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IN THE
Supreme Court of the United States

PATRICK DWAYNE ADAMS,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

ON 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
A PETITION FOR A WRIT OF CERTIORARI**

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**APPLICATION FOR EXTENSION OF TIME
TO FILE A PETITION FOR A WRIT OF CERTIORARI**

TO: Justice Samuel A. Alito, Jr., Circuit Justice for the Fifth Circuit:

Pursuant to Rules 13.5, 30.2 and 30.3 of the Rules of this Court, Applicant Patrick Dwayne Adams (“Applicant” or “Adams”) respectfully requests a sixty-day (60) extension of time within which to file his petition for a writ of certiorari in this case. Adams’ petition will seek review of the Fifth Circuit’s decision in *United States v. Patrick Dwayne Adams*, Case No. 25-50063 (5th Cir. 2026) (unpublished) in which the court affirmed Adams’s conviction on his plea of guilty to Count II of an Indictment charging him with possession with intent to distribute more than 100 kilos of a mixture or substance containing a detectable amount of marijuana in violation of 21 U.S.C. § 841(a) and (b)(1)(B) and aiding and abetting such offense in violation of 18 U.S.C. § 2. A copy of the Fifth Circuit’s decision is attached hereto.

In support of this application, Applicant states the following:

1. The Fifth Circuit issued its opinion and judgment in this matter on May 19, 2026. Adams did not file a petition for rehearing or for rehearing *en banc*.
2. Accordingly, Adams’ Petition for a Writ of Certiorari must be filed in this Court on or before August 17, 2026. In accordance with Rule 13.5, this application is being filed more than ten days prior to the date Adams’s Petition is due.

3. This Court has jurisdiction to consider Adams' Petition for a Writ of Certiorari pursuant to 28 U.S.C. § 1254(1).

BRIEF SUMMARY OF THE FACTS

4. Adams' friend, Eric Franklin, agreed with Andrew Luong to pick up a horse trailer in Presidio, Texas and take it to Odessa, Texas. Franklin was to drive Luong in his Cadillac Escalade from Hobbs, New Mexico to Presidio, Texas, where they would pick up a Chevy Silverado with a horse trailer attached. Unbeknownst to Applicant Adams, but known to both Franklin and Luong, the horse trailer in question concealed a substantial quantity of marijuana.

5. Adams was Franklin's childhood friend. Franklin asked Adams to accompany Franklin and Luong on the trip to Presidio because Franklin did not know Luong very well. Adams was familiar with Luong because Adams' girlfriend and Luong's wife were friends.

6. Franklin drove Luong to Presidio in his Cadillac Escalade. Adams rode along as a passenger. Upon arriving in Presidio, Luong took control of a Chevy Silverado with a horse trailer attached.

7. Franklin and Luong were to be paid a substantial sum for transporting the marijuana. Franklin was to receive either \$3,000 or \$7,500, depending on which

version of Franklin's post-arrest statements to authorities one chooses to believe. In contrast, Franklin agreed to pay Adams \$100 or \$300 to accompany him on the trip.¹

8. At one point, Luong asked Adams to drive the Silverado. Adams refused because, by that time, he had begun to suspect that something was amiss and that the trailer contained some form of contraband.

9. The record contains no evidence or admissions that Adams ever (i) drove or owned the Chevy Silverado; (ii) rode in the Chevy Silverado; (iii) knew that there was marijuana in the horse trailer; (iv) had the intention to exercise control over the horse trailer or the marijuana; or (v) took any action whatsoever with respect to the trailer or the marijuana, including, without limitation, hitching the trailer to the Silverado.

10. Notwithstanding the absence of any evidence tying Adams to the offense, Adams pled guilty without a written plea agreement to Count II of the Indictment charging him with possession with intent to distribute marijuana. Neither the Factual Basis nor the Presentence Report contain facts implicating Adams as a principal or an aider and abettor in the marijuana trafficking offense.

11. The District Judge conducted three sentencing hearings before Adams was finally sentenced. At the first sentencing hearing, Adams informed the District

¹ Franklin was inconsistent in his statements to authorities. At one point, he said it was \$100; at another point it was \$300. One thing is for certain: Adams was not being paid anything close to the amounts that Franklin and Luong were sharing.

Judge that he wished to withdraw his plea. The District Judge ordered defense counsel to file a motion to withdraw Adams' plea which addressed the *Carr* factors the Fifth Circuit uses to assess motions to withdraw guilty pleas after the plea has been accepted by the Court. *United States v. Carr*, 740 F. 2d 339 (5th Cir. 1984). Instead of doing as instructed, defense counsel filed a barebones, conclusory motion that failed to address a single one of the required factors. Predictably, the motion was denied.

12. On appeal to the Fifth Circuit, Applicant Adams argued that (i) there was no evidence to support the conclusion that he ever had either actual or constructive possession the marijuana in question²; (ii) the record was insufficient to establish that he aided and abetted the charged offense³; and (iii) the Magistrate Judge failed to inform Adams of the elements required to convict him of aiding and abetting the charged offense in violation of Fed.R.Crim.P. 11(b)(1)(G).

THE ABSENCE OF ANY LEGAL BASIS FOR THE CONVICTION

1. To be liable on a theory of aiding and abetting, a defendant must take an affirmative act in furtherance of the specific offense charged with the intention to

² In fact, the Fifth Circuit's opinion affirmed Adams' conviction solely on the basis of aiding and abetting.

³ While Adams came to suspect that the horse trailer contained some form of contraband, he refused to drive the Chevy Silverado when requested to do so because of his suspicion. ROA.255, ¶ 8. There is no evidence that Adams knew the horse trailer contained marijuana.

facilitate the completion of the entire offense. *See, Rosemond v. United States*, 572 U.S. 65, 134 S.Ct. 1240, 1245 (2014) (liability for aiding and abetting requires proof that the defendant took an “affirmative act” with the intent to facilitate completion of the specific and entire crime charged).

