

No. 18-3595

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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RAYMOND HOLLOWAY, JR.

Plaintiff - Appellee,

v.

ATTORNEY GENERAL UNITED STATES, ET AL.

Defendants – Appellants.

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**APPELLEE’S UNOPPOSED MOTION FOR 30-DAY EXTENSION OF  
TIME TO PETITION FOR REHEARING *EN BANC***

Plaintiff-Appellee Raymond Holloway, Jr. (“Holloway”) respectfully moves for a 30-day extension of time, to and including Wednesday April 1, 2020, within which to file a petition for rehearing and for rehearing *en banc* in this matter. As set forth below, good cause exists for the requested extension on account of the work schedules of counsel and specific deadlines in other matters, the complexity of the issues presented by the decision, and the need for Holloway to analyze the decision and determine whether to see further review. Counsel for the Defendants-Appellants has stated that she does not object to this motion.

On January 17, 2020 this Court issued a precedential opinion in this case, reversing the District Court's order and remanding the case for the entry of judgment in favor of the Defendants-Appellants. The panel, in a 2-1 decision, held that Holloway's DUI conviction "constituted a serious crime, placing him within the class of persons 'historically excluded from Second Amendment protections.'" Slip op. at 25. Counsel is evaluating the decision and the options for filing a petition for rehearing and/or rehearing *en banc*.

Under Fed. R. App. P. 40(a)(1)(A) and (C), a petition for panel rehearing "may be filed...within 45 days after entry of judgment if one of the parties is, the United States...[or] a United States officer or employee sued in an official capacity" unless that time is extended. Under Fed. R. App. P. 35(c), a petition for rehearing *en banc* likewise must be filed "within the time prescribed by Rule 40 for filing a petition for rehearing." Because the panel's judgment was entered on January 17, 2020, a petition for rehearing and for rehearing *en banc* would ordinarily be due on Monday March 2, 2020. *See* Fed. R. App. P. 26(a). For good cause, the due date for filing the petition may be extended. *See* Fed. R. App. P. 26(b); Fed. R. App. P. 40(a)(1).

Counsel for Mr. Holloway, in addition to his schedule already being completely booked out through February 25, 2020, is currently involved in several massive and complex cases that are additionally requiring his current attention

through March 2, 2020, including: 1. *Landmark Firearms, LLC, et al. v. PSP Col. Evanchick*, 694 M.D. 2019 (Pa. Cmwlth. Ct. 2019) for which an emergency injunction was just obtained on Friday, January 31, 2020, and where it is anticipated that Defendant will be filing an emergency and expedited appeal with the PA Supreme Court; 2. *John Doe, et al v. Monroe County, et al*, 6384 CV 2015 (Monroe Ct. Cmmn. Pleas 2015)(*sealed by court order*) a class action lawsuit involving over 17,000 class members for which complex hearings are scheduled for defendants' contempt of court and a mini-trial on damages for the class; and 3. *Commonwealth v. Bruce Fetters*, 2029 MDA 2019 (Super. Ct. 2019) for which extensive briefing is due relative to the trial court's refusal to issue a stand your ground jury instruction and the constitutional and common law right to stand one's ground in the absence of a stand your ground statute.

Accordingly, good cause exists for a 30-day extension. Furthermore, good cause also exists as this case presents questions of constitutional law that remain unclear despite this Court's prior decision in *Binderup* and which resulted in a 35-page dissent in the instant matter. As such, any petition for rehearing or rehearing *en banc* requires careful analysis and deliberation. In addition, Counsel on this appeal have specific conflicting commitments in other cases that will require considerable attention within the same time period, as stated *supra*. Finally, time is required for Holloway's review and analysis of the decision and

determination whether to seek further review from this Court.

Holloway's Counsel has at all times during this matter exercised diligence in providing timely and professional briefing to this Court, and any petition will be filed within the time requested.

Counsel for Holloway has informed Counsel for the Defendants-Appellants of Holloway's intention to file this motion, and Defendants-Appellants' Counsel has stated they have no objection to this request.

For the foregoing reasons, Holloway respectfully submits that a 30-day extension of the due date for a petition for rehearing and for rehearing en banc should be granted.

Respectfully submitted,

/s/ Joshua Prince

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 31<sup>st</sup> day of January, 2020, I electronically filed the foregoing motion with the clerk of the court by using the EM/ECF system, which will send a notice of electronic filing to Appellants' counsel.

/s/ Joshua Prince

Joshua Prince, Esq.

Counsel for Plaintiff-Appellee