

No. 25A1212

Supreme Court, U.S.  
FILED

APR 30 2026

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In the  
Supreme Court of the United States

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AISHA TRIMBLE,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondents.*

(5<sup>th</sup> Cir. No. 25-10921)

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On Application for Stay of Mandate to the  
United States Court of Appeals  
for the Fifth Circuit

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APPLICATION TO JUSTICE ALITO FOR STAY OF MANDATE

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AISHA TRIMBLE,

*Pro Se*

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RECEIVED

MAY - 4 2026

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**APPLICATION TO JUSTICE ALITO FOR STAY OF MANDATE**  
For the Fifth Circuit - Samuel A. Alito, Jr., Associate Justice  
(Louisiana, Mississippi, Texas)

I, Aisha Trimble, natural born American citizen and protected veteran per 5 U.S.C. § 2108, submit this Application to Justice Alito per U.S. Supreme Court Rule 22. The original and two copies of this application are enclosed and prepared as required by Rule 33.2, accompanied by proof of service as required by Rule 29.

Per Rule 23, I pray you, Justice Alito, grant a stay of the forthcoming 5<sup>th</sup> Cir. Court of Appeals Mandate as permitted by law and stay the enforcement of their Feb. 16, 2026 judgment per 28 U. S. C. § 2101(f). Relief sought is not available from any other court or judge. The 5<sup>th</sup> Circuit denied my petitions for rehearing and en banc rehearing on April 27, 2026. I first sought Stay of the Mandate with the 5<sup>th</sup> Circuit on April 29, 2026. The 5<sup>th</sup> Circuit denied my Motion to Stay the Mandate on April 30, 2026. The 5<sup>th</sup> Cir. opinion and judgment are the final actions sought to be reviewed, and everything is enclosed herein.

**Reasons to grant this Application for Stay of the Mandate.**

On Jun. 21, 2024, I filed a non-frivolous, non-duplicative \$2MM FTCA personal injury civil suit against USA for negligence performing non-discretionary, statutory duties. No relief is requested under the cited criminal statutes.

I served reasonable notice on USA per the US Constitution 5<sup>th</sup> Amend. and the 2007 amend. to FRCP 4(i), and USA didn't appear by Oct. 25, 2024. North District TX - Dallas never issued notice of defect or ordered cure per FRCP 4(m) after I begged the judge for clarity on any service issues, and clerk entered default against USA on

July 10, 2025. Judge Lindsay ordered stand down on July 11, 2025, R&R was filed Jul. 31, 2025 and I objected on Aug. 3, 2025. Dismissal came Aug. 5, 2025 via use of USA's forfeited 12(b)(5) service defenses. USA got busy on the docket and failed to invoke a defense under 12(b)(2). Entry of default sits unvacated with ND TX.

The U.S. Court of Appeals 5<sup>th</sup> Circuit ("5<sup>th</sup> Cir.") is the Lower Court that presided over my appeal. I am now in the legal position to submit a petition for writ of certiorari to this court by July 26, 2026, and I believe at least four Justices of this court will grant my petition. I pray you understand that I haven't yet prepared full arguments to persuade and inform this court, but I believe the following reasons support you approving Stay of the 5<sup>th</sup> Cir. Mandate:

The **first reason** is the existence of a "massive circuit split" between 5<sup>th</sup> Cir. and at least ten (10) sister circuits as it pertains to use of USA's forfeited 12(b)(5) defenses to dismiss after USA entered late, said they "didn't get" the lawsuit, participated and improperly preserved 12(b)(2),(5) defenses. ND TX and 5<sup>th</sup> Cir. positioned themselves as lacking personal jurisdiction over USA. "Personal jurisdiction is established when the defendant is served." *Burnham v. Superior Court*, 495 U.S. 604 (1990)

5<sup>th</sup> Cir. affirmed the district court granting USA's illegal, untimely MTD and conflicts with ten sister circuits as follows:

Precedential Holdings	Sister Circuit Cases
<p>"...personal jurisdiction may be acquired [via] voluntary appearance. A defendant who does not object to the personal jurisdiction has consented to the court's jurisdiction... court may not <i>sua sponte</i> consider defects in personal jurisdiction on behalf of parties who may choose to waive."</p>	<p><i>Pilgrim Badge &amp; Label Corp. v. Barrios</i>, 857 F.2d 1 (1st Cir. 1988)</p>

