

NO: \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2022

---

JASON DIX,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

---

**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  
FOURTH CIRCUIT**

---

**TO THE HONORABLE JOHN G. ROBERTS, JR., CHIEF JUSTICE OF  
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT  
JUSTICE FOR THE FOURTH CIRCUIT**

---

Pursuant to Supreme Court Rules 13.5, 22, and 30.3, Jason Dix respectfully requests an extension of time, to and including October 20, 2023, within which to file a petition for a writ of certiorari from the judgment of the United States Court of Appeals for the Fourth Circuit. Mr. Dix has not previously sought an extension of time from this Court to file this petition.

Petitioner is filing this Application at least ten days before the filing date, which is August 22, 2023. *See* S. Ct. R. 13.5. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1).

Mr. Dix pled guilty to a single count of 18 U.S.C. § 922(g)(1), possessing a gun while being a prohibited person. Mr. Dix's presentence report (PSR) identified a four-level enhancement for possessing the gun in connection with another felony offense, grand larceny/possession of a stolen vehicle. At sentencing, Mr. Dix objected to the four-level enhancement, indicating he used the car with permission of the owner. When the district court seemed inclined to sustain his objection, the government, without prior notice or objection to the PSR, changed theories, indicating Mr. Dix also committed the felony offense of failure to stop for a blue light while possessing the gun. The district court applied the four-level enhancement based on the blue-light theory.

On appeal, Mr. Dix asked the Fourth Circuit to vacate his sentence because his sentence was increased without notice in violation of Federal Rule of Criminal Procedure Rule 32. A copy of the Opinion from the Court of Appeals for the Fourth Circuit is attached as Appendix A hereto, in which a divided panel of the Court affirmed the sentence. After Mr. Dix filed a petition for rehearing en banc, the panel *sua sponte* granted a panel rehearing and again the divided Court affirmed Mr. Dix's sentence in an amended judgement, attached hereto as Appendix B. Mr. Dix filed a second petition for rehearing en banc, and the Fourth Circuit denied rehearing en banc by a 7-7 vote. Several judges dissented to the denial, and the Order with those written dissents is attached as Appendix C.

Undersigned counsel will not have sufficient time to file the petition for writ of certiorari for Mr. Dix by August 22, 2023 for several reasons. In the months

between the issuance of the Fourth Circuit's denial of rehearing en banc, and the due date for Mr. Dix's petition, counsel had or will have several briefs, motions and responses due to the Fourth Circuit, including in Case Nos. 22-4467, 22-4625, 23-4137 and 19-4079. Counsel also has been consulting with potential co-counsel to assist with Mr. Dix's petition and, if successful, co-counsel will need time to review Mr. Dix's case. Counsel also is on leave the week of July 3, 2023 on a vacation involving significant prepaid costs.

Accordingly, additional time will be necessary for the careful preparation of the petition for writ of certiorari in Mr. Dix's case. No party will be prejudiced by the granting of an extension.

Since the time within which to file a petition for writ of certiorari in this case will expire on August 22, 2023 unless extended, Petitioner respectfully requests that an order be entered extending his time to file a petition for writ of certiorari, to and including October 20, 2023.

Respectfully submitted,

By: s/Kimberly H. Albro  
Kimberly H. Albro  
Assistant Federal Public Defender  
1901 Assembly Street, Suite 200  
Columbia, South Carolina 29201  
Telephone: (803) 765-7088  
Email: [Kimberly\\_Albro@fd.org](mailto:Kimberly_Albro@fd.org)  
Counsel of Record for Petitioner

June 22, 2023