

CASE NO. _____
SUPREME COURT OF THE UNITED STATES
October 2023 Term

RONALD ROBINSON,)
)
)
 Petitioner,)
)
 v.)
)
)
 UNITED STATES OF AMERICA,)
)
)
 Respondent.)

APPLICATION TO JUSTICE KAVANAUGH 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:

Melissa K. Goymerac
Assistant Federal Public Defender
1010 Market, Suite 200
St. Louis, MO. 63101
(314) 241-1255

ATTORNEY FOR PETITIONER

To Justice Brett M. Kavanaugh:

Petitioner Ronald Robinson, through his attorney of record, Assistant Federal Public Defender Melissa K. Goymerac, requests an additional 60 days in which to file a petition in this Court seeking certiorari to the Eighth Circuit Court of Appeals, up through Friday, December 13, 2024. Petitioner requests this extension under Supreme Court Rule 13.5.

JURISDICTION

Petitioner requests an extension to file a petition for writ of certiorari. Petitioner is preparing to request this Court's review of the judgment issued by the Eighth Circuit Court of Appeals on May 30, 2024, affirming his conviction for illegal possession of his girlfriend's pistol for approximately one hour to which he pled guilty. The Sentencing Guidelines advised a sentence of between 57-71 months. The Defense chronicled Mr. Robinson's childhood exposure to lead and its role in the behavioral and educational challenges that led to persistent educational transfers impairing Mr. Robinson's ability to develop stable peer relations and behavior. He further suffered depression from the murder of one of his siblings plus severe physical abuse at the hands of others. The Government scorned Mr. Robinson's mitigating arguments demanding that Mr. Robinson should not have his sentence repeatedly mitigated based on his undisputed childhood abuse, poverty and lead poisoning. Mr. Robinson countered that 18 U.S.C. § 3553(a) compels a district court to consider in every case every circumstance that mitigates a sentence.

The District Court imposed a 71-month sentence highlighting a 2003 teenage robbery for which Mr. Robinson ended up serving a full 18 years due to his 2008 possession of marijuana provided to him in state prison. The District Court integrated no mitigating weight for the non-violent nature of the underlying offense here which was based on fleeting illegal possession of a firearm for approximately one hour which he never flourished or used to threaten anyone. Mr.

Robinson challenged the substantive reasonableness of the sharp upward variance used to impose an unusually harsh sentence for a crime defined by extremely brief and entirely non-violent conduct. Mr. Robinson argued that the District Court effectively adopted the Government's misplaced argument that a defendant with a history of mental challenges and abuse cannot repeatedly used to reduce his sentence, particularly because the state prison terms previously imposed against him did not incorporate any such mitigating consideration.

The Eighth Circuit summarily affirmed, dismissing the incongruity of this harsh sentence in light of the many mitigating sentencing factors. It cited Eighth Circuit precedent dismissing such arguments as "nothing more than a disagreement with how the district court chose to weigh the [sentencing factors in 18 U.S.C.] § 3553(a)." Appendix at 1-2. Mr. Robinson filed a timely motion for rehearing *en banc* citing the conflict between the panel's ruling in his case and this Court's decisions in *United States v. Booker*, 543 US. 220 (2005); *Gall v. United States*, 552 U.S. 38 (2007), and *Rita v. United States*, 551 U.S. 338 (2007).

The Eighth Circuit denied rehearing by order entered July 16, 2024. Appendix at 3. The deadline for filing a petition for a writ of certiorari in this case is October 14, 2024. 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

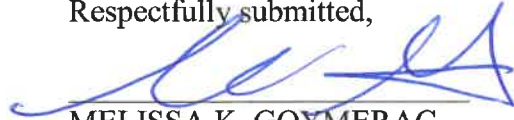
1. Petitioner believes that the Court of Appeals ruling in his case conflicts with this Court's previous decisions in *Booker*, *Gall*, and *Rita* regarding appellate review for substantive reasonableness. Counsel respectfully requests additional time to research the treatment of such incongruous application of maximum sentences in cases defined by minimal, non-violent offense

conduct under this Court's controlling decisions concerning substantive reasonableness review after *Booker*, *Rita*, and *Gall*.

2. Petitioner's Counsel is an assistant federal public defender in the Eastern District of Missouri shouldering a full case load of appointed cases requiring consultation with clients in detention facilities in remote parts of Missouri and other states. Counsel makes this request with no dilatory purpose. Counsel seeks only to ensure proper presentation of the important federal questions raised in petitioner's case while also providing effective representation in all cases to which counsel is assigned.

WHEREFORE, petitioner requests leave to file his Petition for Writ of Certiorari, up through and including December 13, 2024.

Respectfully submitted,



MELISSA K. GOYMERAC
Assistant Federal Public Defender
1010 Market Street, Suite 200
St. Louis, Missouri 63101
Telephone: (314) 241-1255
Fax: (314) 421-3177
E-mail: Melissa_Goymerac@fd.org

ATTORNEY FOR PETITIONER

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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. Robinson*, No. 23-2709,
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2. *United States v. Robinson*, No. 23-2709,
Order denying rehearing (8th Cir., July 16, 2024) 3

United States Court of Appeals
For the Eighth Circuit

No. 23-2709

United States of America

Plaintiff - Appellee

v.

Ronald Robinson

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Missouri - St. Louis

Submitted: April 8, 2024

Filed: May 30, 2024

[Unpublished]

Before LOKEN, SHEPHERD, and KOBES, Circuit Judges.

PER CURIAM.

After an argument with his girlfriend, Ronald Robinson ran off with her gun. When he returned about an hour later, police arrested him. Robinson pleaded guilty to possessing a gun as a convicted felon, 18 U.S.C. § 922(g)(1), and the district

court¹ sentenced him to 71 months in prison—the top of his Guidelines range. Robinson appeals, arguing that his sentence is substantively unreasonable.

We review the substantive reasonableness of a sentence for abuse of discretion. United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc). A district court abuses its discretion if it ignores “a relevant factor that should have received significant weight,” “gives significant weight to an improper or irrelevant factor,” or commits a clear error of judgment in weighing the appropriate factors. United States v. Washington, 893 F.3d 1076, 1080 (8th Cir. 2018). Because Robinson’s sentence is within the Guidelines range, we presume it is reasonable. Id.

Robinson does not rebut this presumption. The district court carefully considered the 18 U.S.C. § 3553(a) factors, and it reasonably concluded that 71 months in prison was appropriate based on Robinson’s criminal history and long list of prison conduct violations. See § 3553(a)(1). Robinson argues that the court gave too much weight to these factors and too little to a plethora of mitigating facts: he gave the gun back soon after taking it; he experienced significant childhood trauma like the murder of his brother, family violence, and exposure to lead; he spent 18 years in prison starting when he was a teenager; and he struggles with mental illness. But this argument “amounts to nothing more than a disagreement with how the district court chose to weigh the § 3553(a) factors in fashioning his sentence.” United States v. Brown, 992 F.3d 665, 673 (8th Cir. 2021). That is not enough to show that it is substantively unreasonable. Id.; see also Washington, 893 F.3d at 1080–81 (courts have “wide latitude to weigh the § 3553(a) factors in each case and assign some factors greater weight than others in determining an appropriate sentence” (citation omitted)).

We affirm Robinson’s sentence.

¹The Honorable John A. Ross, United States District Judge for the Eastern District of Missouri.

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-2709

United States of America

Appellee

v.

Ronald Robinson

Appellant

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis
(4:22-cr-00124-JAR-1)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

July 16, 2024

Order Entered at the Direction of the Court:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Maureen W. Gornik