**No. _____**

# In the Supreme Court of the United States

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ERIC KAMAHELE,

*Applicant,*

v.

UNITED STATES OF AMERICA,

*Respondents.*

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*ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT*

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## APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR WRIT OF CERTIORARI

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SCOTT KEITH WILSON
Federal Public Defender

BENJAMIN C. McMURRAY
Assistant Federal Public Defender,
District of Utah
46 W. Broadway, Suite 110
Salt Lake City, Utah 84101
(801) 524-4010
Benji_McMurray @fd.org

*Counsel for Applicant*
*Eric Kamahele*

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

**To the Honorable Sonia Sotomayor, as Circuit Justice for the United States Court of Appeals for the Tenth Circuit:**

Applicant Eric Kamahele respectfully requests an extension of 60 days in which to file his petition for writ of certiorari, seeking review of the Tenth Circuit's decision in *United States v. Kamahele*, Case No. 17-4154 (10th Cir. April 5, 2022), a copy of which is attached to this application.

In support of this application, Applicant provides the following information:

1. The Tenth Circuit issued its decision on January 31, 2022, and it denied Mr. Kamahele's petition for rehearing on April 5, 2022. Accordingly, the petition for certiorari is currently due July 5, 2022. Granting this extension would make it due on September 5, 2022.

2. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

3. As the attached decision shows, the Tenth Circuit held that Mr. Kamahele's conviction for Hobbs Act robbery was properly categorized as a "crime of violence" under 18 U.S.C. § 924(c). This decision, however, conflicts with the Tenth Circuit's pattern jury instructions, which were used at trial in this case. And it also conflicts with the pattern jury instructions adopted by other circuits as well.

Based on the ruling in his case, and the division among the circuits with respect to the elements of Hobbs Act robbery, Mr. Kamahele has determined he will seek review via a petition of certiorari.

Additionally, Mr. Kamahele believes the decision below conflicts with this court's recent decision in *United States v. Taylor*, 20-1459 (U.S. Jun. 21, 2022), which held that attempted Hobbs Act robbery is not a crime of violence under § 924(c). As this case was decided just a few days ago, additional time is needed to fully analyze and brief the issues in light of *Taylor*.

4. This application is not sought for purposes of delay. Undersigned counsel is the lead attorney on more than 100 pending appeals, original prosecutions, and post-conviction petitions.

There are currently no other attorneys in the Federal Public Defender office who are familiar enough with the record in Mr. Kamahele's case to be capable of preparing a petition by the current due date.

For the foregoing reasons, Mr. Kamahele requests a 60-day extension of time in which to file a petition for a writ of certiorari.

Respectfully submitted,

*/S/ Benjamin C. McMurray*
BENJAMIN C. McMURRAY
Assistant Federal Public Defender,
District of Utah
46 W. Broadway, Suite 110
Salt Lake City, Utah 84101
(801) 524-4010
Benji_McMurray @fd.org

*Counsel for Applicant*
*ERIC KAMAHELE*

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## CERTIFICATE OF SERVICE

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I hereby certify that a copy of this Application for an Extension of Time to File a Petition for Writ of Certiorari was served via UPS and post prepaid, upon the following counsel:

Elizabeth B. Prelogar
Solicitor General
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

*/S/ Benjamin C. McMurray*
BENJAMIN C. McMURRAY
Assistant Federal Public Defender,
District of Utah