

IN THE UNITED STATES SUPREME COURT

IN RE:

MARQUISE EDWARD HENDERSON,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Appeal from the Fourth Circuit Court of Appeals
NO. 19-4208
Appealing Judgment from the United States District Court
For the Southern District of West Virginia
3:17-cr-00100-2

TO: THE HONORABLE CHIEF JUSTICE JOHN G. ROBERTS, Jr.

MOTION/APPLICATION TO EXTEND TIME
TO FILE WRIT OF CERTIORARI

COMES NOW, the Petitioner, Marquise Edward Henderson, by Michelle Roman Fox, counsel appointed for Petitioner in the Fourth Circuit Court of Appeals and moves this Honorable Chief Justice John Roberts for an extension of time in which to file a Writ of Certiorari.

In support of this Motion for Extension, underlying counsel states that Marquise Edward Henderson advised her he wishes to file a Writ of Certiorari as a result of the Fourth Circuit Court of Appeals dismissal of his appeal from the

district court judgment due to an appellate waiver contained in his plea agreement. After the dismissal of the appeal, Marquise Edward Henderson, filed Petition for Rehearing and Rehearing *en banc, pro se*. The Fourth Circuit Court of Appeals denied the Petition by Order entered on October 8, 2019. See, Copy of both Orders attached hereto as Exhibit A and Exhibit B, respectively.

Pursuant to the instruction of the Fourth Circuit, underlying counsel advised Marquise Edward Henderson of his right to file a Writ of Certiorari with this Court. Henderson advised counsel of his desire to proceed with a Writ of Certiorari and counsel thereafter on December 18, 2019, filed a *Motion to Withdraw as Counsel* in the Fourth Circuit asserting that after a review of the issues and pertinent case law as well as the requisites set forth in Rule 10, Supreme Court Rules, that any Writ would be frivolous. This Court has jurisdiction of the Writ of Certiorari pursuant to 28 U.S.C. §1254 and Rules 13.1 and 13.3 of this Court.

To date, the Fourth Circuit Court of Appeals has not ruled on counsel's *Motion to Withdraw as Counsel* and the deadline for filing the Writ of Certiorari is January 6, 2020. Thus, in order to provide the Fourth Circuit Court of Appeals time to rule on the pending Motion to Withdraw as Counsel while at the same time protecting Marquise Edward Henderson's right to file a Writ of Certiorari, if he desires, counsel moves for an short extension of the time in which Marquise Edward Henderson can file the Writ of Certiorari.

Counsel argues that no prejudice will result from the short extension of the deadline to file the Writ of Certiorari and justice will be served by granting the

requested extension. The circumstances justify the extension of the time in which to file the Writ of Certiorari because the Fourth Circuit has not yet had the opportunity to rule on the referenced Motion to Withdraw.

Accordingly, pursuant to Rule 13, Supreme Court Rules, Marquise Edward Henderson, by Michelle Roman Fox, counsel, respectfully requests that this Court grant the Motion and extend the time period, by not more than 60 days, the time period in which Marquise Edward Henderson can file his Writ of Certiorari.

Respectfully Submitted:

/s/ Michelle Roman Fox

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing *Motion to Extend Time to File Writ of Certiorari* has been filed and service has been made by US Mail this 3rd day of January 2020 to:

Joseph F. Adams
Assistant United States Attorney
Sidney L. Christie Federal Building and
United States Courthouse
845 Fifth Avenue, Room 209

Huntington, West Virginia 25701

Marquise Edward Henderson
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/s/ Michelle Roman Fox

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