

No. _____

IN THE
Supreme Court of the United States

KEVONTAY MABREY,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fourth Circuit**

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

To the Honorable John Roberts, Jr., Chief Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Fourth Circuit:

Under Supreme Court Rule 13.5 and 28 U.S.C. § 2101(c), petitioner Kevontay Mabrey respectfully requests an extension of 30 days in which to file a petition for writ of certiorari in this case. The petition will seek review of the Fourth Circuit's decision in *United States v. Mabrey*, No. 25-4578 (4th Cir. Apr. 28, 2026) (per curiam), a copy of which is attached hereto as Appendix A.

In support of this application, petitioner states as follows:

1. The Fourth Circuit issued its opinion and entered judgment on April 28, 2026. The petition for a writ of certiorari is currently due on July 27, 2026. With the requested extension, the petition would be due on August 26, 2026. The Court's jurisdiction will be invoked under 28 U.S.C. § 1254(1). In accordance with Supreme Court Rule 13.5, petitioner is filing this application at least ten days before the current due date. Petitioner has not previously sought an extension of the deadline.

2.a. Mr. Mabrey pleaded guilty to knowingly possessing a firearm as a person with a prior felony in violation of 18 U.S.C. § 922(g)(1) in the United States District Court for the Eastern District of Virginia. App. 2a. Mr. Mabrey moved to dismiss the indictment, arguing that § 922(g) violates the Second Amendment under the test articulated in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022). App. 2a. The district court denied the motion, and Mr. Mabrey entered a guilty plea. The district court later sentenced him to 36 months of imprisonment.

b. On appeal, the Fourth Circuit granted the government's motion to summarily affirm Mr. Mabrey's conviction. App. 2a–3a. The panel affirmed the district court's denial of Mr. Mabrey's motion to dismiss because his Second Amendment challenge to § 922(g)(1) was foreclosed by binding circuit precedent. App. 2a–3a.

c. The Fourth Circuit's judgment warrants this Court's review. There is a deep and entrenched circuit split on the issue of whether as-applied challenges to § 922(g)(1) are available. The Fourth Circuit has joined the Second, Eighth, Ninth,

Tenth, and Eleventh Circuits in affirming § 922(g)(1) “as a categorical matter.” *United States v. Cockerham*, 162 F.4th 500, 510 (5th Cir. 2025), (collecting cases); see also *United States v. Hunt*, 123 F.4th 697, 702–04 (4th Cir. 2024), *pet’n for cert denied*, No. 24-6818 (June 2, 2025). Meanwhile, the Third, Fifth, and Sixth Circuits have held that § 922(g)(1) may be unconstitutional in some circumstances and have allowed defendants to assert as-applied challenges. See *Range v. Att’y Gen. United States*, 124 F.4th 218, 224 (3d Cir. 2024) (en banc); *United States v. Diaz*, 116 F.4th 458, 472 (5th Cir. 2024), *pet’n for cert denied*, No. 24-6625 (June 23, 2025); *United States v. Williams*, 113 F.4th 637, 657 (6th Cir. 2024).

d. Mr. Mabrey’s petition will argue that this Court should grant review to resolve this split because the issue presented is both recurring and important. Section 922(g)(1) is one of the most commonly charged offenses in federal court. Moreover, the lower courts are deeply divided on the issue, and even the Circuits that allow as-applied challenges have taken different approaches to assessing those challenges. Mr. Mabrey’s petition will argue that this Court should step in to bring needed uniformity and clarity to this area of law. Although the Court has denied many petitions raising this claim, Mr. Mabrey’s petition will also address the effect of the recent decision in *United States v. Hemani*, 608 U.S. ____ (2026).

3. There is good cause for the requested 30-day extension of time. Undersigned counsel, who is responsible for preparing the petition, has been delayed by work on other cases. Since the Fourth Circuit issued its opinion in this case on

April 28, counsel has presented one oral argument and has filed four opening briefs in the Fourth Circuit, and assisted with the writing and filing of a supplemental brief in opposition to the government's petition for certiorari in another case. Counsel was also out of the office for a week to attend a training conference.

In addition, counsel has upcoming deadlines in several cases that will make filing the petition by July 27 difficult. Counsel has five opening briefs and two reply briefs due between July 17 and August 3. Counsel may seek extensions in some of these cases, but each case still requires substantial upfront work, including issue spotting, communicating with the client, and conducting legal research. In addition, counsel has due on July 27 a supplemental brief regarding this Court's order remanding in *United States v. Johnson*, No. 25-551. Finally, as the chief appellate attorney for his office, counsel will have significant responsibilities for training a new appellate attorney who begins work July 27.

For the foregoing reasons, petitioner respectfully requests a 30-day extension of time within which to file a petition for certiorari, to and including August 26, 2026.

Respectfully submitted,



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