

IN THE SUPREME COURT OF THE UNITED STATES

No. 25A_____

UNITED STATES OF AMERICA

v.

JASON ROBERT HOPSON

APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Pursuant to Rules 13.5 and 30.2 of the Rules of this Court, the Solicitor General, on behalf of applicant United States of America, respectfully requests a 32-day extension of time, to and including Monday, March 9, 2026, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Tenth Circuit in this case. The opinion of the court of appeals (App., infra, 1a-65a) is reported at 150 F.4th 1290. The court entered its judgment on July 30, 2025, and denied a petition for rehearing on November 7, 2025 (App., infra, 66a). Unless extended, the time within which to file a petition for a writ of certiorari will expire on February 5, 2026.

1. The Major Crimes Act, ch. 341, 23 Stat. 385 (1885), provides that the federal government may prosecute certain serious crimes, including felony assault under 18 U.S.C. 113, committed by Indians in Indian country. See 18 U.S.C. 3242; see also 18 U.S.C. 1153(a). Congress has provided that Indians who commit such crimes “shall be tried in the same manner” as persons who commit equivalent crimes in federal enclaves. 18 U.S.C. 3242.

In Keeble v. United States, 412 U.S. 205 (1973), this Court interpreted that statutory language to mean that, if a similarly situated defendant in a federal enclave charged with felony assault would be entitled to a jury instruction on a lesser included offense of simple assault, an Indian defendant charged under the Major Crimes Act is likewise entitled to such an instruction. Id. at 214. And the Court held that to be the case even though simple assault is not listed as one of the crimes for which such a defendant may be tried under the Act. Id. at 209-213.

2. In February 2022, respondent was involved in an altercation with a police officer in Tulsa, Oklahoma. App., infra, 3a-5a. Respondent and the officer are both Indians, and the altercation took place within the boundaries of the Muscogee (Creek) Nation’s reservation. Id. at 5a. A federal grand jury indicted respondent under the Major Crimes Act for felony assault, in violation of 18 U.S.C. 113(a)(6). App., infra, 5a.

Respondent stood trial alongside a codefendant indicted for the same offense. App., infra, 6a. At trial, consistent with

Keeble, the codefendant asked the court to instruct the jury on the lesser included offense of simple assault under 18 U.S.C. 113(a)(5) -- an offense that is not among the crimes enumerated in the Major Crimes Act. App., infra, 7a. Respondent did not object to the instruction, which the court provided. Id. at 7a-8a.

The jury acquitted respondent and his codefendant of felony assault but found them guilty of simple assault. App., infra, 8a-9a. The district court entered judgments against both defendants reflecting convictions for simple assault, and sentenced respondent to three years of probation. Id. at 9a.

2. Respondent, but not his codefendant, appealed. App., infra, 9a & n.4. The court of appeals vacated and remanded. Id. at 65a. The court accepted respondent's contention, raised for the first time on appeal, that the district court lacked subject-matter jurisdiction to enter a judgment of conviction for simple assault. Id. at 9a-65a.

The court of appeals interpreted the Act and Keeble to mean that while an Indian defendant is entitled to a jury instruction on the lesser offense of simple assault when the evidence supports such an instruction, he is entitled to an acquittal if the jury finds him guilty of that lesser offense. App., infra, 23a-46a. In the court's view, irrespective of the necessity to provide a lesser-included-offense instruction in certain felony-assault cases, the Major Crimes Act grants district courts jurisdiction to punish only felony assault, not simple assault, in Indian country.

App., infra, 23a-26a. The court acknowledged that its decision conflicts with the decisions of four other courts of appeals. Id. at 47a-58a.

3. The Solicitor General has not yet determined whether to file a petition for a writ of certiorari in this case. The additional time sought in this application is needed to continue consultation within the government and to assess the legal and practical impact of the court of appeals' decision. Additional time is also needed, if a petition is authorized, to permit its preparation and printing.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
Counsel of Record

JANUARY 2026