

No. _____

In The Supreme Court of the United States

Markhel D'John Harris-Franklin,

Applicant,

vs.

United States of America,

Respondent.

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

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To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eighth Circuit:

1. Pursuant to Supreme Court Rules 13.5, 22, 30.2, and 30.3, Applicant Markhel D'John Harris-Franklin respectfully requests a 60-day extension of time, until 19 February 2026, within which to file a petition for a writ of certiorari.

2. The United States Court of Appeals for the Eighth Circuit issued its opinion on 24 July 2025, and denied a timely petition for rehearing en banc on 22 September 2025. Copies of the opinion and order are attached herewith. The present deadline for filing a petition for a writ of certiorari is 21 December 2025. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

3. Applicant has not previously filed a request for the same relief, and this application for an extension of the time for filing a petition for a writ of certiorari is filed well in advance of the 10-day period preceding the current final filing date, as required by Rule 30.2 of the rules of this Court.

4. The issue to be presented for the Court’s review is whether ends-of-justice continuances granted under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7), may be open-ended. The Eighth Circuit’s opinion expressly acknowledged that “[o]ur sister circuits have split over whether a district court may grant an open-ended continuance under § 3161(h)([7])(A).” *See* attached slip opinion at 20.

5. The Eighth Circuit’s opinion briefly summarized the split of authority, providing a synopsis of the holdings of the First, Third, Fifth, Tenth, and Eleventh Circuit Courts of Appeals, on the one side, and the Second and Ninth Circuit Courts of Appeals, on the other.

6. The First and Third Circuits have found that such continuances are not prohibited provided that they are “reasonable in length.” The Fifth Circuit likewise does not prohibit such continuances provided they are adequately justified. The Tenth Circuit has noted its preference for such continuances to have a specific end date, but has held that in rare cases an open-ended continuance is permissible if for a reasonable period of time. The Eleventh Circuit has found any such continuance permissible so long as the district court has concluded that it is justified and makes the required findings. *Id.* at 20-21.

7. The Second and Ninth Circuits, in contrast, have concluded that ends-of-justice continuances must be limited in time. *Id.* at 21.

8. In this case, the Eighth Circuit joined the majority of the Circuits in finding that an open-ended, ends-of-justice continuance is not categorically prohibited – assuming it meets a vaguely defined standard of reasonableness. It doing so, it ruled against Mr. Harris-Franklin.

9. The issue was dispositive in this case, but the law remains unsettled because of the split of circuit authority and the vague limitation of reasonableness adopted by the Eighth Circuit in this case. Resolution of the conflicting standards requires that this Court grant certiorari in an appropriate case. This case certainly looks to be the appropriate vehicle for resolution of the conflict, but undersigned counsel needs more time properly to present the matter to the Court.

10. Undersigned counsel has been appointed to represent Applicant under the Criminal Justice Act, but counsel's competing professional obligations in the District of Minnesota, the Eastern District of Michigan, and the Eighth Circuit Court of Appeals – as well as a First-Degree Murder trial in a Minnesota county court – have all combined to limit his ability to devote the time required properly to frame the matter

for the Court in a petition for certiorari. The current deadline of 21 December 2025, also falls in the midst of the winter holiday season, making the need for the 60-day extension even more pressing.

11. Applicant therefore requests that the time to file a writ of certiorari in this case be extended 60 days to (and including) 19 February 2026.

Conclusion

For the foregoing reasons, Applicant Harris-Franklin respectfully requests that the Court grant this Application for an Extension of Time to file a Petition for Certiorari.

Dated: 24 November 2025

Respectfully submitted,

/s/ Daniel L. Gerdtz

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