

No. _____

In the Supreme Court of the United States

Juan Alberto Ortiz-Orellana,
Petitioner,

v.

United States of America,
Respondent.

**Application for Extension of Time in Which to
File a Petition for a Writ of Certiorari**

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and Circuit Justice for the Fourth Circuit:

Petitioner Juan Alberto Ortiz-Orellana, pursuant to Supreme Court Rules 13.5 and 22, respectfully makes an application to extend by 60 days the time in which to file a petition for writ of certiorari from the judgment entered by the United States Court of Appeals for the Fourth Circuit. In support thereof, counsel states the following:

1. Mr. Ortiz-Orellana was convicted after a jury trial of conspiracy under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1962(d) (Count 1); murder in aid of racketeering in violation of the Violent Crimes in Aid of Racketeering statute, 18 U.S.C. §

1959(a)(1)(VICAR) (Count 6 and 8); VICAR conspiracy to commit murder, in violation of 18 U.S.C. § 1959(a)(5) (Count 7); discharging a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(iii) (Count 9); and murder resulting from the Section 924(c)(1) offense, in violation of 18 U.S.C. § 924(j) (Count 10).

2. The district court sentenced Mr. Ortiz-Orellana to concurrent terms of life imprisonment on Counts 1 and 8; a concurrent term of seven years on Count 7; and a ten-year term on Count 9 and life term on Count 10, concurrent to each other but consecutive to the other terms. He appealed his conviction and sentence.

3. On appeal, Mr. Ortiz-Orellana renewed his argument that his § 924 convictions are not supported by a valid predicate “crime of violence,” under the force clause of 18 U.S.C. § 924(c)(3)(A). *See Borden v. United States*, 593 U.S. 420, 141 S. Ct. 1817, 1822, 210 L.Ed.2d 63 (2021) (holding that an offense committed “recklessly” fails to qualify as a violent felony).

4. On January 10, 2024, the Fourth Circuit issued a published opinion that rejected Mr. Ortiz-Orellana’s argument. *United States v. Ortiz-Orellana*, 90 F.4th 689 (4th Cir. 2024), *affirmed in part, vacated in part, and remanding*; see Appendix A.

5. On January 16, 2024, Mr. Ortiz-Orellana filed a timely petition for rehearing en banc, raising the “crime of violence” claim once again. The Fourth Circuit denied Mr. Ortiz-Orellana’s petition on February 7, 2024. See Appendix B.

6. This Court has jurisdiction over Mr. Ortiz-Orellana’s case under 28 U.S.C. § 1254(1). His petition for a writ of certiorari is currently due on May 7, 2024.

7. Since Mr. Ortiz-Orellana’s en banc petition was denied, undersigned counsel, who is a solo practitioner and was appointed under the Criminal Justice Act in the instant case, has been busy with numerous matters in both the district court and the Fourth Circuit as well as the United States Court of Appeals for the D.C. Circuit. Undersigned counsel just completed a jury trial on April 26, 2024 and has an oral argument scheduled before the Fourth Circuit on May 6, 2024 and an argument before the D.C. Circuit on May 15, 2024. Accordingly, counsel requires additional time to prepare a petition for writ of certiorari in Mr. Ortiz-Orellana’s case.

7. A request to the Solicitor General’s office was emailed to ascertain the government’s position on this request, but no response has been received.

8. For the reasons described above, Mr. Ortiz-Orellana respectfully requests that the Court grant a 60-day extension of the deadline to file a petition for a writ of certiorari.

Respectfully submitted,

/s/ Carmen D. Hernandez

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