

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

**IBRAHIM McCANTS,** :  
**Petitioner**

**VS.** : **No.** \_\_\_\_\_

**UNITED STATES OF AMERICA :**

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

Louise Arkel, Assistant Federal Public Defender, Office of the Federal Public Defender for the District of New Jersey, respectfully requests the granting of the instant application for a 30-day extension of time for filing a petition for writ of certiorari on behalf of Petitioner Ibrahim McCants, to and including August 5, 2019, and in support represents as follows:

1. Petitioner Ibrahim McCants was indicted in the United States District Court for the District of New Jersey for possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1), and possession of a controlled substance with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C). He was found guilty of both charges after a stipulated bench trial, and was sentenced in the District of New Jersey on September 12, 2017, to 120 months' imprisonment.

2. On appeal, Mr. McCants challenged the District Court's (1) denial of his motion to suppress evidence and (2) finding that his prior robbery convictions qualified as crimes of violence under USSG § 4B1.2. The United States Court of Appeals for the Third Circuit affirmed the conviction and sentence by judgment entered December 18, 2018, and issued a precedential opinion. (Appendix "A").

3. On February 1, 2019, Mr. McCants filed with the Third Circuit a petition for rehearing before the original panel or the Court en banc pursuant to Fed. R. App. P. 35(b) and 40(a). The petition for panel rehearing was granted and the original opinion was vacated on April 5, 2019. (Appendix "B"). That same day, a new opinion and judgment were issued. (Appendix "C").

4. Pursuant to Rule 13.1, Mr. McCants's petition for writ of certiorari is presently due to be filed and served on or before July 5, 2019.

5. Counsel requests an extension of time in which to file and serve the petition for certiorari in part to evaluate the relevance of *Rehaif v. United States*, No. 17-9560, \_\_\_ S.Ct. \_\_\_, 2019 WL 2552487 (June 21, 2019), to Mr. McCants's case, and to determine any appropriate course of action in light of the facts and posture of the instant case. The majority opinion held that the government "must show that the defendant knew he possessed a firearm and also that he knew he had the relevant status when he possessed it." *Id.* at \*2. The dissenting opinion recognized the significance of this ruling, noting that it overturned "the long-

established interpretation of an important criminal statute, 18 U.S.C. § 922(g), an interpretation that has been adopted by every single Court of Appeals to address the question.” *Id.* The dissenting opinion also recognized the potential significance to other pending and completed cases. *See id.* at \*17 (Alito, J., dissenting) (noting “[t]ens of thousands of prisoners are currently serving sentences for violating 18 U.S.C. § 922(g)” and that “every one of those prisoners will be able to seek relief by one route or another”).

6. In light of the extraordinary nature of the just-issued *Rehaif* opinion, and the potential relevance to Mr. McCants’s conviction for 18 U.S.C. § 922(g)(1), counsel needs additional time beyond the current filing deadline of July 5, 2019 to review the potential significance of the opinion to Mr. McCants’s case, in addition to completing preparation of the other issues already planned to be raised in his petition for certiorari.

**WHEREFORE**, for all the foregoing reasons of good cause, Louise Arkel, Assistant Federal Public Defender, on behalf of the Office of the Federal Public Defender for the District of New Jersey, and on behalf of Ibrahim McCants, Petitioner, respectfully requests that this Court grant this motion for a 30-day extension of time for filing of a petition for writ of certiorari and order that the petition be filed on or before August 5, 2019.

Respectfully submitted,



---

Louise Arkel

Assistant Federal Public Defender  
Office of the Federal Public Defender  
for the District of New Jersey

1002 Broad Street  
Newark, NJ 07102  
(973) 622-7535

Dated: June 25, 2019