

IN THE
Supreme Court of the United States

JOSE JOYA PARADA, OSCAR ARMANDO SORTO ROMERO, MILTON PORTILLO RODRIGUEZ, JUAN CAROLOS
SANDOVAL RODRIGUEZ,

Applicants,

v.

UNITED STATES OF AMERICA,

Respondent.

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

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June 27, 2025

APPLICATION

To the Honorable John G. Roberts, Chief Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Fourth Circuit:

Pursuant to Rule 13.5 of the Rules of this Court and 28 U.S.C. § 2101(c), Applicants Jose Joya Parada, Oscar Armando Sorto Romero, Milton Portillo Rodriguez, Juan Carlos Sandoval Rodriguez, respectfully request a 30-day extension of time, to and including August 7, 2025, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit this case.

1. The Fourth Circuit issued its decision on April 9, 2025, and it was amended on April 10, 2025. *See United States of America v. Parada, et al.*, 134 F.4th 188 (4th Cir. 2025). App. 1a.

2. Unless extended, the time to file a petition for a writ of certiorari will expire on July 8, 2025. This application is being filed more than ten days before the petition is currently due. *See* Sup. Ct. R. 13.5. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1). Applicants seek a 30-day extension of time in order to allow recently retained counsel to review the issues presented in Applicants' case and due to counsel's competing work obligations.

3. Applicants were charged in 2018 with various racketeering offenses related to their alleged involvement with a gang. App. 5a. The case proceeded to trial. App. 5a. The trial began on October 21, 2021, with jury selection. App. 6a. The District Court empaneled 12 jurors and 3 alternate jurors. App. 6a, 13a. These jurors then spent the next three months hearing evidence and arguments in the case.

4. On January 20, 2022, the jury began deliberating. App. 13a. Immediately prior to deliberations, the District Court conditionally excused the alternate jurors. App. 13a. The District Court advised the alternates that if a juror became ill during the course of the deliberations, the court would contact an alternate and summon that person back to the courthouse for deliberations. App. 13a-14a. The 12-member jury deliberated for two days and then broke for the weekend. App. 14a.

5. Over the weekend, Juror 9 contacted the Clerk of Court to report that she had tested positive for COVID-19. App. 14a. Based on the District Court's standing order pertaining to COVID-19, if Juror 9 were symptom free, deliberations could resume just one week later. App. 14a. & n.3.

6. When the parties returned to the courthouse on Monday morning, the District Court informed the Applicants of Juror 9's illness and solicited input on how to proceed. App. 14a. The Government advocated proceeding under Federal Rule of Criminal Procedure 23 with an 11-member jury. App. 15a. Applicants asked the District Court to either wait until Juror 9 was well before resuming deliberations or replace Juror 9 with an alternate juror. App. 15a. In support of their request, Applicants' counsel argued that a 12-member jury is a constitutional requirement. *See United States v. Parada*, No. 22-04262 (4th Cir.), Doc. 87 at JA 1521. The District Court adopted the government's proposal, excusing Juror 9 and proceeding with an 11-person jury. App. 16a.

7. The 11-member jury convicted Applicants of several racketeering offenses. App. 16a. Applicants appealed their convictions. App. 16a.

8. The Fourth Circuit affirmed the District Court's decision to proceed with an 11-member jury. App. 31a. In the Fourth Circuit's view, "the district court found good cause

to dismiss Juror 9 and proceed with an eleven-person jury only after soliciting the opinions of counsel and thoroughly considering all possible alternatives.” App. 30a. So, the Fourth Circuit did not find anything “about the process the district court undertook, or its explanation,” was “ ‘arbitrary or capricious.’ ” App. 31a (citation omitted).

9. Applicants intend to file a certiorari petition seeking this Court’s review of the Fourth Circuit’s decision on the grounds that the District Court violated Applicants’ Sixth Amendment right to a 12-member jury. Although the Supreme Court held in *Williams v. Florida*, 399 U.S. 78 (1970), that juries of less than 12-members are permissible, *Williams* should be overruled. *Williams* did not properly account for the original intent of the Framers that a jury would consist of 12 members.

10. Jo-Ann Tamila Sagar of Hogan Lovells US LLP, Washington, D.C., was retained by Applicants to file a petition for certiorari in this Court. Good cause exists for the extension, as counsel of record was retained recently in this matter, and additional time is needed to review the record in these proceedings and prepare a petition that best serves the needs of Applicants. In addition, counsel of record is occupied with briefing deadlines for a variety of matters, including: a motion hearing on July 1 in *L3Harris Technologies v. Moog, Inc.*, No. 6:24-cv-602 (M.D. Fla.); a reply brief in support of a motion for compassionate release due July 2 in *United States v. Harper*, No. 1:99-cr-00125 (S.D. Fla.); an opening brief on July 7, 2025 in *SEC v. Gastauer*, No. 25-01194 (1st Cir.); and a petition for a writ of certiorari on July 21, 2015 in *United States v. Williamson*, No. 22-12843 (11th Cir.).

11. Counsel for the United States of America has advised that it has no objection to this extension.

12. For these reasons, Applicants respectfully request that an order be entered extending the time to file a petition for certiorari to and including August 7, 2025.

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Respectfully Submitted,

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