

IN THE SUPREME COURT OF THE UNITED STATES

No. 24A983

DELOWAR MOHAMMED HOSSAIN, APPLICANT

v.

UNITED STATES OF AMERICA

RENEWED APPLICATION FOR AN EXTENTION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Pursuant to Rules 13.5, 30.2, and 30.4 of this Court, counsel for Delowar Mohammed Hossain, respectfully requests a 15-day extension of time, to and including April 28, 2025, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case. The Court of Appeals entered its judgment on September 17, 2024, App., infra, 1a-13a, and denied Applicant's petition for rehearing on January 13, 2025, id. at 14a. Unless extended, the time for filing a petition for a writ of certiorari expired on April 14, 2025 (since April 13, 2025, is a Sunday). The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

1. Applicant was indicted in the Southern District of New York on one count of Material Support and Resources for Terrorism in violation of 18 U.S.C. § 2339A, and one count of Attempting to Make or Receive a Contribution of Funds,

Good, and Services to the Taliban in violation of 50 U.S.C. § 1705(a) and 31 C.F.R. §§ 594.201, 594.204, 594,205, and 594.310.

2. Following a jury verdict, Applicant was sentenced to a term of 96 months' imprisonment on both counts to run concurrently with each other by the Sidney H. Stein, United States District Court Judge for the Southern District of New York.

3. The prosecution of Applicant's offenses was extensive and included significant litigation regarding defense access to classified information pursuant to the Classified Information Procedures Act ("CIPA"), 18 U.S.C. App. 3, access which was ultimately denied by the District Court and as well as on appeal, requiring Appellant's counsel to litigate against hidden evidence notwithstanding counsel possessing the requisite level of national security clearance needed to gain access to the information in question. The Government took the position that counsel lacked a "need to know" the information in question, which is a prerequisite to access even for those with the necessary level of national security clearance, however without access to the classified information in question counsel was required to litigate notice and suppression issues entirely in the dark uncertain of whether Appellant was even raising the relevant legal claims.

4. It is the intent of counsel to raise in Applicant's petition for certiorari a question framed around whether Applicant was denied the Fifth Amendment right to Due Process and/or Sixth Amendment right to effective assistance of counsel by denying defense counsel access to classified information that had been relied upon by

the Government in the investigation of Applicant's case. *See Tiktok Inc. v. Garland*, 145 S.Ct. 57, 74 (2025) (Gorsuch, J., concurring) ("Efforts to inject secret evidence into judicial proceedings present obvious constitution concerns.").

5. Answering this question requires counsel to address the complex interplay of the Fifth and Sixth Amendments with the Classified Information Procedures Act.

6. Additional time is also necessary because counsel has been involved in preparing briefs, both in District Court and the Court of Appeals, with proximate due dates, as well as scheduled to submit arguments to the Capital Review Committee of the Department of Justice in two separate cases, likewise with proximate due dates, to explain why the Attorney General should not seek death against the defendants in either of those cases.

7. Specifically, as just several examples, counsel has had due or still has due the following over the relevant periods of time: *Angel Diaz v. Stacie Bennett*, 22-1678-pr (2d Cir.) (Reply Brief on Appeal) (filed 1/15/2025); *United States v. Robert Williams*, 7:24-cr-0013-D-BM (EDNC) (in-person mitigation arguments to Attorney General Capital Review Committee) (meeting held 3/2/2025); *Angel Diaz v. Stacie Bennett*, 22-1678-pr (2d Cir.) (Post-Argument Supplemental Brief on Appeal) (filed 3/21/2025); *United States v. Robert Williams*, 7:24-cr-0013-D-BM (EDNC) (Post-Meeting Mitigation Submission to Attorney General Capital Review Committee) (submitted 4/15/2025); *United States v. Carlos Laureano*, 24-1586-cr (2d Cir.) (Reply

Brief on Appeal) (due 5/7/2025). Additional time therefore has been needed to prepare and print the petition in this case.

8. On April 2, 2025, Applicant initially requested a 60-day extension of time to file Applicant's petition for a writ of certiorari, by filing that motion electronically with the Court and subsequently submitting written copies of the motion likewise in a timely manner. That motion was denied on April 18, 2025, after the original April 13, 2025, filing deadline, without a stated reason.

9. As such, the instant application is being made to seek a much more modest extension, 15 days, a length of time that counsel has never known this Court to deny in a criminal case.

10. Accordingly, counsel for Applicant respectfully requests a 15-day extension of time, to and including April 28, 2025, within which to file a petition for writ of certiorari.

Dated: April 23, 2025

Respectfully submitted,

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