

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
October Term 2025-26

TO: THE HONORABLE JUSTICE OF THE SUPREME COURT

TROY R. THOMAS,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

APPLICATION TO EXTEND THE TIME TO FILE A PETITION FOR A WRIT
OF CERTIORARI TO THE DISTRICT OF COLUMBIA COURT OF APPEALS

CRIMINAL POST-CONVICTION APPEAL CASE NO. 23-CO-0694
Criminal Post-Conviction Appeal (D.C. Code § 23-110)

Troy R. Thomas, pro se
Reg. No. 43066-007
United States Penitentiary Big Sandy
Post Office Box 2068
Inez, Kentucky 41224

March 18, 2026

**APPLICATION TO EXTEND THE TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI
TO THE DISTRICT OF COLUMBIA COURT OF APPEALS**

COMES NOW, Troy R. Thomas, the Petitioner acting *pro se*, and respectfully moves this Honorable Court, pursuant to Supreme Court Rules 13.5, 30, and 33.2(a), Pursuant to Supreme Court Rules 13.5, 30, and 33.2(a), Petitioner Troy R. Thomas respectfully applies for an extension of time of 60 days, within which to file a petition for a writ of certiorari to review the judgment of the District of Columbia Court of Appeals in Case No. 23-CO-0694.

The petition for a writ of certiorari would ordinarily be due January 22, 2026, i.e., 90 days after the District of Columbia Court of Appeals denied a timely petition for rehearing and rehearing en banc on October 24, 2025. See Rules 13.1 and 30.1–30.2. Petitioner requests that the time be extended for 60 days, so that the petition is due on March 23, 2026.

Petitioner previously submitted two applications for an extension of time. In correspondence dated February 20, 2026, the Clerk’s Office, per Rashonda Gardner, 202-479-3025, returned Petitioner’s second application, stating that the Court had no record of receiving the first application and that the second application was out-of-time. Petitioner now provides proof that the first application was hand-delivered to the Supreme Court on January 21, 2026 (before the January 22, 2026 due date) by Timothy Robert Thomas, who delivered the documents to the Supreme Court Police

Booth at North Drive on Second Street, N.E., and received a receipt reflecting the delivery date and time. Petitioner also attaches a receipt reflecting hand-delivery of the second application on February 18, 2026.

JURISDICTION

This Court's jurisdiction over a final judgment of the District of Columbia Court of Appeals is invoked under 28 U.S.C. § 1257(a). The time for filing a petition for a writ of certiorari is governed by 28 U.S.C. § 2101(c) and Supreme Court Rule 13.

JUDGMENT SOUGHT TO BE REVIEWED

Petitioner seeks review of the judgment of the District of Columbia Court of Appeals in Case No. 23-CO-0694, entered September 17, 2025. Petitioner's timely petition for rehearing and rehearing en banc was denied by order filed October 24, 2025 (copy appended). See Rule 13.3 (time runs from denial of rehearing) and Rule 13.5 (copy of order respecting rehearing appended).

GOOD CAUSE FOR SECOND EXTENSION AND SPECIFIC REASONS JUSTIFYING AN EXTENSION OF TIME

1. Petitioner is incarcerated and proceeding pro se, and is diligently researching and preparing a certiorari petition without the assistance of counsel. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam).
2. This post-conviction appeal arises from a lengthy and complex criminal prosecution and involves constitutional issues and an extensive record. Petitioner

requires additional time to obtain and review record materials and to prepare an effective petition that complies with the Court's Rules.

3. The procedural history of Petitioner's related litigation has been complicated and ongoing. Petitioner seeks to avoid piecemeal litigation and to present the Court with a complete and coherent statement of the issues and relevant lower-court proceedings.

4. Petitioner timely attempted to seek relief from this Court by submitting his first application before the original due date. Because the Clerk's Office had no record of receiving that first application, Petitioner is resubmitting this application with receipts and declarations establishing timely filing and to ensure the Court has a complete record regarding timeliness.

PRAYER FOR RELIEF

WHEREFORE, for the reasons stated above, Petitioner respectfully requests that an extension of time of 60 days be granted, extending the deadline to file a petition for a writ of certiorari to and including March 23, 2026.

Respectfully submitted,



Troy R. Thomas, pro se
Reg. No. 43066-007
United States Penitentiary Big Sandy
Post Office Box 2068
Inez, Kentucky 41224

DECLARATION UNDER PENALTY OF PERJURY

I, Troy R. Thomas, hereby declare under penalty of perjury that I am the Petitioner *pro se* in the above-stated matter, and that the foregoing is true and correct based upon information and belief and not willfully false. I make this declaration pursuant to 28 U.S.C. § 1746 on this 18th day of March 2026.

