

No. 26A_____

In the Supreme Court of the United States

RANDALE CHAPMAN, *PETITIONER*,

v.

UNITED STATES OF AMERICA, *RESPONDENT*

**APPLICATION FOR EXTENSION OF TIME TO FILE PETITION
FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE THIRD CIRCUIT**

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

Petitioner-Applicant Randale Chapman respectfully requests a 30-day extension of time to file his petition for a writ of certiorari in this Court to and including October 28, 2026.

1. Timeliness and Jurisdiction

On June 29, 2026, the United States Court of Appeals for the Third Circuit denied Mr. Chapman's petition for rehearing. Appeal Nos. 24-1309, 24-1310, 24-1311. Appx. A. On April 22, 2026, in a non-precedential opinion, the Third Circuit affirmed Mr. Chapman's convictions and sentences from Crim. Nos. 2:11-45, 2:21-73, and 2:21-133 (W.D.Pa.). Appx. B.

Mr. Chapman's petition for a writ of certiorari is due on September

28, 2026. *See* 28 U.S.C. § 2101(c); Sup. Ct. R. 13.3. This application is being filed at least ten days before that date. *See* Sup. Ct. R. 13.5, 30.2. This Court's jurisdiction will be invoked under 28 U.S.C. § 1254(1).

2. Opinion Below

The Third Circuit's April 22, 2026 opinion is attached as Appendix B. It is not published but is available at: *United States v. Chapman*, 2026 WL 1091581 (3d Cir. Apr. 22, 2026).

3. Reasons for Granting the Extension

Below, Mr. Chapman was convicted of drug and firearm offenses and sentenced to 35 years in prison. He appealed, raising several issues including: the introduction of evidence of past convictions in violation of Federal Rule of Evidence 404(b) and a suppression argument that the smell of cannabis alone did not give police officers probable cause to search his car.

After the Third Circuit affirmed his conviction and sentence, Mr. Chapman petitioned the Court for rehearing on both issues. *See* Fed. R. App. P. 40(b)(2). On the Rule 404(b) issue, he argued that the Panel's failure to even identify the Rule raised concerns about its invocation of harmless error to affirm. On the suppression issue, he argued that the Third Circuit should revisit its rule that cannabis's plain smell constitutes probable cause, in light of changing state and federal laws surrounding cannabis.

The latter is the issue on which Mr. Chapman anticipates petitioning for certiorari. Most federal circuit courts have held for decades that the smell

of cannabis alone gives police officers probable cause to search a suspect's car. *See, e.g., United States v. Ramos*, 443 F.3d 304, 308 (3d Cir. 2006). The rule reflected the longstanding *per se* illegality of marijuana. In recent years, however, countless states have decriminalized or legalized marijuana, and in 2018 the federal government altered cannabis regulation to distinguish unlawful marijuana from lawful hemp, which has a lower THC concentration. *See* Agricultural Improvement Act of 2018, Pub. L. No. 115-443, 132 Stat. 4490. Indeed, marijuana use is “widespread and increasingly considered socially acceptable in many quarters. And from a practical standpoint, law enforcement widely tolerates the use of marijuana.” *United States v. Hemani*, 146 S. Ct. 1677, 1701 (2026) (Alito, J., concurring).

In light of those legal changes, the overwhelming majority of state courts have recognized that the smell of cannabis alone is no longer sufficient to constitute probable cause. *See, e.g., Commonwealth v. Barr*, 266 A.3d 25 (Pa. 2021); *People v. Armstrong*, __ N.W.3d __, 2025 WL 994370 (Mich. June 3, 2025); *State v. Torgerson*, 995 N.W.2d 164 (Minn. 2023). In federal courts, however, only one circuit appears to agree, *see United States v. Martinez*, 811 F. App'x 396, 397-98 (9th Cir. 2020) (unpublished), while most have maintained their decades-old plain smell doctrines, *see, e.g., United States v. Jackson*, 103 F.4th 483, 488-90 (7th Cir. 2024). The result is something like the antiquated silver platter doctrine, *see Elkins v. United States*, 364 U.S. 206 (1960)—law enforcement can seize evidence that would

be excluded from state court, but walk across the street to a federal court and bring criminal charges. Review by this Court is needed to harmonize the diverging law in this area.

Undersigned counsel is an Assistant Federal Public Defender who represented Mr. Chapman on direct appeal under the Criminal Justice Act, 18 U.S.C. § 3006A et. seq. Counsel respectfully requests a 30-day extension of the certiorari deadline due to other recent and upcoming briefing deadlines. These deadlines include: (1) a reply brief in *United States v. Michele Connell*, Appeal No. 25-3205 (3d Cir.), filed August 19, 2026; (2) an opening brief (for which undersigned is co-counsel), in *United States v. John Mix*, Appeal No. 26-2134 (3d Cir.), filed September 8, 2026; (3) a petition for rehearing in *United States v. Luis Figueroa*, Appeal No. 23-1742 (3d Cir.), filed September 8, 2026; (4) a petition for rehearing in *United States v. Cedrick Hodges*, Appeal No. 24-3226 (3d Cir.), filed September 10, 2026; (5) an opening brief in *United States v. John Doe*, Appeal No. 26-1517 (3d Cir.), due October 5, 2026; (6) a petition for certiorari from *United States v. Maurice Smith*, Appeal No. 24-2734 (3d Cir.), due October 5, 2026; and (7) a response to a motion for summary action in *United States v. Lucien Burton*, Appeal Nos. 25-2740, 25-2741 (3d Cir.), due October 8, 2026.

Due to these competing work obligations, the significance of Mr. Chapman's sentence, and the important issue that will be raised, counsel believes there is good cause for the requested extension, as required by

Supreme Court Rule 13.5.

For these reasons, Petitioner-Applicant Randle Chapman respectfully requests that an order be entered extending his time to petition for certiorari in the above-captioned case to and including October 28, 2026.

Respectfully submitted,

K. ANTHONY THOMAS
FEDERAL PUBLIC DEFENDER

s/ Timothy M. Shepherd

Timothy M. Shepherd
Assistant Federal Public Defender
22 South Clinton Avenue
Station Plaza #4, Fourth Floor
Trenton, New Jersey 08609
Camden, NJ 08102
(609) 690-0414
Timothy_Shepherd@fd.org

Attorney for Petitioner-Applicant
Randle Chapman

Dated: September 15, 2026