

NO:

IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2021

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KADEEM WILLINGHAM,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

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**APPLICATION FOR AN EXTENSION OF TIME WITHIN  
WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI FROM THE  
JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE  
ELEVENTH CIRCUIT**

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**TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE JUSTICE OF  
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT  
JUSTICE FOR THE ELEVENTH CIRCUIT**

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Pursuant to Supreme Court Rules 13.5, 22, and 30.3, Kadeem Willingham respectfully requests a sixty-day extension of time, to and including February 7, 2022, within which to file a petition for a writ of certiorari from the judgment of the United States Court of Appeals for the Eleventh Circuit. Mr. Willingham has not previously sought an extension of time from this Court.

Mr. Willingham is filing this Application at least ten days before the filing date, which is December 9, 2021. *See* S.Ct. R. 13.5. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1).

A copy of the Eleventh Circuit’s opinion in Mr. Willingham’s case is attached as Appendix A hereto.

This case presents, *inter alia*, a challenge to *United States v. Bryant*, 996 F.3d 1243 (11th Cir. 2021), *pet. for cert. filed* Oct. 22, 2021 (No. 20-1732),<sup>1</sup> which the Eleventh Circuit held “foreclosed” Mr. Willingham’s argument that U.S.S.G. § 1B1.13 is not an “applicable policy statement” constraining a district court’s discretion in ruling on defendant-filed 18 U.S.C. § 3582(c)(1)(A) motion for compassionate release after the First Step Act.

Notably, *Bryant* conflicts with the rule applied by eight other circuits – each of which has agreed with Mr. Willingham’s interpretation of the “applicable policy statement” language in § 3582(c)(1)(A). *See United States v. Brooker*, 9796 F.3d 228, 235-36 (2d Cir. 2020); *United States v. Jones*, 980 F.3d 1098, 1109-11 (6th Cir. 2020); *United States v. Gunn*, 980 F.3d 1178, 1180 (7th Cir. 2020); *United States v. McCoy*, 981 F.3d 271, 275-77, 280-84 (4th Cir. 2020); *United States v. McGee*, 992 F.3d 1035, 1048-51 (10th Cir. 2021); *United States v. Maumau*, 993 F.3d 821, 832-37 (10th Cir. 2021); *United States v. Aruda*, 993 F.3d 797, 799-802 (9th Cir. 2021); *United States v. Shkambi*, 994 F.3d 338, 392-93 (5th Cir. 2021); *United States v. Long*, 997 F.3d 342, 354-59 (D.C. Cir. May 18, 2021).

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<sup>1</sup> *Bryant* is currently scheduled for conference on December 3, 2021.

Undersigned counsel will not have sufficient time to prepare the petition for writ of certiorari for Mr. Willingham by December 9th because of competing case matters. In the last five weeks counsel has filed a petition for writ of certiorari in *Potts v. United States*, No. 21-6007; another petition for writ of certiorari in *Johnson v. United States*, No. 21-6107; and opening briefs with the Eleventh Circuit in *United States v. Williams*, Eleventh Cir. No. 21-12877 and *United States v. Tucker*, Eleventh Cir. No. 21-12071. Counsel will be out of state for the Thanksgiving holiday, and will not have sufficient time upon her return to complete Mr. Willingham's petition for writ of certiorari by December 9th. Additional time will be necessary for the careful preparation of the petition for writ of certiorari in Mr. Willingham's case.

No party will be prejudiced by the granting of a sixty-day extension.

Mr. Willingham is incarcerated serving a term of 384 months imprisonment imposed by the district court.

Since the time within which to file a petition for writ of certiorari in this case will expire on December 9, 2021 unless extended, Petitioner respectfully requests that an order be entered extending his time to file a petition for writ of certiorari by thirty days, to and including February 7, 2022.

Respectfully submitted,

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FEDERAL PUBLIC DEFENDER

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Nov. 23, 2021