

No. 24A__

In the
SUPREME COURT OF THE UNITED STATES

MASON BINION,
Applicant / Petitioner,

v.

UNITED STATES,
Respondent.

**Application for an Extension of Time Within
Which to File a Petition for a Writ of Certiorari to the
District of Columbia Court of Appeals**

**APPLICATION TO THE HONORABLE CHIEF JUSTICE
JOHN G. ROBERTS, JR. AS CIRCUIT JUSTICE**

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APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Mason Binion requests a 60-day extension of time within which to file a petition for a writ of certiorari, up to and including Monday, July 7, 2025.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *Binion v. United States*, No. 22-CF-0116 (Aug. 8, 2024) (attached as Exhibit 1). The District of Columbia Court of Appeals denied Applicant's motion for panel rehearing and rehearing en banc on February 7, 2025 (attached as Exhibit 2).

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1257. Under Rules 13.1 and 13.3, a petition for a writ of certiorari is due to be filed on or before May 8, 2025. In accordance with Rule 13.5, this application is being filed more than 10 days in advance of the filing date for the petition for a writ of certiorari.

REASONS JUSTIFYING AN EXTENSION OF TIME

This case raises a significant and important constitutional question regarding a trial court's constitutional obligation under *Pate v. Robinson*, 383 U.S. 375 (1966), to provide a defendant, whose competency is sufficiently in doubt, a procedurally adequate competency hearing. A court-appointed psychiatrist twice concluded that Applicant Mason Binion was incompetent to stand trial; her expert opinion was uncontroverted. The trial court nevertheless deemed Applicant competent in an abbreviated proceeding that the District of Columbia Court of Appeals acknowledged

would have been “troubling” and given the Court “pause” “[u]nder typical adversarial circumstances.” Ex. 1 at 15. However, because defense counsel did not contest competency, the Court of Appeals concluded that any constitutional error was harmless—an argument that the government never advanced—and affirmed Applicant’s conviction.

The Court of Appeals’ decision established a new harmless rule: A trial court’s failure to conduct a procedurally adequate competency hearing is *always* harmless if defense counsel does not contest competence. That rule cannot be reconciled with this Court’s precedents in *Pate* and other cases holding that a trial court’s constitutional obligation to conduct an adequate inquiry into a defendant’s competence is not waivable. 383 U.S. at 384. The Court of Appeals’ decision also conflicts with decisions of a number of federal circuit courts of appeals, which recognize that the harmless inquiry in competency cases cannot turn on the actions of defense counsel.

This case presents an excellent opportunity to resolve that split on an issue of exceptional importance. The Court of Appeals affirmed Applicant’s conviction on harmless grounds based on the fact that defense counsel did not contest competence. It is also undisputed that “sufficient doubt” existed to question Applicant’s competence, *Pate*, 383 U.S. at 387, given that a court-appointed psychiatrist *twice* opined that Applicant was incompetent to stand trial and there was no expert evidence to the contrary.

Applicant respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari seeking review of the significant issues raised by the decision of the D.C. Court of Appeals in this case, up to and including Monday, July 7, 2025. The reasons for Applicant's request are as follows:

1. Applicant is incarcerated at the United States Penitentiary Hazelton in West Virginia. Applicant has experienced lengthy delays in receiving legal mail from the prison. On at least two occasions, USP Hazleton has returned legal mail to undersigned counsel without Applicant's knowledge. An extension of time is necessary to ensure Applicant is able to receive a copy of the draft petition for a writ of certiorari prior to the filing deadline.

2. The extension of time is also necessary because of the press of other business. Mr. Kravis and Ms. Hu both have filings due in *Altman v. Altman*, Case No. 4:25-cv-00017-SEP (E.D. Mo.) in early May. In addition, Ms. Hu is presently litigating *American Federation of Teachers v. Bessent*, Case No. 25-1282, in the Fourth Circuit, for which there is an expedited briefing schedule with oral argument set for May 5, 2025.

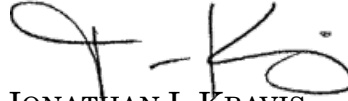
3. Mr. Kravis and Ms. Hu are also actively advising and counseling a range of clients on several confidential, time-sensitive matters, which have required and will continue to require significant time and attention.

A 60-day extension for the Applicant would allow counsel the necessary amount of time to contribute to these open matters effectively without impairing their ability to research and draft this petition for certiorari.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 60 days, up to and including July 7, 2025, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,



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