully but concisely to this Court. Petitioner also requests additional time to file in light of counsel's heavy workload. Undersigned counsel has numerous professional obligations as Chief of the Capital Habeas Unit for the Eastern District of Pennsylvania, and has a client scheduled for execution on September 24, 2024.

6. Under these circumstances, undersigned counsel respectfully requests that the Court grant this Motion and extend the time in which to file the Petition for Writ of Certiorari by sixty (60) days, until October 11, 2024.

7. The granting of this request shall cause no prejudice to the Government.

8. This request is made in good faith and is not predicated on an intent to delay the resolution of this litigation.

WHEREFORE, Petitioner prays that the Court allow a sixty (60) day extension for the preparation and filing of his Petition for Writ of Certiorari.

Respectfully submitted,

/s/ Shawn Nolan  
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Dated: July 29, 2024

## CERTIFICATE OF SERVICE

I hereby certify that on this date I served the foregoing upon the following persons:

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Dated: July 29, 2024