

No. 18-1478

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

RICKEY I. KANTER,
Plaintiff-Appellant,

v.

WILLIAM P. BARR, et al.,
Defendants-Appellees.

Appeal From The United States District Court
For the Eastern District of Wisconsin,
Case No. 16-CV-1121
The Honorable William C. Griesbach, Presiding

MOTION TO EXTEND TIME TO FILE PETITION FOR
REHEARING OR REHEARING EN BANC

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Plaintiff-Appellant Mr. Rickey Kanter hereby moves the Court for an extension of time to the deadline to file a petition for rehearing or rehearing *en banc* in the above-captioned case. Mr. Kanter's current deadline is Monday, April 29, 2019; he respectfully requests an extension of sixty days to file any such petition. The grounds for this motion are set forth below:

1. This case involves Plaintiff-Appellant Mr. Rickey Kanter's as-applied constitutional challenge to the felon disarmament laws of the United States, 18 U.S.C. § 922(g)(1), and the State of Wisconsin Wis. Stat. § 941.29(1m). Specifically, Mr. Kanter argues that, as a non-violent felon with no history of violence, recidivism, or other characteristics linked to firearm misuse, the application of the felon disarmament laws to him violates his Second Amendment rights.
2. The District Court held, *inter alia*, that Mr. Kanter's status as a felon was sufficient to justify the application of the felon disarmament laws to him and entered judgment dismissing his case on January 2, 2018.
3. Mr. Kanter filed his notice of appeal on February 28, 2018.
4. Argument was heard in the above-captioned case on September 7, 2018.
5. On March 15, 2019, this Court filed its opinion affirming the decision of the District Court.

6. Pursuant to Federal Rule of Appellate Procedure 35(c), a petition for a rehearing *en banc* must be filed "within the time prescribed by Rule 40 for filing a petition for rehearing."

7. Under Federal Rule of Appellate Procedure 40(a)(1)(C), a petition for rehearing "may be filed by any party within 45 days after entry of judgment if one of the parties is: . . . (C) a United States officer or employee sued in an official capacity"

8. Accordingly, the deadline for filing a petition for rehearing *en banc* is Monday, April 29, 2019, "unless an order . . . extends the time" Fed. R. App. P. 40(a)(1).

9. A petition for rehearing *en banc* must begin with a statement either that the panel decision is necessary to secure and maintain uniformity of the court's decisions, or that the proceeding involves one or more questions of exceptional importance.

10. On April 12, 2019, this Court heard oral argument in the case of *Hatfield v. Barr*, Case No. 18-2385.

11. *Hatfield* involves essentially the same issues as the case at bar, including whether the fact of a felony conviction is sufficient to preclude the possibility of relief from the felon disarmament laws, whether an individual with a felony conviction may ever succeed in obtaining such relief, and under what circumstances. The district court in *Hatfield*, however, granted Mr. Hatfield's

request for relief, distinguishing his case from Mr. Kanter's case on the ground that Mr. Hatfield served no prison time.

12. Thus, this Court's decision in *Hatfield* is likely to play a significant role in defining and establishing the bounds of this Court's jurisprudence on as-applied challenges to the felon disarmament laws.

13. It will serve the interests of judicial efficiency and the development of the substantive law in this area for Mr. Kanter to have the benefit of the decision in *Hatfield v. Barr* before he is required to file any potential petition for rehearing or rehearing *en banc*.

WHEREFORE, Mr. Kanter respectfully requests that this Court enter an order extending the time for him to file a petition for rehearing or rehearing *en banc* by sixty days. Should a decision not issue in *Hatfield* before that time, Mr. Kanter submits that he may move the Court for additional extension(s) as necessary.

Respectfully submitted,

s/Monica A. Mark

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CERTIFICATE OF SERVICE

I certify that on April 15, 2019, I electronically filed the foregoing *Motion to Extend Time to File Petition for Rehearing or Rehearing En Banc* with the clerk of court using the CM/ECF system, which will accomplish electronic notice and service for all participants who are registered CM/ECF users.

Dated this 15th day of April, 2019.

s/Monica A. Mark

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