

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DAEKUN CHO,
Applicant,

v.

UNITED STATES OF AMERICA,
Respondent.

ON APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO
FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Ninth Circuit No. 24-5185
C.D. Cal. No. 2:23-cr-00149-FLA-1

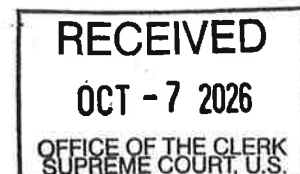
APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH
TO FILE A PETITION FOR A WRIT OF CERTIORARI

TO THE HONORABLE ELENA KAGAN,
ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED
STATES
AND CIRCUIT JUSTICE FOR THE NINTH CIRCUIT:

Applicant Daekun Cho, proceeding pro se, respectfully
applies under Supreme Court Rule 13.5 for a sixty-day
extension of time within which to file a petition for a
writ of certiorari seeking review of the judgment of
the United States Court of Appeals for the Ninth
Circuit in United States v. Cho, No. 24-5185.

The petition is presently due on October 6, 2026.
Applicant requests an extension of sixty days.. Because
the sixtieth day falls on Saturday, December 5, 2026,
the requested extension, together with Supreme Court
Rule 30..1, would make the petition due on Monday,
December 7, 2026.

In support of this application, Applicant states as
follows:



1. JURISDICTION

This Court would have jurisdiction over a timely petition for a writ of certiorari pursuant to 28 U.S.C. Section 1254(1).

The United States Court of Appeals for the Ninth Circuit issued its memorandum disposition affirming Applicant's convictions and sentence on April 15, 2026.

A copy of that memorandum disposition is attached as Appendix A..

Applicant timely sought rehearing and rehearing en banc.

On July 8, 2026, the Ninth Circuit denied the petition for rehearing and rehearing en banc.

A copy of the July 8, 2026 order is attached as Appendix B.

Under Supreme Court Rule 13.3, because rehearing was timely sought, the period for filing a petition for a writ of certiorari runs from the July 8, 2026 denial of rehearing and not from the later issuance of the mandate.

Accordingly, the present deadline for filing the petition is October 6, 2026.

2. GOOD CAUSE FOR THE REQUESTED EXTENSION

Good cause exists for the requested extension.

Applicant is presently incarcerated at Federal Correctional Institution Herlong and is preparing the contemplated Supreme Court proceedings pro se.

Applicant was represented by appointed counsel in the Ninth Circuit. Following the appellate disposition and while rehearing proceedings remained pending, appointed appellate counsel moved to withdraw. The Ninth Circuit granted counsel's withdrawal and denied Applicant's request for replacement counsel.

Applicant therefore must prepare the contemplated petition for a writ of certiorari without appointed appellate counsel and from within a federal correctional institution.

The underlying criminal prosecution is unusually substantial. Applicant was tried on fifty-seven counts, and the contemplated petition requires review and accurate treatment of a substantial district-court and appellate record.

The Ninth Circuit's disposition also contains multiple distinct rulings concerning evidentiary error, harmlessness, forfeiture, identification evidence, exclusion of defense evidence, and sentencing. Preparation of a petition compliant with Supreme Court Rule 14 therefore requires careful comparison of the appellate disposition with the briefs, trial record, and other materials bearing upon the issues actually preserved and decided below.

Applicant has been attempting to assemble those materials while incarcerated. Among other things, he has been obtaining the appellate briefs and correspondence relating to the appeal and has repeatedly sought discovery, trial materials, and his client file from former trial counsel. Important portions of those materials remain in the process of being obtained and reviewed.

The requested extension would permit Applicant to complete that record review, identify accurately the questions properly presented for this Court's consideration, avoid factual or procedural misstatements, and prepare a concise petition meeting the requirements of Supreme Court Rules 10 and 14.

The requested extension is not sought for purposes of delay. Applicant seeks only the time reasonably necessary to prepare an accurate and procedurally proper petition while proceeding pro se from federal custody.

3. TIMELINESS OF THIS APPLICATION

This application is being deposited on September 26, 2026, in the internal mail system of Federal Correctional Institution Herlong, with first-class postage prepaid.

Applicant submits with this application a declaration pursuant to Supreme Court Rule 29.2 and 28 U.S.C. Section 1746 setting forth the date of deposit.

September 26, 2026 is ten days before the present October 6, 2026 deadline for the petition for a writ of certiorari.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the time within which to file a petition for a writ of certiorari be extended for sixty days, with the resulting filing deadline, under Supreme Court Rule 30..1, of December 7, 2026.

A handwritten signature in black ink, appearing to read 'DAEKUN CHO', written over a horizontal line.

