

IN THE
Supreme Court of the United States

SADICK EDUSEI-KISSI, *PETITIONER*

V.

UNITED STATES OF AMERICA

**APPLICATION FOR A 15-DAY 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 15-day extension of time, until Thursday, September 19, 2024, to file a petition for a writ of certiorari.

2. Your Honor previously granted Edusei-Kissi's June 24, 2024 request for a 45-day extension of time. This will be Edusei-Kissi's final Rule 13.5 request.

3. This Court has jurisdiction to review Edusei-Kissi's case under 28 U.S.C. § 1254(1). 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. On July 3, 2024, this Court granted Edusei-Kissi's request for a 45-day extension of time under Rule 13.5.

4. Edusei-Kissi's petition for certiorari is currently due on September 4, 2024. This application is being filed more than 10 days in advance of that date.

5. Edusei-Kissi's 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questions: (1) Whether Article III of the U.S. Constitution precludes federal courts of appeals from issuing "non-precedential" decisions to resolve contested appellate issues, as the Eighth Circuit previously held in *Anastasoff v. United States*, 223 F.3d 898 (8th Cir. 2000),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connection with an appeal is satisfied when a litigant's non-frivolous appellate arguments are disposed of by way of a non-precedential order that overlooks material facts and/or does not explain its legal conclusions.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 the important questions described above, as they were each squarely

presented to the Second Circuit in connection with Edusei-Kissi's petition for panel rehearing or rehearing en banc. Docket No. 22-3220. Moreover, the extent to which the attached non-precedential "summary order" overlooks key facts and legal arguments that were repeatedly brought to the Second Circuit's attention (in petitioner's appellate briefs; in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 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. 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, I determined that I would require additional time to conduct adequate research and prepare an effective petition. As such, I previously filed a request for a 45-day extension of time under Rule 13.5, which Your Honor granted on July 3, 2024.

8. 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. The Second Circuit panel recently assigned me two appeals involving defendants-appellants who are serving relatively short prison sentences. Docket Nos. 24-985 and 24-1876 (appellants serving 364-day and 8-month prison sentences, respectively). After obtaining the district court records of those cases, I determined that they each involve meritorious appellate issues, and that emergency measures at the circuit and/or district court level are necessary for those appellants to seek

warranted relief before they complete their prison sentences. Those emergency measures, and my assistance with the preparation of the petitioner's merits brief to this Court in *Salvatore Delligatti v. United States*, No. 23-825, have consumed my practice over the last five weeks.

9. Because of these and other responsibilities and obligations, and with the understanding that no further requests for Rule 13.5 extensions will be entertained, I respectfully request an additional 15 days to prepare Edusei-Kissi's petition for certiorari.

Dated: New York, New York
August 13, 2024

Respectfully submitted,

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