

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

MATTHEW LEE PELTON,

Petitioner/Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

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

APPLICATION FOR AN EXTENSION OF TIME
TO THE HONORABLE JUSTICE
ELENA KAGAN AS CIRCUIT JUSTICE

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APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Petitioner Matthew Lee Pelton, by and through his court-appointed counsel, respectfully requests a 60-day extension of time from December 18, 2025, until February 16, 2026, to file his petition for a writ of certiorari.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

On September 19, 2025, the Ninth Circuit Court of Appeals affirmed the lower court's order of restitution. *United States v. Pelton*, No. 23-3242 (9th Cir. Sept. 19, 2025) (attached as Exhibit 1).

JURISDICTION

This Court will have jurisdiction over any timely filed petition for a writ of certiorari in this case pursuant to 28 U.S.C. § 1254(1). Supreme Court Rules 13.1, 13.3, and 30.1 mandate the filing deadline (absent extension) for a certiorari petition 90 days following the order sought to be reviewed; here, that deadline falls on December 18, 2025. Rule 13.5 requires this motion for extension of time to come no later than 10 days before the certiorari petition filing deadline: in this case, December 8, 2025.

PROCEDURAL HISTORY

On September 19, 2025, a three-judge panel of the Ninth Circuit Court of Appeals affirmed the lower court's order of restitution, finding that productivity

and “quality of life” losses constituted “other relevant losses” under 18 U.S.C. § 2259(c)(2)(F). Exhibit 1.

Petition for rehearing or for rehearing *en banc* was not sought.

Mr. Pelton remains incarcerated at the FCI Williamsburg with a projected release date of March 25, 2047. See <https://www.bop.gov/inmateloc/> (last visited December 5, 2025).

REASONS JUSTIFYING AN EXTENSION OF TIME

Petitioner seeks an extension of time from this Court for good cause.

Sentencing in federal criminal prosecutions involve much more than simply whether an individual will serve a term of incarceration and, if so, for how long. An increasing number of prosecutions involve an order of restitution, which can have life-long effects on the defendant – not just monetarily, but also given the severity of sanctions that may be imposed for failure to pay. The scope of restitution statutes is becoming increasingly pertinent given the increasingly large orders of restitution being sought in criminal cases, generally, and cases seeking restitution under 18 U.S.C. § 2259, specifically. Indeed, the nature of restitution is before the Court this term as this Court determines whether an order of restitution under the Mandatory Victims Restitution Act is criminal for purposes of the *ex post facto* clause.

In this instance, the lower court ordered restitution in the amount of \$341,242.76 for “productivity and quality of life losses” to one of the minor victims. The compensability of such losses under 18 U.S.C. § 2259 appears to be a matter of first impression for this Court; indeed, as recognized by the lower court, there is a dearth of cases addressing this sort of restitution request, perhaps because of the speculative nature of such an award. The Ninth Circuit found that these losses fit within the catch-all provision of 18 U.S.C. § 2259(c)(2)(F) and, thus, was subject to review for abuse of discretion. However, restitution may only be ordered pursuant to statutory authority, *see e.g., United States v. Follet*, 269 F.3d 996, 998 (9th Cir. 2001), and non-pecuniary damages such as “productivity and quality of life losses” are outside the scope of criminal restitution statutes. The broadening of restitution statutes to include such speculative losses must be permitted.

The Ninth Circuit’s decision was issued on September 19, 2025. Undersigned counsel, appointed by the court to represent Mr. Pelton, has been in a state court homicide trial since September 25, 2025. Said trial is still ongoing, with an anticipated conclusion no later than December 18, 2025. Accordingly, undersigned counsel has not had sufficient time to prepare the petition for writ of certiorari by the current filing date of December 19, 2025. Further, pursuant to ethical obligations as well as decisions from this Court, undersigned counsel must consult with Mr. Pelton prior to submission of the petition, and undersigned

counsel's trial schedule has not allowed for that. *See, e.g., McCoy v. Louisiana*, 138 S.Ct. 1500, 1507-09 (2018); *Gonzalez v. United States*, 553 U.S. 242, 248-49 (2008); and *Jones v. Barnes*, 462 U.S. 745, 751 (1983). Respectfully, undersigned counsel seeks the maximum 60-day extension of time to afford sufficient time for this necessary consultation.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the maximum extension of 60 days, up to and including February 16, 2026, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted this 5th of December, 2025.

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