

NO. _____

In the Supreme Court of the United States

ERICKSON MEKO CAMPBELL,

PETITIONER-APPELLANT,

v.

UNITED STATES OF AMERICA,

RESPONDENT-APPELLEE.

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

To the Honorable Clarence Thomas, Justice of the United States and
Circuit Justice for the Eleventh Circuit:

Petitioner, by his attorney, respectfully makes an application pursuant
to Supreme Court Rule 13.5 and Rule 22 to extend the time by 60 days in which
to file a petition for writ of certiorari from the judgment entered by the United
States Court of Appeals for the Eleventh Circuit. In support thereof, counsel
states the following:

1. **Procedural and Factual History.** Mr. Campbell was indicted for possessing a firearm after being convicted of a crime punishable by more than a year. His charge stemmed from a traffic stop briefly expanded for an officer to question him about contraband, without reasonable suspicion. He moved to suppress the gun and other evidence obtained as a result of his traffic stop, which the district court denied. He pled guilty, reserving his right to appeal its decision. He was sentenced to 28 months in prison.

2. On appeal to the Eleventh Circuit, his central argument was that the district court erred under *Rodriguez v. United States*, __U.S.__, 135 S.Ct. 1609 (2015), by finding the stop was justified because the “‘entire process’ “ was “‘reasonable[,]’” while disregarding most of the time that elapsed when the officer was detouring from the traffic investigation. ROA¹ 32 at 20. Although this Court had previously considered the overall length of the stop in determining whether unrelated “‘inquiries . . . measurably extend[ed]’” its “‘duration[,]’” *Arizona v. Johnson*, 555 U.S. 323, 333 (2009)), *Rodriguez* focused the constitutional question on “what the officer did and how he did it.” *Rodriguez*, 135 S.Ct. at 1616. Mr. Campbell contended that under *Rodriguez*, the officer who stopped him had unconstitutionally prolonged the stop and the district court should therefore suppress the gun as a fruit of the unlawful seizure.

¹ Undersigned counsel cites to the record on direct appeal, available through CM/ECF, as “ROA [document number] at [page number].”

3. **Opinion Below.** The majority of the panel agreed that the officer unlawfully prolonged the stop of Mr. Campbell when he asked about contraband in the car. *United States v. Campbell*, 912 F.3d 1340, 1355 (2019). “These questions were inquiring about ‘crime in general [and] drug trafficking in particular[,]’ . . . [t]hey added 25 seconds to the stop[, a]nd the Government does not contend that [the officer] had reasonable suspicion.” *Id.* (internal citation omitted.) It ruled that an officer unlawfully prolongs a traffic stop when they “(1) conduct an unrelated inquiry aimed at investigating other crimes (2) that adds time to the stop (3) without reasonable suspicion.” *Id.* at 1353.

4. Nonetheless, the majority found the good faith exception to the exclusionary rule applied, citing *United States v. Griffin*, 696 F.3d 1354 (11th Cir. 2012). *Griffin* held that an officer’s overall diligence could negate negligible detours from the mission of the stop, but under *Rodriguez*, “diligence does not provide an officer with cover to slip in a few unrelated questions.” *Campbell*, 912 F.3d at 1352-53. Moreover, *Griffin* held the stop was lawful in part because, at the time of the officer’s detour, he “had not yet completed his investigation[,]” 696 F.3d at 1362, but *Rodriguez* made clear “the ‘critical question . . . is not whether the [unrelated inquiry] occurs before or after the officer issues the ticket . . . but whether conducting the [unrelated inquiry] ‘prolongs’ – *i.e.*, adds time to – ‘the stop.’”” *Campbell*, 912 F.3d at 1353 (quoting *Rodriguez*, 135 S.Ct. at 1616) (ellipses and interlineations added in *Campbell*). It reasoned “[a]t the time of Campbell’s arrest, *Griffin* was our last word on the issue and *the closest precedent on point.*” *Id.* at 1355 (italics added). Moreover, “[t]he facts

here fit squarely within *Griffin*'s parameters." *Id.* It therefore affirmed the district court's denial of the motion to suppress.

5. Judge Martin dissented. She agreed with the majority on the merits, but disagreed with its "reach[ing] out to decide Mr. Campbell's fate on a ground abandoned by the government." *Id.* at 1356-57 (Martin, J., dissenting.) She indicated "the application of the good faith exception to this case" was not "'plain'" to her. *Id.* at 1357.

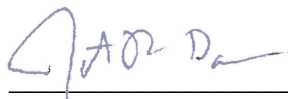
6. Mr. Campbell intends to petition this Court to grant certiorari because his case raises an issue that is important to police-layperson interactions around the country – the scope of the good faith exception to the exclusionary rule that this Court outlined in *Davis v. United States*, 564 U.S. 229 (2011), which applies to searches or seizures performed in reliance on binding precedent. In particular, he will show that his case implicates two crucial questions that have arisen in the wake of *Davis*: (1) whether the good faith exception applies when the case law on point is unclear; and (2) whether it applies when there is no evidence that the officer actually relied on the case law purported to justify his actions.

7. **Need for Additional Time.** Since the Eleventh Circuit's January 8, 2019, decision affirming Mr. Campbell's conviction, undersigned counsel has been unable to give this petition the time and thought it deserves, as he has been extremely busy screening, researching, and occasionally litigating scores of cases involving defendants potentially eligible for relief under the First Step Act of 2018, and additionally responding to an overwhelming number of calls and letters from

potentially eligible defendants. Moreover, he has sought to diligently meet filing deadlines in his normal appellate case load and has prepared and delivered an oral argument to an Eleventh Circuit panel. On April 3, 2019, undersigned counsel's father had to schedule an emergency open-heart surgery for April 5, 2019, necessitating that he travel home and care for his parents. Counsel will be hard-pressed to prepare the best possible certiorari petition, under these circumstances.

8. In light of undersigned counsel's family responsibilities, on top of his normal heavy workload, he respectfully requests an extension of 60 days from April 8, 2019 – the current due date – to June 7, 2019, on which to file the petition for writ of certiorari in Mr. Campbell's case.

Wherefore, Petitioner prays that this application be granted. This application is respectfully submitted on April 4, 2019.



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