

No. 25-_____

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

CHASE RUSSELL DOWNEY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for Writ of Certiorari
to the U.S. Court of Appeals
for the Sixth Circuit**

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

The Court has made clear that the district courts have wide discretion to manage their dockets and case load, to schedule trials, and grant or deny continuances. *Morris v. Slappy*, 461 U.S. 1, 11, 103 S. Ct. 1610 (1983). But a denial of a request for more time to defend a case can violate the Fifth Amendment rights to due process and the Sixth Amendment right to counsel. *Ungar v. Sarafite*, 376 U.S. 575, 589, 84 S. Ct. 841 (1964); *Avery v. Alabama*, 308 U.S. 444, 446, 60 S. Ct. 321 (1940).

The Court's precedent establishes that both defendants and the public have an interest in a speedy trial. See *Barker v. Wingo*, 407 U.S. 514, 519, 92 S. Ct. 2182 (1972). But the Court is equally clear that both defendants and the public have an interest in a system that is fair and reliable, which must often come at the expense of haste. *Vermont v. Brillon*, 556 U.S. 81, 89, 129 S. Ct. 1283 (2009); *Beavers v. Haubert*, 198 U.S. 77, 86, 25 S. Ct. 573 (1905). In short, reliability and fairness are more important than the efficiency of a District Court's docket.

In this case, the District Court gave Petitioner a notice allowing him only 15 days to file pretrial motions. Petitioner's first counsel filed no pretrial motions in that time. The District Court appointed Petitioner new counsel. Thus, new counsel entered the case after the District Court's period for filing pretrial motions had already expired. Despite several motions for continuances from both parties, at no time did the District Court allow any additional time for defense motions to be filed. The Government took substantial time to provide new counsel with the discovery that showed grounds for a fourth amendment challenge. But with the pretrial motion already in the rearview mirror, new counsel focused on attempting to resolve the matter through plea negotiations. Only once the plea negotiations surprisingly broke down did Petitioner's new counsel file a motion for continuance and motion for leave to file a single suppression motion based on a viable fourth amendment challenge.

The circuit majority recognized and listed several of Petitioner's grounds for seeking leave to file a suppression motion. Nevertheless, the Majority blamed appellate counsel for failing to develop an argument that Petitioner had good cause to file an untimely motion. Pet. App. 8. The Majority reached the merits anyway, putting on blinders to ignore all other factors, and distilling Petitioner's several good causes down to one—that second counsel “consciously decided” to not file a pretrial motion by the deadline in an attempt to curry favor with the prosecution in plea negotiations.” Pet. App. 8. But no attorney for Petitioner consciously decided against filing a motion by any deadline. First counsel had just 15 days. The District Court refused to extend that deadline. The District Court appointed second counsel after the deadline passed. Moreover, here in a system of pleas, rather than trials, the District Court ruling discourages plea negotiation and invites the filing of needless pretrial motions.

The questions for the Court are whether, under these circumstances, the District Court erred in refusing to grant a continuance of trial and leave to file a single suppression motion and whether the Sixth Circuit Majority erred in affirming that decision.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Chase Russell Downey respectfully petitions the Court for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Sixth Circuit.

OPINIONS BELOW

The U.S. Court of Appeals for the Sixth Circuit affirmed the district court's judgment on July 2, 2025. *United States v. Chase Russell Downey*, No. 24-5328, 2025 Fed. App. 0319N, 2025 LX 235154, 2025 WL 1826757 (6th Cir., Jul. 2, 2025). Petitioner's Appendix ("Pet. App."). Pet. App. 14. Circuit Court Judge Karen Nelson Moore dissented. Pet. App. 15.

The District Court denied Petitioner's motions for continuance of time and extension of time to file pretrial motions, including a suppression motion ostensibly based on the recent release of discovery to newly-appointed counsel. Pet. App. 17; see Pet. App. 21-23 (excerpt of unsealed portion of transcript of hearing on pretrial motions). Petitioner proceeded to jury trial, the jury found him guilty of offenses including conspiracy to distribute and possess with intent to distribute a controlled substance, and the District Court sentenced him to serve 540 months of imprisonment and 120 months of supervised release. *United States v. Chase Russell Downey*, 5:17-cr-000111 (N.D. Ohio, Apr. 2, 2024). Pet. App. 28.

