

CASE NO. 17A-_____

SUPREME COURT OF THE UNITED STATES
October 2017 Term

HOSEA SWOPES,)
)
Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

APPLICATION DIRECTED TO JUSTICE GORSUCH FOR ADDITIONAL TIME TO FILE
PETITION FOR A WRIT OF CERTIORARI TO THE EIGHTH CIRCUIT COURT OF
APPEALS

Submitted on Behalf of Petitioner

Submitted By:

NANCI H. MCCARTHY
Assistant Federal Public Defender
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St. Louis, MO. 63101
(314) 241-1255

ATTORNEY FOR PETITIONER

To Justice Neil M. Gorsuch:

Comes Now petitioner Hosea Swopes, through his attorney of record, Assistant Federal Public Defender Nanci H. McCarthy, who, pursuant to Supreme Court Rule 13.5, requests 60 additional days in which to file a petition in this Court seeking certiorari to the Eighth Circuit Court of Appeals, up through August 26, 2018. In support, counsel submits as follows:

JURISDICTION

Petitioner seeks an extension to file a petition for writ of certiorari. Petitioner is requesting review of the judgment issued by the Eighth Circuit Court of Appeals on March 29, 2018, affirming the defendant's conviction and sentence for being a previously convicted felon in possession of a firearm, in violation of 18 U.S.C. §922(g)(1). Appendix 1. Petitioner did not file a motion for rehearing from the Eighth Circuit. The petition for writ of certiorari is originally due on Thursday, June 28, 2018. Petitioner files this request for additional time at least 10 days before the date the petition is currently due, in compliance with Supreme Court Rule 13.5.


REASONS FOR APPLICATION FOR EXTENSION

1. Defense counsel believes that petitioner's case raises a recurrent issue of exceptional importance concerning the interpretation of the problematic definitions used to enhance sentences under the Armed Career Criminal Act, 18 U.S.C. §924(e)(2)(B)(i), based on a recidivist provision focused on prior convictions qualifying under the Act's definitions for what constitutes a violent felony. The judgement counsel seeks to challenge raises the issue of whether the Missouri state offense of unarmed second degree robbery satisfies the "element of force" definition in the Armed Career Criminal Act.

2. Petitioner's counsel requests additional time due to the high number and increased complexity of criminal prosecutions she has been appointed to represent as an assistant federal public defender. Counsel makes this request with no dilatory purpose, but rather seeks to ensure proper presentation of the important federal questions raised in petitioner Swopes's case while also providing the effective representation of her dozens of other appointed clients.

WHEREFORE, petitioner requests leave to file his Petition for Writ of Certiorari, up through and including August 26, 2018.

Respectfully submitted,


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served this 12th Day of June, 2018, to Assistant United States Attorney Allison H. Behrens, U.S. Attorney's Office, 111 S. 10th Street, 20th Floor, St. Louis, MO 63102 by hand-delivery to that address, and by depositing a copy with a third-party commercial carrier for delivery within two-days time to the Office of the Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Ave. N.W., Washington, D.C. 20530-0001.



NANCI H. MCCARTHY
Assistant Federal Public Defender

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Appendix to Petitioner’s Motion for More Time to File Petition for a Writ of Certiorari

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1. *United States v. Hosea Swopes*, No. 16-1797,
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