

No. _____

In the Supreme Court of the United States

JOSE ANTONIO HERNANDEZ, *APPLICANT*,

v.

UNITED STATES OF AMERICA, *RESPONDENT*.

**APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the Fifth Circuit:

1. Petitioner Jose Antonio Hernandez requests a 30-day extension of time to file his petition for certiorari in this Court to and including August 20, 2025. *See* 28 U.S.C. § 2101(c); Sup. Ct. R. 13.5, 22, 30. The final judgment of the Fifth Circuit was entered on April 21, 2025, and Petitioner’s time to petition for certiorari in this Court expires July 21, 2025. This application is being filed more than 10 days before that date.

A copy of the unpublished opinion below is attached. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1).

2. As shown by the opinion below, this case involves whether 18 U.S.C. § 922(g)(1), the federal statute that prohibits anyone who has been convicted

of “a crime punishable by imprisonment for a term exceeding one year” from possessing a firearm, violates the Second Amendment either facially or as applied to an individual with convictions for non-violent offenses. The court of appeals determined that § 922(g)(1) is constitutional both facially and as applied to Petitioner. This is an important issue concerning the scope of a fundamental right that has divided the courts of appeals.

3. Petitioner was represented in the district court and court of appeals by the Federal Public Defender for the Western District of Texas and is represented in this Court by Assistant Federal Public Defender Kristin L. Davidson, a member of the Bar of this Court. Since the Fifth Circuit handed down its decision on April 21, counsel has been engaged in many matters in this Court and the Fifth Circuit, limiting the amount of time she has been able to devote to preparing the petition in this case. Counsel has filed eight briefs in the Fifth Circuit, as well as four petitions for certiorari in this Court. Between now and the current July 21, 2025, deadline, counsel has two opening briefs and two reply briefs due in the Fifth Circuit. And between July 21 and August 20, 2025, counsel has an oral argument before the Fifth Circuit and one petition for certiorari in this Court, with more briefing notices likely to issue during that time. In addition, counsel will be out of the office for family commitments July 28 through August 1.

For these reasons, Petitioner respectfully requests that an order be entered

extending his time to petition for certiorari in the above-captioned case to and including August 20, 2025.

Respectfully submitted,

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Federal Public Defender
KRISTIN L. DAVIDSON
Assistant Federal Public Defender
Counsel of Record
OFFICE OF THE FEDERAL
PUBLIC DEFENDER
WESTERN DISTRICT OF TEXAS

Counsel for Petitioner

June 26, 2025

CERTIFICATE OF SERVICE

I, a member of the Bar of this Court, certify that on June 26, 2025, I served a copy of this Application on Counsel for the United States on all parties required to be served by enclosing a copy of each in an envelope and delivering it to FedEx, a third party commercial carrier, for delivery within three calendar days to:

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