STATEMENT OF THE BASIS FOR JURISDICTION

The district court had jurisdiction, as the United States of America charged Petitioner with violations of the U.S. criminal code, including conspiracy to distribute and possess with intent to distribute a controlled substance in violation of 21 U.S.C. § 846, possession of a firearm as a prohibited person (felon), in violation of 18 U.S.C. § 922(g)(1), and possession of a firearm

in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A). Pet. App. 3, 28.

The Sixth Circuit had jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a), following the district court's final judgment order sentencing Petitioner to a term of 540 months of imprisonment. Pet. App. 29.

This Court has jurisdiction under 28 U.S.C. § 1254(1), as Petitioner is filing this petition within 90 days of the Sixth Circuit's order, dated July 2, 2025. See Sup. Ct. R. 13.1, 13.3, 29.2 and Pet. App. 1.

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const., amend IV.

No person shall * * * be deprived of life, liberty, or property, without due process of law * * *.

U.S. Const., amend. V.

In all criminal prosecutions, the accused shall enjoy to right to a speedy and public trial, by an impartial jury * * * and to have the Assistance of Counsel for his defense.

U.S. Const., amend. VI.

STATEMENT OF THE CASE

This case presents the questions whether a District Court violated Petitioner's constitutional rights and abused its discretion by wrongly denying a continuance of trial and

extension of time to file pretrial motions, including a viable suppression motion, for an unjustifiable reason, and whether the Court of Appeals erred in failing to find the District Court abused its discretion.

By adopting and incorporating an earlier-filed pretrial motions order (that had originally applied only to a co-defendant) to Petitioner's case, the District Court effectively announced that Petitioner had only 15 days remaining to file pretrial motions. Petitioner's first counsel filed no pretrial motions in that time. The District Court appointed Petitioner new counsel. Thus, new counsel entered the case after the District Court's period for filing pretrial motions had already expired. The Government took substantial time to provide new counsel with the discovery that showed grounds for a fourth amendment challenge. But with the pretrial motion already in the rearview mirror, new counsel focused on attempting to resolve the matter through plea negotiations. Only once the plea negotiations surprisingly broke down did Petitioner's new counsel file a motion for continuance and motion for leave to file a single suppression motion based on a viable fourth amendment challenge.

The record showed sufficient good cause for the requests. Not the least of these were that new counsel was appointed after the suppression motion deadline had already passed, the factual grounds for the suppression motion were delayed in being released to new counsel, and new counsel, seeing that the pretrial motion deadline had already passed, smartly focused on plea negotiations. Conversely, while there had certainly been a handful of continuances granted, the record did not provide good grounds to deny another continuance of trial and to allow new counsel a first opportunity to file a pretrial motion. The District Court nevertheless denied the requests. Pet. App. 17, 22-23.

On appeal, the Majority recognized the grounds for seeking leave to file a late motion to suppress evidence, noting that there was a short period of time to file them, first counsel failed to file any, new counsel was appointed after that deadline passed, and new counsel initially focused on plea negotiations that, if successful, would render a suppression motion unnecessary. Pet. App. 7. Despite the record showing these factors, the Majority then blamed appellate counsel for failing to develop an argument that good cause had been shown the District Court. Pet. App. 8. Then nevertheless turning to the merits, the Majority recasts all these good grounds for leave to file a single suppression motion into just one reason—one reason that blamed trial counsel for “consciously decid[ing] to not file his motion in an attempt to curry favor with the prosecution.” Pet. App. 8. The Majority ruled that recast reason was insufficient. Pet. App. 8. Addressing the Dissent’s argument, the Majority blamed trial counsel for failing to list all these factors and instead only citing “plea negotiations.” Pet. App. 8. Trial counsel “did not say that he had too little time to review discovery.” Pet. App. 9. The Dissent concluded that the District Court abused its discretion by denying the request to file a suppression motion late, noting that Petitioner “effectively had no opportunity to review discovery,” and “[o]n several occasions, [Petitioner] sought an extension of time for pretrial filings, but the district court did not extend the deadline for filing defensive motions.” Pet. App. 15.

