

No. 25A_____

In the Supreme Court of the United States

PRICE MONTGOMERY, *PETITIONER*,

v.

UNITED STATES OF AMERICA, *RESPONDENT*

**APPLICATION FOR EXTENSION OF TIME TO FILE PETITION
FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE THIRD CIRCUIT**

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the Third Circuit:

Petitioner-Applicant Price Montgomery respectfully requests a 30-day extension of time to file his petition for a writ of certiorari in this Court to and including April 1, 2026.

1. Timeliness and Jurisdiction

On December 2, 2025, the United States Court of Appeals for the Third Circuit denied a petition for rehearing. Appeal No. 22-2368. Appx. A. On August 25, 2025, in a precedential opinion, the Third Circuit affirmed Mr. Montgomery's convictions and sentence from Crim. No. 14-205 (W.D.Pa.). Appx. B.

Mr. Montgomery's petition for a writ of certiorari is due on March 2, 2026. *See* 28 U.S.C. § 2101(c); Sup. Ct. R. 13.5. This application is being filed at least ten days before that date. *See* Sup. Ct. R. 13.5, 30.2. This Court's jurisdiction will be invoked under 28 U.S.C. § 1254(1).

2. Opinion Below

The Third Circuit's August 25, 2025 opinion is attached as Appendix B. It is reported at *United States v. Perrin & United States v. Montgomery*, 149 F.4th 267 (3d Cir. 2025).

3. Reasons for Granting the Extension

Below, Mr. Montgomery raised several issues related to his conviction and sentence, and he also joined in two issues raised by his co-defendant, James Perrin.¹ After the Third Circuit affirmed the conviction and sentence, Mr. Montgomery petitioned the Court for rehearing on one issue of exceptional importance that goes to the heart of criminal practice and the Sixth Amendment: whether a defendant can be sentenced to mandatory life imprisonment when he was not charged with an offense that carries that uniquely serious penalty. Fed. R. App. P. 40(b)(2)(D). That constitutional aberration is what happened here. Mr. Montgomery

¹ Mr. Montgomery understands that Mr. Perrin intends to petition for certiorari on at least one of these issues, and Mr. Montgomery intends to join that issue as well.

was charged with killing a federal witness without malice aforethought, a manslaughter offense punishable by no more than 15 years' imprisonment. Still, the district court wrongly found it was mandated to impose life. And the Third Circuit affirmed, by (1) misinterpreting 18 U.S.C. § 1512(a)(1)(C) as necessarily involving malice aforethought, which has no support in the statute's plain text or legislative history; (2) overlooking the distinction between first degree-murder (which carries mandatory life) and second-degree murder (which does not); and (3) relying on the jury's finding of first-degree murder on another count (of 18 U.S.C. § 924(j)) that did not carry mandatory life. The Circuit's precedential opinion rewrote the elements of the federal witness tampering statute, and upended constitutional protections that confine a criminal case by the terms of the charging instrument. Review by this Court is needed to right the ship.

Undersigned counsel are Assistant Federal Public Defenders who represented Mr. Montgomery on direct appeal under the Criminal Justice Act, 18 U.S.C. § 3006A et. seq. Counsel respectfully request a 30-day extension of the certiorari deadline due to other district court and appellate matters. For Assistant Federal Public Defender Alison Brill, these matters include: (1) a reply brief in *United States v. Charles Summers*, Appeal No. 25-2502 (3d Cir.), due February 20, 2026; and (2) two emergency motions for sentence reduction under 18 U.S.C. § 3582(c)(1)(A), in *United States v. Khalid Holland*, Crim. No. 23-370

(D.N.J.), filed January 13, 2026 and granted on February 2, 2026; *United States v. Michael Romano*, Crim. No. 09-168 (E.D.N.Y.), filed February 18, 2026; and (3) pre-trial litigation in *United States v. Jamaal Shockley*, Crim. No 25-562 (D.N.J.), due March 2, 2026. For Assistant Federal Public Defender Evan J. Austin, these matters include: (1) a case-dispositive motion in *United States v. Gabriel Rivera-Otero*, Case No. 24-3028 (3d Cir.), filed February 17, 2026; (2) a reply brief in *United States v. Deron Nixon*, Case Nos. 24-1149 and 25-2881 (3d Cir.), filed February 18, 2026; (2) ; and (3) post-hearing briefing on a motion to suppress in *United States v. Reggie Huggins*, Crim. No. 25-683 (D.N.J.), filed February 18, 2026.

Due to these concurrent work obligations, the significance of Mr. Montgomery's sentence, the important issue that will be raised, and the need to coordinate with counsel for Mr. Montgomery's co-defendant, counsel accordingly believes there is good cause for the requested extension, as required by Supreme Court Rule 13.5.

For these reasons, Petitioner-Applicant Price Montgomery respectfully requests that an order be entered extending his time to petition for certiorari in the above-captioned case to and including April 1, 2026.

Respectfully submitted,

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