

No. _____

IN THE
Supreme Court of the United States

SADICK EDUSEI-KISSI, *PETITIONER*

V.

UNITED STATES OF AMERICA

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

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

1. Pursuant to Supreme Court Rule 13.5, petitioner Sadick Edusei-Kissi respectfully requests a 45-day extension of time, until Wednesday, September 4, 2024, to file a petition for a writ of certiorari.

2. The Court of Appeals for the Second Circuit issued the attached “summary order” on February 16, 2024. On April 1, 2024, Edusei-Kissi filed a timely petition for panel rehearing or rehearing en banc. On April 22, 2024, the Second Circuit issued the attached order denying Edusei-Kissi’s request for rehearing.

3. This Court has jurisdiction to review Edusei-Kissi’s case under 28 U.S.C. § 1254(1).

4. Pursuant to Supreme Court Rules 13.1 and 13.3, Edusei-Kissi’s petition for certiorari is currently due on July 22, 2024. This application is being filed more than 10 days in advance of that date.

5. This case presents two exceptionally important and interrelated questions: (1) Whether Article III of the U.S. Constitution precludes federal courts of appeals from issuing “non-precedential” decisions to resolve contested appellate issues, as the Eighth Circuit previously held in *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000), *overruled as moot by Anastasoff v. United States*, 235 F.3d 1054 (8th Cir. 2000); and (2) Whether the right to due process in connection with an appeal is satisfied when a litigant’s non-frivolous appellate arguments are disposed of by way of a non-precedential order that overlooks material facts and/or does not explain its legal conclusions.

6. This case represents an ideal vehicle for the Court to address either or both of these important questions, as they were each squarely presented to the Second Circuit in connection with Edusei-Kissi’s petition for panel rehearing or

rehearing en banc. No. 22-3220, at Dkt. 108. Moreover, the extent to which the attached non-precedential “summary order” overlooks key facts and legal arguments that were repeatedly brought to the Second Circuit’s attention (in petitioner’s appellate briefs; in motions for bail pending appeal; and during oral argument) highlights the urgent need for answers to the questions presented.

7. Pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A, I was appointed to represent Edusei-Kissi before the Second Circuit as substitute appellate counsel.

8. Soon after the Second Circuit issued the attached order denying rehearing, I conferred with Edusei-Kissi and began working on a petition for certiorari. However, because of the press of work in other cases, it has recently become clear to me that I will require an additional 45-days to conduct adequate research and prepare an effective petition while also attending to other, pre-existing obligations.

9. I am effectively a solo practitioner with respect to the appellate matters I am assigned as a member of the CJA panels for the First and Second Circuits. Over the next two months, I will have briefs due in both of those courts, and I will also be assisting with the preparation of a merits brief to this Court in *Salvatore Delligatti v. United States*, No. 23-825—another matter to which I was previously appointed as CJA appellate counsel.

10. Because of these and various other responsibilities and obligations, I respectfully request an additional 45 days to prepare Edusei-Kissi's petition for *certiorari*.

Dated: New York, New York
June 24, 2024

Respectfully submitted,

/s/ Lucas Anderson
Lucas Anderson
Of Counsel
Rothman, Schneider,
Soloway & Stern, LLP
100 Lafayette Street, Suite 501
New York, New York 10013
(212) 571-5500