

APRIL TERM 2026

CASE NO. _____
IN THE SUPREME COURT OF THE UNITED STATES

SHANNON W. AGOFSKY,

Petitioner,

v.

DEANNA BAYSORE, WARDEN,
U.S. PENITENTIARY FLORENCE,
STATE OF COLORADO,

Respondent.

**UNOPPOSED MOTION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

PETITIONER, Shannon W. Agofsky, an inmate at U.S. Penitentiary Florence in Florence, Colorado, through undersigned counsel, respectfully moves for an extension of sixty days to prepare and file his Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit. In support of this unopposed request, Petitioner respectfully submits:

1. Petitioner was sentenced to death by a jury in the Eastern District of Texas, based in part on a firearm conviction from a 1989 case in the Western District of Missouri. *See United States v. Agofsky*, 458 F.3d 369 (5th Cir. 2006). The Fifth Circuit vacated Petitioner's convictions on Double Jeopardy grounds and remanded with instructions to reimpose one conviction at the government's election. *Id.* The

Fifth Circuit subsequently affirmed the final judgment imposing a sentence of death. *United States v. Agofsky*, 516 F.3d 280 (5th Cir. 2008).

2. In 2022, Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C § 2241 in the Southern District of Indiana, where he was confined, challenging the 1989 Missouri firearm conviction. The district court dismissed the petition for lack of subject-matter jurisdiction under 28 U.S.C. § 2255(e) and Petitioner appealed. The Seventh Circuit overturned longstanding circuit precedent and affirmed on November 26, 2025. *Agofsky v. Baysore*, 160 F.4th 857 (7th Cir. 2025). A copy of that opinion is attached hereto as Exhibit A. (While this appeal was pending, President Biden commuted Petitioner’s death sentence to life in prison.)

3. Petitioner then filed a timely petition for panel rehearing and rehearing en banc. A copy of the Seventh Circuit’s order denying that motion for panel rehearing and rehearing en banc is attached hereto as Exhibit B.

4. Mr. Agofsky’s Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit follows the denial of his motion for panel rehearing and rehearing en banc, which occurred on January 23, 2026, and concerns the judgment entered by the Seventh Circuit on November 26, 2025. *Agofsky v. Baysore*, 160 F.4th 857 (7th Cir. 2025).

5. Petitioner’s petition for writ of certiorari is due on April 23, 2026. *See* Supreme Court Rule 13.1, 13.3. This Court has jurisdiction over that petition under 28 U.S.C. § 1254(1). In accordance with this Court’s Rules, Petitioner’s request for an

extension of time is being made more than ten days in advance of the current due date. Supreme Court Rule 13.5. The extension requested in this motion is sought on behalf of the Petitioner, Mr. Agofsky. *See id.*

6. Good cause exists to grant the extension in light of the complexity of the issues in Petitioner's case and undersigned counsel's existing obligations. In the coming months, undersigned counsel has reply briefs due in the Eastern District of Pennsylvania on May 2, *Lindsay v. Kuffman*, 2:21-cv-211 (E.D. Pa.), the Eastern District of Texas on June 9, *Agofsky v. United States of America*, 1:07-cv-511 (E.D. Tex.), and the Eastern District of Tennessee on June 15. *Stephenson v. Nelson*, 3:14-cv-414 (E.D. Tn.) (capital case). He has a sentencing in the Eastern District of Pennsylvania on May 6, *United States v. Smith*, 2:25-cr-176 (E.D. Pa.), and an amended habeas petition due in the Western District of Pennsylvania on May 25, *Baumhammers v. Harry, et al.*, 2:14-cv-1022-NBF (W.D. Pa.) (capital case). Undersigned counsel is also actively involved in the defense of capital-eligible prosecutions in Philadelphia and Washington D.C., as well as formerly capital-eligible matters in New York City and Puerto Rico. He has work related travel obligations on April 14–15 (Detroit) and May 11–13 (Los Angeles).

7. This request is further justified by the complex issue to be raised in his petition: whether a statute that prohibits litigants from filing in a particular district deprives the federal court in that district of subject-matter jurisdiction, or whether such a statute constitutes a waivable, non-jurisdictional venue provision. *See U.S.*

Const. art. III, §2, cl. 1; 28 U.S.C. §§1331, 2241, 2255(e); *Kontrick v. Ryan*, 540 U.S. 443 (2004); *Arbaugh v. Y&H Corp.*, 546 U.S. 500 (2006). The panel’s opinion below reversed course on this question, overruling *Harris v. Warden*, 425 F.3d 386, 388 (7th Cir. 2005) and four cases that relied on it. Preparing a petition that adequately presents interlocking questions spanning the clear-statement rule, the presumption against implied repeal, and the history and structure of the federal habeas statutes, requires additional time.

8. In light of the complexity of the issues and the undersigned’s existing obligations, Petitioner requests additional time to complete the careful briefing and thorough research needed to provide this Court with a professionally adequate petition for writ of certiorari. Counsel requests a sixty-day extension of time in which to prepare and file the certiorari petition. If granted, Petitioner’s petition would be due Monday, June 22.

9. On April 13, 2026, counsel for Petitioner contacted counsel for Respondent. Counsel for Respondent indicated that Respondent does not oppose this motion.

WHEREFORE, Petitioner prays that the Court allow a sixty-day extension of time for the preparation and filing of his Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

Respectfully submitted,

/s/ Sam Welch
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Dated: April 13, 2026