

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

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IN THE  
SUPREME COURT OF THE UNITED STATES

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TODD STANDS ALONE,  
*Applicant,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

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

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**Application to the Honorable Amy Coney Barrett,  
as Circuit Justice for the Seventh Circuit**

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## APPLICATION FOR EXTENSION OF TIME

Pursuant to 28 U.S.C. § 2101(d) and Supreme Court Rules 13.5, 22, and 30, Applicant Todd Stands Alone hereby requests a 45-day extension of time within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit. With that extension, the petition would be due on or before January 3, 2022.

## JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *United States v. Todd Stands Alone*, No. 20-2018 (7th Cir. Aug. 23, 2021). The judgment and opinion of the Seventh Circuit (reported at 11 F.4th 532) are attached to this application as Exhibit A.

## JURISDICTION

The Seventh Circuit entered judgment on August 23, 2021. This Court's jurisdiction will be invoked under 28 U.S.C. § 1254. Under Rules 13.1, 13.3, and 30.1 of this Court, a petition for a writ of certiorari is due to be filed on or before November 19, 2021. In accordance with Rules 13.5 and 30.2, Applicant has filed this request more than 10 days in advance of that deadline.

## REASONS JUSTIFYING AN EXTENSION OF TIME

Applicant respectfully requests a 45-day extension of time, up to and including January 3, 2022, within which to file a petition for a writ of certiorari seeking review of the Seventh Circuit's decision in this case. An extension is warranted because of the importance of the issue presented and undersigned counsel's need for additional time to prepare a petition that will assist this Court in deciding whether to grant certiorari.

1. This case concerns whether assault is an essential element of a prosecution under 18 U.S.C. § 111. Before the Seventh Circuit issued its opinion in this case, that question already had split the courts of appeals. The Second, Ninth, and Tenth Circuits had concluded that assault *is* an essential element of the offense, while the Fourth, Fifth, and Sixth Circuits had concluded it is not. *Compare United States v. Wolfname*, 835 F.3d 1214, 1218–20 (10th Cir. 2016) (assault *is* an essential element); *United States v. Davis*, 690 F.3d 127, 135–36 (2d Cir. 2012) (same); *and United States v. Chapman*, 528 F.3d 1215, 1219–22 (9th Cir. 2008) (same), *with United States v. Briley*, 770 F.3d 267, 273–75 (4th Cir. 2014) (assault is *not* an essential element); *United States v. Williams*, 602 F.3d 313, 317–18 (5th Cir. 2010) (same); *United States v. Gagnon*, 553 F.3d 1021, 1026–27 (6th Cir. 2009) (same). With its opinion in this case, the Seventh Circuit joined the latter group and deepened the divide. In light of the uneven application of the law across the courts of appeals, this issue is of national importance and worthy of this Court's review.

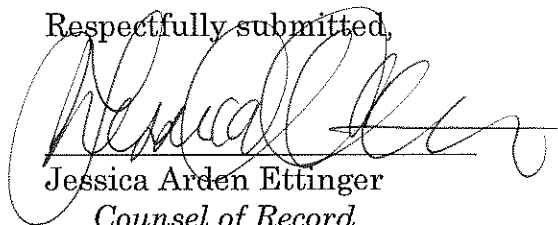
2. Undersigned counsel has begun work on the petition for a writ of certiorari, but additional time is warranted because counsel has multiple obligations that make it difficult to complete the petition by the current deadline. Undersigned counsel is responsible for filing opening briefs in support of federal habeas petitions on November 8th (*Montour v. Jess*, No. 19-cv-1604 (E.D. Wis.)) and November 17th (*Kyles v. Buesgen*, No. 20-cv-77 (E.D. Wis.)), a Seventh Circuit brief on December 6th (*United States v. Thayer*, No. 21-2385 (7th Cir.)), and a district court sentencing brief on December 6th (*United States v. Nelson*, No. 21-cr-344 (D.D.C.)). In addition, undersigned counsel is assisting other counsel at Federal Defender Services of Wisconsin, Inc., on cases stemming from the relocation of Afghan refugees to Fort McCoy. Those cases are both complex and complicated by language barriers.

### CONCLUSION

For these reasons, Applicant respectfully requests an extension of 45 days, to and including January 3, 2022, within which to file a petition for a writ of certiorari in this case.

Dated at Madison, Wisconsin this 4th day of November, 2021.

Respectfully submitted,



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