

No. ___ - _____

IN THE SUPREME COURT OF THE UNITED STATES

BANGO BENJAMIN ENYINNAYA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**APPLICATION FOR AN EXTENSION OF TIME IN WHICH TO FILE A
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FOURTH CIRCUIT**

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and
Circuit Justice for the Fourth Circuit:

Under 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30 of this Court, petitioner
Bango Benjamin Enyinnaya respectfully requests a 60-day extension of time, up to
and including October 14, 2022, in which to file a petition for a writ of certiorari in
this Court. The Fourth Circuit entered final judgment against Mr. Enyinnaya on
February 9, 2022. It denied a timely filed petition for rehearing en banc on May 17,
2022. His time to file a petition for a writ of certiorari in this Court expires on August
15, 2022. Mr. Enyinnaya is filing this application more than 10 days before that date.

A copy of the Fourth Circuit's unpublished opinion in this case is attached to this application as Exhibit 1. A copy of the order denying rehearing and rehearing en banc is attached as Exhibit 2. This Court has jurisdiction under 28 U.S.C. § 1254(1).

Mr. Enyinnaya requests this extension for these reasons:

1. This petition will involve a challenge to Mr. Enyinnaya's sentence under the Armed Career Criminal Act (18 U.S.C. § 924(e)) after his guilty plea to being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g).
2. Recently, this Court addressed a critical provision of that Act—the requirement that a defendant have committed predicate crimes “on occasions different from one another.” *Wooden v. United States*, 142 S. Ct. 1063 (2022) (discussing 18 U.S.C. § 924(e)(1)). This Court held that the inquiry is “multi-factored in nature” and that “a range of circumstances may be relevant to identifying episodes of criminal activity.” *Id.* at 1070-1071. In so holding, this Court declined to address “whether the Sixth Amendment requires that a jury, rather than a judge, resolve whether prior crimes occurred on a single occasion.” *Id.* at 1068 n.3; *see also id.* at 1087 n.7 (Gorsuch, J., concurring in the judgment).
3. Just last week, the Solicitor General stated the Government's position that a jury must find, or a defendant must admit, that a defendant's Armed Career Criminal Act predicates were committed on occasions different from one another. *See* Notice of Supplemental Authority, *United States v. Rico Brown*, Fourth Cir. No. 21-4253 (docketed July 26, 2022). Because Mr. Enyinnaya's

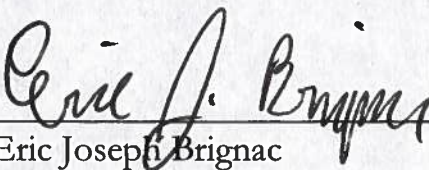
indictment did not allege that his purported predicates were committed on occasions different from one another, he never made such an admission as part of his guilty plea. An extension of time will help ensure that the petition effectively presents this important issue in addition to the other issues that Mr. Enyinnaya intends to raise.

4. In addition, undersigned counsel's office has had an appellate attorney out with COVID-19, increasing the workload for undersigned counsel and the other appellate attorneys in the office.
5. And undersigned counsel's administrative responsibilities at the appellate chief in his office have increased due to dealing with the logistics of re-opening the office for in-person work after COVID-19 required the office to be primarily remote.
6. An extension of time would help account for those unexpected time-consuming events.

Thus, Mr. Enyinnaya respectfully requests that an order be entered extending the time to petition for certiorari up to and including October 14, 2022.

Respectfully submitted today, August 4, 2022,

G. Alan DuBois
FEDERAL PUBLIC DEFENDER



Eric Joseph Brignac

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