

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

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IN THE  
**Supreme Court of the United States**

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JOSE A. ASTACIO BURGESS,  
*Applicant,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

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**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**

\_\_\_\_\_  
LUKE D. WILSON  
*Counsel of Record*  
Air Force Appellate Defense Div.  
1500 West Perimeter Road  
Suite 1100  
Joint Base Andrews, MD 20762  
Luke.Wilson.14@us.af.mil

*Counsel for Applicant*

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Pursuant to Supreme Court Rules 13(5), 22, and 30, the Applicant, Jose A. Astacio Burgess, requests a 60-day extension of time, to and including September 5, 2026, to file a Petition for a Writ of Certiorari. Unless an extension is granted, the deadline for filing the petition for certiorari is July 7, 2026. This Application is being filed more than 10 days before that date.

In support of this application, Applicant states the following:

1. The Court of Appeals for the Armed Forces (CAAF) rendered its decision denying review of Applicant's case on April 7, 2026. This Court has jurisdiction under

28 U.S.C. § 1259(3). A copy of the CAAF's order denying review appears in this application's appendix.

2. Applicant, a member of the United States Air Force, was tried by a special court-martial composed of a military judge alone at Beale Air Force Base, CA, on 13 May 2025. Consistent with his pleas, he was found guilty of four specifications of wrongful use, possession, etcetera of controlled substances under Article 112a, Uniform Code of Military Justice, 10 U.S.C. § 912a. The military judge sentenced Applicant to a bad-conduct discharge, a reprimand, forfeiture of pay, and a reduction in grade.

3. At the Air Force Court of Criminal Appeals (AFCCA), Applicant raised the issues of (1) whether the military judge abused his discretion in accepting Applicant's pleas to each specification of Charge II (Wrongful use, possession, etcetera of controlled substances); (2) assuming the military judge did abuse his discretion in accepting Applicant's plea to one or more specifications, what is the appropriate remedy; and (3) are the remaining charges and their specifications dismissed with prejudice, vice dismissed with prejudice conditioned upon the completion of appellate review as agreed upon in the plea agreement. On December 12, 2025, the AFCCA affirmed the findings and sentence.

4. Applicant sought discretionary review by the United States Court of Appeals for the Armed Forces (CAAF). Applicant raised issues regarding the AFCCA's use of

the ripeness doctrine. On April 7, 2026, the CAAF denied Applicant's petition to review his case.

6. Good cause exists to grant the requested extension. Applicant's appellate defense counsel, Lieutenant Colonel Luke Wilson, is a reservist in the Air Force Reserves. He is Applicant's primary counsel for the purposes of his Petition for a Writ of Certiorari, but is also detailed to seven other cases. Since Applicant's petition for grant of review was denied by the CAAF, counsel's statutory obligations in representing other clients required the review of three records of trial to advise clients on their appeals, briefing issues at the AFCCA and petitions for grant of review at CAAF, as well as oral argument at the CAAF.

6. Further, 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 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 undersigned counsel's time to finalize the petition for a writ of certiorari.

7. Applicant thus requests a 60-day extension for the filing of Applicant's certiorari petition.

8. 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, September 5, 2026.

Respectfully submitted,

Luke D. Wilson  
*Counsel of Record*  
Air Force Appellate Defense Division  
1500 Perimeter Road, Suite 1100  
Joint Base Andrews, MD 20762  
Luke.Wilson.14@us.af.mil  
(240) 612-4770

June 26, 2026

**APPENDIX**

**United States Court of Appeals  
for the Armed Forces  
Washington, D.C.**

United States,  
Appellee

USCA Dkt. No. 26-0124/AF  
Crim.App. No. S32827

v.

**ORDER DENYING PETITION**

Jose A.  
Astacio Burgess,  
Appellant

On consideration of the petition for grant of review of the decision of the United States Air Force Court of Criminal Appeals, it is by the Court, this 7th day of April, 2026,

ORDERED:

That the petition is hereby denied.

For the Court,

/s/ Malcolm H. Squires, Jr.  
Clerk of the Court

cc: The Judge Advocate General of the Air Force  
Appellate Defense Counsel (Wilson)  
Appellate Government Counsel (Payne)