

**IN THE
SUPREME COURT OF THE UNITED STATES**

No. ____

NG LAP SENG,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

**APPLICATION TO THE HON. RUTH BADER GINSBURG
FOR AN EXTENSION 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 Supreme Court Rule 13(5), Ng Lap Seng hereby moves for an extension of time of 30 days, to and including February 13, 2020, for the filing of a petition for a writ of certiorari. Unless an extension is granted, the deadline for filing the petition for certiorari will be January 14, 2020.

In support of this request, Applicant states as follows:

1. The United States Court of Appeals for the Second Circuit rendered its decision on August 9, 2019 (Exhibit 1), and denied a timely petition for rehearing on October 16, 2019 (Exhibit 2). This Court has jurisdiction under 28 U.S.C. §1254(1).

2. This case involves an extraordinary and unprecedented invocation of federal anti-corruption statutes to prosecute a foreign national for allegedly bribing foreign ambassadors to the United Nations (“UN”). In affirming the conviction, the

Second Circuit panel below decided two issues of exceptional importance regarding the interpretation of those statutes, and seriously erred on both issues.

3. First, in plain contravention of the statutory text and settled canons of interpretation, the panel construed 18 U.S.C. §666 to reach interactions involving the UN—even though that statute on its face applies only to interactions involving a federally funded “organization or ... State, local or Indian tribal government.” The panel’s conclusion that the term “organization” sweeps in the UN is belied not only by the settled rule that generic terms should not be interpreted to include public entities (let alone public international entities), but also by Congress’ express enumeration of the only public organizations to which the statute applies. That decision also threatens international comity, empowering federal prosecutors to charge foreign ambassadors to the UN for actions that Congress never intended to criminalize.

4. Second, the panel broke with the clear teachings of this Court in concluding that the conviction below can be reconciled with *McDonnell v. United States*, 136 S. Ct. 2355 (2016), and its limitations on the kind of “official acts” that can sustain a federal bribery prosecution. The panel’s conclusion that *McDonnell* does not apply at all to prosecutions under §666 and the Foreign Corrupt Practices Act is dangerously wrong, and raises serious constitutional concerns of fair notice, arbitrary enforcement, chilling of public discourse, and undue interference with other sovereigns. And the purported “official acts” on which the government relied,

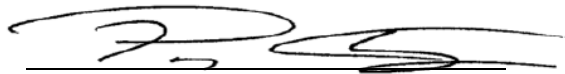
including circulating a letter on “official” UN letterhead and making an “official” visit, plainly do not qualify under *McDonnell*.

5. Between now and the current due date of the petition, Appellant’s Counsel of Record, Paul D. Clement, has substantial briefing and argument obligations, including an oral argument in *United States v. Chow*, No. 19-325 (2d Cir.); a reply brief in *The Rams Football Company v. St. Louis Regional Convention and Sports Complex Authority*, No. 19-672, and an opening brief on the merits as *amicus curiae* in *Seila Law LLC v. Consumer Fin. Prot. Bureau*, No. 19-7 (U.S.), due on the day after the current due date of the petition.

6. Applicant thus requests a modest extension for counsel to consult with Applicant, who is incarcerated and not proficient in English, and to prepare a petition that fully addresses the complex issues raised by the decision below and frames those issues in a manner that will be most helpful to the Court.

WHEREFORE, for the foregoing reasons, Applicant requests that an extension of time to and including February 13, 2020, be granted within which Applicant may file a petition for a writ of certiorari.

Respectfully submitted,



PAUL D. CLEMENT
Counsel of Record
KIRKLAND & ELLIS LLP
1301 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 389-5000
paul.clement@kirkland.com
Counsel for Applicant

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