

No. \_\_\_\_\_

**In The  
Supreme Court of the United States**

**MIKKEL MCKINNIE,**

*Petitioner,*

**v.**

**UNITED STATES OF AMERICA,**  
*Respondent.*

**MOTION AND APPLICATION TO FILE UNTIMELY  
PETITION FOR CERTIORARI**

Petitioner Mikkel McKinnie (hereinafter “Petitioner”), by and through the undersigned counsel and pursuant to Rule 13.5 of the United States Supreme Court Rules of Court, hereby moves and/or applies to file his Petition for Certiorari being contemporaneously filed with the Court no later than April 29, 2022. In support of this Application, Petitioner shows unto the Court as follows:

1. This Petition seeks review of a Published Opinion and Judgment in the Fourth Circuit Court of Appeals that was entered on December 27, 2021.
2. Undersigned counsel was appointed to represent Petitioner on direct appeal pursuant to the Commitment to Justice Act. As part of that appointment, the undersigned has the responsibility of preparing a Petition for Certiorari to this Court upon request of the client.
3. Petitioner had timely requested the undersigned to file a Petition for Certiorari and the undersigned in turn informed Petitioner that he would do so.

4. The undersigned erroneously believed that the time for filing a Petition for Certiorari was still extended to 150 days for all cases in light of the COVID-19 pandemic, and was unaware that this had been changed in 2021. The undersigned recently discovered this error after the original 90 day period had expired.

5. But for the aforementioned issue, the Petition would have been timely filed.

6. Petitioner bears no responsibility for this error, it is entirely the fault of the undersigned.

7. There is no prejudice to the Government by the granting of this motion.

8. The protection of Defendant's constitutional rights hang in the balance of this Court's discretion on whether to grant this Motion.

9. Good cause exists for granting this motion.

10. The Petition for Certiorari being contemporaneously filed with the Court and its Exhibits are hereby incorporated by reference in their entirety.

## CONCLUSION

For the above stated reasons, Petitioner Mikkel McKinnie hereby requests that the Court extend the time to file his Petition for Writ of Certiorari until April 29, 2022, and grant whatsoever other relief may be just and proper.

This the 27th day of April, 2022.

/s/ Seth A. Neyhart  
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## CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he has served the aforementioned document via EM/ECF to the following:

David Bragdon, AUSA  
310 New Bern Avenue  
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Raleigh, NC 27601  
[David.Bragdon@usdoj.gov](mailto:David.Bragdon@usdoj.gov)

This the 27<sup>th</sup> day of April, 2022.

/s/ Seth A. Neyhart  
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