1. The Grand Jury for the U.S. District Court for the Northern District of Ohio returned an indictment charging Petitioner with offenses including conspiracy to distribute and possess with intent to distribute five kilograms or more of cocaine and being a felon in possession of a firearm. The indictment was filed on March 16, 2023.

2. The district court entered a pretrial motion filing schedule on March 21, 2023. But this order applied only to Petitioner's co-defendant. As of that date, Petitioner had not been arrested or arraigned, and no counsel had entered an appearance as his counsel. The district court's order setting that pretrial schedule does not even appear on Petitioner's docket when isolating the docket to only his case. The pretrial schedule required all pretrial motions, including motion to suppress, within 30 days of arraignment.

3. An attorney entered an appearance as counsel for Petitioner on March 22, 2023.

4. Petitioner was arrested on April 12, 2023 and arraigned that same day. At this time, and for the 15 days that followed, no pretrial motion schedule had been set and no deadline for such motions applied to Petitioner's case.

5. Fifteen days later, on April 27, 2023, the district court adopted and incorporated the pretrial motion schedule order that had been entered on March 21, 2023 as to Petitioner's co-defendant. That adopted order had not been filed in Petitioner's case and did not appear on Petitioner's independent docket. Because that order required pretrial motions to be filed within 30 days of arraignment, and because Petitioner had been arraigned 15 days earlier, this scheduling order meant that Petitioner had only 15 days remaining to file all pretrial motions including suppression motions. That 15 days passed without this counsel for Petitioner filing any pretrial motion.

6. The District Court appointed new counsel on June 21, 2023. New counsel received most of the discovery from the Government on July 20, 2023. Missing from these documents was cellular phone reports. With a large amount of information provided to new counsel, the attorney filed a motion to continue the trial to October 31, 2023. The District Court granted that motion.

The Government turned over the cellular phone reports on August 21, 2023. Only on that date did Petitioner's new counsel have all discovery.

8. New counsel uncovered grounds for a fourth amendment challenge. But (a) the deadline to file a suppression motion had expired and, had expired before this counsel had been appointed and (b) the appearance of new counsel meant for the first time that plea negotiations could begin in earnest. In September and October 2023, Petitioner's second counsel was in communication with the Government's counsel in an attempt to reach a plea deal. Because the deadline to file pretrial motions had already expired, second counsel's devotion of time to plea negotiations was not to the prejudice of any open or applicable pretrial schedule.

9. On October 20, 2023, only once it became clear that Petitioner and the Government could not reach terms on a plea deal to avoid the need for trial, defense counsel filed a motion for extension of time to file a single suppression motion. Good grounds for the motion included (a) the time to file defense motions including motions to suppress expired before second counsel was even in the case, (b) discovery was not fully provided to new counsel until August 21, 2023, (c) there were legitimate grounds for the fourth amendment challenge, and (d) plea negotiations had been the focus of the parties in an attempt to avoid the need for trial.

10. The district court held a hearing on the motion a week later, on October 27, 2023, just three days before trial was set to begin. The district court denied the motion for continuance of trial, finding "that more than sufficient time [had] been provided to the defendant and counsel to prepare for trial and effectively present their case." Pet. App. 22. The District Court denied the motion for extension of the deadline to file a suppression motion (a deadline that expired before new counsel was in the case), deciding to "adhere to my previous ruling with regard to further

defensive motions [and] finding that this defendant has not filed motions timely, that his counsel was made aware of the need to file such motions through the pleadings in the case.” Pet. App. 22-23. Referencing a separate motion for new counsel, the district court recognized that, during the initial attorney’s time representing Petitioner and during the pretrial motion period, that attorney “did not file any motions to suppress or other defensive motions.” Pet. App. 23.

11. The jury found Petitioner guilty on all five charged offenses. See Pet. App. 28.

12. The District Court sentenced Petitioner to serve 540 months (45 years) in prison, with 10 years of supervised release. Pet. App. 29-30.

