

App No. _____

In the Supreme Court of the United States

Marshall Grace,

Applicant,

v.

United States of America,

Respondent.

On Application for an Extension of Time to File Petition for a Writ of Certiorari to
the United States Court of Appeals for the Fifth Circuit

Application for an Extension of Time to File Petition for a Writ of Certiorari

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July 20, 2026

To the Honorable Samuel Alito, as Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

1. In accordance with this Court's Rules 13.5, 22, 30.2, and 30.3, Applicant, Marshall Grace, respectfully requests that the time to file his petition for a writ of certiorari be extended for 60 days, up to and including Friday, October 2, 2026. The Court of Appeals issued its decision on March 27, 2026 and denied rehearing on May 5, 2026. Absent an extension of time, the petition would be due on August 3, 2026. The jurisdiction of this Court is based on 28 U.S.C. 1254(1).

2. This case arises from the jury trial of Marshall Grace following a federal prosecution. Mr. Grace was found guilty of conspiracy to distribute and possess with intent to distribute 500 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846, and possession with intent to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B).

3. Mr. Grace filed an appeal of the verdict with the Fifth Circuit, asserting that the District Court erroneously denied Mr. Grace's *Batson* challenge to the peremptory strike of Juror #8, Edward Davis. Mr. Grace, an African American defendant, objected when the Government used a peremptory strike to remove Mr. Davis, an African American man, from the jury. Defense counsel made a *Batson* challenge, and the Government's stated, "race-neutral" explanation was that not much was known about Mr. Davis except that he had seven sons. The District Court further questioned the juror and denied the *Batson* challenge based on the new information learned in questioning. On Appeal, Mr. Grace argued that the original

explanation by the Government was pretextual and that the District Court clearly erred in denying Mr. Grace's *Batson* challenge. The Fifth Circuit agreed that the District Court strayed from the *Batson* steps but nonetheless found that Mr. Grace had not carried his burden to prove purposeful discrimination.

4. Attached as Exhibit A is a copy of the Fifth Circuit's March 27, 2026 published decision. Attached as Exhibit B is a copy of the Fifth Circuit's May 5, 2026 order denying rehearing.

5. Good cause exists for an extension of time to prepare a petition for a writ of certiorari in this case. Mr. Kottle has several other professional obligations and conflicts, including:

- a. Mr. Kottle has briefings and work to prepare for an August 6, 2026 hearing, in the matter *Rjano, Inc., et al. v. Phelps Dunbar, LLP, et al.*, pending in Civil District Court for the Parish of Orleans under case number 2020-2531.
- b. Mr. Kottle has briefings and work to prepare for an August 6, 2026 hearing, in the matter *Sutton, et al. v. Phelps Dunbar, LLP, et al.*, pending in Civil District Court for the Parish of Orleans under case number 2023-4739.
- c. Mr. Kottle has briefings and work to prepare for an August 28, 2026 hearing, in the matter *Sutton, et al. v. Adams, et al.*, pending in Civil District court for the Parish of Orleans under case number 2014-10709.

6. This motion is filed July 20, 2026, which is more than ten days before the August 3, 2026 due date of the application for petition for certiorari.

For the foregoing reasons, the application for a 60-day extension of time, to and including Friday, October 2, 2026, within which to file a petition for a writ of certiorari in this case should be granted.

Respectfully submitted.

/s/ Stuart D. Kottle

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