

In the Supreme Court of the United States

MICHAEL BASSEM RIMLAWI,
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 Michael Bassem Rimlawi 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. Applicant is one of several defendants convicted of engaging in a healthcare conspiracy in Dallas, Texas. Slip op. at 2. Applicant was a physician, who was charged with receiving fees in 2009 to 2012 for patients referred to an outside clinic, Forest Park Medical Center in Dallas. *See generally* slip op. at 5. In 2016, the government charged the owners of Forest Park and several physicians 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 Anti-Kickback Statute (“AKS”) and conspiracy to violate the AKS for paying or receiving remuneration for arranging services payable by a federal health care program (FECA). *Id.* Applicant was sentenced to, among other things, 90 months of imprisonment, slip op. at 6, as well as \$28,839,201.69 in restitution. Slip op. at 6.

4. Over Applicant’s objection, the district court admitted the statement of a nontestifying codefendant. At trial and on appeal, Applicant challenged the admission of this statement, and the government’s use of that statement in cross-examining Applicant and in closing argument, as violative of his right to confrontation under the Sixth Amendment and *Bruton v. United States*, 391 U.S. 123 (1968). Slip op. at 44-50. The Fifth Circuit suggested, without ultimately deciding, that Applicant’s Sixth Amendment rights were abridged; however, that court held that any error was harmless. Slip op. at 48-50.

5. In light of the foregoing, Applicant intends to seek review of an important question that has bedeviled the lower courts for decades, namely: what is the proper analysis for determining whether a constitutional error is harmless beyond a reasonable doubt? Indeed, this Court granted review to decide that question more than 10 years ago, but ultimately dismissed the writ as improvidently granted. *See Vasquez v. United States*, 565 U.S. 1057 (2011) (mem.) (granting certiorari), *writ dismissed as improvidently granted*, 566 U.S. 376 (2012) (No. 11-199). The need to decide that question has not diminished in the years since *Vasquez*. Applicant is also considering whether to seek review on the bases identified by co-appellants Mrugeshkumar Shah and Jackson Jacob in their applications to extend the time for filing petitions for certiorari.¹

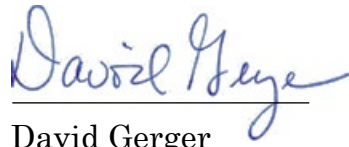
6. Applicant respectfully requests an extension of time to file a petition for a writ of certiorari. An extension would allow counsel to coordinate with counsel for codefendants in an effort to avoid duplication and repetition in separate petitions in this large-scale case.

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.

¹ Applicant Shah has expressed the intent to seek review of the question whether the Sixth Amendment reserves to juries the determination of any fact underlying a criminal restitution order. *See, e.g., Hester v. United States*, 139 S. Ct. 509, 509-10 (2019) (Gorsuch, J., dissenting from denial of certiorari) (holding this question worthy of the Court's review). Applicant Jacob has expressed the intent to seek review of the question whether the Anti-Kickback Statute, 42 U.S.C. § 1320a-7(b), extends to services paid for by private health insurers. Both of these questions are equally applicable to Applicant Rimlawi.

Dated: May 24, 2024

Respectfully submitted,



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