

No. 25-

In the Supreme Court of the United States

ANDIS NOE CORTEZ ZEPEDA., *PETITIONER*,

V.

UNITED STATES OF AMERICA, *RESPONDENT*

**APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the Fifth Circuit:

Petitioner Andis Noe Cortez-Zepeda, requests a 60-day extension of time to file his petition for certiorari in this Court to and including December 7, 2025. *See* 28 U.S.C. § 2101(c); Sup. Ct. R. 13.5. The final judgment of the Fifth Circuit was entered on July 10, 2025, Petitioner's time to petition for certiorari in this Court expires October 8, 2025. This application is being filed at least 10 days before that date.

A copy of the opinion below is attached. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1).

As shown by the opinion below, this case involves whether a person charged with illegal re-entry, in violation of 8 U.S.C. §

1326(a), who has previously been deported pursuant to an expedited removal justified by an aggravated felony, 8 U.S.C. § 1228, when the underlying conviction was not, in fact, an aggravated felony and the person was not advised of their ability to challenge that determination. The circuits are openly divided over this issue, which determines whether a person will be convicted of violating 8 U.S.C. § 1326 or have their case dismissed. *Compare United States v. Validiva-Flores*, 876 F.3d 1201 (9th Cir. 2017) with *United States v. Cortez-Zepeda*, 2025 WL 1904482 (5th Cir. Jul. 10, 2025) (attached). Counsel wishes to fully and cogently explain the split in his petition for certiorari.

Further, counsel is currently working to meet multiple court deadlines that occur at the same time that this petition is due. For example, counsel is responsible for filing two briefs in the Fifth Circuit Court of Appeals—the opening brief in *USA v. Muniz-Espinoza*, 25-50262, and the reply brief in *USA v. Brown*, 24-50944—on October 6, 2025. Further, counsel is scheduled to take a major exam by the State Bar of Texas, to be board certified in Criminal Appeals, also on October 6, 2025.

For those reasons, counsel requests an extension of time to file the petition for certiorari to this Court to and including December 7, 2025.

Respectfully submitted.

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