

IN THE SUPREME COURT OF THE UNITED STATES

No. A-_____

DIONTAI MOORE, APPLICANT

v.

UNITED STATES OF AMERICA

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

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, Diontai Moore respectfully applies for a 30-day extension of time, to and including February 6, 2025, 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 August 2, 2024. App., *infra*, 16a. On October 9, 2024, the court of appeals denied a petition for rehearing en banc. *Id.* at 17a-18a. Unless extended, the time for filing a petition for a writ of certiorari will expire on January 7, 2025. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1).

1. Based on an incident involving intruders outside Mr. Moore's home, the federal government charged Mr. Moore with possessing a firearm after being convicted of a crime punishable by more than one year of imprisonment, in violation

of 18 U.S.C. 922(g)(1). The indictment identified four convictions that disqualified Mr. Moore from possessing a gun: three convictions for drug offenses and a previous conviction for violating Section 922(g)(1). *See App., infra*, 3a-5a.

2. Mr. Moore moved to dismiss the indictment, arguing that Section 922(g)(1) violates the Second Amendment facially and as applied to someone with his prior convictions. The district court denied the motion, and Mr. Moore entered a plea of guilty, reserving his right to appeal the denial of his motion to dismiss. *App., infra*, 5a. On appeal, Mr. Moore argued that under this Court's decision in *NYSRPA v. Bruen*, 597 U.S. 1 (2022), a ban on firearm possession by an individual with prior convictions like Mr. Moore's—for nonviolent drug and firearm offenses—is inconsistent with this Nation's historical tradition of firearm regulation.

3. The court of appeals affirmed. *App., infra*, 2a-15a. In rejecting Mr. Moore's as-applied challenge, the court of appeals relied on an argument that the government raised for the first time on appeal—that Mr. Moore's possession of a firearm was not protected by the Second Amendment because at the time of the incident Mr. Moore was on supervised release. *See U.S. Br.* 21-23. The court of appeals concluded that founding-era forfeiture laws support disarming an individual like Mr. Moore who is completing a sentence of supervised release. *App., infra*, 6a-15a. Mr. Moore filed a petition for rehearing en banc, arguing that the panel's methodology and historical analysis was inconsistent with this Court's precedents, including *Bruen* and *United States v. Rahimi*, 602 U.S. 680 (2024). The court of appeals denied rehearing en banc. *Id.* at 17a-18a.

4. Counsel for Mr. Moore respectfully requests a 30-day extension of time, to and including February 6, 2025, within which to file a petition for writ of certiorari. The undersigned counsel has proximate briefing deadlines in the Third Circuit in *United States v. Jones*, No. 24-1674 (due January 8, 2025) and *United States v. Kent*, No. 22-3464 (due January 16, 2025), and anticipates reply briefs with upcoming deadlines in multiple cases, including in *United States v. Clerfe*, No. 24-2116, *United States v. Harmon*, No. 24-2057, and *United States v. Wylie*, No. 22-1714. This case presents weighty and complex issues concerning the constitutionality of Section 922(g)(1). The undersigned counsel requires additional time to consult with Mr. Moore, who is incarcerated, and to prepare the petition in this case.

Respectfully submitted.

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