13. On appeal, Petitioner challenged the District Court’s refusal to continue trial and extend or reopen the period for pretrial motions to allow Petitioner to file a motion to suppress. In a split decision, the Majority recognized that Petitioner’s grounds for seeking additional time included that (a) new counsel was appointed after the defensive motion deadline had already passed and (b) new counsel was attempting to negotiate a plea deal and “felt that moving to suppress would have derailed the talks.” Pet. App. 7. Despite recognizing these factors, the Majority blamed appellate counsel for failing to develop an argument that Petitioner had good cause to file an untimely motion to suppress. Pet. App. 8. The Majority reached the merits anyway, putting on blinders to ignore all other factors, and distilling Petitioner’s several good causes down to one—that second counsel “consciously decided to not file his motion in an attempt to curry favor with the prosecution in plea negotiations.” Pet. App. 8. “This is not a sufficient reason to establish good cause for failing to file in a timely manner.” Pet. App. 8.

14. The Dissent saw the narrowness of that view and the error of that reasoning. The Dissent noted that there were “several reasons to conclude that the district court abused its

discretion when it denied [Petitioner's] motion to file an untimely motion to suppress." Pet. App.

15. These included the very short period provided to Petitioner's first counsel to file pretrial motions, which was effectively 15 days, not even 30 days, because of when and how the District Court entered that order, and the several times new counsel sought an extension of time to file pretrial rulings without the District Court ever extending time to file defensive motions such as a motion to suppress.

Given the district judge's 30-day deadline to file defensive motions, Downey effectively had no opportunity to review discovery before filing a pretrial motion to suppress. Replacement counsel appeared in June 2023 (after the deadline) and discovery was ongoing through at least August 2023. On several occasions, Downey sought an extension of time for pretrial filings, but the district court did not extend the deadline for filing defensive motions. With so much at stake in a criminal trial, district courts must provide adequate time for criminal defendants to make informed decisions. The district court's deadline in this case was wholly inadequate to achieve this important aim. In this context, the district court's decision was an abuse of discretion.

Pet. App. 15.

15. The Dissent noted that it would vacate the criminal judgment, reverse the District Court's orders denying Petitioner's motions for extensions of time and remand for the District Court to resolve the suppression motion in the first instance. Pet. App. 15.

16. Petitioner remains in custody on an order of imprisonment for 540 months, supervised release of ten years, and is currently incarcerated at U.S.P. Lee in Jonesville, Virginia.

REASONS FOR GRANTING THE PETITION FOR WRIT

This case presents the important question of when a District Court has abused its discretion and violated a petitioner's Fifth and Sixth Amendment rights in refusing to grant a motion for leave to file a motion to suppress. The Court has noted that a district court has

significant discretion and it needs to be able to manage its docket. But there are also important considerations, including the greater goals of ensuring that newly-appointed counsel have time to learn the facts of a case, ensuring that fourth amendment challenges are made public and litigated, and encouraging attempts to resolve the case through plea negotiations before a trial is required.

I. The Court Should Grant Certiorari to Review to Sixth Circuit Panel’s Majority Opinion Affirming a District Court Manifestly Erroneous Denial of a Motion for Leave to File a Motion to Suppress.

A. The Fifth Amendment Right to Due Process and Sixth Amendment Right to Counsel are Violated with Denial of a Continuance of Trial in the Face of a Justifiable Request for Delay.

The district courts have wide discretion to manage their dockets and case load and to schedule trials. *Morris v. Slappy*, 461 U.S. 1, 11, 103 S. Ct. 1610 (1983). And trial courts are granted broad discretion on matters of continuances. *Id.* But a denial of a request for more time to defend a case can violate the Fifth Amendment rights to due process and the Sixth Amendment right to counsel.

“[T]he denial of opportunity for appointed counsel to confer, to consult with the accused and to prepare his defense, could convert the appointment of counsel into a sham and nothing more than a formal compliance with the Constitution's requirement that an accused be given the assistance of counsel.” *Avery v. Alabama*, 308 U.S. 444, 446, 60 S. Ct. 321 (1940). “The Constitution's guarantee of assistance of counsel cannot be satisfied by mere formal appointment.” *Id.* Accordingly, “a myopic insistence upon expeditiousness in the face of a justifiable request for delay can render the right to defend with counsel an empty formality.”

