

No. \_\_\_\_\_

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In The  
Supreme Court of the United States

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Souleymane Yacouba-Issa,  
*Petitioner,*

*v.*

Steve Kennedy,  
Superintendent, Old Colony Correctional Center,  
*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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**Application for Extension of Time  
To File Petition for a Writ of Certiorari**

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To the Honorable Ketanji Brown Jackson, as Circuit Justice for  
the Court of Appeals for the First Circuit.

The petitioner, Mr. Souleymane Yacouba-Issa, by and through  
undersigned counsel hereby moves that this Court find that “good  
cause” and sufficiently “extraordinary circumstances” exist to grant  
him a 60-day extension of time under Rule 13 of the Rules of the

Supreme Court of the United States to file his Petition for a Writ of Certiorari, from December 19, 2022, when it is presently due, to February 17, 2022.

As grounds therefor, Mr. Yacouba-Issa states as follows:

1. Undersigned counsel represents the petitioner in connection with the above-entitled action.

2. On January 10, 2022, the First Circuit affirmed the District Court's denial of Mr. Yacouba-Issa's petition for habeas corpus relief under 28 U.S.C. § 2254, and on September 20, 2022, the First Circuit denied Mr. Yacouba-Issa's petition for rehearing or rehearing en banc. Copies of the First Circuit's opinion and its Docket Order denying Mr. Yacouba-Issa's petition for rehearing are annexed hereto.

3. Absent an extension of time, Mr. Yacouba-Issa's petition for certiorari would be due on or before December 19, 2022.

4. The Supreme Court will have jurisdiction over the petition for certiorari under 28 U.S.C. §1254(1).

5. A near-final draft of the petition for certiorari has already been fully drafted.

6. The petition, as drafted, raises two issues of substantial national importance regarding racial discrimination in jury selection and the application of this Court's decision in *Johnson v. California*, 545 U.S. 162, 170 (2005):

- I. Whether habeas corpus relief is required where the First Circuit and the Massachusetts Supreme Judicial Court flouted this Court's clearly established holding in *Johnson v. California*, 545 U.S. 162, 170 (2005), that trial judges must ask prosecutors for their actual reasons for striking a prospective juror where a defendant has "produc[ed] evidence sufficient to permit the trial judge to draw an inference that discrimination has occurred," or whether the lower courts may modify *Johnson* by giving judges "discretion" not to make such an inquiry?
- II. Whether the proper remedy for a federal habeas court finding a *Batson-Johnson* first-step violation is, as a matter of comity and federalism, to return the matter to the state court for the exercise of the state's remedy, at least where a *Batson* reconstruction hearing is not likely to produce reliable factfinding due to the passage of time and where the state court's preferred remedy has been to vacate the defendant's conviction?

7. These issues have generated conflicting approaches amongst the various circuit courts of appeal and amongst state courts of last resort, and require the Court's harmonization.

8. Under Rule 13.5, the 90-day filing period may only be extended by a Justice of the Court "for good cause" for a period not exceeding 60

days. Under that rule, an application for such an extension “is not favored” and an application “received less than 10 days before the final filing date” will not be granted “except in the most extraordinary circumstances.”

9. As noted above, undersigned counsel completed a near-final draft of the petition for certiorari and has already sent the draft and appendix materials for typesetting and final proofing by Cockle Legal Briefs.

10. The petitioner has been imprisoned throughout these proceedings at the Old Colony Correctional Center in Bridgewater, Massachusetts. The petitioner is originally from Niger, where most of his family resides. Due to the extreme stresses of this case, his subsequent imprisonment, the isolation from his family, and fears about Covid, the petitioner has been relying heavily on the advice of his family, and on that of an older brother, who resides in this country. The petitioner’s older brother has informed counsel that he has had difficulty contacting the petitioner and conferring about this matter.

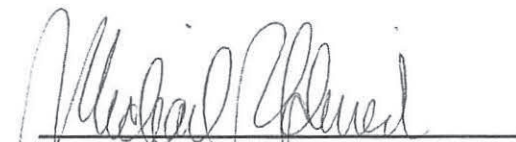
11. At the petitioner’s request, undersigned counsel provided a

near-complete draft of the petition for certiorari to the petitioner's brother and after they consulted, counsel was earlier today instructed to request the additional time so that the petitioner and his family can carefully review the petition and provide their input.

12. Mr. Yacouba-Issa remains imprisoned and no prejudice should accrue to the government.

Wherefore, the petitioner requests that your Honor find good cause and extraordinary circumstances for the requested extension, and grant Mr. Yacouba-Issa's request for the additional 60 days until February 17, 2023, to file his petition for certiorari. In the event that your Honor denies this application, the petitioner would request at least an additional four days after that ruling to file the petition.

Respectfully submitted,



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Michael R. Schneider  
*Counsel of Record*  
*For Mr. Yacouba-Issa, Petitioner.*

Dated: December 13, 2022