Respectfully submitted,

A handwritten signature in black ink that reads "Troy R. Thomas". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Troy R. Thomas, pro se
Reg. No. 43066-007
United States Penitentiary Big Sandy
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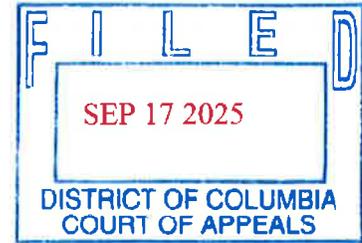
DISTRICT OF COLUMBIA COURT OF APPEALS

No. 23-CO-0694

TROY R. THOMAS, APPELLANT,

v.

UNITED STATES, APPELLEE.



Appeal from the Superior Court
of the District of Columbia
(2009-CF1-013860)

(Hon. Sean C. Staples, Trial Judge)

(Submitted May 20, 2025

Decided September 17, 2025)

Before BLACKBURNE-RIGSBY, *Chief Judge*, HOWARD, *Associate Judge*, and GLICKMAN, *Senior Judge*.

MEMORANDUM OPINION AND JUDGMENT

PER CURIAM: In 2010, after a trial by jury in Superior Court, appellant Troy Thomas was convicted of first-degree murder while armed and several other crimes. In 2012, this court affirmed Thomas's convictions and sentence on direct appeal. Three years later, Thomas moved for relief from his convictions pursuant to D.C. Code § 23-110 based on claims that his trial counsel was constitutionally ineffective. The present appeal is from the Superior Court's denial of Thomas's motion. We affirm that denial on the ground—pressed below and on appeal by the government and relied upon by the Superior Court—that all the claims of ineffective assistance asserted by Thomas are procedurally barred because he failed to show cause for his failure to assert them during the pendency of his direct appeal.

I.

On the night of June 22, 2009, two masked individuals drove up to the 600 block of Quebec Place and opened fire without warning on the several people present on the street there. One person was killed and another was seriously wounded. The assailants then fled the scene in what witnesses described as a

wood-paneled Buick station wagon. The police traced the station wagon to Thomas and obtained a warrant to search his home. Executing the search warrant two days after the shooting, the police recovered from Thomas's bedroom a semi-automatic rifle, ammunition, and keys for the station wagon, among other evidence implicating him in the shooting.¹

One of the government's expert witnesses at trial was Dr. Marie-Lydie Pierre-Louis, a pathologist who was then serving as the District's Chief Medical Examiner. She testified to the cause and manner of the homicide victim's death and ruled out an alternative cause of death (injuries sustained by the victim in a car crash as he fled after being shot) posited by the defense. Another expert witness called by the prosecution at trial was Michael Mulderig, a firearms examiner who testified that some of the cartridge casings recovered from the scene had been fired from the rifle found in Thomas's bedroom (as indicated by markings on the casings), and that other recovered cartridge casings were, at least, "consistent" with having been fired from that rifle as well.

The jury found Thomas guilty on every count of his indictment. On direct appeal, this court affirmed all his convictions except for two counts of possession of a firearm during a crime of violence, which merged with his convictions for assault on the surviving shooting victim.²

Several years later, Thomas began a multipronged collateral attack on his convictions, which included (as pertinent here) a pro se § 23-110 motion in 2015 that he amended in 2016, in which he asserted claims of ineffective assistance by his trial counsel. In brief, Thomas mainly complained that his trial counsel failed to (1) challenge the search warrant and move to suppress evidence derived from an unlawful search; (2) retain a defense ballistics expert and adequately cross-examine the government's ballistics expert; (3) adequately challenge the testimony of Dr. Pierre-Louis based on her lack of board certification and (supposed) ineligibility to serve as the District's Chief Medical Examiner; and (4) call his

¹ In addition to evidence relating to the rifle and the shooting found on Thomas's computer, the police obtained DNA evidence linking him directly to the rifle and a fingerprint allegedly left by Thomas on the station wagon.

² *Thomas v. United States*, No. 10-CF-1231, Mem. Op. & J. (D.C. June 14, 2012).

mother and girlfriend as exculpatory alibi witnesses. The motions court appointed counsel to litigate these claims on Thomas's behalf.

