

No. \_\_\_\_\_

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**In the Supreme Court of the United States**

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MICHAEL LAIRY,

*Applicant,*

*v.*

UNITED STATES OF AMERICA.

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

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To the Honorable Amy Coney Barrett, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Seventh Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicant Michael Lairy respectfully requests a 60-day extension of time, to and including February 7, 2026, within which to file a petition for a writ of certiorari. The U.S. Court of Appeals for the Seventh Circuit issued an opinion on July 7, 2025. A copy of that opinion is attached as Exhibit A. The U.S. Court of Appeals for the Seventh Circuit denied a timely petition for rehearing on September 10, 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 December 9, 2025. This application is being filed more than ten days in advance of that date, and no prior application has been made in this case.

3. This case raises an exceptionally important question that the court below acknowledged has divided the courts of appeals: Whether an individual who did not in fact commit three qualifying predicate offenses required to trigger the Armed Career Criminal Act's mandatory minimum fifteen-year sentence in a noncapital case can assert the actual innocence exception to procedural bars on habeas corpus relief. Ex. A at 12-13; *compare also, e.g., Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162 (2d Cir. 2000); *United States v. Maybeck*, 23 F.3d 888 (4th Cir. 1994); and *Allen v. Ives*, 950 F.3d 1184 (9th Cir. 2020), *reh'g en banc denied*, 976 F.3d 863 (9th Cir. 2020), *with Hope v. United States*, 108 F.3d 119 (7th Cir. 1997); *Embrey v. Hershberger*, 131 F.3d 739 (8th Cir. 1997) (en banc); *Mccelhaney v. Bear*, 700 Fed. App'x 872 (10th Cir. 2017).

4. Mr. Lairy respectfully requests an extension of time to file a petition for a writ of certiorari. Counsel was retained in this case after the Seventh Circuit panel issued its decision. A 60-day extension would allow counsel sufficient time to familiarize themselves with the complex factual and legal issues presented by 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. Lairy respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to and including February 7, 2026.

Dated: November 26, 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

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