

NO:

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2024

TORRENCE WHITAKER,

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
ELEVENTH CIRCUIT**

**TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE JUSTICE OF
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT
JUSTICE FOR THE ELEVENTH CIRCUIT**

Pursuant to Supreme Court Rules 13.5, 22, and 30.3, Torrence Whitaker, respectfully requests a thirty-day extension of time, to and including November 6, 2025, within which to file a petition for a writ of certiorari from the judgment of the United States Court of Appeals for the Eleventh Circuit. Mr. Whitaker has not previously sought an extension of time from this Court.

Mr. Whitaker is filing this Application at least ten days before the filing date, which is October 7, 2025. *See* S.Ct. R. 13.5. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1).

Mr. Whitaker was convicted of possessing a firearm and ammunition by a individual previously convicted of a crime punishable by more than a year in prison, in violation of 18 U.S.C. § 922(g)(1). He argued in the district court and on appeal that § 922(g)(1) was unconstitutional as applied to him, under the text-and-historical tradition Second Amendment methodology of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). Both courts, however, rejected that as-applied Second Amendment challenge based upon the Eleventh Circuit’s pre-*Bruen* decision in *United States v. Rozier*, 598 F.3d 768, 771 (11th Cir. 2010) (holding “statutes disqualifying felons from possessing a firearm under any and all circumstances do not offend the Second Amendment”). *See United States v. Whitaker*, 2024 WL 3812277 (11th Cir. Aug. 14, 2024) (granting the government’s motion for summary affirmance based on the court’s recent precedent in *United States v. Dubois*, 94 F.4th 1284, 1291-93 (11th Cir. 2024) (following *Rozier*, even after *Bruen*)).

When Mr. Whitaker petitioned this Court for review, the Court granted certiorari, vacated the decision below, and remanded his case to the Eleventh Circuit for reconsideration in light of *United States v. Rahimi*, 602 U.S. 680 (2024). *See Whitaker v. United States*, 145 S.Ct. 1165 (2025). On remand, the Eleventh Circuit held Mr. Whitaker’s case in abeyance while it reconsidered its decision in *Dubois* (which had also been GVR’d) in light of *Rahimi*. But it ultimately reaffirmed its prior

conclusion in *Dubois* even after *Rahimi*, holding that neither *Bruen* nor *Rahimi* had abrogated *Rozier*. See *United States v. Dubois*, 139 F.4th 887, 893-94 (11th Cir. 2025) (*Dubois II*). And based on *Dubois II*, the Eleventh Circuit again granted the government’s motion for summary affirmance in this case. See *United States v. Whitaker*, 2025 WL 1892566, at **1-2 (11th Cir. July 9, 2025) (citing the “prior panel precedent” rule).

Although this Court’s rules require that a petition for writ of certiorari be filed within 90 days of the court of appeals’ decision (by October 7, 2025), undersigned counsel will not be able to file Mr. Whitaker’s petition by that date, and will need an additional 30 days to do so, for several reasons. First, over the past few months, counsel has needed to devote her attention to several other time-consuming case matters, including most recently, a petition for writ of certiorari in *Isaac Alvarez v. United States*, just filed with the Court today. Second, in the two weeks prior to the current due date for Mr. Whitaker’s petition, counsel will need to be out of the office in observance of the Jewish holidays of Rosh Hashanah (September 23-24) and Yom Kippur (October 2). And finally, the day prior to the current due date for Mr. Whitaker’s petition (October 6), counsel is scheduled to have surgery. It is estimated that the recovery from this surgery will take at least two weeks, during which it will be difficult for counsel to work.

In anticipation of being out of the office for an extended period as described above, counsel is now working diligently to file an Initial Brief in *United States v. Justin Meyer*, No. 25-10003 (due October 14, 2025); a Reply Brief in *United States v.*

Robert Mondragon, No. 24-12385 (due October 15, 2025); and an Initial Brief in *United States v. Kemarcio Mitchell*, No. 25-10393 (due October 20th) before her October 6th surgery. And, because counsel has another petition for writ of certiorari in *United States v. Curtis Solomon* also due on October 7th (the same day as the petition in this case), she is seeking to extend the due date for the *Solomon* petition by 30 days as well.

Given these competing case commitments, and both religious and personal health matters that will take counsel away from work prior to and after October 7th—and cognizant of the fact that the time within which to file a petition for writ of certiorari in this case will expire on October 7th unless extended—undersigned counsel respectfully requests that an order be entered extending Mr. Whitaker’s time to file a petition for writ of certiorari by 30 days, to and including November 6, 2025.

Respectfully submitted,

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