

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Anthony Pandrella

Petitioner,

v.

United States of America,

Respondent.

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

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

MARSHALL A. MINTZ*

Mintz Law PLLC
260 Madison Avenue, 18th Floor
New York, New York 10016
(212) 447-1800
MMintz@MinOpp.com

JAMES R. FROCCARO, JR.

Law Office of James R. Froccaro, Jr.
20 Vanderventer Avenue, Suite 103W
Port Washington, New York 11050
(516) 944-5062
jrfesq61@aol.com

Attorneys for Petitioner

*Counsel of Record

June 13, 2024

To the Honorable Sonia Sotomayor, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Second Circuit:

Pursuant to Supreme Court Rule 13.5, Petitioner Anthony Pandrella, by undersigned counsel, respectfully requests an extension of 60 days (to and including Friday, September 6, 2024) in which to file a petition for a writ of certiorari in this case. In support of this request, counsel states as follows:

1. On April 8, 2024, the United States Court of Appeals for the Second Circuit affirmed Mr. Pandrella's convictions on Hobbs Act robbery, in violation of 18 U.S.C. § 1951(a), using and carrying a firearm during and in relation to the robbery, in violation of 18 U.S.C. § 924(c)(1)(A), and using the firearm to knowingly and intentionally cause a person's death in the perpetration of the robbery, in violation of 18 U.S.C. § 924(j)(1). (Attachment A).

2. Pursuant to Supreme Court Rule 13.3, Mr. Pandrella has 90 days to petition for a writ of certiorari. The petition is therefore due on Monday, July 8, 2024. This application is being filed at least 10 days before that date.

3. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

4. A conviction under the Hobbs Act requires the government to prove, beyond a reasonable doubt, that a charged act "in any way or degree obstruct[ed], delay[ed], or affect[ed] interstate commerce or the movement of any article or commodity in commerce" 18 U.S.C. § 1951(a).

5. As this Court has made clear that, in a Hobbs Act prosecution, "[t]he charge that interstate commerce is affected is critical since the Federal

Government's jurisdiction of this crime rests only on that interference." *Stirone v. United States*, 361 U.S. 212, 218 (1960).

6. In this case, the Second Circuit held that the jurisdictional element was satisfied because there was sufficient evidence for the jury to conclude that the charged robbery "had at least a *potential* effect on interstate commerce." (Attachment A, p. 5 (emphasis added)).

7. So this case involves an important question of just how *de minimis* an effect on interstate commerce can be in order for a substantive offense to satisfy the Hobbs Acts's jurisdictional element. Here, the Second Circuit held that a potential effect was sufficient, whereas other Circuits have held that an effect on interstate commerce must be a "realistic probability." See *United States v. Jambulat Tkhilaishvili*, 926 F.3d 1, 11 (1st Cir. 2019); *United States v. Wrobel*, 841 F.3d 450, 455 (7th Cir. 2016); *United States v. Vichitvongsa*, 819 F.3d 260, 270 (6th Cir. 2016).

8. There is good cause to grant this extension of time so that Counsel of Record, who only became involved in this case for the first time this week, can adequately review those issues and present them accordingly.

For the foregoing reasons, Petitioner respectfully requests a 60-day extension of time (to and including Friday, September 6, 2024) in which to file a petition for a writ of certiorari in this case.

Dated: June 13, 2024

Respectfully submitted,

/s/ Marshall A. Mintz

MARSHALL A. MINTZ*

Mintz Law PLLC
260 Madison Avenue, 18th Floor
New York, New York 10016
(212) 447-1800
MMintz@MinOpp.com

JAMES R. FROCCARO, JR.

Law Office of James R. Frocarro, Jr.
20 Vanderventer Avenue, Suite 103W
Port Washington, New York 11050
(516) 944-5062
jrfesq61@aol.com

Attorneys for Petitioner

*Counsel of Record