DAEKUN CHO
Reg. No. 49441-510
Applicant, Pro Se

Federal Correctional Institution Herlong
P.O. Box 800
Herlong, CA 96113

Telephone: Not available to incarcerated Applicant

Dated: September 26, 2026

APPENDIX A

MEMORANDUM OF THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

United States v. Daekun Cho
No. 24-5185

Filed April 15, 2026

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 15 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAEKUN CHO, AKA DK,

Defendant - Appellant.

No. 24-5185

D.C. No.

2:23-cr-00149-FLA-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Fernando L. Aenlle-Rocha, District Judge, Presiding

Argued and Submitted March 3, 2026
Pasadena, California

Before: WARDLAW and DE ALBA, Circuit Judges, and BROWN, District
Judge.**

Daekun Cho appeals his convictions for extortion and attempted extortion
under 18 U.S.C. § 1951(a) and aiding and abetting carjacking under 18 U.S.C. §§
2(a) and 2119(2). Cho also appeals his sentencing enhancement under United

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The Honorable Jeffrey Vincent Brown, United States District Judge
for the Southern District of Texas, sitting by designation.

States Sentencing Guidelines Manual (U.S.S.G.) § 3A1.1(b). As the parties are familiar with the facts, we do not recount them here. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

We review a district court's decision to exclude evidence for abuse of discretion, *United States v. Smith*, 735 F.2d 1196, 1198 (9th Cir. 1984), and a district court's findings of fact for clear error. *See United States v. Olsen*, 21 F.4th 1036, 1040 (9th Cir. 2022) (per curiam). "A non-constitutional error requires reversal unless there is a fair assurance of harmlessness, or stated another way, unless it is more probable than not that the error did not materially affect the verdict." *United States v. Lopez*, 913 F.3d 807, 825 (9th Cir. 2019) (citation modified).

1. Assuming the district court improperly admitted the uncharged shooting and gang affiliation evidence, any error is harmless given the overwhelming evidence of Cho's guilt. *See United States v. Smith*, 638 F.2d 131, 134 (9th Cir. 1981). Multiple victims testified that they paid Cho out of fear, that Cho threatened or attacked them when they failed to pay, and that Cho participated in the charged carjacking.

Cho argues that the "quality" of the victim witnesses' testimony was low because the government offered the witnesses immigration assistance. Yet Cho does not show that any witness testimony was tainted by such assistance, if any.

Cho also argues that Yun Soo Shin's testimony that one of the two masked assailants who beat him was Cho is improbable and inconsistent with statements he made to a police officer. With respect to improbability, Cho argues that Shin only testified that he recognized Cho's eyes during the attack. However, Shin also testified that he recognized Cho by his voice, a fact Cho does not challenge despite Appellee's reliance on this fact. Cho has therefore forfeited his argument with respect to improbability. *See Maciel v. Cate*, 731 F.3d 928, 932 n.4 (9th Cir. 2013).

As to inconsistency, a police officer—testifying based on her review of a police report prepared by her partner rather than her own recollection—stated that Shin described his assailants as two Black men. However, a doctor who treated Shin at the hospital testified that Shin had been given the “strongest pain medication we can give” at the “highest dose that we give” because Shin reported his pain was “10 out of 10,” which suggests that the medication could have affected Shin's statements to the police officer.

In any event, Shin's business partner testified that, shortly after the attack and before Shin was hospitalized, Shin was “repeatedly saying, . . . It was [Cho].” Shin's partner also testified that, during Shin's beating, he heard Shin repeatedly yelling, “I will pay you.” It is undisputed that Shin had stopped paying Cho several weeks prior to the attack. In light of the evidence indicating that Cho was

one of Shin's assailants, it is not more probable than not that the jury would have reached a different verdict absent the evidence of the uncharged shooting and Cho's gang affiliation. *See Smith*, 638 F.2d at 134.

2. Cho does not challenge the district court's rulings sustaining the government's relevancy objections regarding his questioning of Jun Hun Lee. Cho has therefore forfeited such a challenge. *See United States v. Perez-Silvan*, 861 F.3d 935, 938 (9th Cir. 2017).

The district court abused its discretion in excluding Cho's statements in the group chat, Exhibit 202, as hearsay. Unlike the statements at issue in *United States v. Ortega*, 203 F.3d 675, 681–83 (9th Cir. 2000), Cho's messages, such as "What company she works for?" and "Let me know asap. It's urgent.", do not assert exculpatory facts offered for their truth. Instead, they constitute operational communications probative of an ongoing information-sharing relationship with drivers. To the extent they were offered to show the nature of that relationship or that such communications occurred, they fall outside the definition of hearsay under Federal Rule of Evidence 801(c). Nevertheless, the error was harmless. The jury was aware that Cho communicated with drivers through the group chat, and the redacted exhibit conveyed the overall structure and context of those exchanges. Because the excluded statements were largely cumulative of other evidence, their

omission did not materially affect the verdict. *United States v. Seschillie*, 310 F.3d 1208, 1214 (9th Cir. 2002). Accordingly, the error does not warrant reversal.

