

IN THE SUPREME COURT OF THE UNITED STATES

No. 24A_____

James Harper, Applicant

v.

Daniel Werfel, et al.

APPLICATION FOR AN EXTENSION OF TIME WITHIN
WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO
THE U.S. COURT OF APPEALS FOR THE FIRST CIRCUIT

**TO: The Honorable Associate Justice Ketanji Brown
Jackson, Circuit Justice for the First Circuit:**

Pursuant to Rules 13.5 and 30.2 of the Rules of this Court, Applicant James Harper respectfully requests a 60-day extension of time, to and including February 21, 2025, within which to file a petition for a writ of certiorari.

JUDGMENT FROM WHICH REVIEW IS SOUGHT

Applicant anticipates seeking review of the attached judgment and opinion of the United States Court of Appeals for the First Circuit in *James Harper v. Daniel Werfel, et. al.*, Case No. 23-1565. App. 1a–36a. The court entered judgment on September 24, 2024. App. 37a.

JURISDICTION

This Court has jurisdiction to review the First Circuit’s judgment and opinion under 28 U.S.C. § 1254(1). Unless extended, the deadline for filing a petition for a writ of certiorari expires on December 23, 2024. This application is being filed more than 10 days before the expiration date. Applicant has not requested any prior extension of the

deadline.

BACKGROUND

This case arises from the Internal Revenue Service’s (IRS) use of a “John Doe” summons under 26 U.S.C. § 7602 to obtain the financial records of over 14,000 individuals who had a cryptocurrency account with Coinbase, a cryptocurrency exchange, between 2013 and 2015. App. 6a-7a. One of these individuals is Applicant James Harper, who in learned he was among the account holders whose records IRS swept up when IRS sent Harper a letter in August 2019 warning him that, based on IRS’s review of his records, he “may not have properly reported [his] transactions involving virtual currency.” App. 5a.¹ Harper filed suit in July 2020 alleging that IRS gained access to his private financial records in violation of his rights under the Fourth and Fifth Amendment and 26 U.S.C. § 7609(f), which Congress enacted to prevent “John Doe” summons from being abused to conduct dragnet financial surveillance.

The First Circuit panel relied on the third-party doctrine to hold that Harper failed to state a Fourth Amendment claim, holding that he has neither a reasonable expectation of privacy nor a property interest in his financial records stored at Coinbase. App.19a, 24a. The panel further held that Harper’s lack of reasonable expectation of privacy meant that he also lacked a Fifth Amendment interest in preventing the disclosure of his financial information to IRS without due process of law. App.28a. Finally, the panel dismissed Harper’s statutory claim under 26 U.S.C. § 7609(f) because it concluded that IRS’s “John Doe” summons was not a final agency action subject to review under the Administrative Procedure Act. App. 32a.

¹ IRS does not dispute Harper’s contention that he properly reported all his virtual currency transactions.

REASONS JUSTIFYING EXTENSION OF TIME

The additional time sought in this application is needed for Applicant to properly consult with his attorneys about the weighty statutory and constitutional issues in this case and to assess the legal and practical impact of the court of appeals' ruling so he can determine whether and how to petition for a writ of certiorari. Additional time is also needed because the attorneys who have principal responsibility for preparation of the Applicant's petition have been heavily engaged with the press of other matters. Finally, the attorneys also have pre-planned family-related travel during December 2024 and January 2025.

November 26, 2024

Respectfully submitted,

/s/ Sheng Li

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