<p>“..a defendant [waives] the defense of improper service by participating in litigation without raising the personal jurisdiction issue.”</p>	<p><u>Hamilton v. Atlas Turner, Inc.</u>, 99-7335 (2nd Cir. 1999)</p>
<p>“...objections to service of process are waived if not timely raised... defective service waived if not challenged in first defensive pleading... our sister circuits have reached the same conclusion.”</p>	<p><u>McCurdy vs American Board of Plastic Surgery</u>, 97-1971 (3<sup>rd</sup> Cir. 1998)</p>
<p>“..unexcused failure to raise the untimeliness of service defense ... must be held to deprive the court of [dismissal] power”</p>	<p><u>Pusey v. Dallas Corp.</u>, 938 F.2d 498, 501 (4th Cir. 1991)</p>
<p>“...the requirement of personal jurisdiction flows from the Due Process Clause and protects an individual liberty interest. an individual may submit to the jurisdiction of the court by appearance. Defendants waived lack of personal jurisdiction defense, and voluntarily submitted to the district court’s jurisdiction, when their attorney entered a general appearance with the district court on their behalf.”</p>	<p><u>Gerber v. Riordan</u>, 09-3790 (6th Cir. 2011)</p>
<p>“...The district court did not err in finding that the defendants waived their defense of improper service under Rule 12(h)(1) based on their repeated involvement in the proceedings.”</p>	<p><u>Trustees of Central Laborers' Welfare Fund v. Lowery</u> 924 F.2d 731 (7th Cir. 1991)</p>
<p>“They participated... all without raising the issue of personal jurisdiction or requesting a ruling on it. We are faced with a record that contains no consideration of this issue; this is the type of situation the Federal Rules of Civil Procedure seek to avoid. we hold that their conduct in delaying consideration of this threshold issue manifests an intent to submit to the court’s jurisdiction.”</p>	<p><u>Yeldell v. Tutt</u>, 913 F.2d 533, 538-39 (8th Cir.1990)</p>
<p>“...defense of lack of personal jurisdiction, may be waived as a result of the course of conduct pursued by a party during litigation.”</p>	<p><u>Peterson v. Highland Music, Inc.</u> 95-56393 (9th Cir. 1998)</p>
<p>“...Prior to the filing of a motion for default judgment, the court may not <i>sua sponte</i> consider defects in personal jurisdiction on behalf of parties who may choose to waive the defects or subject themselves to the court’s jurisdiction in any event.”</p>	<p><u>Williams v. Life Savings &amp; Loans</u>, 85-1664 (10<sup>th</sup> Cir. 1986)</p>

“...when a defendant waived objection to insufficient service of process (or any other defect in personal jurisdiction) by failing timely to object under Rule 12(h), and has thus consented to litigate the action in that court, the court may not, either upon the defendant's motion or its own initiative, dismiss the suit for lack of personal jurisdiction or insufficient service of process.”

*Pardazi v. Cullman*, 896 F.2d 1313 (11<sup>th</sup> Cir. 1990)

The **second reason** is 5<sup>th</sup> Cir. violated the Party Presentation Principle and conflicts with this Court under *Sineneng*. In a unanimous decision this Court held, “...in our adversarial system of adjudication, we follow the principle of party presentation... we rely on the parties to frame the issues and assign to courts the role of neutral arbiter of matters the parties present. [C]ourts do not, or should not, sally forth each day looking for wrongs to right.” *USA v. Sineneng-Smith*, 19-67 U.S. (2020) The record proves USA never asked the district court to revive their forfeited 12(b)(5) defense per Rule 6, and the MTD was filed 63 days after USA entered late. USA never asked the district court to enlarge time, and the court took it upon itself to advocate for USA and right the wrong of USA’s unreserved 12(b)(2),(5) defenses. The Court fixed USA’s tardy mistakes and silently held personal jurisdiction lacking by granting the MTD without USA raising personal jurisdiction or untimely 12(b)(5) issues.