3. The district court did not clearly err in finding Cho's victims unusually vulnerable under U.S.S.G. § 3A1.1(b). The district court reasonably found that the victims were unusually vulnerable given their immigration status, language barriers, lack of familiarity with of the American legal system, and cultural factors that made them less likely to seek protection. *See United States v. Mendoza*, 262 F.3d 957, 960–61 (9th Cir. 2001). These factors were not incorporated in the offense guideline, *see* U.S. SENT'G GUIDELINES MANUAL § 3A1.1 cmt. n.2, and the record supports the conclusion that Cho "knew or should have known that individuals with [his victims'] backgrounds were more likely than others to succumb to [extortion] and were particularly susceptible to [extortion]." *See United States v. Peters*, 962 F.2d 1410, 1418 (9th Cir. 1992).

AFFIRMED.

APPENDIX B

**ORDER DENYING PETITION FOR REHEARING
AND REHEARING EN BANC**

United States v. Daekun Cho
No. 24-5185

Filed July 8, 2026
Dkt. 61

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 8 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAEKUN CHO, AKA DK,

Defendant - Appellant.

No. 24-5185

D.C. No.

2:23-cr-00149-FLA-1

Central District of California,
Los Angeles

ORDER

Before: WARDLAW and DE ALBA, Circuit Judges, and BROWN, District Judge.*

The panel has voted to deny Appellant's petition for rehearing and rehearing en banc. The full court has been advised of the petition, and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 40. The petition for rehearing and rehearing en banc, Dkt. 57, is DENIED.

* The Honorable Jeffrey Vincent Brown, United States District Judge for the Southern District of Texas, sitting by designation.

APPENDIX C

ORDER GRANTING KAREN LANDAU'S WITHDRAWAL
AND DENYING REPLACEMENT COUNSEL

United States v. Daekun Cho
No. 24-5185

Filed Jun 2, 2026
Dkt. 59

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 2 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAEKUN CHO, AKA DK

Defendant - Appellant.

No. 24-5185

D.C. No.

2:23-cr-00149-FLA-1

Central District of California,
Los Angeles

ORDER

Before: WARDLAW and DE ALBA, Circuit Judges, and BROWN, District Judge.*

We **GRANT** Karen Landau's motion for leave to withdraw as Appellant's counsel, Dkt. 58; **DENY** Landau's motion for appointment of new counsel, Dkt. 58; and **DENY** as moot Appellant's motions for leave to proceed pro se, "relief [from]/substitution" of his counsel, and leave to submit supplemental filings if Landau remains his counsel. Dkt. 56. Appellant's pro se petition for panel rehearing and rehearing en banc, Dkt. 57, will be addressed by separate order.

* The Honorable Jeffrey Vincent Brown, United States District Judge for the Southern District of Texas, sitting by designation.

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DAEKUN CHO,
Applicant,

v.

UNITED STATES OF AMERICA,
Respondent.

DECLARATION OF TIMELY DEPOSIT
PURSUANT TO SUPREME COURT RULE 29..2
AND 28 U.S.C. SECTION 1746

I, Daekun Cho, declare as follows:

1. I am the Applicant proceeding pro se in the accompanying Application for an Extension of Time Within Which to File a Petition for a Writ of Certiorari.
2. I am presently confined at Federal Correctional Institution Herlong.
3. On September 26, 2026, I deposited the accompanying Application for an Extension of Time Within Which to File a Petition for a Writ of Certiorari and accompanying papers in the internal mail system of Federal Correctional Institution Herlong for mailing to the Clerk of the Supreme Court of the United States.
4. First-class postage was prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 26, 2026.



DAEKUN CHO
Reg. No. 49441-510
Federal Correctional Institution Herlong
P.O. Box 800
Herlong, CA 96113

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DAEKUN CHO,
Applicant,

v.

UNITED STATES OF AMERICA,
Respondent.

PROOF OF SERVICE

I, Daekun Cho, declare as follows:

I am the Applicant proceeding pro se in this matter.

On September 26, 2026, I served a true and correct copy
of the
Application for an Extension of Time Within Which to
File a
Petition for a Writ of Certiorari and its accompanying
papers by
depositing the same in the internal mail system of
Federal
Correctional Institution Herlong, with first-class
postage
prepaid, addressed to:

Solicitor General of the United States
Counsel for Respondent United States of America
Room 5616
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
Telephone: (202) 514-2203

I have served all parties required to be served.

I declare under penalty of perjury pursuant to 28
U.S.C. Section 1746 that the foregoing is true and
correct.

Executed on September 26, 2026.



DAEKUN CHO
Reg. No. 49441-510
Applicant, Pro Se

Federal Correctional Institution Herlong
P.O. Box 800
Herlong, CA 96113