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IN THE

Supreme Court of the United States

MICHAEL SHARPE,

Applicant,

v.

STATE OF CONNECTICUT,

Respondent.

Application for Extension of Time Within Which to File a Petition for a Writ of Certiorari to the Connecticut Supreme Court

APPLICATION TO THE HONORABLE JUSTICE SONIA SOTOMAYOR AS CIRCUIT JUSTICE

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December 9, 2025

APPLICATION FOR EXTENSION OF TIME

Under this Court's Rule 13.5, Applicant Michael Sharpe respectfully requests a 30-day extension of time within which to file a petition for a writ of certiorari, to and including February 4, 2026.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *Connecticut* v. *Sharpe*, 353 Conn. 564 (2025) (attached as Exhibit 1).

JURISDICTION

This Court will have jurisdiction over any timely petition under 28 U.S.C. § 1257. The Connecticut Supreme Court issued its judgment on October 7, 2025. In accordance with Rule 13.5, this application is being filed more than 10 days before the current due date of January 5, 2026.

REASONS JUSTIFYING AN EXTENSION OF TIME

1. This case presents important constitutional questions about how police may collect and analyze a person's DNA. Below, the Connecticut Supreme Court ratified the warrantless collection, testing, and storage of Applicant Michael Sharpe's DNA at time when he was, in the words of the dissenting justices, "indistinguishable from anyone else living freely in our society." 353 Conn. 564 at 599. Police collected his trash, found a belt, located DNA on that belt, and then analyzed and uploaded that DNA to a database for purposes of identifying the sample against a crime scene sample—all without a warrant or probable cause. He was convicted of kidnapping on that basis.

A number of circuits and states have approved similar investigatory techniques. Other courts, by contrast, hold that DNA extraction and the creation of a DNA profile from a blood sample on lawfully seized clothing constitutes a "separate search" because the defendant "retain[ed] a privacy interest." *United States* v. *Davis*, 690 F.3d 266, 245–46 (4th Cir. 2012). Those other courts are correct.

A search violates the Fourth Amendment "when an expectation of privacy that society is prepared to consider reasonable is infringed." *United States* v. *Jacobsen*, 466 U.S. 109, 113 (1984); *see also, e.g.*, *Katz* v. *United States*, 389 U.S. 347, 361 (1967) (Harlan, J., concurring). Here, police turned their attention to Mr. Sharpe only after they had investigated his half-brothers. *Id.* at 606. Police first surreptitiously collected the half-brothers' DNA because they were identified as a potential match by a forensic genealogy company that partnered with police. *Id.* When the half-brothers' DNA did not actually match the crime scene samples, police went back to the genealogy company for additional matches. *Id.* The genealogy company then identified Mr. Sharpe and another brother. *Id.* Following the same playbook, police surreptitiously collected DNA samples from Mr. Sharpe and his other brother. *Id.* at 606–07.

Mr. Sharpe was identified as a suspect based on a DNA sample police extracted and analyzed from a belt located during a surreptitious collection of Mr. Sharpe's curbside trash. *Id.* The DNA police pulled from the belt matched the crime scene samples. Police did not seek or obtain a warrant before extracting Mr. Sharpe's DNA from the belt or before testing the DNA sample and attempting to

match it against samples in the state's CODIS database. *Id.* Mr. Sharpe was convicted of kidnapping after the trial court admitted this DNA evidence. *Id.* at 570–71.

The Connecticut Supreme Court held that because police lawfully obtained the belt, they could both collect and analyze the DNA sample shed on the belt without a warrant. The court determined that although (or perhaps because) DNA is involuntary and unavoidably shed, society would not recognize an expectation of privacy in DNA as reasonable. *See id.* at 576–77. Two justices dissented in relevant part. Writing for himself and Justice Ecker, Justice D'Auria argued that (1) extracting and (2) analyzing a person's DNA each require one of the following: consent, suspicion, or a warrant. *Id.* at 665. The dissenters vehemently disputed that society does not recognize as reasonable a privacy interest in shed DNA. *Id.*

An extension is warranted to allow time to flesh out these important issues and the split in authority among the lower courts.

2. An extension is also warranted to allow counsel time to coordinate and prepare a petition that will aid the Court's review of these issues. Applicant has asked the Carter G. Phillips/Sidley Austin LLP Supreme Court Clinic at Northwestern Pritzker School of Law to help prepare the petition. Because the semester has come to a close, the Clinic's students are preparing for and taking final exams. An extension will provide the students time to both prepare for their exams and develop a cogent and well-researched petition, and to enjoy their holiday break.

An extension is also warranted because of the press of counsel's other client business. The Clinic is responsible for a forthcoming petition for rehearing *en banc* in *United States* v. *Watkins*, No. 23-6210 (10th Cir.) (due December 12), and a petition for writ of certiorari in *Pheasant* v. *United States*, No. 23-991 (9th Cir.) (due January 29). In addition, undersigned counsel has upcoming deadlines in *DeLeon* v. *Norfolk Southern Railway*, No. 2:21-cv-00224 (N.D. Ind.) (summary-judgment reply due December 15), *Consol. Gov't of Columbus* v. *Norfolk Southern Railway*, No. 4:25-cv-312 (M.D. Ga.) (dispositive-motion reply due December 16), *Union Pacific Railroad* v. *Surface Transportation Board*, No. 25-2919 (8th Cir.) (opening brief due January 2), and *Redford* v. *Norfolk Southern Railway*, No. CL22911540-00 (Vir. Cir. Ct.) (post-trial reply briefs due January 2).

CONCLUSION

For these reasons, Applicant respectfully requests a 30-day extension of time within which to file a petition for a writ of certiorari, to and including February 4, 2026.

Respectfully submitted,

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