

App. No. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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IOURI MIKHEL, Petitioner,

v.

UNITED STATES OF AMERICA, Respondent.

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**APPLICATION FOR 60-DAY EXTENSION TO FILE PETITION FOR  
WRIT OF CERTIORARI  
(PETITION DUE DECEMBER 6, 2018)**

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To the Honorable Elena Kagan, Associate Justice of the United States and Circuit Justice for the Ninth Circuit:

Iouri Mikhel, a federal death-row inmate, respectfully applies, under Supreme Court Rule 13.5, for a 60-day extension to file his petition for writ of certiorari to the United States Court of Appeals for the Ninth Circuit. In support of his application, Mr. Mikhel states as follows.

1. Mr. Mikhel will be filing a petition for writ of certiorari challenging the affirmance of his federal convictions and death sentence, on direct appeal, by the United States Court of Appeals for the Ninth Circuit. That court filed its judgment and opinion on May 9, 2018. *United States v. Mikhel*, 889 F.3d 1003 (9th Cir. 2018) (Appendix A). It denied Mr. Mikhel's timely petition for rehearing *en banc* on September 7, 2018. (Appendix B). This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1). The District Court had jurisdiction under 18 U.S.C. § 3231. The Court of Appeals had jurisdiction under 28 U.S.C. § 1291, 18 U.S.C. § 3595(a), and 18 U.S.C. § 3742.

2. Mr. Mikhel's petition for writ of certiorari is due to be filed in this Court by December 6, 2018. Consistent with Rule 13.5, this application for additional time is being filed at least 10 days before that date.

3. This is a capital case in which preparing the petition for certiorari demands particularly extensive work. The briefs in the appeal to the Ninth Circuit, raising, between Mr. Mikhel and his co-defendant, Jurijus Kadamovas, twenty-six issues, many with numerous subparts, totaled more than 1700 pages. The Ninth Circuit heard more than three hours of argument, and its opinion affirming the judgments was 121 pages in length. Many of the issues presented were novel and complex, while other many addressed features of the Federal Death Penalty Act that have arisen in federal capital prosecutions across the country but on which this Court has not yet spoken. For these reasons, counsel require an unusual amount of time and effort to determine exactly which issues to present to this Court and how to present them, and to draft and produce the petition.

4. Moreover, although counsel of record, along with his co-counsel, has given and will continue to give Mr. Mikhel's case priority, he has a heavy professional workload of other commitments that he cannot set aside or delegate to others. These include the preparation and filing of an opening brief on November 6, 2018 in *United States v. Elhuzayel*, No. 16-50374, an appeal from a conviction on terrorism charges following a 10-day jury trial; filing on an opening brief on October 10, 2018 in *United States v. Garay*, No. 118-50054; preparation for oral arguments calendared for November 14 and 16, 2018 in *United States v. Garrett*,

No. 16-50482 and *United States v. Ferguson*, No. 17-50210, preparation and filing of reply briefs in the past six weeks in *United States v. Blitz*, No. 17-50394; *United States v. Hernandez-Diaz*, No. 17-50300; and *Washington v. Adams*, No. 17-55690; and preparation and filing on November 5, 2018 of a petition for rehearing in *Garcia v. Johnson*, No. 17-55618. Counsel, appointed by the Ninth Circuit to represent Mr. Mikhel, is now in private practice. Co-counsel have similarly heavy workloads, and all counsel have pressing personal and family obligations in the coming months as well.

5. This Court has granted other federally death-sentenced prisoners in Ninth Circuit similar extensions of time to file their petitions for writ of certiorari. *See, e.g., United States v. Joseph Edward Duncan*, No. 15-6408, *United States v. Lezmond Mitchell*, No. 15-8725.

Accordingly, Mr. Mikhel respectfully asks that the Court grant this application and extend for 60 days the time allowed to file his petition for writ of certiorari to the United States Court of Appeals for the Ninth Circuit.

Respectfully submitted,

Dated: November 7, 2018

*s/G. Michael Tanaka*

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