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NO. 23A406

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IN THE

**Supreme Court of the United States**

\_\_\_\_\_ TERM, 20\_\_

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Sylvester Cunningham- Petitioner,

vs.

United States of America - Respondent.

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Application for Extension of Time Within  
Which to File for a Writ of Certiorari to the United States Court of Appeals  
for the Eighth Circuit

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**APPLICATION DIRECTED TO THE HONORABLE JUSTICE  
BRETT KAVANAUGH AS CIRCUIT JUSTICE**

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Heather Quick  
Appellate Chief  
First Assistant Federal Public Defender  
222 Third Avenue SE, Suite 290  
Cedar Rapids, IA 52401  
TELEPHONE: 319-363-9540  
FAX: 319-363-9542

ATTORNEY FOR PETITIONER

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Comes Now petitioner Sylvester Cunningham, through his attorney of record, Assistant Federal Public Defender Heather Quick, who, pursuant to Supreme Court Rule 13.5, requests an additional thirty days in which to file a petition in this Court seeking certiorari to the Eighth Circuit Court of Appeals, up through Monday, January 29, 2024. In support, counsel submits as follows:

**JUDGMENT FOR WHICH REVIEW IS SOUGHT**

Petitioner seeks an extension to file a petition for writ of certiorari. Petitioner is requesting review of the judgment issued by the Eighth Circuit Court of Appeals on June 13, 2023, affirming the petitioner's conviction and sentence. Petitioner filed a timely motion for petition for rehearing en banc, which the Eighth Circuit denied on August 30, 2023.

**JURISDICTION**

This Court will have jurisdiction over the timely filed petition pursuant to 28 U.S.C. § 1254(1). Under Supreme Court Rules 13.1, 13.3, and 30.1, the current deadline for the filing of a petition for writ of certiorari is Thursday, December 28, 2023. Petitioner files this request for additional time at least 10 days before the date the petition is currently due, in compliance with Supreme Court Rule 13.5.

**REASONS FOR APPLICATION FOR EXTENSION**

Applicant respectfully request an additional 30-day extension of time within which to file a petition for a writ of certiorari seeking review of the decision of the

United States Court of Appeals for the Eighth Circuit in this case, up to and including Monday, January 29, 2024.

Defense counsel has a variety of other obligations before the federal judiciary. For example, in the last four weeks counsel of record has submitted two appellant's brief, two responses to Government motions and a reply brief to the Eighth Circuit Court of Appeals. Counsel of record has also submitted a Motion for Compassionate Release to the district court for the Southern District of Iowa in that time. Further, in the next four weeks, counsel of record has nine initial briefs and a petition for rehearing due to the Eighth Circuit Court of Appeals. The undersigned also has an additional Petition for Writ of Certiorari due to this Court in another matter in that time frame. These obligations will make it difficult for counsel to finalize and file a satisfactory petition by the current deadline, despite counsel's diligent efforts to do so.

### **CONCLUSION**

For the foregoing reasons, the petitioner respectfully requests that this Court grant a 30-day extension, to and including Monday, January 29, 2024, in which to file a petition for a writ of certiorari.

RESPECTFULLY SUBMITTED,

/s/ Heather Quick  
Heather Quick  
Appellate Chief  
First Assistant Federal Public Defender  
222 Third Avenue SE, Suite 290

Cedar Rapids, IA 52401  
TELEPHONE: 319-363-9540  
FAX: 319-363-9542

ATTORNEY FOR PETITIONER