

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

VICKIE L. SANDERS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

*On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Seventh Circuit*

**APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI**

MELISSA A. DAY
Counsel of Record
Office of the Federal
Public Defender
Southern District of Illinois
401 West Main Street
Benton, Illinois 62812
(618) 435-2552
melissa_day@fd.org

Counsel for Petitioner

To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Seventh Circuit:

Petitioner Vickie L. Sanders respectfully moves for a 45-day extension of time for undersigned counsel to file a petition for a writ of certiorari to the United States Court of Appeals for the Seventh Circuit to review that court's decision in *United States v. Sanders*, 909 F.3d 895 (7th Cir. 2018) (attached as Exhibit A). In the case below, the Seventh Circuit issued its judgment in the matter on December 3, 2018. (Attached as Exhibit B). The petitioner intends to file a petition seeking review of this judgment. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1), and the time to file a petition for a writ of certiorari will expire without an extension on March 4, 2019. This application is timely because it has been filed more than ten days prior to the date on which the time for filing the petition is to expire.

This case presents substantial and important questions of federal law: (1) Whether the plain language of 21 U.S.C. § 841(b)(1)(B) and this Court's precedent indicate that a court may not rely on a vacated state felony to enhance a sentence; and (2) Whether the Seventh Circuit's interpretation of 21 U.S.C. § 841(b)(1)(B) is contrary to (a) the Fifth Amendment's rights to due process and equal protection because it allows for the court to rely on a misdemeanor as the prior drug felony necessary to impose a recidivist sentence and treats similarly-situated defendants differently based only on the date they committed an identical predicate crime, and (b) the Tenth Amendment concept of federalism.

Melissa A. Day of the Office of the Federal Public Defender for the Southern District of Illinois was appointed by the United States District Court pursuant to 18 U.S.C. § 3006A. Since the Seventh Circuit entered judgment in this case, Ms. Day's case load has increased, limiting her ability to work on this case. In particular, on December 21, 2018, the First Step Act was signed into law. This law has required Ms. Day to research and determine how it affects her current clients' cases. More time-consuming, however, has been the retroactive nature of the law. The First Step Act applies retroactively the Fair Sentencing Act of 2010 which included reductions of mandatory minimum penalties for crack cocaine offenses. Ms. Day, therefore, has been tasked with recalculating several clients' sentencing ranges to determine whether they are eligible for a sentence reduction. Some former clients are eligible for immediate release, requiring Ms. Day to prioritize their filings.

Accordingly, Petitioner respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari for up to 45 days, up to and including April 18, 2018.

Dated: February 22, 2019

MELISSA A. DAY
Counsel of Record
Office of the Federal
Public Defender
Southern District of Illinois
401 West Main Street
Benton, Illinois 62812
(618) 435-2552
melissa_day@fd.org

Counsel for Petitioner