Some **additional reasons** are 5<sup>th</sup> Cir. changes this Court’s reasonable notice and service dispute standards under *Mullane*, *Dusenbery* and *Jones v. Flowers*. 5<sup>th</sup> Cir. conflicts with *Olmstead* by allowing the government to violate the “rules.” 5<sup>th</sup> Cir. violated my 5<sup>th</sup> Amend. rights to due process and equal protection under FRCP 55, in conflict with *Bolling* and *Spevack*. The **question presented** is substantially

important and impacts public access to courts. I believe at least four U.S. Supreme Court Justices will grant my petition based on this question:

“Whether 12(b)(5) dismissal is illegal, and 5<sup>th</sup> Amend. rights are violated under Rule 55, when the government forfeits and waives defenses, and the court uses those improperly preserved defenses, obsolete law, plus unrepresented party issues to dismiss after clerk enters default?”

### CONCLUSION

5<sup>th</sup> Cir. is poised to issue its Mandate on Tuesday, May 5, 2026, and I prayerfully request you to grant this Application to Stay the Mandate, Justice Alito. I declare under penalty of perjury that the foregoing is true and correct to my best info & belief.

Respectfully submitted this 30<sup>th</sup> day of APRIL 2026,

/s   
Aisha Trimble, Pro Se  
PO BOX 540261  
DALLAS, TX 75354  
404.468.2649  
aisha1776@yahoo.com

# APPENDIX

## UNITED STATES SUPREME COURT

*On Application for Stay of Mandate to the US Court of Appeals  
for the 5<sup>th</sup> Circuit*

Aisha Trimble, Petitioner

v.

United States of America, Respondent  
(5<sup>th</sup> Cir. No. 25-10921)

***AISHA TRIMBLE***  
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*Dallas, Texas 75354*  
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United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

February 16, 2026

Lyle W. Cayce  
Clerk

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No. 25-10921

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AISHA TRIMBLE,

*Plaintiff—Appellant,*

*versus*

UNITED STATES OF AMERICA,

*Defendant—Appellee.*

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:24-CV-1615

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Before RICHMAN, SOUTHWICK, and WILLETT, *Circuit Judges.*

PER CURIAM:\*

Trimble sued the United States—not the named agencies whose actions she challenges—asserting claims under the Fifth Amendment, the Federal Tort Claims Act, and various civil and criminal statutes.

The Government later entered a “limited appearance” and filed a notice of deficient service. Under the Federal Rules of Civil Procedure, any mailed service of process to the United States Attorney must be addressed to

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 25-10921

the “civil-process clerk” of the United States Attorney’s Office. FED. R. CIV. P. 4(i)(1)(A)(ii). Trimble, however, did not do so. Instead, she mailed the copy of the summons and complaint to the United States Attorney, not the civil-process clerk. Indeed, the mailing appears to have been signed by an individual named “O. Tonche” who was not employed at the United States Attorney’s Office. As a result, the Office did not receive that mailing. Although the Office offered multiple times to accept service from Trimble, she made no further attempts.

The Government moved to dismiss on three grounds: insufficient service, lack of subject matter jurisdiction, and failure to state a claim. The magistrate judge recommended dismissal on all three grounds. And the district court dismissed her claims under the Fifth Amendment; the Federal Tort Claims Act; and 42 U.S.C. §§ 1983, 1985, and 1986 for lack of subject matter jurisdiction, and her remaining claims for insufficient service of process. The district court also “warn[ed] [Trimble] that if she persist[ed] in filing frivolous, baseless, or duplicative lawsuits, she may be barred from bringing new actions in the future or sanctioned monetarily.”

We need only address insufficient service. We review a dismissal for insufficient service of process for abuse of discretion. *Lindsey v. U. S. R.R. Ret. Bd.*, 101 F.3d 444, 445 (5th Cir. 1996). District courts have “broad discretion to dismiss an action for ineffective service of process.” *Kreimerman v. Casa Veerkamp, S.A. de C.V.*, 22 F.3d 634, 645 (5th Cir. 1994).

