

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

IN THE  
*Supreme Court of the United States*

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EVAN GREEBEL,

*Applicant,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

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**APPLICATION 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**

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REED BRODSKY

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TO THE HONORABLE SONIA SOTOMAYOR, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE SECOND CIRCUIT:

Pursuant to Rules 13.5 and 30.2 of this Court, Applicant Evan Greebel (“Applicant” or “Mr. Greebel”) applies for a 30-day extension of time, to and including December 22, 2022, 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 judgment of the court of appeals was entered on August 24, 2022. App. 1a. Unless extended, the time for filing a petition for a writ of certiorari will expire on November 22, 2022. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

1. This case presents the important question of whether 401(k) accounts are considered “earnings” under the Consumer Credit Protection Act (“CCPA”). The CCPA places important limitations on the government’s ability to issue writs of garnishment to enforce restitution orders. Specifically, under the CCPA, garnishment is limited to 25% of one’s “earnings.” 15 U.S.C. § 1673(a). In this case, however, the district court approved, and the Second Circuit affirmed, the government’s garnishment of *all* of the funds in Mr. Greebel’s two 401(k) accounts. This ruling is contrary to the plain text of the CCPA; it deepens an existing circuit split as to how courts should determine what constitutes “earnings” under the CCPA, *compare* App. 23a–26a, *with United States v. Ashcraft*, 732 F.3d 860, 863 n.4 (8th Cir. 2013); and it implicates exceptionally important issues relating to the government seizure of a private citizen’s earnings.

2. On December 27, 2017, Mr. Greebel was convicted of Conspiracy to Commit Wire Fraud and Conspiracy to Commit Securities Fraud. App. 4a. On August 17, 2018, the district court sentenced Mr. Greebel to, *inter alia*, a custodial sentence and to pay \$10,447,979.00 in restitution. *Ibid.* To enforce the restitution order, and pursuant to 28 U.S.C. § 3205(b), the government filed two applications for writs of garnishment against Mr. Greebel’s interest in two 401(k) accounts. App. 7a–8a.

3. On June 12, 2020, Mr. Greebel filed written objections pursuant to 28 U.S.C. § 3205(c)(5). He argued, *inter alia*, that since his 401(k) accounts are “earnings” under the CCPA, the government is prohibited from garnishing more than 25% of those accounts. App. 8a. On April 16, 2020, the district court issued a Memorandum and Order overruling Mr. Greebel’s objections and granting the government’s request for orders of garnishment of all the funds in both retirement accounts. *Ibid.*

4. Mr. Greebel timely appealed. App. 8a. On August 24, 2022, the Second Circuit vacated the district court’s order and remanded for further proceedings. But in doing so, it rejected Mr. Greebel’s argument that the government cannot garnish more than 25% of his 401(k) accounts, and thus deepened an existing circuit split as to how courts should determine what constitutes “earnings” under the CCPA. *Compare* App. 23a–26a, *with Ashcraft*, 732 F.3d at 863 n.4.

5. “For good cause, a Justice may extend the time to file a petition for a writ of certiorari for a period not exceeding 60 days.” Sup. Ct. R. 13.5. Additional time is necessary here to allow counsel to prepare and file a petition on this important and complex question of federal statutory law. Counsel for Applicant also have significant

professional obligations during the period in which the petition would otherwise need to be prepared, including an emergency hearing on November 16, 2022 in *American Immigration Lawyers Association v. Executive Office for Immigration Review*, No. 2:20-cv-9748 (D.N.J.), and an evidentiary hearing on December 5–6, 2022 in *In re Zohar III, Corp.*, No. 18-10512 (Bankr. D. Del.). Moreover, Applicant is not aware of any party that would be prejudiced by a 30-day extension.

Accordingly, Applicant respectfully requests that the time to file a petition for a writ of certiorari be extended by 30 days, to and including December 22, 2022.

November 7, 2022

Respectfully submitted,

*/s/ Akiva Shapiro*

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