

No. _____

In the Supreme Court of the United States

ALLEN HOUSTON JAMES, *APPLICANT*,

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 FIFTH CIRCUIT**

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

1. Applicant Allen Houston James requests a 30-day extension of time to file his petition for certiorari in this Court to and including September 30, 2026. *See* 28 U.S.C. § 2101(c); Sup. Ct. R. 13.5, 22, 30. The final judgment of the Fifth Circuit was entered on June 2, 2026, and Applicant's time to petition for certiorari in this Court expires August 31, 2026. This application is being filed more than 10 days before that date.

A copy of the opinion below, which is reported at 177 F.4th 642, is attached. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1).

2. As shown by the opinion below, this case involves an important question

about whether the invited error doctrine bars review, absent evidence of knowing waiver, of a jury instruction error that reduced the required *mens rea* for the offense. The circuits are split on this issue.

3. Applicant was represented in the district court and court of appeals by the Federal Public Defender for the Western District of Texas and is represented in this Court by Assistant Federal Public Defender Kristin M. Kimmelman, a member of the Bar of this Court. Since the Fifth Circuit handed down its decision on June 6, counsel has been engaged in many matters in this Court and the Fifth Circuit, limiting the amount of time she has been able to devote to preparing the petition in this case. During that time, counsel has filed three briefs in the Fifth Circuit and two petitions for certiorari in this Court. Between now and the current August 31, 2026, deadline, counsel has three opening briefs due in the Fifth Circuit, two petitions for certiorari due in this Court, and two pending deadlines for immigration habeas cases in the Western District of Texas. And between August 31 and September 30, 2026, counsel has one petition for certiorari due, with more briefing notices and immigration habeas appointments likely to issue during that time.

For these reasons, Applicant respectfully requests that an order be entered extending his time to petition for certiorari in the above-captioned case to and including September 30, 2026.

Respectfully submitted,

MAUREEN SCOTT FRANCO
Federal Public Defender

KRISTIN M. KIMMELMAN
*Assistant Federal Public Defender
Counsel of Record*

OFFICE OF THE FEDERAL
PUBLIC DEFENDER
WESTERN DISTRICT OF TEXAS

Counsel for Applicant

July 15, 2026

CERTIFICATE OF SERVICE

I, a member of the Bar of this Court, certify that on July 16, 2026, I served a copy of this Application on Counsel for the United States by enclosing it in an envelope, with first-class postage prepaid, addressed to his post office address:

D. John Sauer
Solicitor General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 5616
Washington, D.C. 20530-0001
(202) 514-2203

and depositing it in a United States mailbox at San Antonio, Texas.

MAUREEN SCOTT FRANCO
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