

OCTOBER TERM 2024

**CASE NO. _____
IN THE SUPREME COURT OF THE UNITED STATES**

DAJAVAN SPEAKS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITIONER, Dajavan Speaks, through undersigned counsel, respectfully moves for an extension of thirty days to prepare and file his Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit. In support of this unopposed request, Petitioner respectfully submits:

1. On February 24th, 2022, Mr. Speaks was arrested by the Philadelphia Police Department and a handgun was found on his person. He was charged federally on May 18, 2022. Prior to his arrest, Mr. Speaks had been the victim of a drive-by shooting where his best friend was killed. At the time of his arrest, Mr. Speaks was not serving any sentence and was not on probation or parole.

2. Following the appointment of trial counsel, Mr. Speaks pled guilty to a one count indictment under 18 U.S.C. § 922(g)(1), after which he was sentenced to a

term of forty months of incarceration and three years of supervised release. He is currently on supervised release.

3. After his plea, Mr. Speaks filed a pro se Motion to Vacate, Set Aside, or Correct a Sentence by a Person in Federal Custody Under 28 U.S.C. § 2255 on July 20, 2023. He asserted that his conviction violated his Second Amendment rights and that his plea counsel was constitutionally ineffective.

4. Following appointment of habeas counsel and the parties submitted additional briefing. The government stipulated that Mr. Speaks' Second Amendment issues could be determined on the merits. Dist. Ct. ECF No. 51. After entertaining oral argument, the District Court denied Mr. Speaks' Petition, declined to issue a Certificate of Appealability (COA), Dist. Ct. ECF Nos. 64 & 65, and denied reconsideration. Dist. Ct. ECF Nos. 73 & 74.

5. Mr. Speaks timely appealed to the United States Court of Appeals for the Third Circuit where he sought a COA. The court of appeals denied Mr. Speaks' request for a COA on November 4, 2024. Exhibit A.

6. Mr. Speaks' filed a Petition for Panel Rehearing on February 5, 2025, which the court denied on February 20, 2025. Exhibit B. He seeks to file with this Court a Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit, regarding that court's denial of a COA.

7. Petitioner's Petition for Writ of Certiorari is due May 21, 2025. *See* U.S. Supreme Court Rule 13.1, 13.3. This Court has jurisdiction over that petition under 28 U.S.C. § 1254(1). In accordance with this Court's Rules, Petitioner's request for an

extension of time is being made more than ten days in advance of the current due date. Supreme Court Rule 13.5.

8. Petitioner respectfully submits that good cause exists to grant the extension in light of the complexity of the issues in Petitioner’s case and undersigned counsel’s workload including responsibilities in several capital cases.

9. The complexity of the case is underscored by the fact that the circuit courts have differing approaches to considering the constitutionality of § 922(g)(1). The Third Circuit, sitting en banc, struck down § 922(g)(1) as applied to an individual convicted of food stamp fraud who did not “pose[] a physical danger to others.” *Range v. Attorney General*, 124 F.4th 218 (3d Cir. 2024). The Fourth and Eighth Circuits have upheld § 922(g)(1) as constitutional without the need for as-applied challenges or “felony by felony” litigation respectively. *United States v. Hunt*, 123 F.4th 697 (4th Cir. 2024); and *United States v. Jackson*, 110 F.4th 1120, 1125 (8th Cir. 2024). The Ninth Circuit—in a decision that has been vacated pending en banc review—held that § 922(g)(1) is unconstitutional as applied to a defendant with only non-violent convictions. *United States v. Duarte*, 101 F.4th 657 (9th Cir. 2024), *reh’g en banc granted, opinion vacated*, 108 F.4th 786 (9th Cir. 2024). And the Sixth and Seventh Circuits have recognized that as-applied challenges to § 922(g)(1) are available in some instances. *United States v. Williams*, 113 F.4th 637(6th Cir. 2024); *United States v. Gay*, 98 F.4th 843 (7th Cir. 2024).

10. Counsel therefore requests a thirty-day extension of time in which to research, prepare and file a petition for writ of certiorari. On May 8, 2025, counsel for

Petitioner contacted counsel for Respondent, AUSA Christopher Diviny who indicated that Respondent does not oppose this motion.

WHEREFORE, Petitioner prays that the Court allow a thirty-day extension of time for the preparation and filing of his Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

Respectfully submitted,

/s/ Samuel Angell

Samuel Angell
Federal Community Defender Office
for the Eastern District of Pennsylvania
Suite 545 West – The Curtis
601 Walnut Street
Philadelphia, PA 19106
(215) 928-0520
Counsel for Petitioner, Dajavan Speaks

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