Ungar v. Sarafite, 376 U.S. 575, 589, 84 S. Ct. 841 (1964) (citing *Chandler v. Fretag*, 348 U.S. 3, 75 S. Ct. 1 (1954)).

Of course, “not every denial of a request for more time that violates due process even if the party fails to offer evidence or is compelled to defend without counsel.” *Id.* (citing *Avery*, 308 U.S. 444). “There are no mechanical tests for deciding when a denial of a continuance is so arbitrary as to violate due process.” *Id.* (citing, inter alia, *Nilva v. United States*, 352 U.S. 385, 77 S. Ct. 431 (1957)). The answer to the due process question “must be found in the circumstances present in every case, particularly in the reasons presented to the trial judge at the time the request is denied.” *Id.* And to establish the Sixth Amendment violation based on the denial of a motion to continue, a defendant must show that the trial court abused its discretion through an “unreasoning and arbitrary ‘insistence upon expeditiousness in the face of a justifiable request for delay.’” *Morris*, 461 U.S. at 11-12 (quoting *Ungar*, 376 U.S. at 589).

B. The Public Interest in a Speedy Trial is Not Greater than the Public Interest in a Reliable and Fair Criminal Justice System, Not Greater than its Interest in having Suppression Challenges Heard, and Not Greater than a Criminal Defendant’s Interests in Attempting to Negotiate a Plea or Filing Potentially-dispositive Pretrial Motions.

Petitioner recognizes that, while he, as a defendant in a criminal case, had a right to a speedy trial, the right to a speedy also protects the “societal interest in providing a speedy trial which exists separate from, and at times in opposition to, the interests of the accused.” *Barker v. Wingo*, 407 U.S. 514, 519, 92 S. Ct. 2182 (1972). “The public has an interest in quickly bringing defendants to trial to prevent a backlog of cases that might permit dangerous criminals to linger unsupervised for extended periods of time while on bail, delay rehabilitation, and otherwise

hinder the criminal justice system.” *United States v. Ghailani*, 733 F.3d 29, 41 (2d Cir. 2013) (citing *Barker*, 407 U.S. at 519-20).

On the other hand, “in large measure because of the many procedural safeguards provided an accused, the ordinary procedures for criminal prosecution are designed to move at a deliberate pace.” *United States v. Ewell*, 383 U.S. 116, 120, 86 S. Ct. 773 (1966). “A requirement of unreasonable speed would have a deleterious effect both upon the rights of the accused and upon the ability of society to protect itself.” *Id.*

The Court has recognized for more than a century that the constitutional right to a speedy trial is not “unqualified and absolute,” *Beavers v. Haubert*, 198 U.S. 77, 86, 25 S. Ct. 573 (1905), and this right “is consistent with delays” because it greatly “depends upon circumstances.” *Id.* at 87. “[W]hat may be considered ‘speedy’ is necessarily dependent on the nature of the trial and the parties’ interests in the given case.” *Ghailani*, 733 F.3d at 41. “Indeed, in attempting to define the meaning of the word ‘speedy’ under the Sixth Amendment, [this] Court has found it “‘amorphous,’ ‘slippery,’ and ‘necessarily relative.’”” *Id.* (quoting *Vermont v. Brillon*, 556 U.S. 81, 89, 129 S. Ct. 1283 (2009), and *Barker*, 407 U.S. 522). “[T]he concept of ‘speedy’ depends in each case upon both the private and public interests in an efficient, fair, and effective justice system.” *Id.* (citing *United States v. Loud Hawk*, 474 U.S. 302, 312-13, 106 S. Ct. 648 (1986)).

In summary, the Court’s precedent establishes that both defendants and the public have an interest in a system that is fair and reliable, which must often come at the expense of haste. Reliability and fairness are more important than speed or the efficiency of a District Court’s docket.

