

In the Supreme Court of the United States

JACKSON JACOB,

Applicant,

v.

UNITED STATES OF AMERICA

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

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

1. Pursuant to Supreme Court Rule 13.5, Applicant Jackson Jacob respectfully requests a 60-day extension of time, to and including August 5, 2024, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Fifth Circuit issued its initial opinion on October 2, 2023. On March 8, 2024, the Fifth Circuit withdrew its October 2 opinion, denied all pending petitions for rehearing en banc, and issued a substitute opinion. A copy of the March 8 opinion is attached. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on June 6, 2024. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case by Applicant.

3. This case seeks review of an important question concerning the reach of a federal criminal statute: Does the Anti-Kickback Statute, 42 U.S.C. § 1320a-7(b) extend to services paid for by private health insurers?

4. Applicant is one of several defendants convicted of engaging in a healthcare conspiracy in Dallas, Texas. Slip op. at 2. Applicant was charged with processing fees in 2011 to 2012 paid by Forest Park Medical Center in Dallas. *See generally* slip op. at 5. In 2016, the government charged the owners of Forest Park, several physicians, and others with what it characterized as a scheme to enrich themselves through out-of-network billing and reimbursement by steering privately-insured patients to the clinic, for whom they could recoup higher out-of-network reimbursement rates. Applicant was convicted of violations of the AKS and conspiracy to violate the AKS for paying or receiving remuneration for arranging services payable by a federal health care program. *Id.* Applicant was sentenced to 96 months of imprisonment. Slip op. at 6.

5. Not only was Applicant's sentence based on the district court's expansion of the AKS to include privately paid claims, but the district court similarly applied the AKS to privately paid claims to impose restitution in the amount of \$76,836,617.00. Noting that this was a matter of first impression, the Fifth Circuit rejected Applicant's argument. Slip op. at 69. Even though the Circuit disagreed with the government that "the federal healthcare program reference in the AKS is only a jurisdictional hook," it reasoned that the statute required "knowledge that services provided to referred patients may be paid in whole or part by federal healthcare

programs.” *Id.* Thus, the Fifth Circuit swept all privately paid claims for medical services into the AKS, even though Congress enacted a separate statute to address those privately paid claims. *See* SUPPORT for Patients and Communities Act of 2018, Pub. L. No. 115-271, 132 Stat. 3894, 4108-4110 (codified as amended at 18 U.S.C. § 220 (2018)).

6. Applicant respectfully requests an extension of time to file a petition for a writ of certiorari. An extension would allow counsel to coordinate with counsel for codefendants in an effort to avoid duplication and repetition in separate petitions in this large-scale case.

Wherefore, Applicant respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to and including August 5, 2024.

Dated: May 23, 2024

Respectfully submitted,



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