

No. _____

IN THE
Supreme Court of the United States

MARTIN GUTIERREZ-BARBA,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Application for an Extension of Time
to File a Petition for a Writ of Certiorari

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

To the Honorable Elena Kagan as Circuit Justice for the United States Court of
Appeals for the Ninth Circuit:

Pursuant to Rules 13.5 and 30, petitioner Martin Gutierrez-Barba respectfully
asks the Court for a 60-day extension of time, to and including February 2, 2026, to
file a petition for a writ of certiorari in this matter. The Court of Appeals issued a
memorandum decision affirming the district court's decision on May 23, 2025. (App.
A.) The Court of Appeals denied a petition for panel rehearing and rehearing en banc

on September 4, 2025. (App. B.) This Court's jurisdiction is invoked under 28 U.S.C. §1254(1).

1. The date within which the petition for certiorari would be due, if not extended, is December 3, 2025.

2. Petitioner's lead counsel in the Court of Appeals for the Ninth Circuit is an Assistant Federal Public Defender in the District of Arizona who is engaged in full-time briefing and arguing direct appeals before the United States Courts of Appeals. In the time since rehearing was denied and continuing through the next few months, Ms. Johnson has been or will be occupied with the following obligations: an opening brief in *United States v Harbour*, No. 24-696 (9th Cir.), an appeal from a lengthy, complex wire fraud trial, currently due October 31, 2025; a reply brief in *United States v. Mass-Soto*, No. 24-893 (9th Cir.), whose filing deadline is currently suspended on account of the government shutdown but which is being considered for argument on a February 2026 argument calendar and therefore must be prepared promptly; an opening brief in *United States v. Garrity*, No. 25-3833 (9th Cir.), whose filing deadline is similarly temporarily suspended but whose projected filing date is December 9, 2025; and a complicated and fact-intensive resentencing following successful appeal in *United States v. Alahmedalabdaloklah*, No. 12-1263 (D. Ariz.), a three-month terrorism trial for which Ms. Johnson is the only remaining lawyer from the defendant's trial team currently employed by the Federal Public Defender, currently scheduled for December 16, 2025.

3. In addition, Ms. Johnson currently anticipates being on leave from December 23, 2025, through January 9, 2026.

4. This case presents an important issue of law on which the circuits have divided, namely, whether a defendant who raises a nonfrivolous sentencing argument tethered to a relevant 18 U.S.C. § 3553(a) factor but whose argument goes unaddressed by the sentencing court must object again after sentence is imposed in order to preserve his claim of error. Additional time is needed to provide sufficient time for counsel to research, prepare, and file the petition.

5. Mr. Gutierrez has not previously requested an extension of time.

For the foregoing reasons, Mr. Gutierrez respectfully requests that the time for filing a petition for a writ of certiorari in this case be extended by 60 days, to and including February 2, 2026.

Respectfully submitted,

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Federal Public Defender

s/ Jami Johnson
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November 4, 2025