Rule 4(m) requires dismissal without prejudice “if a defendant is not served within 90 days after the complaint is filed, unless the plaintiff shows good cause for the failure.” *Lewis v. Sec’y of Pub. Safety & Corr.*, 870 F.3d 365, 369 (5th Cir. 2017); FED. R. CIV. P. 4(m). Good cause requires a showing of “at least as much would be required to show excusable neglect, as to which simple inadvertence or mistake of counsel or ignorance of the rule

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usually does not suffice.” *Sys. Signs Supplies v. U.S. Dep’t of Just.*, 903 F.2d 1011, 1013 (5th Cir. 1990) (citation and quotation omitted). And “[p]ro se status does not excuse a litigant’s complete failure to effect service.” *Id.*

We conclude that the district court did not abuse its discretion by dismissing for insufficient service of process. Trimble did not properly send the mailing to the civil-process clerk, nor did she provide any argument showing good cause. Despite repeated offers by Government counsel to accept service, and express concerns raised by both the magistrate judge and the district court regarding defective service, Trimble did not attempt to rectify the service.

Because Trimble insufficiently served the United States, we need not address the other grounds for dismissal. Dismissal without prejudice was well within the district court’s discretion.

AFFIRMED.

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

February 16, 2026

Lyle W. Cayce  
Clerk

---

No. 25-10921

---

AISHA TRIMBLE,

*Plaintiff—Appellant,*

*versus*

UNITED STATES OF AMERICA,

*Defendant—Appellee.*

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:24-CV-1615

---

JUDGMENT

Before RICHMAN, SOUTHWICK, and WILLETT, *Circuit Judges*.

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

IT IS FURTHER ORDERED that appellant pay to appellee the costs on appeal to be taxed by the Clerk of this Court.

The judgment or mandate of this court shall issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later. See FED. R. APP. P. 41(B). The court may shorten or extend the time by order. See 5TH CIR. R. 41 I.O.P.

United States Court of Appeals  
for the Fifth Circuit

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No. 25-10921

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United States Court of Appeals  
Fifth Circuit

**FILED**

April 27, 2026

Lyle W. Cayce  
Clerk

AISHA TRIMBLE,

*Plaintiff—Appellant,*

*versus*

UNITED STATES OF AMERICA,

*Defendant—Appellee.*

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:24-CV-1615

---

ON PETITION FOR REHEARING  
AND REHEARING EN BANC

Before RICHMAN, SOUTHWICK, and WILLETT, *Circuit Judges.*

PER CURIAM:

The petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P.40 and 5TH CIR. R.40), the petition for rehearing en banc is DENIED.

*United States Court of Appeals*  
FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

April 27, 2026

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 25-10921 Trimble v. USA  
USDC No. 3:24-CV-1615

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Casey A. Sullivan, Deputy Clerk  
504-310-7642

Ms. Tami C. Parker  
Ms. Aisha Trimble

*United States Court of Appeals*

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

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Suite 115  
NEW ORLEANS, LA 70130

April 30, 2026

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 25-10921 Trimble v. USA  
USDC No. 3:24-CV-1615

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Casey A. Sullivan, Deputy Clerk  
504-310-7642

Ms. Tami C. Parker  
Ms. Aisha Trimble

United States Court of Appeals  
for the Fifth Circuit

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No. 25-10921

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United States Court of Appeals  
Fifth Circuit

**FILED**

April 30, 2026

Lyle W. Cayce  
Clerk

AISHA TRIMBLE,

*Plaintiff—Appellant,*

*versus*

UNITED STATES OF AMERICA,

*Defendant—Appellee.*

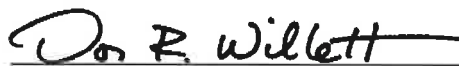
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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:24-CV-1615

---

ORDER:

The Appellant's opposed motion for stay of the mandate pending petition for writ of certiorari is DENIED.



DON R. WILLETT

*United States Circuit Judge*

# CERTIFICATE OF SERVICE

No. \_\_\_\_\_

AISHA TRIMBLE,  
*Petitioner,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

As required by Supreme Court Rule 29, I certify that service has been made on the following counsel for the Respondent:

**RESPONDENT:**

Solicitor General of the United States  
Department of Justice  
950 Pennsylvania Avenue Northwest  
Room 5616  
Washington, DC 20530-0001  
SupremeCtBriefs@USDOJ.gov

Service was effected by sending one (1) copy of the Application to Justice Alito to Stay the Mandate via Fed Ex (Next Day/Overnight) service, as well as digital submission via electronic mail.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 30<sup>th</sup> day of APRIL, 2026,



s/Aisha Trimble, Pro Se