

No. _____

Seventh Circuit Appeal No. 19-2373

IN THE
SUPREME COURT OF THE UNITED STATES

ERIN GRAHAM, JR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR A WRIT OF CERTIORARI**

EXHIBIT A – AFFIDAVIT OF COUNSEL

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**AFFIDAVIT OF ADAM STEVENSON
IN SUPPORT OF APPLICATION FOR EXTENSION OF TIME TO
PETITION FOR A WRIT OF CERTIORARI**

I submit this affidavit in support of Erin Graham's Application for
Extension of Time to File Petition for a Writ of Certiorari:

1. On July 29, 2019, pursuant to the Criminal Justice Act of 1964, the Court of Appeals for the Seventh Circuit ("Court of Appeals") appointed me to represent Erin Graham, Jr., in his direct appeal arising out of the District Court for the Western District of Wisconsin ("District Court"). (Exhibit B.) Mr. Graham is in federal custody at FCI Petersburg. His projected release date is currently August 18, 2038.
2. On August 29, 2022, the Court of Appeals issued its opinion affirming Mr. Graham's conviction. (Exhibit C.)

3. Mr. Perez then timely filed a petition for rehearing and suggestion for rehearing *en banc*. On October 28, 2022, the Court of Appeals denied that petition. (Exhibit D.)
4. In its opinion, the Court of Appeals held that video statements alleging criminal conduct on the part of Mr. Graham's co-defendant was not testimonial. As a result, the introduction of that testimony without the opportunity to cross-examine the witness did not violate the Confrontation Clause. (Exhibit C.)
5. There is at a minimum a reasonable prospect that this Court will grant *certiorari* and potentially reverse the decision of the Court of Appeals. The issue in this case involves the Court's Confrontation Clause line of precedent with regard to when a statement is testimonial. Specifically, this case involves questions regarding whether an ongoing emergency exists the Court addressed in *Davis v. Washington*, 547 U.S. 813 (2006) (as well as the consolidated *Hammon v. Indiana*) and *Michigan v. Bryant*, 562 U.S. 344 (2011).
6. In addition, Mr. Graham's case also features the recorded, incriminating statements of an identified co-defendant and co-conspirator, which implicates *Bruton v. United States*, 391 U.S. 123 (1968) and a case the Court recently accepted for consideration, *Samia v. United States*, Supreme Court Case No. 22196.

7. Counsel has in the past been, and currently is, engaged in other litigation currently in ongoing briefing. This work includes another planned petition to this Court arising out of *United States v. Christopher Ramirez*, Seventh Circuit Appeal No. 21-2587. It also includes briefing in *United States v. Bryant Aron*, Seventh Circuit Appeal No. 22-2364 and *United States v. Gilbert Bicknell*, Seventh Circuit Appeal No. 22-2268. These cases are in addition to several other legal matters while running a federal postconviction law school clinic and directing the University of Wisconsin Law School's prison-based clinical programs.
8. In addition to other casework, counsel is not a full-time practicing attorney, and is instead the director of a legal clinic at the University of Wisconsin Law School and classroom criminal law instructor in the fall. Due to the educational nature and structure of the project and counsel's work directing it, counsel has additional time commitments in addition to, and apart from, litigation. Though not itself a basis for an extension given the general time commitments of members of the bar, in combination with the casework listed above, these matters demonstrate the need for additional time to effectively represent Mr. Graham's interests before this Court.

9. Mr. Graham is aware of the possibility that counsel would need to file such a motion for an extension of time to petition the Court. Mr. Graham has no objections to requesting a 45-day extension.
10. There is no prejudice to the respondent by the granting of this motion, which would serve justice and the public interest.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 11th day of December, 2022.



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ERIN GRAHAM, JR.

State of Wisconsin
County of Dane

This document was signed before me on 12.19.22 by Adam Stevenson

Rachel Burg
Name: Rachel Burg
Notary Expiration Date: permanent

NOTARY STAMP/SEAL

