

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

IN THE SUPREME COURT OF THE UNITED STATES

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PATRICK GROVES,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent

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APPLICATION FOR EXTENSION OF TIME TO FILE  
PETITION FOR WRIT OF CERTIORARI PURSUANT TO RULE 13(5)

1. Petitioner, Patrick Groves, pursuant to Rule 13(5), Rules of the Supreme Court, respectfully seeks a sixty (60) day extension of time within which to file his petition for writ of certiorari in this Court. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254. This application is submitted more than ten (10) days prior to the scheduled filing date for the Petition. The pertinent dates are:

- a. **April 14, 2023:** Issuance of written opinion of United States Court of Appeals for the Fourth Circuit, *United States v. Groves*, No. 22-4095, 65 F.4th 166 (4th Cir. 2023). A copy of the opinion is attached hereto as Exhibit A.
- b. **April 28, 2023:** Petitioner filed a petition for rehearing *en banc* pursuant to Rule 40 of the Federal Rules of Appellate Procedure.
- c. **May 12, 2023:** Issuance of written order denying rehearing *en banc*. A copy of this order is attached hereto as Exhibit B.

- d. **August 1, 2023:** Deadline for seeking extension of time within which to file a petition for writ of *certiorari* in the United States Supreme Court.
- e. **August 10, 2023:** Expiration of time for filing a petition for writ of *certiorari* in the United States Supreme Court, unless extended.

2. In *Groves*, the Fourth Circuit Court of Appeals held, in relevant part, an “attempted transfer” of controlled substances, 21 U.S.C. § 802(8), had *no* conduct in common with an “attempted distribution” of controlled substances, 21 U.S.C. § 846. 65 F.4th at 173-74. It also held, in relevant part, that a federal conviction for aiding and abetting a controlled substance distribution offense, in violation of both 18 U.S.C. § 2 and 21 U.S.C. § 841, did not sweep more broadly than distribution alone under the categorical approach. *Id.* at 170-71.

3. For a combination of reasons, there has regrettably been insufficient time to date for counsel to meet the current deadline of August 10, 2023. These include the demands of other cases, counsel’s obligations and briefs in the Northern District of West Virginia and the Fourth Circuit Court of Appeals. In addition, counsel has had to unexpectedly take significant medical leave in recent weeks for complications from two sudden-onset illnesses. Those required multiple doctor visits, an urgent care visit, and ultimately referral and admission to the Emergency Room for advanced treatment. Additionally, from July 31, 2023 to August 6, 2023, counsel will be out of the office and out of state on pre-booked, nonrefundable travel, leaving insufficient future time before August 10, 2023 to complete Groves’ petition.

4. Petitioner intends to ask this Court to grant review on important questions of federal law concerning whether the Court of Appeals correctly conducted the categorical approach comparison, which in turn also involves important questions of statutory interpretation of terms in the federal controlled substance statutes—21 U.S.C. §§ 841, 846, and 802. Petitioner respectfully believes that the Court of Appeals’ rulings on these important questions of federal law are contrary to this Court’s precedent, warranting review pursuant to Supreme Court Rule 10(c).

5. On July 26, 2023, undersigned counsel contacted the Office of the Solicitor General in an effort to obtain the government’s position on this request, and left both a contact number and email address as directed by the Solicitor General. As of the date of filing, however, no response has been received.

For the foregoing reasons, Petitioner Groves respectfully prays that this Court grant an extension of sixty (60) days to and including Monday, October 9, 2023, within which to file his petition for writ of *certiorari*.

Respectfully submitted, this the 31st day of July, 2023.

/s/ Jenny R. Thoma  
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