

No. _____

IN THE
Supreme Court of the United States

GERALD KEMONDRE TAYLOR,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fourth Circuit**

**APPLICATION FOR AN EXTENSION OF TIME IN WHICH
TO FILE PETITION FOR A WRIT OF CERTIORARI**

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

Under Supreme Court Rule 13.5 and 28 U.S.C. § 2101(c), petitioner Gerald Kemondre Taylor respectfully requests an extension of 30 days in which to file a petition for writ of certiorari in this case. The petition will seek review of the Fourth Circuit's decision in *United States v. Taylor*, No. 24-4392, 2025 WL 2784820 (4th Cir. Sept. 30, 2025) (per curiam), a copy of which is attached hereto as Appendix A.

In support of this application, petitioner states as follows:

1. The Fourth Circuit issued its opinion and entered judgment on September 30, 2025. Without an extension, the petition for a writ of certiorari would be due on December 29, 2025. With the requested extension, the petition would be due on January 28, 2025. The Court’s jurisdiction will be invoked under 28 U.S.C. § 1254(1). In accordance with Supreme Court Rule 13.5, petitioner is filing this application at least ten days before the current due date. Petitioner has not previously sought an extension of the deadline.

2.a. Mr. Taylor was indicted in the United States District Court for the Eastern District of Virginia for unlawfully possessing a machinegun in violation of 18 U.S.C. § 922(o). App. 2a. Mr. Taylor moved to dismiss the indictment, arguing that § 922(o) violates the Second Amendment under the test articulated in *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). App. 2a. Mr. Taylor argued § 922(o) is unconstitutional on its face and as applied to him. The district court denied his motion, and Mr. Taylor pleaded guilty, reserving the right to appeal the denial of his motion to dismiss. App. 2a.

b. On appeal, the Fourth Circuit affirmed in a per curiam, unpublished opinion. App. 2a-3a. The panel concluded that § 922(o) is constitutional because the plain text of the Second Amendment only protects weapons in common use for a lawful purpose, and machineguns are not in common use for lawful purposes. App. 2a-3a.

c. The Fourth Circuit’s judgment warrants this Court’s review. The

Fourth Circuit has misapplied the *Bruen* test by requiring the party challenging a firearm regulation to show that the regulation is inconsistent with this Nation’s history of firearm regulation. But, as one member of this Court has already noted, that “place[s] the burden of producing historical evidence on the wrong party.” *Snope v. Brown*, 145 S. Ct. 1534, 1537 (2025) (Thomas, J., dissenting from the denial of certiorari). Initially, “a challenger need only show that ‘the plain text’ of the Second Amendment covers his conduct.” *Id.* at 1536 (quoting *Bruen*, 597 U.S. at 32). And a challenger can meet that burden by showing that “the law at issue ‘regulates’ Americans’ ‘arms-bearing conduct.’” *Id.* (quoting *United States v. Rahimi*, 602 U.S. 680, 691 (2024)). Then, “it is *the government’s* burden to show that a historical limit on the right to bear arms nevertheless justifies its regulation.” *Id.* Thus, it should have been the government’s burden—not Mr. Taylor’s—to show that § 922(o) is consistent with a “historical limit” on the Second Amendment right.

The Fourth Circuit’s opinion also mistakenly relies on *District of Columbia v. Heller*, 554 U.S. 570 (2008) to conclude that “machineguns are not in common use for a lawful purpose.” App. 3a. But *Heller* did not address a machinegun ban, so its offhand remarks about machineguns are dicta and not binding. As this Court explained in *Heller*, “[i]t is inconceivable that we would rest our interpretation of the basic meaning of any guarantee of the Bill of Rights upon … *dictum* in a case where the point was not at issue and was not argued.” 554 U.S. at 625 n.25. Indeed, *Heller* did not attempt to “clarify the entire field,” and left it to future courts to “expound

upon the historical justifications for the exceptions” to the Second Amendment. *Id.* at 635.

d. Mr. Taylor’s petition will argue that the Court should grant review to step in and correct the Fourth Circuit’s analytical mistakes. First, this Court should clarify that the government, not the challenger, has the burden to show that its regulation is consistent with a well-established and relevantly similar historical regulation. And second, this Court should reaffirm that instead of treating *Heller*’s dicta as dispositive, courts have an obligation to independently assess whether challenged firearm regulations are “consistent with the Nation’s historical tradition of firearm regulation.” *Bruen*, 597 U.S. at 24.

3. There is good cause for the requested 30-day extension of time. Undersigned counsel, who is responsible for preparing the petition, has been delayed by work on other cases. Since the Fourth Circuit issued its opinion in this case on September 30, counsel has filed four reply briefs and four opening briefs in the Fourth Circuit. Counsel also argued before the Fourth Circuit on behalf of the appellant in *United States v. Bland*, No. 25-4015, on December 10.

In addition, counsel has upcoming deadlines in several cases that will make filing the petition by December 29 difficult. Counsel is responsible for filing the opening brief in *United States v. Finney* (4th Cir., No. 25-4417), on December 19; the opening brief in *United States v. Slate* (4th Cir., No. 25-4474), on January 12; the reply brief in *United v. Belmonte Cardozo* (4th Cir., No. 25-4239), on January 12; the

opening brief in *United States v. Jiang* (4th Cir., No. 25-4382), on January 12; and the opening brief in *United States v. Chafin* (4th Cir., No. 25-4521), on January 13. Counsel will likely seek extensions in some of these cases given the clustered deadlines, but each case still requires substantial upfront work, including issue spotting, communicating with the client, and conducting legal research. The *Jiang* appeal, in particular, will require significant review time because it is an appeal from a multi-day jury trial with numerous witnesses, exhibits, and pre-trial motions. Beyond current case-related deadlines and obligations, counsel will also be out of the office on personal leave from December 23 through December 26.

For the foregoing reasons, petitioner respectfully requests a 30-day extension of time within which to file a petition for certiorari, to and including January 28, 2026.

Dated: December 18, 2025

Respectfully submitted,



Salvatore M. Mancina
Assistant Federal Public Defender
Counsel of Record
FEDERAL PUBLIC DEFENDER'S OFFICE
Eastern District of Virginia
1650 King Street, Suite 500
Alexandria, VA 22314
(703) 600-0800
Sam_Mancina@fd.org

Counsel for Petitioner