

No. _____

In the Supreme Court of the United States

NADARIUS BARNES,

Applicant,

v.

UNITED STATES OF AMERICA.

**APPLICATION FOR AN EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI**

To the Honorable Neil M. Gorsuch, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Tenth Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicant Nadarius Barnes respectfully requests a 60-day extension of time, to and including March 6, 2026, within which to file a petition for a writ of certiorari. The U.S. Court of Appeals for the Tenth Circuit issued an opinion on June 25, 2025. A copy of that opinion is attached as Exhibit A. The U.S. Court of Appeals for the Tenth Circuit denied a timely petition for rehearing on October 7, 2025. A copy of that order is attached as Exhibit B. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on January 5, 2026. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case.

3. This case raises an exceptionally important question warranting this Court's review: whether, by entering an unconditional guilty plea, a defendant waives his right to appeal the conviction on the basis that the conduct admitted in the plea does not constitute the charged offense as a matter of law.

4. Mr. Barnes was convicted under 18 U.S.C. § 924(c) pursuant to an unconditional guilty plea in the United States District Court for the District of Kansas. Mr. Barnes argued on appeal that his § 924(c) conviction must be vacated because assault on a federal officer under § 111(b) is not a crime of violence.

5. The Tenth Circuit dismissed the appeal. The Court held that, by pleading guilty without a plea agreement, Mr. Barnes waived the right to challenge his conviction on appeal on the theory that the facts admitted in his plea do not constitute the charged offense. The Tenth Circuit allows only "jurisdictional" defenses and constitutional claims to be raised on appeal following a guilty plea.

6. The Tenth Circuit deepened an entrenched, recognized, and longstanding circuit conflict over whether a defendant who pleads guilty waives the right to argue on appeal that his conviction is invalid because the facts to which he pleaded do not constitute the charged offense.

7. This is a significant and recurring legal issue that warrants this Court's review. The overwhelming majority of criminal defendants plead guilty, and it is critical that those defendants understand what rights they are waiving by entering a guilty plea.

8. Mr. Barnes respectfully requests an extension of time to file a petition for a writ of certiorari. Lead counsel, who argued the case below, is currently out of office on

parental leave. A 60-day extension would allow the remainder of the team sufficient time to familiarize themselves with the complex facts and legal issues involved in this case. Counsel also have a number of competing deadlines in cases before this Court and other federal courts, as well as personal obligations for the upcoming holidays. A 60-day extension would provide counsel with adequate time to prepare the petition for filing.

Wherefore, Mr. Barnes respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to and including March 6, 2026.

Dated: November 17, 2025

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew T. Tutt". The signature is fluid and cursive, with a large initial "A" and a stylized "T".

Andrew T. Tutt

Counsel of Record

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