Ultimately, in 2023, the motions court denied Thomas's § 23-110 motion (along with other collateral motions filed by Thomas that are not pertinent here).³ The court ruled that Thomas's current ineffective assistance of trial counsel claims are procedurally barred because he had not shown cause for his failure to raise them during his direct appeal (and, if any were encompassed in his motion to recall this court's mandate in that appeal, because this court had denied that motion on the merits). The motions court further explained that Thomas could not show cause for his failure to timely raise his claims against his trial counsel by attributing that failure to the deficiency of his appellate counsel, because that excuse could only be raised and established by a successful motion in this court to recall the mandate.⁴

³ In the meantime, in 2016, Thomas filed a pro se motion in this court to recall the mandate that this court had issued four years earlier in his direct appeal; Thomas charged in this motion to recall that his counsel in his direct appeal had been ineffective. We denied this motion on its merits. *Thomas*, Mem. Op. & J. It should be noted that this motion to recall the mandate—the only such motion Thomas has filed—appears not to have been based in any significant way on the failure by his former appellate counsel to pursue his current claims of trial counsel's ineffectiveness. Rather, the motion to recall that Thomas filed in 2016, and that this court denied, appeared to raise different claims that are not before us at present. We therefore refrain from treating our denial of Thomas's 2016 motion to recall the mandate as having a preclusive effect on his current claims, even though Thomas apparently could have asserted those claims in that motion. The government does not argue that we should treat the denial as having such a preclusive effect.

⁴ In addition, and alternatively, the motions court addressed each of Thomas's ineffective assistance claims on the merits, found them wanting, and ruled that Thomas had failed to show that his trial counsel had provided constitutionally ineffective assistance. Because we uphold the court's procedural bar ruling, we do not address its alternative ruling on the merits of Thomas's claims.

II.

“Section 23-110 is not a substitute for direct appeal.”⁵ Failing to raise a claim of ineffective assistance of trial counsel “during the pendency of the direct appeal, when at that time appellant demonstrably knew or should have known of the grounds for alleging counsel’s ineffectiveness” causes “procedural default [which] will be a barrier to this court’s consideration of appellant’s claim.”⁶ The bar may be overcome by a showing of “cause and prejudice.”⁷ Sufficient “cause” may be found if it is shown that “some objective factor external to the defense” hindered earlier attempts to raise the claim.⁸ “Prejudice” in this context requires a showing that trial counsel’s putative errors “worked to [the defendant’s] actual and substantial disadvantage, infecting his entire trial with error of constitutional dimensions.”⁹

In the present case, we do not reach the question of prejudice because Thomas has not shown cause for his failure to assert his claims of trial counsel’s ineffectiveness during the pendency of his direct appeal, in which he had new counsel to assist him. Thomas lays the blame for this failure on the purported neglect and ineffectiveness of his counsel in his direct appeal, but to rely on that excuse to show cause, Thomas was obliged to litigate and establish appellate counsel’s ineffectiveness as an independent claim via a motion in this court to recall the mandate of the direct appeal.¹⁰ Thomas has not satisfied this

⁵ *Wu v. United States*, 798 A.2d 1083, 1089 (D.C. 2002).

⁶ *Shepard v. United States*, 533 A.2d 1278, 1280 (D.C. 1987).

⁷ *Id.* at 1282.

⁸ *Murray v. Carrier*, 477 U.S. 478, 488 (1986); *see also Washington v. United States*, 834 A.2d 899, 903 (D.C. 2003) (cause requires showing an individual “‘was prevented by exceptional circumstances’ from raising the claim at the appropriate time”) (quoting *Head v. United States*, 489 A.2d 450, 451 (D.C. 1985)); *Brown v. United States*, 795 A.2d 56, 61 (D.C. 2002).

⁹ *United States v. Frady*, 456 U.S. 152, 170 (1982) (emphasis omitted).

¹⁰ *See Mayfield v. United States*, 659 A.2d 1249, 1252 (D.C. 1995) (“[T]he issue of ineffective assistance of appellate counsel can only be litigated through the filing of a motion to recall the mandate in this court.”); *Hardy v. United States*, 988 A.2d 950, 961 (D.C. 2010) (“If an appellant claims ineffectiveness of appellate

precondition, even though he has been represented by new counsel in both the motions court and the appeal to this court.¹¹

For the foregoing reasons, we hold that Thomas's claims of ineffective assistance of trial counsel are procedurally barred, and we affirm the judgment of the Superior Court.

So ordered.

ENTERED BY DIRECTION OF THE COURT:


JULIO A. CASTILLO
Clerk of the Court

counsel, that issue ‘must be litigated as an independent claim, which requires a recall of the mandate of the direct appeal.’” (quoting *Wu*, 798 A.2d at 1091)).

