

NO:

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2021

ORVILLE TUCKER,

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
ELEVENTH CIRCUIT**

**TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE JUSTICE OF
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT
JUSTICE FOR THE ELEVENTH CIRCUIT**

Pursuant to Supreme Court Rules 13.5, 22, and 30.3, Petitioner Orville Tucker respectfully requests a thirty-day extension of time, to and including September 15, 2022, within which to file a petition for a writ of certiorari from the judgment of the United States Court of Appeals for the Eleventh Circuit. Mr. Tucker has not previously sought an extension of time from this Court.

Petitioner is filing this Application at least ten days before the filing date, which is August 16, 2022. *See* S.Ct. R. 13.5. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1).

In 1997, Mr. Tucker was convicted in the Southern District of Florida of conspiracy to commit Hobbs Act robbery, substantive Hobbs Act robbery, carjacking, and two counts of using and carrying a firearm during a “crime of violence” (the Hobbs Act robbery and carjacking). Applying the version of 18 U.S.C. § 924(c)(1)(C)(i) in effect at that time, as well as the Career Offender guideline on the Hobbs Act and carjacking counts, the court sentenced him to 510 months imprisonment.

After the First Step Act of 2018 newly authorized defendant-filed motions to modify a sentence for extraordinary and compelling reasons in 18 U.S.C. § 3582(c)(1)(A)(i), Mr. Tucker moved the district court to grant him compassionate release pursuant to that statute, due to the amendment that the First Step Act made to the § 924(c) stacking rules, as well as intervening changes in the law which confirmed that he had been erroneously sentenced as a Career Offender. He argued that had he been sentenced under current law, he would have already served the term that likely would have been imposed. The district court, however, denied his motion, and on May 18, 2022, the Eleventh Circuit affirmed the district court. A copy of the Eleventh Circuit Opinion is attached as Appendix A hereto. The petition for certiorari is due on August 16, 2022.

Undersigned counsel will not have sufficient time to file the petition for writ of certiorari for Mr. Tucker by August 16, 2022 because she has recently returned from

annual leave, upon her return counsel filed briefs in two cases, and she has other competing case matters due during this same time period.

As noted, Mr. Tucker is serving a 510-month term of imprisonment. No party will be prejudiced by the granting of a thirty-day extension.

Since the time within which to file a petition for writ of certiorari in this case will expire on August 16, 2022 unless extended, Petitioner respectfully requests that an order be entered extending his time to file a petition for writ of certiorari by thirty days, to and including September 15, 2022.

Respectfully submitted,

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FEDERAL PUBLIC DEFENDER

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