

NO. \_\_\_\_\_

**IN THE SUPREME COURT OF THE UNITED STATES**

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**JUSTIN BAGGETT,  
Petitioner**

**V.**

**TEXAS,  
Respondent**

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**PETITIONER’S UNOPPOSED APPLICATION FOR AN EXTENSION  
OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI**

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

I.

Pursuant to Supreme Court Rule 13.5, petitioner Justin Baggett respectfully requests a 60-day extension of time, until October 14, 2025, to file a petition for a writ of certiorari.

This is an appeal from the Texas Court of Criminal Appeals’s (TCCA) denial of petitioner’s post-conviction application for a writ of habeas corpus filed in state court. The TCCA denied relief without written order on May 14, 2025. A copy of the denial and the state habeas trial court’s findings of fact and conclusions of law are attached. This Court has jurisdiction under 28 U.S.C. § 1257(a).

Without an extension, a petition for a writ of certiorari would be due on August 12, 2025. *See* U.S.S.Ct.R. 13.1. This application is filed more than 10 days before that date. Petitioner has not previously applied for an extension.

An extension is necessary because the mother of counsel for petitioner unexpectedly died in the Texas Hill Country Flood on July 4, 2025. A copy of her obituary and a newspaper article are attached. Counsel spent three days working with law enforcement to locate and identify her body; two days arranging for transport of her body to the Travis County Medical Examiner's Office for an autopsy and confirmation of identity; and four days planning the funeral, including preparing the obituary and eulogy. She was buried on July 13, 2025. Counsel also has needed to care for and comfort his father, who miraculously survived the same flood but lost his wife of 57 years. As a result of this unexpected incident, counsel missed two weeks of work. He needs more time to prepare the petition.<sup>1</sup>

## II.

Petitioner pled no contest to trafficking of a child and indecency by contact pursuant to a plea agreement in state court. The court assessed punishment at 16 years in prison on September 22, 2016.

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<sup>1</sup> Justice Alito granted a 60-day extension to counsel for petitioner for the same reason on July 29, 2025, in *Breimeister v. United States*, No. 25A114. That petition is now due on October 2, 2025.

Petitioner filed a post-conviction application for a writ of habeas corpus in state court in 2024. He alleged that his no-contest plea was involuntary because:

1. the State engaged in prosecutorial misconduct by failing to disclose favorable, material impeachment evidence that the outcry witness previously had been convicted of a federal felony and had mental health issues that undermined her credibility; and
2. trial counsel were ineffective in failing to investigate and discover the impeachment evidence regarding the outcry witness and advise petitioner that it provided a basis to defend the case.

The state habeas trial court conducted an evidentiary hearing, at which the trial prosecutor, trial counsel, petitioner, and the co-defendant testified. The evidence was undisputed that the State failed to search non-public, government-operated criminal history databases and discover that the outcry witness had been convicted of a federal felony and ordered to participate in a mental health caseload as a special condition of supervised release; that trial counsel failed to investigate and discover this information; and that petitioner did not know about it when he agreed to plead no contest shortly before a jury trial was scheduled to begin.

### III.

The state habeas trial court adopted the State's proposed findings of fact and conclusions of law *verbatim*. It concluded that the State did not engage in misconduct, that trial counsel did not perform deficiently in failing to investigate and discover impeachment evidence of the outcry witness's prior criminal conviction and

mental health issues, and that this evidence was neither material nor prejudicial. It recommended that relief be denied. The TCCA denied relief based on the trial court's findings and conclusions.

The TCCA's decision to deny relief conflicts with decisions of this Court regarding the duty of the prosecution team to disclose impeachment evidence to the defense and the duty of trial counsel to investigate and discover such evidence. This case also presents the open question whether this Court's rule in *United States v. Ruiz*, 536 U.S. 622 (2002) (defendant's guilty plea waived right to prosecutorial disclosure of impeachment evidence), applies only to guilty pleas or also to no-contest pleas.

### **CONCLUSION**

The unexpected death of counsel's mother, the disruption to his work schedule caused by that tragedy, and the time that he needs to regain his focus so he can provide effective assistance to petitioner collectively warrant a 60-day extension of time to file the petition for a writ of certiorari.

Petitioner respectfully requests that the Court grant this application and enter an order extending the time to file the petition for a writ of certiorari until October 14, 2025.<sup>2</sup>

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<sup>2</sup> The petition presently is due on or before August 12, 2025. A 60-day extension would fall on October 11, 2025, which is a Saturday. Monday, October 13, 2025, is the federal holiday of Columbus Day. The next business day is Tuesday, October 14, 2025.

Dated: August 1, 2025

Respectfully submitted,

/s/ Josh Schaffer

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Attorney for Petitioner

JUSTIN BAGGETT

**CERTIFICATE OF SERVICE**

I served a copy of this document on counsel of record for the State of Texas by electronic filing on August 1, 2025.

/s/ Josh Schaffer

Josh Schaffer

**CERTIFICATE OF CONFERENCE**

I conferred with Douglas Norman, counsel for the State of Texas, on July 21, 2025. He told me that the State does not oppose the requested relief.

/s/ Josh Schaffer

Josh Schaffer