

No. ____ - ____

IN THE
SUPREME COURT OF THE UNITED STATES

KWELI UHURU,
Petitioner,

V.

UNITED STATES OF AMERICA,
Respondent.

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

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

Petitioner Kweli Uhuru, by his counsel, respectfully makes application pursuant to Supreme Court Rule 13.5 and Rule 22 to extend the time in which to file a petition for writ of certiorari from the judgment entered by the U.S. Court of Appeals for the Fourth Circuit. In support thereof, counsel states the following.

1. After a plea of not guilty, Mr. Uhuru was tried by jury in the U.S. District Court for the Western District of Virginia, at Roanoke, Virginia. At the conclusion of the trial, the jury convicted him of all counts against him in the superseding indictment, including the following: conspiracy to participate in a racketeer influenced and corrupt Organization (RICO), in violation of 18 U.S.C. § 1962(d) and 18 U.S.C. § 1963(a) (Count 1s); violent crime in aid of racketeering, to

wit, kidnapping, in violation of 18 U.S.C. § 1959(a)(1) (Count 26s); use of a firearm during a crime of violence, to wit, the violent crime (kidnapping) alleged in Count 26s (Count 27s); violent crime in aid of racketeering, to wit, the murder of the kidnapping victim, in violation of 18 U.S.C. § 1959(a)(1) (Count 28s); use of a firearm during a crime of violence, to wit, the violent crime (murder) alleged in Count 28s, in violation of 18 U.S.C. § 924(c)(1)(C)(i) (Count 29s); tampering with a witness, to wit, the murder of the kidnapping victim, in violation of 18 U.S.C. §§ 1512(a)(1)(C) and (a)(3)(A) (Count 30s); and use of a firearm during a crime of violence, the witness tampering (murder) alleged in Count 30s, in violation of 18 U.S.C. § 924(c)(1)(C)(i) (Count 31s).

2. The district court sentenced Mr. Uhuru to life imprisonment on Counts 1s, 26s, 28s, and 30s, to run concurrently with each other, plus 10 years as to Counts 27s, 29s, and 31s, to run concurrently with each other, and consecutively to the terms of life imprisonment.

3. On October 5, 2016, Mr. Uhuru appealed the convictions and sentences imposed on September 19, 2016, as reflected in the judgment filed on September 6, 2016. Following briefing, the U.S. Court of Appeals for the Fourth Circuit heard oral argument on January 24, 2018.

4. On July 31, 2019, the Fourth Circuit issued its decision. *See App. 1a-41a*. The court vacated the § 924(c) conviction on Count 27s, on the ground that the Virginia kidnaping statute on which Count 27s was based is not categorically a crime of violence. The court remanded Mr. Uhuru's remaining convictions, which were all affirmed, for resentencing.

5. On August 5, 2019, undersigned counsel wrote to Mr. Uhuru, transmitting a copy of the Fourth Circuit's opinion and explaining the decision's ramifications and application to his circumstances. In his letter, counsel stated that after close examination of the opinion, it was his belief that Mr. Uhuru's issue did not appear to meet the Supreme Court's standards for granting petitions for writs of certiorari. Because counsel believes that filing a petition would be frivolous, he explained to Mr. Uhuru that he would file a motion to withdraw as counsel for the purpose of filing the petition if Mr. Uhuru wanted to proceed with a petition. Counsel further described to Mr. Uhuru his options, including his right to file a cert. petition on his own, within ninety days from July 31, 2019, or by October 29, 2019. Counsel also provided a form upon which Mr. Uhuru could designate his intentions, and included a pre-addressed envelope for Mr. Uhuru to use to return the form to counsel.

6. In the absence of a response from Mr. Uhuru, counsel's office wrote again on August 23, 2019, and provided a copy of counsel's August 5, 2019, letter and enclosures (including another form upon which Mr. Uhuru was to indicate his intentions regarding the filing of a cert. petition). Mr. Uhuru did not respond to that correspondence by October 2, 2019, the due date for the filing of the cert. status form in the Fourth Circuit. Therefore, on October 2, 2019, counsel filed the cert. status form, indicating that more than thirty days had passed since counsel had written to his client and that counsel had not received any response.

7. On October 30, 2019, the Office of the Federal Public Defender received the form from Mr. Uhuru denoting that "Yes, I want to file a cert. petition."

The form was signed and dated October 24, 2019, the envelope was postmarked October 28, 2019, and counsel first saw the form on November 5, 2019.

8. As stated, counsel for Mr. Uhuru did not file a petition for rehearing or rehearing *en banc*. However, counsel for a co-defendant did seek rehearing in his case, No. 16-4837, on August 14, 2019. The Fourth Circuit denied the petition on August 27, 2019. *See* App. 42a. Under S. Ct. R. 13.3, Mr. Uhuru's deadline for filing a petition for writ of certiorari is therefore November 25, 2019, ninety days after the August 27 denial of Mr. Stokes' rehearing petition.

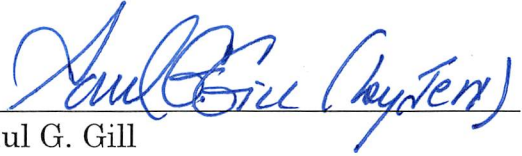
9. If Mr. Uhuru pursues a writ of certiorari, this Court has jurisdiction over his case pursuant to 28 U.S.C. § 1254(1). Without any extension, his petition for a writ of certiorari is due, as noted above, on November 25, 2019.

10. Given counsel's recent receipt of Mr. Uhuru's form declaring a desire to petition for a writ of certiorari, counsel intends to file in the Fourth Circuit both a motion to withdraw as counsel and an amended cert. status form. However, in light of Mr. Uhuru's wish to file a cert. petition, and the fast-approaching deadline for its filing, counsel requests on Mr. Uhuru's behalf an extension of sixty days, from November 25, 2019, to January 25, 2020, to allow sufficient time for Mr. Uhuru to prepare and file his *pro se* petition for writ of certiorari.

Wherefore, Petitioner prays that this application be granted.

Respectfully submitted,

Jeremy C. Kamens
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