

No. 26A311

IN THE
Supreme Court of the United States

WILLIAM GEORGE DAVIS,

Petitioner,

v.

STATE OF TEXAS,

Respondent.

**** CAPITAL CASE ****

On Petition for Writ of Certiorari
to the Texas Court of Criminal Appeals

**APPLICATION FOR 30-DAY EXTENSION
TO FILE PETITION FOR WRIT OF CERTIORARI**

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

William George Davis, an indigent Texas death-row inmate, respectfully applies, pursuant to Supreme Court Rules 13(3) and 13.5, for a final 30-day extension of time, to and including November 23, 2026,¹ to file his petition for writ of certiorari to the Texas Court of Criminal Appeals.

In support of his application, Mr. Davis states as follows:

1. Mr. Davis intends to file a petition for writ of certiorari challenging the Texas Court of Criminal Appeals' judgment affirming his conviction and death sentence on direct review, which was entered on March 12, 2026. *Davis v. State*, No. AP-77,106, -- S.W.3d --, 2026 WL 692433 (Tex. Crim. App. Mar. 12, 2026). See Appendix A. On April 13, 2026, Mr. Davis filed a timely motion for rehearing, which was denied by the Texas Court of Criminal Appeals on June 25, 2026.

¹ According to undersigned counsel's calculation, the 30th day from the current deadline is Sunday, November 22, 2026. Thus, pursuant to Supreme Court Rule 30, a 30-day extension would extend to Monday, November 23, 2026.

2. Mr. Davis’s petition is currently due to be filed in this Court by October 23, 2026. He has previously requested one extension of time; on September 8, 2026, this Court extended the time for filing by 30 days. In compliance with Rule 13.5, this application for additional time is being filed at least 10 days before that date.

3. This is a capital case in which preparing the petition for certiorari requires particularly extensive research and work. In his petition for certiorari, Mr. Davis intends to present an important and recurring constitutional question left unresolved by this Court’s precedents: whether the unanimity requirement of the Sixth Amendment requires that a jury unanimously agree about the specific offenses that a defendant committed when the charged offense alleges multiple discrete criminal acts.

4. Specifically, in this case, Mr. Davis was charged by indictment with one count of capital murder specifically alleging that he caused the death of four different persons on four different dates. However, the State requested that the trial court instruct the jury that it was only required to unanimously agree that the defendant was guilty of the “predicate offense”—i.e., the murder of the first-named victim in the indictment—

but did not have to unanimously agree about which of the other three-named victims' deaths he caused as long as they unanimously agreed that he caused at least one of them. In closing argument, the State argued the non-unanimity instruction at some length, asserting that the jury could convict Mr. Davis of the charged offense of murder of "more than one person" even if they did not unanimously agree that he committed a second specific criminal act of murder. Reporter's Record Vol. 60 at 35-36 ("You can all agree on different victims.... And it doesn't matter if four of you believe it's this one, four believes this one, or four believe this one; ten believe this one and two believe this one and nobody believes this one, okay?")

5. On appeal, Mr. Davis argued that the trial court's jury instruction permitting the jury to convict him of the murder of more than one person without requiring the jury to be unanimous about which specific deaths he caused violated the unanimity requirement of the Sixth Amendment. The Court of Criminal Appeals rejected that argument, reasoning that the murder of a second specific person was not an element of the offense of capital murder subject to the unanimity requirement and that the additional murders alleged in the indictment were merely

“different capital murder theories” of committing the offense of capital murder. Appendix A at 9,12–15. Appellant maintains that the Court of Criminal Appeals’ decision is contrary to this Court’s decisions in *Schad v. Arizona*, 501 U.S. 624, 633 (1991),² *Richardson v. United States*, 526 U.S. 813 (1999),³ and *Ring v. Arizona*, 536 U.S. 584 (2002), among others.⁴ Indeed, multiple state and federal courts have concluded, contrary to the decision of the Texas Court of Criminal Appeals, that prosecutorial election or a specific unanimity instruction is required whenever the charged offense alleges multiple discrete criminal acts.⁵

² See *Schad*, 501 U.S. at 633 (plurality opinion) (“Just as the requisite specificity of the charge may not be compromised by the joining of separate offenses, nothing in our history suggests that the Due Process Clause would permit a State to convict anyone under a charge of “Crime” so generic that any combination of jury findings of embezzlement, reckless driving, murder, burglary, tax evasion, or littering, for example, would suffice for conviction.”); *id.* at 651 (Scalia, J., concurring) (“We would not permit, for example, an indictment charging that the defendant assaulted either X on Tuesday or Y on Wednesday, despite the moral equivalence of those two acts”).

³ See *Richardson*, 526 U.S. at 815 (holding that the jury must “agree unanimously about which specific violations” make up the “continuing series of violations” to be convicted under the “continuing criminal enterprise” statute).

⁴ See *Ring*, 536 U.S. 602 (“If a State makes an increase in a defendant’s authorized punishment contingent on the finding of a fact, that fact—no matter how the State labels it—must be found by a jury beyond a reasonable doubt.”).

⁵ *United States v. Gipson*, 553 F.2d 453, 457-58 (5th Cir. 1977) (Sixth Amendment unanimity requirement requires “substantial agreement as to just what a defendant did”); *United States v. Duncan*, 850 F.2d 1104 (6th Cir. 1988) (specific unanimity instruction required where necessary to avert a composite or “patchwork” verdict inconsistent with the Sixth Amendment); *United States v. Gonzalez*, 786 F.3d 714, 717 (9th Cir. 2015) (specific unanimity instruction required whenever “there is a
(cont’d)

6. The press of other matters in the past month and in the coming weeks makes the existing deadline of October 23, 2026, difficult to meet.

7. In the past month, undersigned counsel have been actively engaged in appellate briefing in two other Texas death penalty cases, *Chavez v. State*, No. AP-77,117, -- S.W.3d --, 2026 WL 2435378 (Tex. Crim. App. Aug. 20, 2026), and *Satterfield v. State*, No. AP-71,111 (Tex. Crim. App.). On September 5, 2026, undersigned counsel filed a motion for rehearing in *Chavez*, which remains pending before the Court of Criminal Appeals at this time. In addition, undersigned counsel have spent considerable time in the past month reviewing the appellate record and drafting portions of the appellant's brief in *Satterfield* which was, until a recent extension of time was granted, due on or before September 7, 2026.

genuine possibility ... that a conviction may occur as the result of different jurors concluding that the defendant committed different acts"); *People v. Russo*, 25 Cal.4th 1124, 1132 (Cal. 2011) (requiring prosecutorial election or a specific-unanimity instruction whenever the evidence shows more than one discrete act that could constitute the charged offense, to "eliminate the danger that the defendant will be convicted even though there is no single offense which all the jurors agree the defendant committed"); *State v. Russell*, 733 P.2d 162 (Utah 1987) (forbidding "patchwork" verdicts and requiring jurors to agree unanimously on the specific act supporting conviction).

8. Further, on September 24, 2026, the Texas Court of Criminal Appeals scheduled oral argument in another one of undersigned counsel's cases, *Burgos-Aviles v. State*, No. PD-0072-26 (Tex. Crim. App.) for October 14, 2026. Preparation for that oral argument will demand significant time in the next two weeks.

9. Due to the demands of these competing obligations and deadlines, Mr. Davis respectfully requests a final 30-day extension to file his petition for writ of certiorari.

Accordingly, for the foregoing reasons, Mr. Davis respectfully requests that the Court grant this application and extend the time to file a petition for certiorari for 30 days, to and including November 23, 2026.

Respectfully submitted,

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