

In the Supreme Court of the  
United States

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ZEPH PITT,  
*Petitioner,*  
v.

UNITED STATES,  
*Respondent.*

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On Petition for a Writ of Certiorari  
to the United States Court of Appeals  
for the First Circuit

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**PETITIONER’S APPLICATION FOR EXTENSION OF  
TIME TO FILE PETITION FOR WRIT OF CERTIORARI  
TO THE FIRST CIRCUIT**

To the Hon. John G. Roberts, as Circuit Justice for the First Circuit:

Petitioner Zeph Pitt, through appellate counsel appointed under the Criminal Justice Act, 18 U.S.C. § 3006A(d)(6), Allison Koury, Esq., respectfully moves the Court pursuant to Supreme Court Rules 13(5) and 22 for an extension of 60 days, from December 22, 2022 to February 20, 2023 to file his petition for a writ of certiorari to review the First Circuit’s judgment and opinion (attached). The Court’s jurisdiction is based on 28 U.S.C. § 1257.

1. The First Circuit Court of Appeals issued a draft of it’s opinion on March 7, 2022. The sealed draft was circulated for comments from counsel and remained under seal.

2. The First Circuit denied the Petitioner's Petition for Rehearing on July 12, 2022.
3. The final version of the opinion was issued and unsealed on September 23, 2022 and is attached hereto.
4. Counsel would have been unable to apply for an extension of time within 30 days of judgment because the draft opinion was not finalized until September 23, 2022.<sup>1</sup>
5. The date on which a petition for writ of certiorari would otherwise be due, if not extended, is December 22, 2022. Petitioner is filing the application because it has been impossible contacting the Petitioner at the Bureau of Prisons USP Atwater to discuss the petition. In addition to a three hour time difference, there have been countless lockdowns at the facility.
6. Counsel has additional briefing responsibilities in the Massachusetts Appeals Court during the relevant time period.
7. Counsel also has a significant number of Massachusetts state court trial matters, a number of which are scheduled for jury trial in the next two months. This limits the time that would otherwise be available to prepare a petition.

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<sup>1</sup> Rule 13.5 requires that a copy of the opinion below be attached to an application for extension of time to file a Petition for Writ of Certiorari.

8. Finally, counsel is a sole practitioner and the requested time is reasonably necessary to enable counsel's effective assistance in the preparation of a petition.
9. Petitioner's case presents a substantial question of criminal law regarding predicate offenses under the Armed Career Criminal Act and whether certain nonviolent state court convictions can be a predicate to federal ACCA sentencing.

Respectfully Submitted  
Zeph Pitt  
By his attorney,

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Allison Koury  
Attorney at Law  
171 Beacon Street  
Boston, MA 02116  
508-524-0394  
*Counsel for Petitioner*

December 16, 2022

CERTIFICATE OF SERVICE

I, Allison Koury, hereby certify that, on this date and pursuant to Supreme Court Rule 29, I mailed the foregoing Application to effect service on the following party:

Solicitor General of the United States  
Room 5614  
Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, DC 20530-0001

December 16, 2022

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