No. 25-__

IN THE
Supreme Court of the United States

RAYMON WALTERS,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

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

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

To: Justice Samuel A. Alito, Jr., Circuit Justice for the Third Circuit:

Pursuant to this Court's Rules 13.5 and 22, Applicant Raymon Walters requests an extension of thirty days to file a petition for a writ of certiorari in this case. His forthcoming petition will seek review of the Third Circuit's decision in *United States v. Walters*, 151 F.4th 122 (3rd Cir. 2025), in which the court of appeals affirmed the district court's judgment of conviction. A copy of the Third Circuit's decision is attached. *See* App. 1-18. This application is supported by the following reasons:

1. The Third Circuit issued its decision on September 4, 2025. Without an extension, the petition for a writ of certiorari would be due on December 3, 2025. With the requested extension, the petition would be due on January 2, 2026. This Court's jurisdiction will be invoked under 28 U.S.C. § 1254(1).

2. This case presents an important Sixth Amendment question that has divided courts of appeals and state high courts: whether defense counsel may concede an element of a crime over the defendant's objection, where doing so is reasonably designed to advance the defendant's objective of obtaining an acquittal. In *McCoy v. Louisiana*, 584 U.S. 414 (2018), this Court held that the Sixth Amendment affords a criminal defendant the right "to decide that the objective of the defense is to assert innocence," even when defense counsel reasonably recommends that the defendant admit guilt to avoid the death penalty or an otherwise harsh sentence. *Id.* at 422. But as the *McCoy* dissent recognized, the majority opinion left open a "difficult"

follow-on question that can arise "frequently: When guilt is the sole issue for the jury, is it ever permissible for counsel to make the unilateral decision to concede an element of the offense charged?" *Id.* at 435 (Alito, J., dissenting).

3. That is the question presented in this case. In the decision below, the Third Circuit held that the Sixth Amendment guarantee recognized in *McCoy* encompasses the "right to contest discrete elements of the crime" of conviction. App. 9. In so doing, the Third Circuit expressly "depart[ed] from the Second Circuit," *id.* at 11 n.7, which has held that "the right to autonomy is not implicated when defense counsel concedes one element of the charged crime while maintaining that the defendant is not guilty as charged," *United States v. Rosemond*, 958 F.3d 111, 122 (2d Cir. 2020). The Third Circuit's decision likewise conflicts with a decision of the Kentucky Supreme Court. *Epperson v. Commonwealth*, 645 S.W.3d 405, 408-409 (Ky. 2021). Only this Court can resolve this division of authority over the Sixth Amendment's application to counsel's concession of an element of the charged crime over his client's objection.

4. The question presented warrants the Court's intervention. Members of the Court have recognized that the question may arise "frequently." *McCoy*, 584 U.S. at 435 (Alito, J., dissenting). Indeed, in the wake of *McCoy*, lower courts have routinely confronted the question. The frequently recurring nature of the question is unsurprising because, in many cases involving common crimes, conceding an element will often be a sound trial strategy. That is particularly so in cases (like this one) involving felon-in-possession offenses under 18 U.S.C. § 922(g)(1), where the

defendant will often have little basis to challenge the validity of a prior felony conviction and where the "name or nature of the prior offense … generally carries a risk of unfair prejudice to the defendant." *Old Chief v. United States*, 519 U.S. 172, 185 (1997).

5. The application for a 30-day extension is necessary because Applicant has only recently affiliated undersigned counsel at Cooley LLP. The extension is needed for new counsel to fully familiarize themselves with the record, decision below, and relevant case law, and to allow counsel adequate time to prepare the petition for certiorari. The press of other business and deadlines means these tasks will take several weeks.

6. For these reasons, Applicant requests that the due date for his petition for a writ of certiorari be extended to January 2, 2026.

Respectfully submitted,

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