

No. _____

In the
Supreme Court of the United States

CHRISTIAN FERRARI,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

**ON 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
PETITION FOR WRIT OF CERTIORARI**

To: Honorable Associate Justice Elena Kagan, Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

Pursuant to Title 28, United States Code, Section 2101(c), and Supreme Court Rule 13, this application is hereby made by Christian Ferrari for a 30-day extension of time within which to file a petition for a writ of certiorari, from September 21, 2026, to and including October 21, 2026.

I. JURISDICTION

The court of appeals entered its judgment on March 23, 2026, and denied rehearing en banc on June 22, 2026. Absent an extension, the deadline for filing this petition will be September 21, 2026. This application is being filed on September 10, 2026, more than ten days before the petition is due. *See* S. Ct. R. 13.5. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

II. JUDGMENT AND FINAL ORDER TO BE REVIEWED

The opinion of the court of appeals is reported at *United States v. Ferrari*, 170 F.4th 1225 (9th Cir. 2026), and attached, *see* App. A. The court’s order denying rehearing is unreported and attached. *See* App. B.

III. REASONS JUSTIFYING REQUEST FOR EXTENSION OF TIME

1. This case concerns whether prohibited status is an element of a gun-dealing offense under 18 U.S.C. § 922(d). The Ninth Circuit answered, “No.” *Ferrari*, 170 F.4th at 1236. Every other circuit to address the issue—whether in model jury

instructions or published cases—has answered “yes.” Though Mr. Ferrari’s case did not implicate § 922(d) directly, that statute lay at the center of a guidelines dispute between the parties. In a published opinion, the Ninth Circuit thus created a circuit split on the elements of a federal statute, § 922(d). *Ferrari*, 170 F.4th 1225.

Specifically, in the Ninth Circuit, a seller need only have a belief that a buyer is a prohibited possessor—that belief need not be true. *Ferrari*, 170 F.4th at 1231–33. But in the Tenth and Fourth Circuits, the seller must believe it, and it must be true. *United States v. Francis*, 891 F.3d 888, 896 & n.9 (10th Cir. 2018); *United States v. Parker*, 262 F.3d 415, 421 (4th Cir. 2001). And the Third, Fifth, Seventh, and Eleventh Circuits all have model jury instructions similar to the Tenth’s, explicitly requiring that the buyer *be* a prohibited possessor. Committee on Model Criminal Jury Instructions, Third Circuit, § 6.18.922D (2024); Committee on Pattern Jury Instructions, Fifth Circuit, § 2.43C (2024); Committee on Federal Criminal Jury Instructions, Seventh Circuit, § 922(d) (2023); Judicial Counsel of the United States Eleventh Judicial Circuit, § 34.5 (2024). In these circuits, “it is the purchaser’s status as a felon which makes the activity criminal.” *United States v. Murray*, 988 F.2d 518, 522 (5th Cir. 1993).

2. Additional time is needed so that counsel can adequately prepare the petition for certiorari. Counsel is the Chief Appellate Attorney at Federal Defenders of San Diego, Inc. (FSDSI), a community defender organization. The attorney who litigated this case in the Ninth Circuit has left FSDSI. The case was reassigned to another attorney who also just recently left FSDSI. While counsel is familiar with the case and issue to be presented in the petition, it was not until about a week ago

that it became apparent that the petition would not be filed by the assigned attorney prior to their departure. Additionally, counsel directly supervises seven appellate attorneys, sits on the management team for FDSDI, and maintains appeals of his own. The requested extension will ensure that counsel has sufficient time to prepare the petition.

3. For these reasons, Applicant Christian Ferrari requests this Court grant this application to extend the time to file a petition for a writ of certiorari, by 30 days, to and including October 21, 2026.

Respectfully submitted,

Date: September 10, 2026

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