

NO.

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

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THOMAS LEWIS,  
KURT MYRIE, AND  
DERRICK YOUNG,

*Petitioners,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

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

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

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May 22, 2019

**Joint Application for Extension of Time  
to File Petition for Writ of Certiorari**

To: Justice Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit Court of Appeals.

Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rule 13.5, application is hereby made for an extension of time within which to file a joint petition for a writ of certiorari from May 28, 2019, to and including July 29, 2019.

**Basis for Jurisdiction**

The Ninth Circuit Court of Appeals entered its final orders in Petitioners' cases on February 27, 2019 and March 15, 2019. *See Attached Appendix.* This Court's jurisdiction is invoked under 28 U.S.C. § 1254(a).

**Judgment Sought to Be Reviewed**

After the Court issued its decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015), several hundred petitioners in the Ninth Circuit filed motions to vacate their sentences based on *Johnson*. Many of those petitioners claimed that their sentences, based on the materially identical residual clause in 18 U.S.C. § 924(c), should be vacated. Mr. Lewis, Mr. Myrie, and Mr. Young were three such petitioners, claiming that because their case records are silent and ambiguous as to whether the predicate for each of their § 924(c) convictions was federal conspiracy (a non-qualifying offense) or federal armed bank robbery, the mandatory enhancement under § 924(c) should be vacated and they should be resentenced.

In the underlying decisions in each of Petitioner's cases, the Ninth Circuit denied certificates of appealability by concluding only that armed bank robbery is a crime of violence under 18 U.S.C. § 924(c)(3)(A)'s force clause. The Ninth Circuit also denied each of Petitioner's motion to reconsider, which asked the court to address their claims that the predicate for each of their § 924(c) convictions is unclear, with the conspiracy predicate failing to qualify as a crime of violence post-*Johnson*. These are the judgments sought to be reviewed.

### **Reasons to Justify a 60-Day Extension**

Petitioners seeks a 60-day extension of time to file their joint petition for writ of certiorari in this case.<sup>1</sup> The primary reason for this request is that the issues presented this case may be impacted by *United States v. Davis*, No. 18-431 (U.S., argued Apr. 17, 2019), in which this Court is reviewing the Fifth Circuit's holding that 18 U.S.C. § 924(c)(3)(B)'s residual clause is void for vagueness under *Johnson*. See *United States v. Davis*, 903 F.3d 483 (5th Cir. 2018). Petitioners believe it would assist in streamlining the issues in their joint petition if they may file the petition after the Court's decision in *Davis*. For these reasons, Petitioners respectfully request a 60-day extension of the deadline (to and including July 29, 2019).

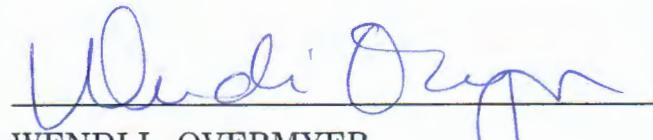
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<sup>1</sup> Petitioner Myrie recognizes his petition for writ of certiorari is not due until June 13, 2019. But as the three cases concern the same issues and will be filed as a joint petition, all three Petitioners ask for the same due date of July 29, 2019.

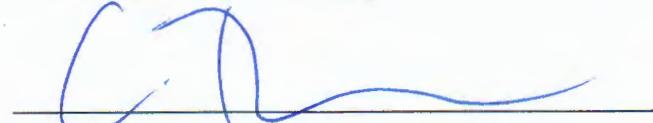
This motion is brought pursuant to Rule 39.1 of the Rules of the Supreme Court of the United States.

Dated: May 22, 2019.

Respectfully submitted,



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