

No. _____

IN THE
Supreme Court of the United States

ANGELO L. CEPEDA,
Applicant,

v.

UNITED STATES OF AMERICA,
Respondent.

**Application to the Hon. John G. Roberts, Jr.
for Extension of Time to File a
Petition for a Writ of Certiorari to the
United States Court of Appeals for the Armed Forces**

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PARTIES TO THE PROCEEDINGS

The applicant, Angelo L. Cepeda, was convicted in a court-martial and appealed his conviction. The respondent is the United States.

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To the Honorable John G. Roberts, Jr., Chief Justice of the United States:

Pursuant to Supreme Court Rules 13.5, 22, and 30, Applicant, Angelo L. Cepeda, respectfully requests a sixty-day extension of time, up to and including July 10, 2026, to file a Petition for a Writ of Certiorari. Unless an extension is granted, the deadline for filing the Petition for a Writ of Certiorari will be May 11, 2026. This Application is being filed more than ten days before that date. This Court has jurisdiction under 28 U.S.C. § 1259(3).

In support of this application, Applicant states the following:

1. This case presents an important constitutional and unsettled question of whether instructional error involving misstated and/or omitted elements of an offense can be waived, or whether, under *Neder v. United States*, 527 U.S. 1 (1999), such instructional error must be evaluated for harmlessness even in the absence of an objection. This case also presents an important question of a consistent definition of “sexual harassment,” including a specific definition of the term “unwanted.” Both questions are of national importance for federal and state criminal and civil courts grappling with cases involving sexual harassment. Sexual harassment also continues to be a topic of great public interest in both the civilian and military sectors.

2. Applicant, a member of the United States Air Force, was convicted, contrary to his plea, of willful dereliction of his duty to not sexually harass a subordinate, contrary to Article 92, Uniform Code of Military Justice, 10 U.S.C. § 892. In his appeal to the Air Force Court of Criminal Appeals (AFCCA), Applicant alleged, among other legal errors, that his conviction for sexual harassment was legally insufficient because the military judge’s instruction on the definition of “sexual harassment” incorrectly defined an essential element, and omitted other essential elements, of “sexual harassment.” A majority of the AFCCA held that Applicant waived the instructional issue because his trial defense counsel did not object to the incorrect instruction. The majority then found Applicant’s conviction to be legally and factually sufficient. *United States v. Cepeda*, 2025 CCA LEXIS 320, 2025 WL 2028559 (A.F. Ct. Crim. App. Jul. 21, 2025) (unpub. op.). However, Judge Gruen

argued in his dissenting opinion that Applicant's conviction was legally insufficient, due to the military judge's incomplete and inaccurate definition of "sexual harassment," which in turn, may have violated Applicant's due process rights. Judge Gruen would have held that waiver does not apply to required instructions regarding the correct definitions and elements of the charged offense, and in evaluating the instructional error for harmlessness beyond a reasonable doubt (the standard for error of constitutional magnitude), he was not confident the error did not contribute to Applicant's conviction. The AFCCA's opinion is attached to this application at Attachment A.

3. Applicant petitioned the Court of Appeals for the Armed Forces (CAAF) to review his case, arguing in part that (1) the military judge's definition of sexual harassment as "nonconsensual" instead of "unwanted," and the AFCCA majority's acceptance of that incorrect definition, rendered his conviction legally insufficient; and (2) the AFCCA's application of waiver to the instructional error conflicted with this Court's decision in *Neder* to evaluate such instructional error for harmlessness. The CAAF denied review of Applicant's case on February 10, 2026. A copy of the CAAF's order is attached at Attachment B.

4. An extension of time is necessary because Applicant recently retained counsel of record, Ms. Tami Mitchell, to petition this Court to review his case. Ms. Mitchell is in the process of selling her house in Colorado, currently scheduled for closing on May 5, 2026, and buying a house in Florida, currently scheduled for closing

on June 15, 2026. Although Ms. Mitchell has represented Applicant since his AFCCA appeal, considering the multitude of tasks related to selling her home in Colorado, buying a home in Florida, and scheduling a move half-way across the country, Ms. Mitchell needs more time to coordinate with Major Jordan Grande, Applicant's Air Force Appellate Defense Counsel, research, and draft Applicant's petition to this Court

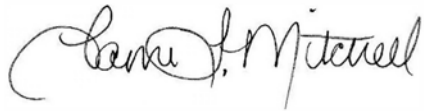
5. Major Jordan Grande is also detailed to fifteen other cases. Since the CAAF's decision in Applicant's case, her statutory obligations in representing other clients required her to complete briefing and oral argument in these cases before the AFCCA and the CAAF. She also needs more time to coordinate with Ms. Mitchell, research, and draft Applicant's petition to this Court.

6. Finally, the printing process required for Applicant's petition must be processed through a federal government agency (the Air Force), which has payment and processing requirements that a private firm does not. The procurement process for a printing job cannot be forecasted with certainty, often has delays, and cuts approximately two weeks out of counsel's time to finalize the Petition for a Writ of Certiorari.

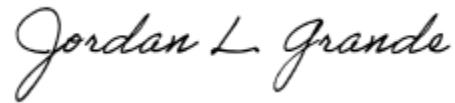
7. Applicant thus requests an extension not exceeding sixty days for counsel to prepare a petition that fully addresses the issues raised by the decisions below and frames those issues in a manner that will be most helpful to the Court.

For the foregoing reasons, Applicant respectfully requests that an order be entered extending the time to file a Petition for a Writ of Certiorari up to, and including, July 10, 2026.

Respectfully submitted,



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