

No. 24A-

IN THE
Supreme Court of the United States

PETER J. STRAUSS,

Applicant,

v.

UNITED STATES,

Respondent.

**ON APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI
TO JUSTICE JOHN G. ROBERTS JR. OF THE SUPREME COURT OF THE UNITED STATES**

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

JOSEPH P. GRIFFITH, JR.
Counsel of Record
JOE GRIFFITH LAW FIRM, LLC
946 Johnnie Dodds Boulevard
Mount Pleasant, SC 29464
(843) 225-5563
joe@joegriffith.com

ELIZABETH FRANKLIN-BEST
ELIZABETH FRANKLIN-BEST, P.C.
3710 Landmark Drive, Suite 113
Columbia, SC 29204

Counsel for Applicant

To the Honorable John G. Roberts Jr., Chief Justice of the United States Supreme Court and Circuit Justice for the United States Court of Appeals for the 4th Circuit.

Pursuant to Supreme Court Rule 13.5, Applicant Peter Strauss, respectfully requests that the time to file a petition for a writ of certiorari in this matter be extended by 60 days, up to and including November 29, 2024. In support thereof, Applicant states as follows:

1. The judgment from which review is sought is an order by the Honorable Richard M. Gergel denying Applicant's motion for recusal in case number 9:23-cr-00833. Applicant sought a petition for writ of mandamus which was denied on April 26, 2024. A copy of the Court's order denying mandamus is attached as Appendix 1. Petitioner then sought rehearing or, in the alternative, rehearing en banc which was denied on July 2, 2024. A copy of the Court's order denying rehearing is attached as Appendix 2.
2. The current deadline for filing a petition for writ of certiorari is September 30, 2024. This Application has been filed at least 10 days prior to that date pursuant to Supreme Court Rule 13.5. Applicant has not previously sought an extension of time.
3. The jurisdiction of this Court is based on 28 U.S.C. §1254(1).

REASONS FOR GRANTING THE REQUESTED EXTENSION OF TIME

4. Applicant respectfully submits that a 60-day extension of time within which to file a petition for writ of certiorari is necessary and appropriate for the following reason.

5. An extension of time will help to ensure that significant issues relating to a jurist's decision to recuse himself from a matter in which his impartiality might reasonably be questioned are presented to the Court clearly and thoroughly. Applicant raises a significant issue regarding a district court judge's interpretation of statutes 28 U.S.C. §§ 144 and 455 when that district court judge became an adverse witness against Applicant by filing a grievance against him with the South Carolina Office of Disciplinary Counsel ("ODC") to have him stripped of his law license after Applicant testified at a hastily called civil proceeding in a related matter. This, among other acts, would lead a reasonable person to question this jurist's impartiality, including the jurist's threat to have Applicant arrested if he could not make the hastily scheduled hearing, the jurist's *ex parte* communications with another judge about the case, and the jurist's public show of affinity with the federal prosecutor who was present in the courtroom to observe the civil hearing. It strains credulity to imagine how a district court judge's actions could more raise the specter of partiality than by being so erroneously convinced of a litigant's wrongful conduct that he would become an adverse witness and initiate disciplinary proceedings

against him and then insist on meting out his criminal punishment after denying a reasonable request, fulfilling the requirements of 28 U.S.C. §144 by including an affidavit by a highly respected ethics expert, Barbara Seymour, for this jurist to recuse himself. Such conduct on the part of the jurist reasonably calls into doubt his impartiality and his recusal is required under 28 U.S.C. §§144 and 455(a), (b)(1). The district court judge's continued participation in this case and his insistence on meting out Applicant's punishment violates his right to due process.

