

Case No. _____

In The
SUPREME COURT OF THE UNITED STATES
October Term 2025

Brett Dewayne Cole,
Applicant/Petitioner,

v.

United States of America,
Respondent.

**Application for an Extension of Time Within Which to File
a Petition for a Writ of Certiorari to the
United States Court of Appeals for the Tenth Circuit**

**APPLICATION TO THE HONORABLE JUSTICE
NEIL M. GORSUCH AS CIRCUIT JUSTICE**

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April 3, 2026

Attorney for Applicant/Petitioner

APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Brett Dewayne Cole hereby requests a 30-day extension of time within which to file a petition for a writ of certiorari, up to and including June 10, 2026.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is the judgment in *United States v. Cole*, No. 24-7077, in the Tenth Circuit (Opinion issued December 24, 2025, rehearing denied February 9, 2026). The Opinion is attached as Exhibit 1. The Order denying rehearing is attached as Exhibit 2. Undersigned counsel's order of appointment by the Tenth Circuit is attached as Exhibit 3.

JURISDICTION

This Court will have jurisdiction over a timely filed petition for writ of certiorari in this case pursuant to 28 U.S.C. §§ 1254(1). Under Rules 13.1, 13.3, and 30.1, a petition for a writ of certiorari is currently due on or before Monday, May 11, 2025. In accordance with Rule 13.5, this application is being filed at least 10 days in advance of the filing date for the petition for a writ of certiorari.

REASONS JUSTIFYING AN EXTENSION

Applicant respectfully requests a 30-day extension of time (until June 10, 2026) within which to file a petition for writ of certiorari seeking review of the decision of the United States Court of Appeals for the Tenth Circuit in this case.

1. Undersigned counsel is CJA-appointed counsel for Applicant. The Tenth Circuit's order of appointment (Exhibit 3) provided that "[t]he district court has made the requisite finding of eligibility for appointment of counsel pursuant to 18 U.S.C. § 3006A."

2. Undersigned counsel was appointed and handled the appeal through the Tenth Circuit. The Tenth Circuit affirmed the judgment in an Opinion issued December 29, 2025 (Exhibit 1). The Tenth Circuit denied a petition for rehearing on February 9, 2026 (Exhibit 2).

3. The requested extension of time is necessary because of the press of other client business. Since the denial of the petition for rehearing by the Tenth Circuit on February 9, 2026, undersigned counsel has had to work and will have to work on the following matters, among other matters: **(1)** *United States v. Herrera-Salazar*, No. 25-6989, in this Court, petition for writ of certiorari filed (electronically) March 4, 2026; **(2)** *United States v. Lopez*, No. 24-3160, Tenth Circuit (CJA appointment), Petition for Rehearing En Banc filed March 9, 2026; **(3)** *United States v. Miranda-Espinoza*, No. 25-6166, Tenth Circuit (CJA appointment), Opening Brief filed March 27, 2026; **(4)** *United States v. Peralta*, No. 25-2152, Tenth Circuit (CJA Appointment), response to government motion to enforce appeal waiver, filed April 1, 2026; **(5)** *United States v. Miller*, No. 24-cr-83-NYW, District of Colorado, (a) Objections to Presentence Investigation Report filed March 18, 2026, (b) Sentencing Memorandum filed March 30, 2026, (c) reply to Government's Sentencing Memorandum due April 6, 2026, (d) sentencing hearing in the District Court on April 13, 2026; **(6)** *United States v. Miller*, No. 25-5122, Tenth Circuit (CJA Appointment), (a) Reply Brief due April 14, 2026, under previous extensions (motion for extension to April 17th pending), (b) oral argument in the Tenth Circuit May 14, 2026; **(7)** *United States v. Nevarez*, No. 25-3176, Tenth Circuit (CJA Appointment), Opening Brief due April 17, 2026 under a previous extension; **(8)** *Marriage of Chadalavada*, No. 22DR30421, Douglas County (Colorado) District Court, retained expert and must prepare an expert report on attorney's fees, report due May 15, 2026 (testimony to be given in court hearing on June 15, 2026); **(9)** *United States v. Minor*, No. 26-6012, Tenth Circuit (CJA Appointment), Opening

Brief due May 13, 2026 under a previous extension. In addition, undersigned counsel was out of town on vacation to visit his elderly parents February 7-14. Finally, on March 13, 2026, undersigned counsel was taken to the emergency room by ambulance on with severe vertigo, which necessitated working less than full work days for the next week. Because of these other commitments, the additional time is necessary to complete the petition for writ of certiorari in this case.

CONCLUSION

For the above foregoing reasons, Applicant respectfully requests that this Court grant an extension of 30 days, up to and including June 10, 2026, within which to file a petition for a writ of certiorari in this case.

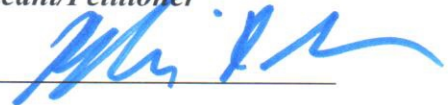
Respectfully submitted,

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April 3, 2026

Attorney for Applicant/Petitioner

s/ Blain D. Myhre
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 3rd day of April, 2026, a true and correct copy of the foregoing was filed with the Court and served electronically and by U.S. mail on the following:

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