¹¹ Thomas argues in his reply brief that two Supreme Court decisions, *Martinez v. Ryan*, 566 U.S. 1 (2012), and *Trevino v. Thaler*, 569 U.S. 413 (2013), “instruct that defendants must have a meaningful opportunity to obtain a merit review of claims of ineffective assistance of trial counsel, and that either a lack of counsel or the ineffective assistance of counsel at critical opportunities, where such issues must be initially raised, can constitute ‘cause’ sufficient to excuse a procedural default.” Reply Br. at 6-7. But there is no conflict with those principles in this case: our rules afforded Thomas the opportunity to show cause to excuse his procedural default by demonstrating through the vehicle of a motion to recall the mandate, and with the aid of newly appointed counsel, that the default was attributable to his appellate counsel’s ineffective assistance. Thomas and his new counsel simply failed to pursue that opportunity to avoid defaulting his current claims of ineffective assistance of trial counsel.

Copies emailed to:

Honorable Sean C. Staples

Director, Criminal Division

Copies e-served to:

Debra L. Soltis, Esquire

Chrisellen R. Kolb, Esquire
Assistant United States Attorney

**D.C. Court of Appeals Order
denying rehearing/rehearing
en banc (Oct. 24, 2025)**

**District of Columbia
Court of Appeals**

No. 23-CO-0694

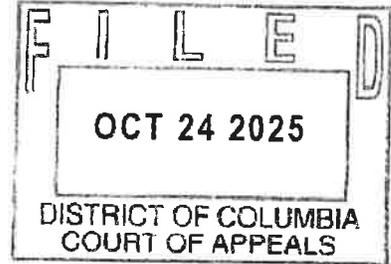
TROY R. THOMAS,

Appellant,

v.

UNITED STATES,

Appellee.



2009-CF1-013860

BEFORE: Blackburne-Rigsby,* Chief Judge, and Beckwith, Easterly, Deahl, Howard,* and Shanker, Associate Judges, and Glickman,* Senior Judge.

ORDER

On consideration of appellant's petition for rehearing or rehearing en banc, and it appearing that no judge of this court has called for a vote on the petition for rehearing en banc, it is

ORDERED by the merits division* that appellant's petition for rehearing is denied. It is

FURTHER ORDERED that appellant's petition for rehearing en banc is denied.

PER CURIAM

Associate Judge McLeese did not participate in this case.

Copies emailed to:

Honorable Sean C. Staples

Director, Criminal Division

No. 23-CO-0694

Copies e-served to:

Debra L. Soltis, Esquire

Chrisellen R. Kolb, Esquire
Assistant United States Attorney

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CERTIFICATE OF SERVICE

I, Troy R. Thomas, hereby certify that on this 18th day of March 2026, a true and correct copy of the foregoing Application to Extend the Time to File a Petition for a Writ of Certiorari to the District of Columbia Court of Appeals was delivered to The Honorable Clerk of the Court of the Supreme Court of the United States, One First Street, N.E., Washington, D.C. 20543, by hand delivery by and by United States mail to the following:

Office of the Solicitor General
950 Pennsylvania Ave. NW
Washington DC 20530-0001

Respectfully submitted,

A handwritten signature in cursive script that reads "Troy R. Thomas". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Troy R. Thomas, pro se
Reg. No. 43066-007
United States Penitentiary Big Sandy
Post Office Box 2068
Inez, Kentucky 41224

SUPREME COURT OF THE UNITED STATES

DECLARATION OF TROY R. THOMAS

I, Troy R. Thomas, Reg. No. 43066-007, currently confined at the United States Penitentiary Big Sandy, make this declaration in support of my Resubmitted Application To Extend Time To File A Petition For Writ Of Certiorari. I declare as follows:

1. I am the Petitioner pro se in Troy R. Thomas v. United States of America, arising from District of Columbia Court of Appeals Case No. 23-CO-0694.
2. On January 15, 2026, I deposited my first application for an extension of time to file a petition for a writ of certiorari, addressed for delivery to Timothy Robert Thomas, a certified paralegal, for hand-delivery to the Supreme Court, into the institution's internal mail system with first-class postage prepaid.
3. On February 11, 2026, I deposited my second application for an extension of time, addressed for delivery to Timothy Robert Thomas for hand-delivery to the Supreme Court, into the institution's internal mail system with first-class postage prepaid.

I, Troy R. Thomas, hereby declare under penalty of perjury that the foregoing is true and correct based upon information and belief and not willfully false. I make this declaration pursuant to 28 U.S.C. § 1746.

Executed on March 18, 2026.

Respectfully submitted,



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