

No. _____

IN THE
Supreme Court of the United States

GARY MICHAEL ALLEN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

APPLICATION FOR EXTENSION OF TIME WITHIN
WHICH TO FILE A PETITION FOR WRIT OF CERTIORARI
FROM JUDGMENT OF THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

TO THE HONORABLE JOHN G. ROBERTS, JR., CHIEF JUSTICE OF
THE UNITED STATES SUPREME COURT and
CIRCUIT JUSTICE FOR THE FOURTH CIRCUIT

Pursuant to Supreme Court Rules 13.5, 22, and 30.3, Gary Michael Allen, Petitioner above-named, respectfully requests a sixty (60) day extension of time, up to and including August 31, 2018, within which to file a petition for writ of certiorari from the judgment of the United States Court of Appeals for the Fourth Circuit. Mr. Allen has not previously sought an extension of time from this Court.

Petitioner is filing this Application at least ten days before the filing deadline, which is July 2, 2018. See S. Ct. R. 13.5. The jurisdiction of this Court will be invoked pursuant to 28 U.S.C. § 1254(1).

Mr. Allen was sentenced as a career offender prior to United States v. Booker, 543 U.S. 220 (2005). On June 27, 2016, Mr. Allen was granted authorization to file a second motion for relief under 28 U.S.C. § 2255. Mr. Allen proceeded in the district court, asserting that his sentence was unlawful after Johnson v. United States, 576 U.S. __, 135 S. Ct. 2551 (2015). The district court denied relief and denied a certificate of appealability; the court of appeals denied a certificate of appealability and dismissed his appeal on April 2, 2018.

A copy of the Court of Appeals' Opinion is attached as Appendix A hereto.

Undersigned counsel will not have sufficient time in which to file the petition for writ of certiorari for Mr. Allen by July 2, 2018, for several reasons. First, counsel did not represent Mr. Allen in his § 2255 or on appeal, so counsel has limited familiarity with the facts and circumstances of this case and needs additional time to conduct research in support of Mr. Allen's petition. Second, undersigned counsel has a petition for writ of certiorari due in this Court in another case, United States v. Jonathan Hayhoe, Fourth Circuit No. 17-4300, on July 20, 2018. Third, counsel also has several briefs due in the Fourth Circuit Court of Appeals in the interim: an Opening Brief and Joint Appendix in United States v. Simmons, Fourth Circuit No. 18-4210, due July 3, 2018; an Opening Brief and Joint Appendix in United States v. Norman, Fourth Circuit No. 18-4214, due July 12, 2018; an Opening Brief and Joint Appendix in United States v. McPherson, Fourth Circuit No. 18-4254, due July 18, 2018; a Reply Brief in United States v. Gomez-Zunun, Fourth Circuit No. 18-4057, due July 9, 2018; and a Reply Brief in United States v. Carver, Fourth Circuit No. 18-4153,

due July 23, 2018. Finally, undersigned counsel is in the midst of assisting her elderly parents, who reside in Charlottesville, Virginia, move to an assisted living situation and must accompany her daughter in moving from Columbia, South Carolina, to Denver, Colorado, during the week of August 19, 2018.

Accordingly, additional time is necessary for the careful preparation of Mr. Allen's petition for writ of certiorari. Moreover, no party will be prejudiced by the granting of a sixty (60) day extension.

As the time within which to file a petition for writ of certiorari in this case will expire July 2, 2018, unless extended, Petitioner respectfully requests an extension of time in which to file a petition for writ of certiorari up to and including August 31, 2018.

Respectfully submitted,



s/Emily Deck Harrill
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June 20, 2018