

NO. _____

In the Supreme Court of the United States

REGINALD GLENN,

PETITIONER-APPELLANT,

v.

UNITED STATES OF AMERICA,

RESPONDENT-APPELLEE.

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

To the Honorable Clarence Thomas, Justice of the United States and
Circuit Justice for the Eleventh Circuit:

Petitioner, by his attorney, respectfully makes an application pursuant
to Supreme Court Rules 13.5, 21, 22, 30, and 33.2, to extend the time by 60
days in which to file a petition for writ of certiorari from the judgment entered
by the United States Court of Appeals for the Eleventh Circuit. In support
thereof, counsel states the following:

1. **Procedural and Factual History.** Mr. Glenn pleaded guilty to possessing a firearm after being convicted of a crime punishable by more than a year. In the District Court, and on appeal to the Eleventh Circuit, he argued his prior conviction of Georgia aggravated assault did not qualify as a crime of violence under either the enumerated clause or the elements clause of U.S.S.G. §4B1.2(a), which meant his base offense level should have been 14 under U.S.S.G. §2K2.1(a)(4)(A). Specifically, he argued that his prior conviction was for a general intent offense, while both generic aggravated assault and the elements clause required a more culpable *mens rea*. Further, he argued that a prior decision of the Eleventh Circuit finding that the deadly weapon aggravator of Georgia aggravated assault was generic, *United States v. Morales-Alonso*, 878 F.3d 1311 (11th Cir. 2018), did not foreclose the *mens rea* issue that he raised.

2. The government moved the Eleventh Circuit for summary affirmance, asserting that binding precedent foreclosed his appeal. Thereafter, this Court held that an offense that a person can commit with only a recklessness *mens rea* does not satisfy the similar elements clause of the Armed Career Criminal Act (ACCA). *Borden v. United States*, 141 S.Ct. 1817 (2021). The Eleventh Circuit granted the motion for summary affirmance, agreeing that Mr. Glenn's enumerated clause argument was foreclosed by *Morales-Alonso*, 878 F.3d 1311, and not addressing his elements clause argument. *See Appendix (United States v. Glenn*, 19-13249, 2021 WL 4618075 (11th Cir., Oct. 6, 2021)).

3. Mr. Glenn intends to petition this Court to grant certiorari for two reasons. First, his case raises an issue that *Borden* did not resolve, and on which there remains a Circuit split: whether “aggravated assault,” within the meaning of §4B1.2(a)(2), encompasses offenses that a defendant can commit with recklessness or a general intent to commit an act without any intent as to its consequences, or whether it requires a more culpable *mens rea*. Second, his case presents a more fundamental question: whether a Circuit Court can make binding precedent, *sub silentio*, on a waived issue, as opposed to an overlooked argument in support of the issue raised.

4. **Need for Additional Time.** Since the Eleventh Circuit’s October 6th, 2021, decision affirming Mr. Glenn’s conviction, undersigned counsel has been unable to give this petition the time and thought it deserves. Counsel has been extremely busy litigating numerous cases at the district court and circuit court level stemming from *Rehaif v. United States*, 588 U.S. ___, 139 S.Ct. 2191 (2019), the retroactive applicability of the Fair Sentencing Act, and the First Step Act’s amendment to the compassionate release statute, in addition to his normal appellate case load.

5. In light of undersigned counsel’s heavy workload, he respectfully requests an extension of 62¹ days from Tuesday, December 4, 2022, to Monday, March 7, 2022, on which to file the petition for writ of certiorari in Mr. Campbell’s case.

¹ The 60th day after the current certiorari deadline falls on Saturday, March, 5, 2022. He thus requests 62 days, based on Supreme Court Rule 30.1 regarding computation of time.

Wherefore, Petitioner prays that this application be granted. This application is respectfully submitted on December 16, 2021.

s/ Jonathan R. Dodson

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