

No. _____

IN THE
Supreme Court of the United States

CHARLES ROY,
Petitioner,
v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for Writ of Certiorari
to the United States Court of Appeals for the Fifth Circuit

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

NOW COMES Applicant Charles Roy, through undersigned counsel, who respectfully moves this Honorable Court for leave to file the accompanying Application to Extend the Deadline to File a Petition for Certiorari without prepayment of costs and to proceed *in forma pauperis*, pursuant to Supreme Court Rule 39 and 18 U.S.C. § 3006A. A United States Magistrate Judge for the Eastern District of Louisiana appointed the Federal Public Defender to represent Mr. Roy in this proceeding, and he has been incarcerated since that time. *See United States v. Charles Roy*, No. 2:21-cr-082, Rec. Doc. 8 (E.D. La. Nov. 2, 2021) (attached hereto).

WHEREFORE, Petitioner respectfully moves this Honorable Court for leave to proceed *in forma pauperis* and to file the accompanying Application to Extend the Deadline to File a Petition for Certiorari without prepayment of costs.

Respectfully submitted this 15th day of September, 2026.

/s/ Samantha Kuhn
SAMANTHA J. KUHN
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Counsel of Record
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CR.NO. 21-82 M

VERSUS

ORDER

CHARLES ROY

 X Appointing Counsel
Substituting Counsel For:

 Ratifying Prior Service

 Extending Appointment For Appeal

CHARGE: VIOLATIONS OF THE FEDERAL GUN CONTROL ACT AND FEDERAL
CONTROLLED SUBSTANCES ACT

 X FELONY MISDEMEANOR

 X The defendant, having satisfied this Court that he/she: (1) is financially unable to employ counsel, and (2) does not wish to waive counsel, and because the interests of justice so require, the Federal Public Defender named below is hereby appointed to represent this defendant in the above designated case until relieved by order of the District Court:

**CLAUDE KELLY, FEDERAL PUBLIC DEFENDER, HALE BOGGS FEDERAL BLDG.,
RM 318, 500 CAMP ST, NEW ORLEANS, LA 70130 PHONE: (504)589-7930**

 Federal Public Defender is appointed for the limited purpose of:

 It appearing to the Court that although the defendant is financially unable to employ counsel, he/she is totally indigent.

 IT IS FURTHER ORDERED that the defendant pay to the Clerk, U. S. District Court for services of counsel, the total amount of \$ to be paid within 10 working days or by .

 IT IS FURTHER ORDERED that the defendant is to pay to the Clerk, U.S. District Court, for services of counsel, \$ per month. This amount is to be paid, beginning on , 20 , until further orders of the Court.

Dated at New Orleans, Louisiana, on NOVEMBER 2, 2021

 Dana M. Angelo
UNITED STATES MAGISTRATE JUDGE

Copy to Financial Unit Clerk (*Only if defendant is ordered to pay*)

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UNITED STATES OF AMERICA,
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**APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI**

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

Pursuant to Title 28, United States Code, Section 2101(c) and Supreme Court
Rule 13.5, Applicant Charles Roy respectfully requests a 45-day extension of the time
to file a Petition for a Writ of Certiorari, to and including November 13, 2026.

Basis for Jurisdiction

The district court had original jurisdiction over this criminal action pursuant
to 18 U.S.C. § 3231. The Fifth Circuit had jurisdiction over the direct appeal under
18 U.S.C. § 3742(a) and 28 U.S.C. § 1291. The Fifth Circuit issued its unpublished
opinion on July 1, 2026. This Court has the power to grant or deny this motion
pursuant to 28 U.S.C. § 2101(c), and it will have jurisdiction to review the Fifth
Circuit's judgment under 28 U.S.C. § 1254(1).

Judgment to be Reviewed and Opinion Below

The Fifth Circuit opinion is available at *United States v. Roy*, No. 25-30285, 2026 WL 1896208 (5th Cir. July 1, 2024), reprinted on pages 1a–2a of the Appendix.

Reasons for Granting an Extension

Good cause exists to extend the time for filing a petition for writ of certiorari in this case. Applicant is currently serving a 160-month term of imprisonment. The district court imposed that sentence after applying a severe “career offender” enhancement under the U.S. Sentencing Guidelines, specifically finding that Applicant’s prior Louisiana state conviction for simple robbery qualified as a categorical “crime of violence.” App. 1a. On appeal, the Fifth Circuit relied on circuit precedent requiring a defendant to identify an “actual case” showing that the state statute has been applied to overbroad conduct, even when the state offense is, by definition, broader than the federal term. App. 2a. The Fifth Circuit held that Applicant failed to do so and therefore affirmed his judgment.

The Fifth Circuit is “on the short side of a 10-1 circuit split” over whether an actual case is required to prove categorical overbreadth when the statute at issue is facially overbroad. *United States v. Augillard*, __ F.4th __, 2026 WL 2409683 (Mem), at *5 (5th Cir. Aug. 18, 2026) (Elrod, J., dissenting from the denial of reh’g en banc). Applicant’s case therefore presents an issue meriting this Court’s review under Supreme Court Rule 10. However, due to counsel’s heavy caseload and the press of filing deadlines in time-sensitive cases, counsel requires additional time to prepare an adequate petition for this Court’s consideration.

Specifically, until recently, counsel anticipated going to trial on a complex case involving allegations of Social Security fraud and thousands of pages of financial records. That case, *United States v. Laudun*, No. 25-cr-292 (E.D. La.), was scheduled for trial on September 28, required extensive investigation and preparation in recent months, and only recently resolved with dismissal of the indictment. Additionally, over the last two months, counsel had briefing deadlines and oral argument in four time-sensitive appeals involving challenges to detention orders and revocation judgments,¹ which required immediate action, as well as numerous deadlines in other appeals before the Fifth Circuit. Counsel has additional briefs due in the coming weeks, including a reply in a time-sensitive revocation appeal due September 30, and counsel is also actively preparing for a contested revocation hearing on September 23 as well as a trial that is anticipated to go forward on November 2. For these reasons, counsel respectfully requests a 45-day extension of the deadline to file a petition for writ of certiorari, resulting in a deadline of November 13, 2026.

An extension of the deadline is also in the interest of judicial economy. The case upon which the Fifth Circuit relied in affirming Applicant's judgment has a petition for writ of certiorari currently pending before this Court. *See United States v. Lanaute*, 169 F.4th 641, 644 (5th Cir. 2026), *petition for cert. filed* (U.S. June 10, 2026) (No. 25-7615). That petition is scheduled for conference on September 28, 2026. The Court's resolution of that petition may inform whether Applicant seeks to file a petition for writ of certiorari at all and, if so, the particular issue to be raised.

¹ *See United States v. Augustine* (5th Cir. 26-30433); *United States v. Morgan* (5th Cir.26-30018); *United States v. Thomas* (5th Cir. 26-30257); *United States v. Starkey* (5th Cir. 26-30259).

Accordingly, granting the requested extension would facilitate the efficient administration of justice.

CONCLUSION

For the above reasons, Applicant and undersigned counsel respectfully request that the Court grant a 45-day extension of the deadline to file a petition for certiorari, to and including November 13, 2026.

Respectfully submitted this 15th day of September, 2026.

/s/ Samantha Kuhn
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