True, delay can benefit the defendant. *Barker*, 407 U.S. at 526 (noting that “courts that have applied the demand-waiver rule have relied on the assumption that delay usually works for the benefit of the accused”). But there are legitimate reasons for delay, including those that benefit both parties. The leading example is the time needed to negotiate a plea deal. The “reality,” this Court has noted, is that the “criminal justice today is for the most part a system of pleas, not a system of trials.” *Lafler v. Cooper*, 566 U.S. 156, 170, 132 S. Ct. 156 (2012). “Ninety-seven percent of federal convictions and ninety-four percent of state convictions are the result of guilty pleas.” *Id.* (citing *Missouri v. Frye*, 566 U.S. 134, 143-44, 132 S. Ct. 1399 (2012)). Negotiation takes time, and extensions of time to negotiate are needed. If a case can be resolved so that trial is not needed, a continuance of a trial date for a trial that will never be needed is a small price to pay.

The disposition of criminal charges by agreement between the prosecutor and the accused, sometimes loosely called ‘plea bargaining,’ is an essential component of the administration of justice. Properly administered, it is to be encouraged. If every criminal charge were subjected to a full-scale trial, the States and the Federal Government would need to multiply by many times the number of judges and court facilities.

Santobello v. New York, 404 U.S. 257, 260, 92 S. Ct. 495 (1971).

Another example of continuances of trials benefitting the defendant and the public at large is suppression. An extension of a deadline to file a suppression motion that will push out the trial is a small price to pay to ensure fourth amendment challenges are vetted. “To be sure, each case in which such claim is considered may add marginally to an awareness of the values protected by the Fourth Amendment.” *Stone v. Powell*, 428 U.S. 465, 493, 96 S. Ct. 3037 (1976). But the public has an interest in seeing that violations of the Fourth Amendment are litigated and brought to light rather than buried through a denied motion for extension. “Even if one rationally

could assume that some additional incremental deterrent effect would be present in isolated cases, the resulting advance of the legitimate goal of furthering Fourth Amendment rights would be outweighed by the acknowledged costs to other values vital to a rational system of criminal justice.” *Id.* at 493-94.

C. Reviewing Courts Cannot Create Supervisory Rules that Circumvent the Court’s Standards, and a Reviewing Court must Reverse if the Decision is “Manifestly Erroneous.”

As noted above, the District Courts have wide discretion to manage their dockets, schedule trials, and grant or deny continuances. *Morris*, 461 U.S. at 11. But lower courts cannot create prophylactic supervisory rules that circumvent or supplement legal standards set out in decisions of this Court. *United States v. Payner*, 447 U. S. 727, 733-37, 100 S. Ct. 2439 (1980).

The legal standard circumvented here is the traditional abuse-of-discretion standard. Under this standard, a reviewing court must defer to the sound judgment of a district court unless the decision was “manifestly erroneous.” *General Elec. Co. v. Joiner*, 522 U. S. 136, 142, 118 S. Ct. 512 (1997); *Spring Co. v. Edgar*, 99 U.S. 645, 658, 25 L. Ed. 487 (1879).

D. As Expressly Noted by the Dissent and Contrary to the Sixth Circuit Majority’s Claim, the Record Showed Good Grounds for a Continuance of Trial and Extension of the Pretrial Motion Deadline.

Petitioner respectfully submits the Majority was disingenuous in claiming that the record did not establish good cause for seeking a delay. The causes were all right there in the record and even recounted by the Majority opinion---noting that there was a short period of time to file pretrial motions,¹ Pet. App. 7, Petitioner’s first counsel failed to file any pretrial motions, *id.*, the

¹ Although the Majority opinion did not expressly set out the short period of time, the District Court gave Petitioner notice of a mere 15 days to file pretrial motions. The District Court waited 15 days after Petitioner was arraigned to adopt and incorporate an order entered on a co-

District Court appointed new counsel after that deadline passed, *id.*, and new counsel initially focused on plea negotiations that, if successful, would render a suppression motion unnecessary. *Id.* The Dissent noted from the record that Petitioner “effectively had no opportunity to review discovery before filing a pretrial motion to suppress.” Pet. App. 15. The Dissent noted that at no time did the District Court extend the deadline for filing pretrial motions. *Id.* This means that the District Court gave Petitioner notice of just 15 days remaining to file pretrial motions and then never granted Petitioner any additional time to file pretrial motions.

