No. A-__

IN THE

Supreme Court of the United States

RAUL RIVERA-PEREZ,

Applicant,

v.

RICK STOVER, WARDEN,

Respondent.

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

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

To the Honorable Sonia Sotomayor, Circuit Justice for the U.S. Court of Appeals for the Second Circuit:

Pursuant to Rules 13.5 and 30.2 of this Court, Applicant Raul Rivera-Perez respectfully requests a 30-day extension of time within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case. *See* App., *infra*, 1a-53a. The court of appeals entered its judgment on March 26, 2026. *Id.* at 1a. The court denied Mr. Rivera-Perez's petition for rehearing on May 20, 2026. *Id.* at 54a. Without an extension, the petition for a writ of certiorari would be due on August 18, 2026. With the requested extension, the petition would be due on September 17, 2026. This Court's jurisdiction will be based on 28 U.S.C. § 1254(1).

1. This case concerns the proper construction of the First Step Act, Pub. L. No. 115-391 (2018), "a landmark piece of legislation that changed the federal criminal-sentencing system in numerous respects." *Hewitt v. United States*, 606 U.S. 419, 424 (2025). As relevant here, the First Step Act allows eligible federal prisoners who participate in recidivism-reduction programming to earn time credits that "shall be applied toward time in prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C).

2. In 2001, Mr. Rivera-Perez was sentenced to life imprisonment, to be followed by a five-year term of supervised release, for conspiring to distribute cocaine, in violation of 21 U.S.C. §§ 846, 841(a)(1). App., *infra*, 5a. The district court later

reduced his term of imprisonment to 360 months but retained the five-year term of supervised release. *See id.* at 5a-6a.

On October 13, 2023, Mr. Rivera-Perez filed a *pro se* petition for a writ of habeas corpus challenging the execution of his sentence. App., *infra*, 6a. In the petition, Mr. Rivera-Perez argued that the Federal Bureau of Prisons (BOP) had failed to properly calculate and apply his time credits earned under the First Step Act. *See ibid.* At the time of his habeas application, Mr. Rivera-Perez had earned more than 700 days of credit. While the BOP applied 365 days of credit to reduce his term of imprisonment, the remaining 415 days were "unused." *Ibid.* Mr. Rivera-Perez sought an order directing respondent to release him immediately to home confinement. *Ibid.* The BOP transferred Mr. Rivera-Perez to home confinement while his petition was pending, and respondent moved to dismiss the petition as moot.

3. On November 18, 2024, the district court granted Mr. Rivera-Perez's petition. App., *infra*, 55a-72a. Although Mr. Rivera-Perez had moved to home confinement, the court held that further relief was available because the "plain language of the statute" authorized applying unused time credits "to reduce a term of supervised release." *Id.* at 70a. The court relied on Section 3632(d)(4)(C), which specifies that time credits "shall be applied toward time . . . in supervised release." *Id.* at 64a-66a (quoting 18 U.S.C. § 3632(d)(4)(C)). Ordinarily, the court explained, "[a]pplying credit toward something . . . means reducing that thing," and in this case, that meant that credits could be applied to "reduce the amount of time a prisoner must spend in supervised release." *Ibid.* The court therefore directed the BOP to

calculate Mr. Rivera-Perez's unused time credits and inform the relevant U.S. Probation Office so that it could apply those credits towards his term of supervised release. *Id.* at 72a.

3. A divided panel of the court of appeals vacated and remanded with instructions to dismiss the case as moot. App., *infra*, 1a-54a.

a. The court of appeals held, as a matter of "first impression," that time credits earned under the First Step Act cannot be used to reduce a federal prisoner's term of supervised release. App., *infra*, 10a. The court acknowledged that the district court's interpretation was consistent with the "ordinary meaning" of the statutory terms. *Id.* at 10a. The court nevertheless considered the provision "ambiguous," because it deemed it "plausible" to read Section 3632(d)(4)(C) as instead requiring time credits be applied to accelerate the start of a term of supervised release. *Id.* at 12a. The court then held that the "context" of the statute supported respondent's view that Mr. Rivera-Perez could not use time credits to reduce his term of supervised release. *Id.* at 13a. Based on that "interpretation of the statute," the court of appeals determined that a ruling in Mr. Rivera-Perez's favor would not afford him further relief, and it instructed the district court to dismiss the petition as moot. *Id.* at 31a.

