

No. 25A_____

In the Supreme Court of the United States

DEON REESE, *PETITIONER*,

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 THIRD CIRCUIT**

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

Petitioner-Applicant Deon Reese respectfully requests a 60-day
extension of time to file his petition for a writ of certiorari in this
Court to and including June 27, 2025.

1. Timeliness and Jurisdiction

On January 28, 2025, the United States Court of Appeals for
the Third Circuit filed a non-precedential opinion affirming Mr.
Reese's convictions in case number 2:19-cr-00257 (W.D. Pa.) and
related violation of supervised release in case number 2:08-cr-
00016-001 (W.D. Pa.). Appx. A. Mr. Reese's petition for a writ of

certiorari is due on April 28, 2025. *See* 28 U.S.C. § 2101(c); Sup. Ct. R. 13.5. This application is being filed at least ten days before that date. *See* Sup. Ct. R. 13.5, 30.2. This Court's jurisdiction will be invoked under 28 U.S.C. § 1254(1).

2. Opinion Below

The Third Circuit's January 28, 2025, opinion, authored by Judge Hardiman and joined by Judges McKee and Ambro, is attached as Appendix A. It is not reported in the federal reporter.

3. Reasons for Granting the Extension

This case presents a simple yet momentous question of federal criminal law: whether *Pinkerton v. United States*, 328 U.S. 640 (1946), should be overruled. That decision created an eponymous form of vicarious criminal liability through which someone can be convicted of an offense they did not personally commit but was committed by a co-conspirator. Whatever one thinks of *Pinkerton* liability as a matter of policy, it is dubious as a matter of law: Congress has created several forms of vicarious liability in the United States Code, *see, e.g.*, 18 U.S.C. § 2, but *Pinkerton* liability is not among them, giving rise to profound questions about the doctrine's legal basis and constitutionality.

This case is also an ideal vehicle to answer the question

presented. Mr. Reese was convicted and sentenced to over 24 years of imprisonment after he and another individual allegedly shot and robbed a drug dealer in Pittsburgh in 2017. *United States v. Reese*, No. 23-2291, ECF No. 27 at 6, 21–22 (3d Cir. June 6, 2024). He was almost certainly convicted under *Pinkerton* liability: there was DNA evidence indicating he was not the shooter, leading the jury to acquit him of unlawfully possessing ammunition. *Id.* at 18, 21. The jury nevertheless convicted him of two other substantive offenses—Hobbs Act Robbery, in violation of 18 U.S.C. § 1951, and Discharging a Firearm in Furtherance of a Crime of Violence, in violation of 18 U.S.C. § 924(c)(1)(A)(iii)—after the District Court instructed the jury it could do so under a *Pinkerton* theory regardless of whether he personally committed the crimes. *Id.* at 18, 20–22. Mr. Reese also objected to the *Pinkerton* instructions on constitutional grounds in the District Court and on appeal, leading the Third Circuit to confirm the challenge has been preserved for further review. *See* Appx. A at 5 n.2.

Undersigned counsel is an Assistant Federal Public Defender who represented Mr. Reese on direct appeal under the Criminal Justice Act, 18 U.S.C. § 3006A et. seq. Counsel respectfully

requests a 60-day extension of the certiorari deadline due to other pressing matters before the Third Circuit, the District of New Jersey, and this Court, including: (1) a reply in support of certiorari in *Seale v. United States*, Nos. 23-1089 and 24-594, due the week of April 21, 2025; (2) an amended opening brief in *United States v. Deron Nixon*, No. 24-1149 (3d Cir.), due April 24, 2025; (3) an amended opening brief in *United States v. Clarence Gaffney*, Nos. 23-1895 and 25-1292 (3d Cir.), due April 25, 2025; and (4) other pending cases in the District of New Jersey. Counsel's time over the last 90 days has also been dedicated to several other pressing matters, including an opening brief in *United States v. Abdulrahman Jamea*, No. 24-257 (3d Cir.), filed April 3, 2025; a reply brief in *United States v. Antuane Gregory*, No. 24-2451 (3d Cir.), filed March 12, 2025; and several district court appearances in the month of February. Counsel accordingly believes there is good cause for the requested extension, as required by Supreme Court Rule 13.5.

For these reasons, Petitioner-Applicant Deon Reese respectfully requests that an order be entered extending his time to petition for certiorari in the above-captioned case to and including June 27, 2025.

Respectfully submitted,

s/ *Evan J. Austin*

Assistant Federal Public Defender
1002 Broad Street
Newark, NJ 07102
(973) 282-8658
Evan_Austin@fd.org

Counsel for Petitioner-Applicant
Deon Reese

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