

IN THE

**Supreme Court of the United States**

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LADONTA A. TUCKER,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

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**Application for Extension of Time Within Which  
to File a Petition for a Writ of Certiorari to the  
U.S. Court of Appeals for the Seventh Circuit**

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**APPLICATION TO THE HONORABLE JUSTICE  
AMY CONEY BARRETT AS CIRCUIT JUSTICE**

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October 10, 2024

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## **APPLICATION FOR EXTENSION OF TIME**

Under this Court’s Rule 13.5, Applicant Ladonta Tucker respectfully requests a 30-day extension of time within which to file a petition for a writ of certiorari, to and including November 21, 2024.

### **JUDGMENT FOR WHICH REVIEW IS SOUGHT**

The judgment for which review is sought is *United States v. Tucker*, 108 F.4th 973 (7th Cir. 2024) (attached as Exhibit 1).

### **JURISDICTION**

This Court will have jurisdiction over any timely petition under 28 U.S.C. § 1254(1). The Seventh Circuit issued its judgment on July 24, 2024. Under Rules 13.1 and 13.5, Mr. Tucker’s petition for a writ of certiorari is currently due October 22, 2024. This application is being filed more than 10 days before that date.

### **REASONS JUSTIFYING AN EXTENSION OF TIME**

1. Mr. Tucker was convicted of carjacking and carrying a firearm “during and in relation to” a crime of violence, *i.e.*, the carjacking, under 18 U.S.C. § 924(c)(1)(A)(i). He was sentenced to 160 months’ imprisonment. Mr. Tucker admitted he carried a firearm during the carjacking but argued on appeal that, because he never discharged, brandished, used, or even revealed the weapon, it did not facilitate—and therefore was not carried *in relation to*—the offense. The Seventh Circuit disagreed, reasoning that § 924(c)’s “in relation to” requirement is satisfied whenever a gun has “the potential to facilitate” an offense. Ex. 1 at 10.

The Seventh Circuit’s approach conflicts with decisions from other courts of appeals, which recognize that “in relation to” requires “a nexus between the carriage of the firearm and the underlying offense,” which exists only if a defendant “avails himself of the weapon,” the weapon “plays an integral role,” and the weapon “further[s] the purpose or effect of the crime.” *United States v. Shuler*, 181 F.3d 1188, 1190 (10th Cir. 1999) (cleaned up). In other circuits, the “[m]ere carrying” of a gun, or its coincidental “presence or involvement” at the scene, is “not sufficient to meet the ‘during and in relation to’ element.” *Id.* (cleaned up). This case is an ideal vehicle to resolve this circuit split.

The decision below also conflicts with congressional intent and this Court’s guidance in *Smith v. United States*, 508 U.S. 223, 238 (1993); *Bailey v. United States*, 516 U.S. 137 (1995); and *Muscarello v. United States*, 524 U.S. 125 (1998). Indeed, just two terms ago, this Court held in *Dubin v. United States*, 143 S. Ct. 1557, 1565–66, 1572 (2023) that an identical “in relation to” limitation in the federal aggravated identity theft statute, 18 U.S.C. § 1028A(a)(1), must be given a “limited” interpretation that requires the government to prove a violation “is at the crux of the underlying criminality, not an ancillary feature,” and that there must be “a relationship or nexus of some kind” between the crime and the prohibited conduct. Indeed, a “potential to facilitate” standard deprives “in relation to” of any independent meaning, effectively collapsing it with the statute’s “during” element.

2. A 30-day extension is warranted because Mr. Tucker has asked the Northwestern University Supreme Court Practicum to help prepare his petition. A

30-day extension will allow the students to research, draft, and revise a complete and cogent petition that will aid the Court's consideration. In addition, the Practicum and undersigned counsel are responsible for forthcoming petitions in *Aquart v. United States*, No. 24A122, *Chisesi v. Hunady*, No. 24A311, *Kovac v. Wray*, No. 24A335, and *Brannan v. United States*, No. 23-40098 (5th Cir.). And undersigned counsel is also responsible for ongoing briefing in *Ass'n of Am. R.R. v. Hudson*, No. 24-1399 (4th Cir.), and pending district court litigation in *United States v. Norfolk Southern Corp.*, No. 1:24-cv-02226-ABJ (D.D.C.), and *Village of Minooka v. Wisc. Cent. Ltd.*, No. 1:24-cv-5200 (N.D. Ill.).

### CONCLUSION

For these reasons, Applicant respectfully requests an extension of 30 days, to and including November 21, 2024, within which to petition for review in this case.

Respectfully submitted,

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