

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

---

IN THE  
**Supreme Court of the United States**

---

MONTERIAL WESLEY,  
*Petitioner,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

---

On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Tenth Circuit

---

**APPLICATION FOR EXTENSION OF TIME  
TO FILE PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT**

---

MELODY BRANNON  
Federal Public Defender

DANIEL T. HANSMEIER  
Appellate Chief

KAYLA GASSMANN  
Assistant Federal Public Defender  
*Counsel of Record*

KANSAS FEDERAL PUBLIC DEFENDER  
500 State Avenue, Suite 201  
Kansas City, Kansas 66101  
Phone: (913) 551-6712  
Email: [kayla\\_gassmann@fd.org](mailto:kayla_gassmann@fd.org)  
*Counsel for Petitioner*

---

To the Honorable Neil M. Gorsuch, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Tenth Circuit:

Petitioner Monterial Wesley, by undersigned counsel, prays for a 30-day extension of time, to and including Wednesday, December 27, 2023, in which to file a petition for a writ of certiorari. In support of this request, counsel states as follows:

1. On February 28, 2023, the United States Court of Appeals for the Tenth Circuit affirmed the district court's partial dismissal and partial denial of Mr. Wesley's motion to reduce sentence under 18 U.S.C. § 3582(c)(1)(A). (Attachment A.) On August 28, 2023, the United States Court of Appeals for the Tenth Circuit denied Mr. Wesley's timely petition for rehearing en banc. (Attachment B.)

2. Mr. Wesley has ninety days from the date of the denial of the petition for rehearing to file a petition for a writ of certiorari. Sup. Ct. R. 13.3. The petition is therefore due on November 27, 2023. This application is being filed at least ten days before that date.

3. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

4. Counsel who litigated this case in the Tenth Circuit and will file the petition has been unable to complete the petition to date and will be unable to complete it by the current due date given other obligations. Since the Tenth Circuit Court of Appeals' order denying en banc rehearing in this case, counsel has resolved the appeal in *United States v. Schurle*, 10th Cir. No. 23-3088 (dismissed September 1, 2023); prepared and presented oral argument at the Tenth Circuit in *United States*

*v. Area*, 10th Cir. Nos. 22-3185 & 22-3187 (sealed case; argued September 21, 2023); filed a response to a motion to dismiss in *United States v. Morris*, 10th Cir. No. 23-3148 (filed October 1, 2023); and filed the reply brief in *United States v. Jackson*, 10th Cir. No. 23-3011 (filed October 16, 2023). Counsel also completed and filed an extensive motion for a sentence reduction under 18 U.S.C. § 3582(c)(1)(A) in *United States v. Kayarath*, D. Kan. Nos. 6:94-cr-10128 & 6:94-cr-10123 (filed October 24, 2023), two cases involving a sentence of life plus 20 years for a teenage offender. Counsel is also scheduled to present oral argument to the Tenth Circuit in two more appeals on November 16, 2023, for which she must prepare: *United States v. Kearn*, 10th Cir. No. 23-3029 (scheduled argument November 16, 2023), and *United States v. Gentry*, 10th Cir. No. 23-3030 (scheduled argument November 16, 2023). Counsel was also out of the office on pre-scheduled annual leave from October 20, 2023 to October 30, 2023.

5. In addition, the Chief Judge of the District of Kansas appointed the Federal Public Defender to identify and pursue relief for people eligible under Amendment 821 to the Sentencing Guidelines, which the Sentencing Commission has made retroactive. See District of Kansas, Standing Order No. 23-03, available at <https://ksd.uscourts.gov/standing-orders>. Under that order, since August 2023, counsel has been primarily responsible for the initiative within the Federal Public Defender to identify people eligible for retroactive relief under Part A of Amendment 821, which removed status points from criminal history scoring, and made relief retroactive to people whose guidelines range would be lowered by the

change under 18 U.S.C. § 3582(c)(2). So far, counsel has personally reviewed 874 potentially eligible clients, gathered and reviewed case documents, identified over 100 eligible clients, communicated with eligible and non-eligible clients, and is pursuing sentence reductions for eligible clients.

6. Given their own current caseloads, no other attorney in the Office of the Federal Public Defender is in a position to file the petition by its current due date. For this reason as well, we respectfully request that an order be entered extending the time in which to petition for a writ of certiorari by 30 days, to and including, Wednesday, December 27, 2023. *See* Sup. Ct. R. 13.5.

Respectfully submitted,

MELODY BRANNON  
Federal Public Defender

DANIEL T. HANSMEIER  
Appellate Chief



---

KAYLA GASSMANN  
Assistant Federal Public Defender  
Counsel of Record  
KANSAS FEDERAL PUBLIC DEFENDER  
500 State Avenue, Suite 201  
Kansas City, Kansas 66101  
Phone: (913) 551-6712  
Email: [kayla\\_gassmann@fd.org](mailto:kayla_gassmann@fd.org)  
*Counsel for Petitioner*