IN THE

Supreme Court of the United States

JEFFREY DALE BUSBY,

Applicant,

v.

STATE OF MISSISSIPPI,

Respondent.

Application for Extension of Time Within Which to File a Petition for a Writ of Certiorari to the Supreme Court of Mississippi

APPLICATION TO THE HONORABLE JUSTICE SAMUEL A. ALITO, JR., AS CIRCUIT JUSTICE

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APPLICATION FOR EXTENSION OF TIME

Under this Court's Rule 13.5, Applicant Jeffrey Dale Busby respectfully requests a 14-day extension of time within which to file a petition for a writ of certiorari, to and including February 25, 2026.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *Busby* v. *State of Mississippi*, 422 So.3d 974 (2025) (attached as Exhibit 1).

JURISDICTION

This Court will have jurisdiction over any timely petition under 28 U.S.C. § 1257. The Supreme Court of Mississippi issued its judgment on November 13, 2025. In accordance with Rule 13.5, this application is being filed more than 10 days before the current due date of February 11, 2026.

REASONS JUSTIFYING AN EXTENSION OF TIME

1. This case presents an important constitutional question that has split the lower courts in the wake of *Smith* v. *Arizona*, 602 U.S. 779 (2024): Whether the Confrontation Clause allows the admission of forensic evidence through a supervisor or reviewer who did not personally participate in the testing at issue.

Below, the Supreme Court of Mississippi adhered to its pre-*Smith* precedent holding that "a technical reviewer" who co-signed a forensic report—but did not conduct the actual testing—could testify to the result of the testing. 422 So. 3d at 976. The court thus affirmed the admission of testimony that Mr. Busby sold "2.84 grams of methamphetamine" to a confidential informant—an offense for which he

was sentenced to forty years' imprisonment as a habitual offender. *Id.* at 976. The court reasoned that *Smith* did "not appear to address" the point at which "a testifying analyst becomes sufficiently involved in the process to give her *own* testimony based on the report she co-signed." *Id.* at 979.

Concurring only in the judgment, Presiding Justice Coleman explained that this "testimony and the report were admitted in violation of United States Supreme Court Confrontation Clause jurisprudence." *Id.* at 980. Because the technical reviewer "never even saw the" alleged methamphetamine, and "had no involvement in preparing the report but only reviewed it once complete," she "had no personal knowledge of the vast majority of the facts that were admitted into evidence through her testimony." *Id.* at 980–81. That being so, the testimony violated *Smith*: "That the label *technical reviewer* is applicable to [the witness] does not change the fact that, like the testifying witness in *Smith*, she had no part in the actual testing of the methamphetamine and gained her information, which she then relayed to the jury, from [the other technician's] observations, testing, and knowledge." *Id.* at 981.

Other state high courts agree with Presiding Justice Coleman and disagree with the Mississippi court's majority. See *State* v. *Hall-Haught*, 569 P.3d 315, 322–23 (Wash. 2025) ("to the extent that [our precedent] allowed the supervisor's expert opinion to rely on the nontestifying forensic analyst's factual statements as the basis for their opinion," that practice "is unconstitutional under *Smith*"); *Commonwealth* v. *Gordon*, 266 N.E.3d 369, 395 (Mass. 2025) ("Following *Smith*,

this aspect of our evidentiary rule, which permits a substitute expert who is a supervisor of the crime lab to provide an opinion regarding raw data generated by an absent analyst that depends on the truth of the testimonial hearsay of an absent analyst as to the processes and protocols she says she followed to obtain the data, no longer comports with the right of confrontation, and the admission of such expert opinion testimony is an error of constitutional dimension.").

2. An extension is warranted to allow counsel time to coordinate and prepare a petition that will aid the Court's review of these issues. Applicant has asked the Carter G. Phillips/Sidley Austin LLP Supreme Court Clinic at Northwestern Pritzker School of Law to help prepare the petition. During the initial weeks following the decision below, the Clinic students were preparing for and taking final exams and then on holiday break. Now that the semester has resumed, an extension will provide the Clinic students time to develop a cogent and well-researched petition.

An extension is also warranted because of the press of counsel's other client business. The Clinic is responsible for merits briefing in *Abouammo* v. *United States*, No. 25-5146; for forthcoming petitions in *Sharpe* v. *Connecticut*, No. 25A672 (due February 4), *Perez* v. *United States*, No. 25A700 (due February 20), and *Pheasant* v. *United States*, No. 25A727 (due February 28); and for a reply supporting the petition in *Breimeister* v. *United States*, No. 25-407 (brief in opposition due February 2).

CONCLUSION

For these reasons, Applicant respectfully requests a 14-day extension of time within which to file a petition for a writ of certiorari, to and including February 25, 2026.

Respectfully submitted,

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