

App. No. _____

In the Supreme Court of the United States

MOISES ORLANDO ZELAYA-VELIZ, JOSE ELIEZAR MOLINA-VELIZ,
LUIS ALBERTO GONZALES, GILBERTO MORALES, JONATHAN RAFAEL
ZELAYA-VELIZ, Petitioners

v.

UNITED STATES OF AMERICA, Respondent

**APPLICATION FOR 30- DAY EXTENSION OF TIME TO FILE PETITION
FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT**

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To the Honorable Justice John G. Roberts, as Circuit Justice for the United States Court of Appeals for the Fourth Circuit:

Applicants, pursuant to this Court's Rules 13.5, 22, 30.2, and 30.3, respectfully request that the time in which they may file a petition for a writ of certiorari be extended for 30 days until July 13, 2024. The United States Court of Appeals issued its opinion on February 15, 2024 (Exhibit B) and denied a petition for rehearing en banc on March 15, 2024 (Exhibit A). If an extension of time is not granted, the filing deadline for a petition would be June 13, 2024. This Court has jurisdiction over the matter pursuant to 28 U.S.C. 1254(1). The United States reported to undersigned counsel this day it does not oppose this application.

Background

Tens of thousands of federal requests are made for Facebook data each year¹ and this case presents an important question as to whether apparent all data warrants for Facebook accounts violates the Fourth Amendment's particularity requirement. One warrant at issue for Applicant Luis Gonzalez's Facebook accounts had no temporal limitation whatsoever such that it demanded the potential disclosure of 15 or more years of the applicant's personal data and communications. The warrants for the Facebook accounts of the other four

¹ For example, for the first half of 2020, Facebook received 61,500 requests for data from United States authorities, covering 106,100 accounts. *See* Jack Nicas, *What Data About You Can the Government Get From Big Tech*, NEW YORK TIMES (July 14, 2021). <https://www.nytimes.com/2021/06/14/technology/personal-data-apple-google-facebook.html>

applicants appear to have demanded every conceivable type of account data held by Facebook, including GPS location data, well before and after the timeframe of the alleged offense conduct. The Fourth Circuit's opinion, affirming the district court's denial of the applicants' motions to suppress Facebook warrants, is in tension with Eleventh Circuit precedent as well as other state courts of last resort. The Fourth Circuit in its opinion below found the warrant without any temporal limitation to be a "problem," but applied the good faith exception to the exclusionary rule despite such over-broad warrants being previously criticized by other courts. The Fourth Circuit found the other all data warrants to be sufficiently particularized notwithstanding the vast breadth of warrants.

Reasons For Granting an Extension of Time

The five applicants' appeals were properly consolidated in the Fourth Circuit as they were co-defendants convicted in a single trial and raised the same issues on appeal in the Fourth Circuit. All applicants are currently incarcerated in the Federal Bureau of Prisons and it has taken considerable time to determine whether the individual applicants desired to petition for a writ of certiorari. As of the writing of this application, counsel for four of the five applicants have determined that their particular client wishes to seek review of the Fourth Circuit's opinion in this Court. Undersigned counsel only received notice to proceed with a petition for a writ of certiorari on or about May 15, 2024 and it took additional time in filing this

application conferring with co-defendant counsel and determining the United States' position.

All counsel will need to co-ordinate on the petition and undersigned counsel, who was the principal author of the briefs in the Fourth Circuit, has a considerable caseload including representing clients in Virginia's appellate and trial courts, the United States District Court for the Eastern District of Virginia, and the Fourth Circuit.

Conclusion

Based on the foregoing, the applicants respectfully request that the time to file a writ of certiorari in the above-captioned matter be extended 30 days to and including July 13, 2024.

Dated this 5th day of June, 2024.

Respectfully submitted
By Counsel

/s/ Joseph King

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CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2024, the foregoing Application was delivered electronically to counsel for the United States, Ann Adams, Office of the Solicitor General at ann.Adams@usdoj.gov and supremectbriefs@usdoj.gov.

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