

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

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IN THE  
SUPREME COURT OF THE UNITED STATES

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RONNIE R. LOVELL,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

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

To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

Petitioner, Ronnie Lovell, by his counsel, respectfully requests pursuant to Supreme Court Rule 13.5 and Rule 22 that the time for filing a petition for writ of certiorari in this matter be extended for 60 days to and including June 10, 2023. The United States Court of Appeals for the Sixth Circuit issued its judgment and opinion on February 10, 2023, affirming Mr. Lovell's term of incarceration. (*See Appendix.*) Mr. Lovell's time to petition for writ of certiorari in this Court would therefore expire on May 11, 2023, absent an extension. Mr. Lovell files this application at least ten days before that date, and supports his request as follows:

1. Mr. Lovell was resentenced to his current term of incarceration on October 27, 2020, to serve 180 months in prison followed by three years of supervised release for the charge of being a felon in possession of ammunition under 18 U.S.C. § 922(g)(1). At his resentencing the district court determined that he qualified for the Armed Career Criminal Act, 18 U.S.C. § 924(e) (“ACCA”), which required a 15-year (180-month) mandatory minimum term of incarceration and simultaneously increased his guideline range under the United States Sentencing Guidelines by at least 9 years and 10 months (*i.e.*, 110 months). Mr. Lovell objected to the application of ACCA, arguing that his Tennessee aggravated burglary convictions did not qualify as “violent felonies.” His objection was overruled, and he appealed.

2. While his appeal was pending, this Court granted certiorari review in *Wooden v. United States*, 20-5279, and ultimately issued its opinion *Wooden v. United States*, 142 S. Ct. 1063 (2022). Before the Sixth Circuit, and based on *Wooden*, Mr. Lovell argued that his prior aggravated burglary offenses should be counted as a single “occasion.” He also argued that the new “occasions different” test announced in *Wooden* rendered the “occasions different” fact an element that must be charged in the indictment and either admitted by himself or proven to a jury beyond a reasonable doubt.

3. The Sixth Circuit upheld his ACCA designation. It first held that remand was unwarranted on his factual argument by finding that any conclusion that his prior burglaries occurred on “occasions different” was not plainly

erroneous. (Appendix at 7a.) It then rejected his Sixth Amendment argument, concluding that the *Apprendi v. New Jersey*, 530 U.S. 466 (2000) requirement that any fact (other than the fact of a prior conviction) that increases a statutory maximum must be charged in the indictment and proven to a jury beyond a reasonable doubt did not apply here, because it was bound by prior Sixth Circuit case law that predated this Court's *Wooden* opinion. (Appendix at 8a.) Finding itself so bound, it found that the ACCA "occasions different" question was not subject to *Apprendi's* Sixth Amendment requirement of inclusion in the indictment and of being proven to a jury beyond a reasonable doubt. (*Id.*) This is accordingly an appeal from the application of ACCA's mandatory minimum to Mr. Lovell.

4. Good cause supports granting an extension of time. In the time since the lower court issued its judgment, undersigned counsel has been responsible for an unusually large number of briefs and other filing. Despite due diligence on the part of counsel, the press of these and other responsibilities have left insufficient time in which to prepare the petition.

Mr. Lovell therefore asks this Court to extend the time to file a petition for a writ of certiorari by 60 days, up to and including June 10, 2023.

Respectfully submitted,

*s/ Erin P. Rust*

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