

IN THE SUPREME COURT OF THE UNITED STATES

No. _____

ALVIN BEASLEY,
PETITIONER

v.

UNITED STATES OF AMERICA

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

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

Pursuant to Supreme Court Rules 13.5, 30.2 and 30.3, Alvin Beasley, by and
through his counsel, Federal Public Defender Thomas W. Patton, applies for an
extension of sixty days within which to file a petition for a writ of *certiorari* to the
United States Court of Appeals for the Seventh Circuit.

1. The basis for jurisdiction in this Court is 28 U.S.C. 1254(1), allowing
review of judgments of the courts of appeals.
2. On December 19, 2025, the United States Court of Appeals for the
Seventh Circuit filed a precedential opinion affirming the judgment imposed by the

District Court. *United States v. Alvin Beasley*, 163 F.4th 403 (7th Cir. 2025)
(attached as Exhibit A).

3. Mr. Beasley was charged with one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) which, for him, carried a ten-year statutory maximum penalty. The indictment did not allege Mr. Beasley committed the separate, aggravated offense of being an Armed Career Criminal in violation of 18 U.S.C. § 924(e) (ACCA). The ACCA imposes a mandatory minimum sentence of fifteen years' imprisonment for a defendant "who violates section 922(g) of this title and has three previous convictions . . . for a violent felony or serious drug offense, or both, committed on occasions different from one another" 18 U.S.C. § 924(e)(1). The indictment did not cite § 924(e) or allege Mr. Beasley committed the felon-in-possession offense after suffering three qualifying convictions as required by the ACCA. It charged only a violation of 18 U.S.C. § 922(g)(1).

Not surprisingly, the jury heard no evidence that Mr. Beasley had been convicted of the requisite three ACCA predicates before possessing the firearm in question. And, since the jury heard no evidence about any ACCA predicates, the jury was not asked to determine that Mr. Beasley committed the three predicate offenses "on occasions different from one another." Despite the failure to charge or prove an ACCA offense, the district court, over Mr. Beasley's timely objection, found Mr. Beasley was an Armed Career Criminal and sentenced him to 25 years' imprisonment. Despite Mr. Beasley receiving a sentence 15 years beyond the applicable statutory maximum, the Seventh Circuit upheld the district court's

sentence. It found the failure to charge an ACCA offense or to present any evidence to the jury to prove Mr. Beasley committed three prior violent felonies or serious drug offenses on occasions different from one another harmless because it found based on the presentence report that Mr. Beasley did have three qualifying convictions committed on occasions different from one another. *See Beasley*, 163 F.4th 403, 406.

4. This Court, in *Alleyne v. United States*, 570 U.S. 99, 133 (2013) and *Apprendi v. New Jersey*, 530 U.S. 466 (2000) held that the government must prove to a jury beyond a reasonable doubt any sentencing factor—other than the fact of a prior conviction—that increases a defendant’s maximum or minimum penalty. Thus, ACCA’s different-occasions factor increases both the minimum and maximum penalties facing defendants sentenced under that statute. And because the different-occasions determination is an “intensely factual” question requiring “examination of a ‘range’ of facts,” the inquiry goes beyond finding the fact of a prior conviction. *Erlinger v. United States*, 602 U.S. 821, 828 (2024) (citing *Wooden v. United States*, 595 U.S. 360 (2022)).

5. This Court in *Erlinger v. United States* held that the Fifth and Sixth Amendments require a jury to decide whether previous offenses occurred on occasions different from one another under ACCA. 602 U.S. at 835. The Seventh Circuit, in this case, agreed that the sentencing court erred under *Erlinger* by declining to send the different-occasions question to the jury. *Beasley*, 163 F.3d at 406.

6. A preserved trial error is subject to harmless error analysis unless it is a structural error necessitating automatic reversal. *Washington v. Recuenco*, 548 U.S. 212, 218–19 (2006). Structural errors are “not subject to harmless-error analysis because they ‘vitiating all the jury’s findings.’” *Beasley*, 163 F.3d at 407 (citing *Neder v. United States*, 527 U.S. 1, 11 (1999) (cleaned up)). In contrast, “errors that infringe upon the jury’s factfinding role are subject to harmless-error analysis.” *Id.*

7. The Seventh Circuit, relying primarily on its own precedent, held that an *Erlinger* error is reviewed for harmless error because they are “sentencing factor errors.” *Beasley*, 163 F.4th at 407-408. In doing so, the Seventh Circuit found that there was “no meaningful distinction” between an *Erlinger* error and this Court’s decision in *Neder*, which held that failing to instruct a jury on an element of the offense was subject to harmless error and *Recuenco*, which held that failing to instruct a jury on a sentencing factor was subject to harmless error. *Id.* at 409.

8. The question of whether *Erlinger* errors are structural has generated disagreement and confusion among circuit court judges. See *United States v. Cogdill*, 130 F.4th 523, 536 (6th Cir. 2025) (Clay, J., dissenting); *United States v. Thomas*, 142 F.4th 412, 423 (6th Cir. 2025) (Cole, J., concurring); *id.* at 430 n.1 (Nalbandian, J., concurring); *United States v. Harvin*, No. 20-14497, 2024 WL 4563684, at *2 (11th Cir. Oct. 24, 2024) (per curiam). In addition, even if harmless error analysis applies, the Seventh Circuit’s harmless error test conflicts with the Third Circuit’s meaningfully different approach, which asks merely if a sentencing

error “contributed” to the sentence. *United States v. Lewis*, 802 F.3d 449, 458 (3d Cir. 2015) (en banc). Only this Court can resolve those issues.

9. Appellate counsel who represented Mr. Beasley in the Seventh Circuit and who was responsible for drafting a petition for writ of certiorati on Mr. Beasley’s behalf left the Federal Defender’s Office on February 13, 2026. Accordingly, new counsel has taken over representation of Mr. Beasley and has needed to spend significant time understanding the case and drafting a petition. Therefore, undersigned counsel requests a 60-day extension of time to enable his office to prepare and present a petition to the Court in a manner that best serves the Court and Mr. Beasley.

10. In light of the foregoing, counsel cannot effectively prepare and file a petition for writ of *certiorari* in this case by March 19, 2026.

WHEREFORE, for all the foregoing reasons of good cause, Thomas W. Patton, Federal Public Defender, respectfully requests that this Court grant this motion for a 60-day extension of time for filing of a petition for writ of *certiorari* and order that the petition be filed on or before May 19, 2026.

Respectfully submitted,

DATED: March 4, 2026,

s/Thomas W. Patton
Thomas W. Patton
Federal Public Defender
Counsel for Randall Jennings
401 Main Street, Ste. 1500
Peoria, Illinois 61602
(309) 671-7891