

NO: _____

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2021

BRYSHUN GENARD FURLOW,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**APPLICATION FOR AN EXTENSION OF TIME WITHIN
WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI FROM THE
JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE
FOURTH CIRCUIT**

**TO THE HONORABLE JOHN G. ROBERTS, JR., CHIEF JUSTICE OF
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT
JUSTICE FOR THE FOURTH CIRCUIT**

Pursuant to Supreme Court Rules 13.5, 22, and 30.3, Bryshun Genard Furlow respectfully requests an extension of time, to and including December 16, 2022, within which to file a petition for a writ of certiorari from the judgment of the United States Court of Appeals for the Fourth Circuit. Mr. Furlow has not previously sought an extension of time from this Court to file this petition.

Petitioner is filing this Application at least ten days before the filing date, which is October 17, 2022. *See* S. Ct. R. 13.5. The jurisdiction of this Court will be invoked under 28 U.S.C. §1254(1).

Mr. Furlow pled guilty in the District of South Carolina to two counts of violating 21 U.S.C. §§841(a)(1) and 841(b)(1)(C), and 18 U.S.C. §§922(g)(1), 924(a)(2), and 924(e). Mr. Furlow was sentenced to 180 months on each count to be served concurrently and a six-year term of supervised release. Mr. Furlow previously appealed to the Fourth Circuit, who affirmed, and then petitioned this Court for review. *Furlow v. United States*, No. 19-7007 (S. Ct. docketed Dec. 19, 2019); *United States v. Furlow*, 928 F.3d 311, 314 (4th Cir. 2019), *cert. granted, judgment vacated*, 207 L. Ed. 2d 157, 140 S. Ct. 2824 (2020). This Court granted the petition, vacated the judgment and remanded for the Fourth Circuit to consider the case in light of *Rehaif v. United States*, 139 S. Ct. 2191 (2019).

Upon reconsideration, the Fourth Circuit again affirmed. *United States v. Furlow*, No. 18-4531, 2022 WL 2817313 (4th Cir. July 19, 2022). Mr. Furlow intends to seek review by this Court. During the remand proceedings, Mr. Furlow pointed out new authoritative Fourth Circuit case law which would affect his sentence. Motion for Leave to Brief Additional Issues and Fed. R. App. P. 28(j) Letter, *United States v. Furlow*, No. 18-4531, 2022 WL 2817313 (4th Cir. July 19, 2022) (ECF Nos. 71, 79). The Fourth Circuit denied Mr. Furlow's motion for additional briefing on *United States v. Rogers*, 961 F.3d 291 (4th Cir. 2020) and *United States v. Singletary*, 984 F.3d 341 (4th Cir. 2021). Order, *Furlow*, No. 18-4531 (ECF No. 77). Mr. Furlow

filed a Rule 28(j) letter also pointing out two other binding Fourth Circuit cases would affect his sentence: *United States v. Campbell*, 22 F.4th 438 (4th Cir. 2022) and *United States v. Hope*, No. 20-4420, 2022 WL 697251 (4th Cir. Mar. 9, 2022). Fed. R. App. P. 28(j) Letter, *Furlow*, No. 18-4531 (ECF No. 79). The Fourth Circuit indicated it would not address the issues related to new law because “[t]he mandate rule bars our review of the newly-raised sentencing issues.” *United States v. Furlow*, No. 18-4531, 2022 WL 2817313, at *1, n.* (4th Cir. July 19, 2022).

A copy of the Opinion from the Court of Appeals for the Fourth Circuit is attached as Appendix A hereto, in which the Court affirmed the sentence and criminal judgment of the district court. Mr. Furlow did not seek rehearing in the Fourth Circuit.

Undersigned counsel will not have sufficient time to file the petition for writ of certiorari for Mr. Furlow by October 17, 2022 for several reasons. Counsel has oral argument scheduled in *United States v. Blades*, No. 21-4472 (4th Cir. docketed Sept. 3, 2021) on October 28, 2022, and will need to prepare for that argument in the weeks preceding the date Mr. Furlow’s petition is due. Additionally, in the months between the issuance of the Fourth Circuit opinion and the due date for Mr. Furlow’s petition, counsel had or will have numerous briefs due to the Fourth Circuit, including in Case Nos. 19-4205, 22-4354, 22-4179 and 22-4202.

Accordingly, additional time will be necessary for the careful preparation of the petition for writ of certiorari in Mr. Furlow’s case.

No party will be prejudiced by the granting of an extension.

Since the time within which to file a petition for writ of certiorari in this case will expire on October 17, 2022 unless extended, Petitioner respectfully requests that an order be entered extending his time to file a petition for writ of certiorari, to and including December 16, 2022.

Respectfully submitted,

By: s/Kimberly H. Albro
Kimberly H. Albro
Assistant Federal Public Defender
1901 Assembly Street, Suite 200
Columbia, South Carolina 29201
Telephone: (803) 765-7088
Email: Kimberly_Albro@fd.org
Counsel of Record for Petitioner

September 14, 2022