6. Additionally, Applicant's counsel, Joseph Griffith has been engaged in pressing professional matters during the past few weeks and will continue to be engaged in such matters in the forthcoming weeks, including, but not limited to: Preparing for a two-day hearing scheduled for September 30, 2024 and October 1, 2024, in *City of Charleston v. Brabham Oil Company, Inc., et al.*, Case No. 2020-CP-10-3975, Charleston County Court of Common Pleas, which involves multiple motions to dismiss by twenty-four oil company defendants; preparing an appeal to the Charleston County Court of Common Pleas from an adverse Board of Zoning Appeals decision, in *Griffith v. Isle of Palms BOZA*, due on October 3, 2024; preparing objections to a Presentence Report which involves complicated tax and accounting issues, in the case of *United States v. Jonathan Ramaci*, Case No. 2:22-cr-993-RMG (D.S.C.), which is due on September 30, 2024, and a

sentencing memorandum which will likely be due shortly thereafter; and preparing a pre-mediation package in a False Claims Act case, *United States ex rel. Binns v. Spartanburg Regional Health Services District, Inc., et al.*, Case No. 7:22-cv-4355-JDA (D.S.C.), which is due on September 23, 2024.

7. Applicant's other counsel, Elizabeth Franklin-Best has been similarly engaged in a number of professional matters including: Filing an opening brief and relevant excerpts in the Fifth Circuit Court of Appeals on September 3, 2024, *United States v. James Peabody*, Case No. 24-10270; filing an amended brief in the D.C. Circuit Court of Appeals on September 17, 2024, *United States v. Daniel Phipps*, Case No. 23-3142; two federal sentencing proceedings on August 29, 2024 and September 3, 2024, *United States v. Martrell Johnson-Cooke*, C/A 3:23-cr-00594-MGL and *United States v. Tyrese Young*, C/A: 3:23-cr-00228-MGL, respectively; filing an opening brief and joint appendix due on September 30, 2024 in the Fourth Circuit Court of Appeals, *United States v. Jaquate Simpson* (with 3 other co-defendants), Case No. 24-4073; an oral argument in the Second Circuit Court of Appeals on October 7, 2023, *United States v. Gladimir Thomas*, Case No. 23-6008; filing a petition for writ of certiorari in this Court for a Mississippi death penalty case on October 23, 2024, *State of Mississippi v. James Cobb Hutto, III*, 2017-DR-01207- SCT; and an oral argument in the

D.C. Circuit Court of Appeals on October 25, 2024, *United States v. Barry Ramey*, Case No. 23-3119.

8. Applicant submits that the requested extension of time would neither prejudice the Respondent nor result in undue delay in the Court's consideration of the petition, and that good cause exists to grant the requested extension.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that an order be entered extending the time for filing a petition for writ of certiorari to and including November 29, 2024.

Respectfully submitted,

/s/ Joseph P. Griffith, Jr.

** Counsel of Record*

Joe Griffith Law Firm, LLC
946 Johnnie Dodds Boulevard
Mt. Pleasant, SC 29464
843-225-5563
joe@joegriffith.com

Elizabeth Franklin-Best
Elizabeth Franklin-Best, P.C.
3710 Landmark Drive, Suite 113
Columbia, SC 29204
803-445-1333
elizabeth@franklinbestlaw.com

Counsel for Applicant, Peter Strauss

APPENDIX

TABLE OF CONTENTS

Page

APPENDIX A — ORDER OF THE UNITED STATES
COURT OF APPEALS FOR THE FOURTH CIRCUIT,
FILED APRIL 26, 20241a

APPENDIX B — DENIAL OF REHEARING OF THE UNITED
STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT,
FILED JULY 2, 2024.....2a

FILED: April 26, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-2312
(9:23-cr-00833-RMG-1)

In re: PETER J. STRAUSS

Petitioner

ORDER

Upon review of submissions relative to the petition for writ of mandamus,
the court denies the petition.

Entered at the direction of Judge Quattlebaum with the concurrence of
Judge King and Judge Agee.

For the Court

/s/ Nwamaka Anowi, Clerk

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-2312
(9:23-cr-00833-RMG-1)

In re: PETER J. STRAUSS

Petitioner

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge King, Judge Agee, and Judge Quattlebaum.

For the Court

/s/ Nwamaka Anowi, Clerk