2. No Circuit has ever held that being a mere passenger in a vehicle can support the passenger’s conviction for drug trafficking, including one based on a theory of aiding and abetting. The decisions have gone the other way.⁴

3. The decision below also conflicts with what this Court has said about aiding and abetting liability. Criminal responsibility for aiding and abetting requires proof that the defendant intended that “the specific and entire crime charged” be completed. *Rosemond*, 134 S.Ct. at 1248; *United States v. Hansen*, 143 S.Ct. 1932, 1941 (2023) (to convict on a theory of aiding and abetting, evidence must establish that the defendant intended “to bring about a particular unlawful act.”). Moreover, liability for aiding and abetting “usually requires misfeasance rather than nonfeasance”; thus, absent an independent legal duty to act, a person’s failure, omission or inaction will “rarely support aiding-and-abetting liability.” *Smith &*

⁴ *See, e.g., United States v. Gordon*, 700 F.2d 215, 217 (5th Cir. 1983) (reversing defendant's conviction for possession of marihuana with intent to distribute when the defendant was only present in the vehicle with the drugs and no other evidence connected him to drugs); *United States v. Ferg*, 504 F.2d 914, 917 (5th Cir. 1974); *United States v. Pena*, 983 F.2d 71 (6th Cir.1993) (fact that passenger in vehicle suspected something illegal was afoot held insufficient to support conviction for aiding and abetting); *United States v. Sanchez-Mata*, 925 F.2d 1166, 1169 (9th Cir.1991) (“Sanchez-Mata's presence as a passenger in the car cannot support an aiding and abetting theory.”).

Wesson Brands, Inc. v. Estados Unidos Mexicanos, 145 S.Ct. 1556, 1560-1566 (2025).

4. Although the judgment below affirmed Applicant's conviction, it did so solely on a theory of aiding and abetting. Every Circuit has held that aiding and abetting is a theory of liability and not a separate offense. A few have used this conclusion as a basis for further concluding that the Rule 11 colloquy need not describe the "elements" of aiding and abetting. Although this Court has articulated the requirements the Government must establish to convict a defendant on a theory of aiding and abetting, it has never specifically addressed whether those requirements must be explained to a criminal defendant during the Rule 11 colloquy.

QUESTIONS

Applicant's Petition may include one or more of the following Questions:

1. When a defendant's conviction on a plea of guilty rests solely on a theory of aiding and abetting, must the Rule 11 colloquy inform the defendant of the proof required to convict him as an aider and abettor?

2. Can a defendant be convicted of aiding and abetting a drug trafficking offense based solely on proof that he was a passenger in a vehicle driven by a party who was involved in a drug deal, where the record indicates that the defendant was initially unaware of what was transpiring, and then refused to become involved in the drug trafficking after he became suspicious as to what was occurring?

3. Did Applicant knowingly and voluntarily enter his plea of guilty, or did his plea of guilty result from (or was it induced by) the District Court's failure to comply with Fed.R.Crim.P. 11(b)(1)(G) and 11(b)(3)?

4. When an indictment specifically charges that the defendant aided and abetted another's possession with intent to distribute marijuana, must the prosecution prove that the defendant was aware that the controlled substance was, in fact, marijuana, and that the defendant knew the amount of marijuana was sufficient to support an inference of intent to distribute?

GOOD CAUSE FOR THE EXTENSION

Applicant Adams seeks the extension for the following reasons:

1. The record here is unusually lengthy for a conviction that rests on a plea of guilty, and the issues are somewhat complex. Counsel requires additional time to conclude his research and present a thoughtful, cogent argument to the Court.

2. In addition to the foregoing, the completely unexpected death of a younger member of counsel's extended family (his brother's wife) has required the undersigned counsel to handle some family business on behalf of his brother. That has absorbed a significant amount of his time during the 90-day period originally allotted to file Adams' Petition.

3. Counsel is a sole practitioner whose practice now focuses almost exclusively on representing defendants in CJA-appointed appeals to the Fifth

Circuit. During the course of the original 90-day period, counsel has filed four briefs and several motions in the Fifth Circuit. Counsel currently has six active appeals before the Fifth Circuit.

4. This is the rare case in which counsel believes that there may have been a miscarriage of justice. Applicant seeks additional time to ensure that his counsel prepares a quality Petition for a Writ of Certiorari. This request is not made for the purposes of delay, but solely to advance the interests of justice.

5. For all the foregoing reasons, Applicant Adams respectfully submits that there is “good cause” to extend his time to file his Petition for a Writ of Certiorari for a period of sixty days. Accordingly, Applicant requests that his application be granted in full, making his Petition due on October 16, 2026.

Respectfully submitted,

By: /s Robert Clary

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United States Court of Appeals for the Fifth Circuit

No. 25-50063
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 19, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

PATRICK DWAYNE ADAMS,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:24-CR-88-3

Before STEWART, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Patrick Dwayne Adams pleaded guilty to aiding and abetting the possession of marijuana with intent to distribute. On appeal, he contends that there was an insufficient factual basis for the guilty plea and that the district court failed to properly ensure that he understood the nature of the charge.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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We review for plain error. *See United States v. Vonn*, 535 U.S. 55, 59 (2002). In light of the entire record, Adams fails to show clear or obvious error. *See United States v. Trejo*, 610 F.3d 308, 313 (5th Cir. 2010) (factual basis); *United States v. Cuevas-Andrade*, 232 F.3d 440, 444 (5th Cir. 2000) (nature of the charges).

The judgment of the district court is AFFIRMED.