

Statement of SOTOMAYOR, J.

**SUPREME COURT OF THE UNITED STATES**

MICHAEL DEWAYNE LAIRY *v.* UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 25–821. Decided May 18, 2026

The petition for a writ of certiorari is denied.

Statement of JUSTICE SOTOMAYOR respecting the denial of certiorari.

As all agree, petitioner Michael Lairy’s prison sentence for unlawful handgun possession was five years longer than the applicable statutory maximum. When Lairy filed a motion under 28 U. S. C. §2255 seeking relief from that sentence, however, the Government argued, and the courts below held, that Lairy’s §2255 motion was untimely.

As the Government now informs this Court, its decision to invoke that statute-of-limitations defense below was an “inadverten[t]” error. Brief in Opposition 6. The Government represents that it has a policy of waiving such defenses in cases involving “undisputed legal ineligibility for an enhanced noncapital sentence—that is, a sentence above the applicable statutory maximum.” *Id.*, at 5–6. Thus, it promised to “correct its oversight by waiving the limitations defense in district court.” *Id.*, at 6. Shortly thereafter, the District Court granted Lairy’s §2255 motion and released him. In light of the Government’s policy, and the fact that Lairy has now received all the relief he requested in his §2255 motion, I concur in the denial of certiorari.