

No. 18A-_____

In the Supreme Court of the United States

RANDY N. JOHNSON, PETITIONER

v.

UNITED STATES OF AMERICA, RESPONDENT

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

TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE
SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR
THE SEVENTH CIRCUIT:

Pursuant to this Court's Rules 13.5 and 30.2, petitioner Randy Johnson prays for a 60-day extension, or until March 26, 2018, to file his petition for a writ of certiorari in this Court.

1. Timeliness, Jurisdiction, and Opinion Below. On October 27, 2017, the United States Court of Appeals for the Seventh Circuit issued an en banc decision affirming Mr. Johnson's conviction for unlawful firearm possession under 18 U.S.C. § 922(g)(1). The district court's judgment is contained in

Appendix A, and the Seventh Circuit's en banc decision is contained in Appendix B. A petition for writ of certiorari would be due, pursuant to this Court's Rules 13.1, 13.3, and 30.1 on or before January 25, 2018. This application is being filed more than ten days before that date. *See* Rule 30.2. The jurisdiction of this Court is to be invoked under 28 U.S.C. § 1254(1).

2. Reasons for Granting the Extension.

a. Procedural History.

The applicant, Randy N. Johnson, was convicted of being a prohibited person in possession of a firearm under 18 U.S.C. § 922(g)(1). He was sentenced to 46 months in prison and three years of supervised release. Mr. Johnson entered a conditional guilty plea, following the unsuccessful litigation of a motion to suppress, contesting his seizure by police. Namely, Mr. Johnson had been a passenger in a car that was idling in a loading zone in front of a corner store; five police officers in two squad cars surrounded, seized, and entered the car, after observing it for only a few seconds, allegedly to investigate a suspected parking infraction. The district court denied his motion to suppress, and the Seventh Circuit Court of Appeals affirmed, granted rehearing en banc, and then affirmed again. Undersigned counsel represents Mr. Johnson on appeal, and represented him in the district court, pursuant to 18 U.S.C. § 3006A.

b. Grounds for Certiorari Exist.

In undersigned counsel's professional opinion, this case presents a federal issue worthy of presentation to this Court in a petition for writ of certiorari: Whether law enforcement can seize individuals under *Terry v. Ohio*, 392 U.S. 1 (1968), to investigate de minimis civil infractions, such as possible parking violations?

3. The need for an extension of time.

The petition is currently due January 25, 2017. Mr. Johnson has completed his federal prison sentence, and is currently serving his three-year term of supervised release. Unfortunately, Mr. Johnson has fallen out of touch with undersigned counsel. (This lack of communication began, perhaps out of frustration, after the Seventh Circuit issued its en banc decision.) So as of this date, Mr. Johnson has yet to inform counsel whether he wishes to pursue a writ of certiorari to this Court. That said, Mr. Johnson had previously expressed strong interest in continuing to appeal his case.

Undersigned counsel has also been in discussions with attorneys from a nonprofit legal organization about assisting with the drafting and filing of a writ of certiorari in Mr. Johnson's case. These discussions, unfortunately, have been delayed by travel and family commitments over the last several weeks, as well as by the communication issues between counsel and Mr. Johnson noted above, and

have yet to result in a formal agreement between undersigned counsel and the nonprofit legal organization.

In addition, counsel requires more time to complete the research and writing that is required to support a fully-developed writ of certiorari. Several different commitments have prevented him from having adequate time to do so. These other commitments have included multiple court appearances and hearings (including contested sentencing hearings, bond hearings, and supervised release revocation hearings); several pre-scheduled meetings with various clients (who are both in and out of custody), probation officers, prosecutors, other lawyers, and clients' families; and other day-to-day tasks associated with undersigned counsel's practice—including reviewing discovery, researching and filing pretrial motions in cases subject to Speedy Trial Act deadlines, negotiating with prosecutors, and corresponding and communicating with clients. In addition, undersigned counsel and his family have been out of town several times for family events since the issuance of the Seventh Circuit's en banc decision (including for a wedding, a long-planned out-of-state vacation with extended family, celebration of the Thanksgiving holiday, and other commitments).

An additional 60 days past the current deadline of January 25th, 2018 is required as undersigned counsel's calendar is crowded for the remainder of

January and February 2018, with a Seventh Circuit oral argument scheduled for early February, multiple contested revocation hearings set for mid-January, several complex sentencings set for January and February, and a pending trial set for late February 2018, where a client faces a mandatory minimum prison term of 30 years' imprisonment.

WHEREFORE, the Applicant-Petitioner requests that an Order be entered extending by 60 days the time within which he may petition this Court for certiorari, to and including March 26th, 2018.

Respectfully submitted,

RANDY JOHNSON, *Applicant-Petitioner*

s/Anderson M. Gansner

Anderson M. Gansner

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JANUARY 2, 2018

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CERTIFICATE OF SERVICE

Pursuant to this Court's Rule 29.5(b), I certify that I have been appointed to represent Mr. Johnson on appeal below in the Seventh Circuit Court of Appeals pursuant to the Criminal Justice Act (CJA). I further certify that on January 2, 2018, at the time of express delivery to this Court, I served the foregoing Application, pursuant to Rules 29.3 and 29.4(a), on counsel for the respondent, by depositing a copy of the same, first class postage prepaid, in the United States mails, addressed to:

Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Ave. N.W.
Washington, D.C. 20530

Keith Alexander
Office of the United States Attorney
517 East Wisconsin Ave.
Room 530
Milwaukee, WI 53202

As a result, I state pursuant to Rule 29.5 that all parties required to be served have been served.

s/Anderson M. Gansner
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