

IN THE SUPREME COURT OF THE
UNITED STATES

NO. _____

APPLICATION NO. 22A561

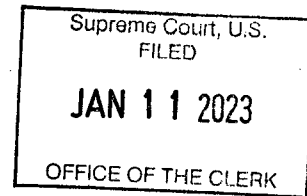
SALVATORE PELULLO

Petitioner,

v.

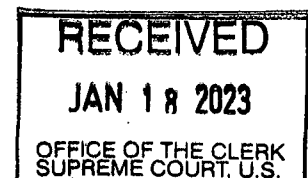
UNITED STATES OF AMERICA,

Respondent.



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

PETITIONER'S APPLICATION FOR EXTENSION OF TIME TO
FILE PETITION FOR A WRIT OF CERTIORARI



**PETITIONER'S APPLICATION FOR EXTENSION OF TIME TO FILE A
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To the Honorable Samuel Anthony Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the Third Circuit:

Petitioner, Salvatore Pelullo, respectfully applies to this Court for an order extending the time in which to file his petition for writ of certiorari from January 20, 2023 to February 20, 2023, a period of thirty (30) days. This Court has jurisdiction under 28 U.S.C. §1257. In support of this Application, Mr. Pelullo states as follows:

1. Mr. Pelullo is presently incarcerated under conviction of several violations including conspiracy to transfer a firearm to prohibited persons, or to possess a firearm by a convicted felon, in violation of 18 U.S.C. §§ 371 and 18 U.S.C. 922(g) and (d). On July 29, 2015, Petitioner was sentenced to 360 months imprisonment. On July 15, 2022, the United States Court of Appeals for the Third Circuit issued a Precedential opinion in consolidated appeals No. 15-2826 and 19-1398 (attached as Ex. "A"), wherein the en banc Court affirmed the judgment of the United States District Court for the District of New Jersey in Case No. D.C. Nos. 1-11-cr-0740-001 thru 004 on September 22, 2022 (attached as Ex. "B").

2. Mr. Pelullo's case raises important questions regarding whether Congress has the constitutional authority to dispossess citizens of their Second Amendment right to bear arms based on a citizen's prior non-violent felony conviction.
3. Mr. Pelullo now seeks a writ of certiorari for the United States Court of Appeals for the Third Circuit with respect to its en banc decision. This Court's jurisdiction to grant the same arises pursuant to 28 U.S. C. § 1254 (1).
4. According to Supreme Court Rule 13.3, a petition for writ of certiorari is due on or before January 20, 2023 after this Court granted an extension of 30 days under Application No. 22A561.
5. However, a recent similar case has emerged in the Third Circuit and the time granted by Supreme Court Rule 13 will be insufficient to allow Petitioner's counsel to do justice to the issues at hand, which are of vast importance. Therefore, Petitioner seeks an additional extension of thirty (30) days in which to file his petition for a writ of certiorari. See Supreme Court Rule 13.5 ("[A] Justice may extend the time to file a petition for writ of certiorari for a period not exceeding 60 days").
6. Just this past Friday January 6, 2023, the Third Circuit in *Range v. Garland*, 21-2835 said it would reconsider next month whether a federal

law prohibiting nonviolent felons from owning firearms is constitutional in the wake of the U.S. Supreme Court's decision last year expanding gun rights. (attached as Exhibit "C")

7. The Philadelphia-based 3rd U.S. Circuit Court of Appeals voted to have the full court rehear the case of a Pennsylvania man convicted of welfare fraud who argued the firearm ban violates the U.S. Constitution's Second Amendment right to bear arms. Pelullo has been making similar if not the exact same arguments since 2012 throughout his case in District Court and the Third Circuit.
8. In a 50 page precedential opinion, a three-judge panel in November ruled against Bryan Range, who had argued it was unconstitutional under the U.S. Supreme Court's June holding in *New York State Rifle & Pistol Association v. Bruen*. In that case, a 6-3 majority of the justices declared for the first time that the Second Amendment protects an individual's right to carry a handgun in public for self-defense.
9. The ruling, authored by Justice Clarence Thomas, instructed courts going forward to determine if gun restrictions are "consistent with the Nation's historical tradition of firearm regulation."
10. Range, who pleaded guilty in 1995 to welfare fraud in Pennsylvania to obtain \$2,458 of food stamps, invoked the high court's ruling in his appeal.

He said the ban on felons buying guns adopted in the Gun Control Act of 1968 had prevented him from buying a hunting rifle because his attempted purchases were flagged by a federal background check system and that, but for the prohibition, he might also buy a handgun for self-defense. The three-judge panel, in an unsigned opinion, cited "history and tradition" in finding that individuals constitutionally entitled to bear arms are the "law-abiding, responsible citizens." That category, the panel held, "properly excludes those who have demonstrated disregard for the rule of law through the commission of felony and felony-equivalent offenses, whether or not those crimes are violent."

11. The *Range* case will now be heard en banc on Feb. 15, 2023 by the full 3rd Circuit Panel of Judges. The *Range* case is of particular importance to Petitioner Pelullo's arguments especially since it is the same issue from the same circuit.

12. Another reason we are seeking this extension is to also to seek a STAY in the Third Circuit based on the *Range* case.

13. In accordance with Supreme Court Rule 13.5, this Application is submitted at least ten (10) days prior to the present due date. Further, the requested extension is made in good faith and not for the purposes of delay. Indeed, the requested extension is made because of the vital importance associated

with the issues at hand – Second Amendment rights in light of *Bruen*. This Court has repeatedly emphasized that “our duty to search for constitutional error with painstaking care is never more exacting than it is in a capital case.” *Burger v. Kemp*, 483 U.S. 776, 785 (1987).

14. It is respectfully submitted that counsel’s duty to present all authorized claims of constitutional error with care is of equal import. Thus, it is important that counsel be granted additional time to prepare Mr. Pelullo’s petition with the care demanded of such cases inclusive of seeking amicus review by learned counsel including seeking a STAY in the Third Circuit which may obviate the need to continue with this writ to this Court at this present time.

15. Therefore, in light of counsel’s current obligations and the importance of the constitutional issues that will be presented in this case, counsel submits that his obligation to consider the outcome of the Third Circuits February 15, 2023 full panel En Banc Hearing in *Range v. Garland* No. 21-2835, an additional (30) day extension is necessary and appropriate in order to effectively prepare the petition for certiorari on Mr. Pelullo’s behalf.

Wherefore, in the interest of justice and for good cause shown, counsel for Mr. Pelullo respectfully request that this Court grant an additional (30) day extension to February 20, 2023.

Respectfully Submitted,

Date: January 10, 2023

/s/ Troy A. Archie
Troy A. Archie, Esquire
Afonso, Archie & Foley P.C.
21 Route 130 South
Cinnaminson, NJ 08077
T: (856) 786-7000
F: (856) 385-8181
archie@aafnjlaw.com
Counsel for Petitioner Pelullo