b. Judge Jacobs joined the majority opinion in full and wrote separately to further explain his understanding of the statutory scheme. *See* App., *infra*, 32a-35a.

c. Judge Nathan dissented. App., *infra*, 36a-53a. In her view, "all the textual clues in the statute" demonstrated that Section 3632(d)(4)(C) "means what it says—prisoners may apply their First Step Act . . . credits to shorten their 'time in

. . . supervised release.'" *Id.* at 36a (quoting 18 U.S.C. § 3632(d)(4)(C)). Judge Nathan explained that the statute's text, context, and structure supported Mr. Rivera-Perez's reading of the statute. *Id.* at 36a-51a. She also observed that the majority's contrary interpretation undercut the "core" design of the First Step Act's recidivism-reduction scheme. *Id.* at 49a. The statute, she explained, uses time credits as an incentive to encourage "as much engagement in recidivism-reducing programs as possible." *Id.* at 50a-51a. The panel's interpretation, however, leaves a gap in the scheme, such that some individuals may have no opportunity to apply the credits they earn. *See id.* at 50a-53a. Judge Nathan accordingly would have held that Mr. Rivera-Perez could "use his remaining FSA credits toward his term of supervised release," and his habeas petition was not moot. *Id.* at 53a.

4. This case is a strong candidate for plenary review. As the court of appeals acknowledged, its decision deepens a circuit split on the question whether credits earned under the First Step Act may be used to reduce an individual's term of supervised release. *See* App., *infra*, 16a-19a. In the decision below, the Second Circuit joined the Sixth Circuit in holding that they cannot. *See Hargrove v. Healy*, 155 F.4th 530, 531 (6th Cir. 2025), *cert. denied*, 2026 WL 1052155 (Apr. 20, 2026). The Fourth and Eleventh Circuits have adopted the same interpretation in unpublished decisions. *United States v. Malik*, No. 24-7073, 2025 WL 973003, at *1 (4th Cir. Apr. 1, 2025) (per curiam); *Guerriero v. Miami RRM*, No. 24-10337, 2024 WL 2017730, at *3 (11th Cir. May 7, 2024) (per curiam). By contrast, the Ninth Circuit has held that credits may be applied to reduce the length of a supervised release term.

Gonzalez v. Herrera, 151 F.4th 1076, 1080-1090 (9th Cir. 2025).

The government has recognized the circuit conflict on the question presented. *See* Br. in Opp. at 13, *Hargrove v. Healy*, No. 25-818 (Mar. 13, 2026). The government previously urged this Court to allow further "percolation in the lower courts," citing the ongoing litigation in this case. *Ibid.* The Second Circuit, however, has now weighed in on the question presented, and the divided panel below fully ventilated the opposing arguments. This Court's review is warranted to resolve the split among the courts of appeals on this important and recurring question.

5. Counsel for Mr. Rivera-Perez respectfully requests a 30-day extension of time, to and including September 17, 2026, within which to file a petition for a writ of certiorari. The extension is necessary because of undersigned counsel's substantial obligations in other matters. The undersigned counsel has, among other duties, (i) a substantive motions deadline in *United States v. Branch*, Dkt. No. 3:25-cr-145 (D. Conn.) on August 14, 2026, (ii) a reply sentencing memorandum deadline on August 10, 2026, and a sentencing proceeding on August 14, 2026 involving a possible sentence of imprisonment of at least five years in *United States v. Green*, Dkt. No. 3:26-cr-32 (D. Conn.), (iii) supervised release revocation proceedings, including in *United States v. Miller*, Dkt. No. 3:20-cr-158 (D. Conn.) on August 10, 2026 and *United States v. Diaz*, Dkt. No. 3:20-cr-90, and (iv) continued representation of a client in a possible death-eligible criminal case that has not yet been charged.

6. Additional time is therefore needed to consult with Mr. Rivera-

Perez and prepare the petition in this case.

Respectfully submitted.

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