

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

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IN THE

# Supreme Court of the United States

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ROBERT DEXTER WEIR, DAVID RODERICK WILLIAMS,

AND LUTHER FIAN PATTERSON,

*Petitioners,*

- v. -

UNITED STATES OF AMERICA,

*Respondent.*

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## APPLICATION FOR A 21-DAY EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

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STEVEN M. WATT  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
125 Broad Street, 18th Floor  
New York, NY 10004  
(212) 519-7870

PATRICK N. PETROCELLI  
*COUNSEL OF RECORD*  
STROOCK & STROOCK & LAVAN LLP  
180 Maiden Lane  
New York, NY 10038  
(212) 806-5400

DANIEL B. TILLEY  
ACLU FOUNDATION OF FLORIDA  
4343 W. Flagler St., Suite 400  
Miami, FL 33134  
(786) 363-2714

JONATHAN HAFETZ  
1109 Raymond Boulevard  
Newark, NJ 07102  
(917) 355-6896

*Counsel for Petitioners Robert Dexter Weir, David Roderick Williams, and Luther Fian Patterson*

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**TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE JUSTICE OF  
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT  
JUSTICE FOR THE ELEVENTH CIRCUIT:**

Pursuant to Supreme Court Rules 13.5, 22, and 30.3, Applicants Robert Dexter Weir, David Roderick Williams, and Luther Fian Paterson respectfully move for an extension of time of 21 days, up to and including February 28, 2022, within which to file a petition for a writ of certiorari to the United States Court of Appeals for the Eleventh Circuit.

1. Petitioners will seek review of *Weir v. United States*, No. 20-11188, 2021 WL 3197179 (11th Cir. July 29, 2021) (attached as Exhibit A). The Eleventh Circuit denied petitioners' Petition for Panel Rehearing or Rehearing *En Banc* on November 8, 2021. (Attached as Exhibit B.) It issued its judgment on November 16, 2021. (Attached as Exhibit C.) The current deadline for filing a petition for a writ of certiorari is February 7, 2022. This application is timely because it is filed more than 10 days before the petition is due. *See* Sup. Ct. R. 13.5. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1).

2. This case presents a substantial and important question of federal law: Whether Congress's authority to define and punish felonies committed on the high seas under the Felonies Clause in Article I, section 8, clause 10, of the Constitution, is limited to situations where the defined conduct has a U.S. nexus. Below, the Eleventh Circuit held that the Felonies Clause contains no such nexus requirement and that Congress has unlimited criminal jurisdiction over foreigners aboard foreign-flagged vessels traveling on the high seas even when they lack any

connection to the United States. In doing so, it failed to consider pre-founding sources and post-founding practices showing that the Felonies Clause contains a nexus requirement. It also failed to address the redundancy it was created over Congress's separate power to define and punish piracies committed on the high seas, which, because of the court's holding, no longer has any independent force distinct from the Felonies Clause power.

3. Good cause exists for an extension. Patrick N. Petrocelli is counsel of record for all petitioners. When the Eleventh Circuit denied *en banc* review, he was engaged as trial counsel for a group of creditors opposing confirmation of a plan of reorganization in the chapter 11 bankruptcy cases of Intelsat S.A. and its subsidiaries, pending in the United States Bankruptcy Court for the Eastern District of Virginia, *see In re Intelsat S.A.*, No. 20-32299. Between November 8, 2021 and December 13, 2021, he had numerous intervening discovery and hearing deadlines in that matter culminating in a six-day evidentiary hearing on December 6-10 and 13, 2021. He was also engaged as counsel for appellants in an appeal in the Fifth Circuit, *see Wilks Brothers, L.L.C. v. Mathison*, No. 21-20290. Appellants' opening brief was due on December 17, 2021. In addition, Mr. Petrocelli's availability was further limited because his son's elementary school suspended in-person instruction from January 3-14, 2022, because of the COVID-19 pandemic. These professional and personal commitments limited counsel's availability to work on this matter between November 8, 2021 and January 14, 2022.

Accordingly, petitioners respectfully request that an order be entered extending the time to file a petition for a writ of certiorari for 21 days, up to and including February 28, 2022.

January 24, 2022

Respectfully submitted,



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Patrick N. Petrocelli  
*Counsel of Record*  
STROOCK & STROOCK & LAVAN LLP  
180 Maiden Lane  
New York, NY 10038  
(212) 806-5400  
ppetrocelli@stroock.com

Steven M. Watt  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
125 Broad Street, 18th Floor  
New York, NY 10004  
(212) 519-7870  
swatt@aclu.org

Daniel B. Tilley  
ACLU FOUNDATION OF FLORIDA  
4343 W. Flagler St., Suite 400  
Miami, FL 33134  
(786) 363-2714  
DTilley@aclufl.org

Jonathan Hafetz  
1109 Raymond Boulevard  
Newark, NJ 07102  
(917) 355-6896  
jonathan.hafetz@shu.edu

*Counsel for Petitioners Robert Dexter Weir, David Roderick Williams, and Luther Fian Patterson*