

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

AITA GURUNG,

Applicant,

v.

STATE OF VERMONT,

Respondent.

**APPLICATION FOR AN EXTENSION OF TIME TO FILE A
PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF VERMONT**

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November 17, 2025

APPLICATION

To the Honorable Sonia Sotomayor, Associate Justice of the Supreme Court of the United States and Circuit Justice for Vermont:

Pursuant to Rules 13.5, 13.1 and 22 of the Rules of this Court and 28 U.S.C. § 2101(d), applicant Aita Gurung respectfully requests an extension of sixty days, to and including January 26, 2026, to file his petition for a writ of certiorari to review the judgment of the Supreme Court of Vermont in *State v. Gurung*, 2025 VT 52. In support of this application, Applicant submits the following information:

1. The Supreme Court of Vermont issued its original decision on August 29, 2025. *See Vermont v. Gurung*, 2025 VT 52 (Appendix A).

2. Unless extended, the time to file a petition for certiorari will expire on November 28, 2025. *See Sup. Ct. R. 13.1*. This application is being filed more than ten days before a petition is currently due. *See Sup. Ct. R. 13.5*. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

3. Applicant was convicted of first-degree murder and attempted second degree murder after four days of jury selection, fourteen days of trial and four days of deliberations. This was a successive prosecution by the State of Vermont. Applicant's first prosecution, involving the same charges and incident, was dismissed by the State of Vermont on May 31, 2019, after the prosecuting office determined that Applicant was insane at the time and could not be held criminally responsible for his actions.

4. During the successive prosecution by the State of Vermont, several complicating factors emerged. Applicant went back and forth between competency, incompetency, and competency. Applicant is also limited English proficient and required Nepali language interpreters to ensure meaningful access throughout the proceedings. Over the course of four days of jury selection several concerns emerged, including whether prospective jurors understood the meaning of a verdict of not guilty by reason of insanity. On the last day of jury selection, the trial court removed counsel from the courtroom to its chambers to conduct peremptory and for-cause challenges, excluding Applicant and the public from being present. The trial court did not make any findings to support its decision to conduct the final stage of jury selection in closed chambers. The quality of the court's audio recording of its chambers' proceedings was poor and incomplete. Some of the discussion was taken off-the record entirely.

5. On appeal, Applicant argued that excluding the public from this final stage of jury selection was structural and plain error. Because the right to a public trial is personal to him, it could not be impliedly waived by defense counsel. The Vermont Supreme Court determined in its 5-0 decision that there was no error because the Sixth Amendment right to a public trial only extended to a particular stage of jury selection: the questioning of jurors during voir dire. App. 14. Pointing to holdings in federal court cases, the Vermont Supreme Court determined that there is "a meaningful difference between voir dire, which is presumptively open to the public, and the exercise of juror challenges." App. 14. In the Court's view:

“[T]he public need not hear attorneys’ challenges to the participation of certain potential jurors. Such an exercise is likely to be prejudicial to one or both parties if other prospective jurors could hear the challenges....The facts presented by this case do not amount to any exclusion of the public from any portion of the jury selection which the public was entitled to hear.” App. 15.

6. The Supreme Court of Vermont’s decision warrants this Court’s review. This case involves a question of substantial importance about the scope of the constitutional right to a public trial under the Sixth and Fourteenth Amendments of the United States Constitution during jury selection in a criminal proceeding. An extension of time will help ensure that the petition effectively presents this important issue.

7. Good cause exists for an extension. Applicant was represented by the undersigned counsel, who represented him on direct appeal of his convictions before the Vermont Supreme Court. Undersigned counsel is the chief Appellate Defender and supervising attorney of the Appellate Division of the Office of the Defender General for the State of Vermont. Undersigned counsel has a heavy caseload of previously assigned appellate and trial court cases while also supervising the Appellate Division and providing policy and training-level support for the entire criminal defense system. In light of her other pending cases and responsibilities, undersigned counsel needs additional time to adequately prepare the petition to present to this Court.

8. For these reasons, Applicant respectfully requests that an order be entered to extend his time to file a petition for certiorari to and including January 26, 2026.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rebecca Turner', written over a horizontal line.

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