

**IN THE SUPREME COURT OF THE UNITED STATES**

<b>JUAQUENE SOLOMON,</b>	:	
	:	
<b>Petitioner</b>	:	
	:	
-vs-	:	<b>No. _____</b>
	:	
<b>UNITED STATES OF AMERICA,</b>	:	
	:	
<b>Respondent.</b>	:	

**APPLICATION FOR EXTENSION OF TIME  
FOR FILING PETITION FOR WRIT OF CERTIORARI**

Jeffrey B. Lazarus, attorney with the Federal Public Defender for the Northern District of Ohio, respectfully requests the granting of the instant application for a 45-day extension of time for filing a petition for writ of certiorari, or until August 22, 2019, and in support represents the following:

1. Juaquene Solomon, was charged in federal court in the Northern District of Ohio with possession with intent to distribute a controlled substance, in Case No. 5:17-CR-376. He pled guilty. The district court found him to qualify as a career offender and imposed a sentence of 126 months. On direct appeal, Mr. Solomon challenged the district court's finding that he qualified as a career offender. The Sixth Circuit Court of Appeals issued an unpublished opinion affirming the district court's decision. *United States v. Solomon* No. 18-3058 (6th Cir. February 13, 2019) (Attached as Appendix A). Mr. Solomon filed a petition for en banc hearing. This petition was denied on April 9, 2019. *United States v. Solomon* No. 18-3058 (6th Cir. April 9, 2019) (Attached as Appendix B).

2. Petitioner's petition for writ of certiorari is due 90 days after the entry of the judgment of the Court of Appeals. The due date is therefore July 8, 2019.

3. Counsel is unable to complete the petition in this matter due to the volume of counsel's case load. Furthermore, recently the Sixth Circuit issued a published opinion in *United States v. Havis*, \_\_\_ F.3d \_\_\_, 2019 WL 2376070 (6th Cir. June 6, 2019) (en banc). In *Havis*, the Sixth Circuit found the Sentencing Guidelines' definition of "controlled substance offense" does not include attempt crimes. The Court concluded, "[t]he Commission's use of commentary to add attempt crimes to the definition of 'controlled substance offense' deserves no deference. The text of § 4B1.2(b) controls, and it makes clear that attempt crimes do not qualify as controlled substance offenses." *Havis*, 2019 WL 2376070 at \*3. In light of *Havis*, Mr. Solomon has filed a motion to recall the mandate in the Sixth Circuit, in the hopes that the Sixth Circuit will reconsider Mr. Solomon's appeal due to *Havis*. *United States v. Solomon* No. 18-3058, Document 37 (6th Cir. June 13, 2019). Mr. Solomon believes that delaying the filing of his petition for writ of certiorari is necessary to see how the Sixth Circuit handles the motion to recall the mandate.

4. Counsel respectfully requests an additional 45 days or until August 22, 2019, in which to complete the petition for writ of certiorari.

WHEREFORE, for all the foregoing reasons of good cause, Jeffrey B. Lazarus, attorney with the Office of the Federal Public Defender for the Northern District of Ohio, and on behalf of Juaquene Solomon, Petitioner, respectfully requests that this Court grant this motion for a 45-day extension of time for filing the petition for writ of certiorari and order that the petition be filed on or before August 22, 2019.

Respectfully submitted,

STEPHEN C. NEWMAN  
Federal Public Defender  
Ohio Bar: 0051928

/s/ Jeffrey B. Lazarus

JEFFREY B. LAZARUS

Ohio Bar: 0079525

1660 W. 2nd Street, Suite 750

Cleveland, OH 44113

Telephone: 216.522.4856

Facsimile: 216.522.4321

Email: jeffrey\_lazarus@fd.org

Counsel for Juaquene Solomon

**CERTIFICATE OF SERVICE**

I, Jeffrey B. Lazarus, hereby certify that a copy of the foregoing was served on counsel for Respondent by enclosing a copy thereof in an envelope, postage prepaid, addressed to:

Noel Francisco, Solicitor General of the United States  
Office of Solicitor General  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530; and

Laura McMullen Ford, Assistant United States Attorney  
Carl B. Stokes U. S. Courthouse  
801 W. Superior Avenue, Suite 400  
Cleveland, OH 44113,

and depositing same in the United States Mail at Cleveland, Ohio, on June 21, 2019, and further certifies that all parties required to be served have been served.

Respectfully submitted,

/s/ Jeffrey B. Lazarus  
JEFFREY B. LAZARUS (0079525)  
Assistant Federal Public Defender