

No. ____-____

IN THE SUPREME COURT OF THE UNITED STATES

GREGORY WADDELL HAYES,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**APPLICATION FOR AN EXTENSION OF TIME IN WHICH TO FILE A
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FOURTH CIRCUIT**

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and
Circuit Justice for the Fourth Circuit:

Under 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30 of this Court, petitioner Gregory Waddell Hayes respectfully requests a 60-day extension of time, up to and including August 2, 2019, in which to file a petition for a writ of certiorari in this Court. The Fourth Circuit entered final judgment against Mr. Hayes on February 5, 2019. Mr. Hayes's time to file a petition for a writ of certiorari in this Court expires on June 3, 2019. Mr. Hayes is filing this application more than 10 days before that

date. A copy of the Fourth Circuit's unpublished opinion in this case is attached to this application as Exhibit 1. This Court has jurisdiction under 28 U.S.C. § 1254(1).

This case presents an important question regarding whether the Double Jeopardy Clause prohibits the federal government from revoking someone's supervised release based on identical conduct for which a state has already criminally convicted him. This term, this Court has heard arguments in cases involving the reach of the Double Jeopardy Clause as well as the constitutionality of portions of the federal supervised release statute. See *United States v. Haymond*, No. 17-1672 (supervised release); *Gamble v. United States*, No. 17-646 (Double Jeopardy). This Court's focus on these issues shows that Mr. Hayes's petition will raise issues with which this Court is currently grappling. Thus, Mr. Hayes's petition will be more involved than the typical petition for certiorari, and it would benefit from extra time to draft.

Additionally, undersigned counsel has obligations that will make it difficult for him to draft the petition on time. Counsel had oral argument in the Fourth Circuit on May 9, 2019 in *United States v. Bennerman*, 4th Cir. No. 17-6544. Also, the Fourth Circuit entered an Order establishing accelerated briefing and oral argument in *United States v. White*, 4th Cir. No. 19-6181. Undersigned counsel was heavily involved in the briefing and preparation for oral argument in *White*. Mr. White's case had oral argument on May 8, 2019.

Further, undersigned counsel has been the attorney coordinating his office's response to defendants' motions for retroactive resentencing under Section 404 of the First Step Act. Pub. L. No. 115-391. This coordination involves reviewing the records of approximately 700 individuals sentenced in the Eastern District of North Carolina, making evaluations for eligibility, filing motions for resentencing in appropriate cases, and litigating those motions in the district court. This project, in addition to undersigned counsel's normal appellate workload, has made it difficult to timely complete Mr. Hayes's petition.

Thus, Mr. Hayes respectfully requests that an order be entered extending the time to petition for certiorari up to and including August 2, 2019.

Respectfully submitted today, May 16, 2019,

G. Alan DuBois
FEDERAL PUBLIC DEFENDER



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