The Majority’s reasoning for affirming the district court is based on blaming Petitioner’s counsel and inaccurately recasting Petitioner’s argument as oversimplified. The Majority concluded that appellate counsel had failed to “develop an argument that he had good cause to file his motion late,” and therefore forfeited it. Pet. App. 8. Again, it reached this ruling even though the record was sufficient to allow the circuit judges to list the factors in support. The Majority then pointed to the actions of Petitioner’s trial counsel, stating that counsel “only cited the ongoing plea negotiations,” and stating that any good cause was negated by the “conscious decision” of counsel “not to file a pretrial motion before the deadline.” *Id.*

After concluding that Petitioner’s argument was waived, the Majority nevertheless ruled on the merits, summarizing the grounds for the motion for leave to file a late suppression motion. The summation is not an accurate representation of the argument, however. To the Majority, the entire cause for the delay was the “conscious decision” not to file a pretrial motion before the

defendant’s docket (and not shown on Petitioner’s docket) stating that pretrial motions had to be filed within 30 days of arraignment. At that point, only 15 days remained. Moreover, despite Petitioner’s counsel filing several motions for continuance, at no time did the District Court extend the time to file defense motions. See Pet. App. 15.

deadline. The record shows this is incorrect. Moreover, it is difficult to believe Petitioner's first counsel made that conscious choice in the mere 15 days the District Court gave him to file. More likely, 15 days left insufficient time to make any voluntary choice. Petitioner's second counsel did not make any conscious decision not to file a pretrial motion before the deadline because (a) the deadline passed months before the District Court appointed that counsel and (b) the District Court then refused all subsequent requests for an extension of time for defense motions.

E. Conclusion; the District Court's Decision was Manifestly Erroneous and the Sixth Circuit Majority Erred in Failing to Reverse.

The District Court violated Petitioner's Fifth and Sixth Amendment rights by refusing to grant a continuance of trial and a motion for leave to file a single suppression motion. All factors showing good reasons for the request were in the record, including that the District Court had only given first counsel for Petitioner 15 days to file a pretrial motion, second counsel entered an appearance after that deadline to file pretrial motions had passed, and the District Court never granted any further continuance to file pretrial motions. The record further showed that while second counsel focused on plea negotiations rather than filing a pretrial motion, again, the deadline for pretrial motions had passed and the District Court refused to grant an extension. At no time while second counsel focused on plea negotiations (which might avoid the need for a trial and avoid the need for any pretrial motion) was there any day lost toward a pretrial deadline. Finally, discovery was only requested and obtained by second counsel for Petitioner, the discovery was late in being produced, and yet this late-provided discovery was the impetus for the motion to suppress that Petitioner wanted to litigate once plea negotiations broke down.

The District Court's decision not to grant the motions for continuance and leave to file a single suppression motion resulted in constitutional violations, was an abuse of discretion, and was manifestly erroneous. The Sixth Circuit Majority's affirmation of the decision was unreasonable factually and legally. The Dissent was correct to find that Petitioner's convictions should be vacated, the District Court's orders denying Petitioner's motions for extensions of time should be reversed, and the matter should be remanded for the District Court to resolve the suppression motion in the first instance. See Pet. App. 15.

CONCLUSION

Petitioner Chase Russell Downey asks the Court to grant his petition for writ of certiorari for the compelling reasons noted above. He asks the Court to grant his petition and grant full briefing in this important matter to address the District Court and Sixth Circuit Majority opinion errors or remand the matter to the Sixth Circuit with instructions to proceed as recommended by the Dissent.

Respectfully submitted,

ROBINSON & BRANDT, P.S.C.

Dated: 15 October 2025

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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing corrected petition for writ of certiorari on behalf of Petitioner Chase Russell Downey, and the following appendix, were served by U.S. Priority Mail on the date noted below upon the Solicitor General's Office, Room 5614, Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001, Assistant U.S. Attorneys Charles P. Wisdom, Jr., Amanda Harris Huang, and Roger W. West together at one address (260 W. Vine Street, Suite 300, Lexington, KY 40507-1612); a PDF copy of the same was emailed to Mr. West at Roger.West@usdoj.gov and to the Office of the Solicitor General at SupremeCtBriefs@USDOJ.gov.

Dated: 15 October 2025

by: /s/ Jeffrey M. Brandt
Jeffrey M. Brandt

APPENDIX