

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

MARIETTA TERABELIAN,

Petitioner/ Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

ON APPLICATION FOR AN EXTENSION OF TIME TO FILE A
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

APPLICATION FOR AN EXTENSION OF TIME
TO THE HONORABLE JUSTICE
ELENA KAGAN AS CIRCUIT JUSTICE

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APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Petitioner Marietta Terabelian, by and through her counsel, respectfully requests a 60-day extension of time from August 18, 2022 until October 17, 2022 to file her petition for a writ of certiorari.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

On May 20, 2022, a motions panel of the Ninth Circuit dismissed this appeal with prejudice in *United States v. Terabelian*, No. 21-50291 (9th Cir. May 20, 2022) (attached as Exhibit 1).

JURISDICTION

This Court will have jurisdiction over any timely filed petition for a writ of certiorari in this case pursuant to 28 U.S.C. §1254(1). Supreme Court Rules 13.1, 13.3, and 30.1 mandate the filing deadline (absent extension) for a certiorari petition 90 days following the order sought to be reviewed; here that deadline falls on August 18, 2022. Rule 13.5 requires this motion for extension of time to come 10 days before the certiorari petition filing deadline; in this case, next week on August 8.

PROCEDURAL HISTORY

On May 20, 2022, a motions panel of the Ninth Circuit granted the Government's motion to dismiss this appeal with prejudice, pursuant to the

fugitive disentitlement doctrine. The court's order also provided the following qualification: "if appellant returns to the jurisdiction of the United States within 120 days, she may move for reinstatement of this appeal." Exhibit 1.

On June 3, Petitioner moved for reconsideration of the order based on the Government's failure to prove Ms. Terabelian's fugitive status and the court's misapplication of this Court's precedent establishing and governing that discretionary, equitable doctrine. The motion to reconsider remains pending.

On July 6, Petitioner updated the court of appeals with new evidence confirming the court's error, and establishing Ms. Terabelian's submission to extradition and waiver of rights to challenge that waiver, *see* Docket Entry ("D.E.") 26, and moved to reinstate her appeal. The motion to reinstate remains pending as well.

Petitioner remains in the custody of Montenegro since her February 22, 2022 arrest by Montenegrin authorities acting on a United States arrest warrant announced on Interpol. *See* D.E. 13 at 1-2. There, she formally submitted to abbreviated extradition procedures in order to expedite her return to the United States. *See* D.E. 27 at 5. It remains unknown whether Ms. Terabelian will be returned to the United States before the September 17, 2022 (the 120-day deadline); that occurrence depends entirely on Montenegrin and American

authorities, one of whom obtained dismissal with prejudice on a condition far more in its control than Petitioner's. *See* Exhibit 1; D.E. 25 at 13-14.¹

REASONS JUSTIFYING AN EXTENSION OF TIME

Petitioner seeks an extension of time from this Court for good cause: the time to run on the question of reinstatement is 120 days after the order issued, 30 days after this Court's 90-day filing deadline. The lower court's action before the running of its own deadline could moot any challenge, but Ms. Terabelian cannot count on that occurrence. Rather, this Court instructs defense counsel to timely meet filing deadlines to avoid waiver of appeal. *Cf. McCoy v. Louisiana*, 138 S.Ct. 1500 (2018).

In addition to the judicial economy served by Petitioner's motion, she notes that her counsel is court-appointed, and the granting of this motion may result in cost savings to the United States.

¹ We learned yesterday that the extradition process of Mariette Terabelian has been completed because the Montenegrin Minister of Justice accepted her waiver of extradition and ordered her extradited to the United States. We were further informed that the Montenegrin Ministry of Justice forwarded those materials to the United States' diplomatic channel. As a result, we were informed that the actual timing of Ms. Terabelian's extradition is now 100% dependent on when the United States' takes her into custody to return her to United States. We have written the prosecution team on this issue, and plan to address these additional facts with the court of appeals presently; we have also asked the Government to let us know when plans to take Ms. Terabelian into custody and await its response.

Petitioner further seeks the maximum 60-day extension of time, because it is uncertain when the court's decision on the pending motions for reconsideration and reinstatement will be issued. The court may not act before that 120-day period expires; in that circumstance, Petitioner would proceed to seek review by this Court.

Should Ms. Terabelian seek review by this Court, the questions to be raised in her petition are important, stand on a circuit-split, and show the lower court's misapplication of this Court's instruction on the proper application of the fugitive disentitlement doctrine. *See e.g., Ortega-Rodriguez v. United States*, 507 U.S. 234 (1993); *Smith v. United States*, 94 U.S. 97 (1876); *United States v. Sharpe*, 470 U.S. 675, 681 n.2 (1985). Ms. Terabelian respectfully asks this Court to grant this motion to permit the lower court the full complement of time it allowed Respondent United States to bring her to the lower court's jurisdiction before deciding whether it will then consider her appeal.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the maximum extension of 60 days, up to and including October 17, 2022, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,

DATED: August 4, 2022

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EXHIBIT 1

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 20 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

MARIETTA TERABELIAN, AKA Marietta
Abelian, AKA Viktoria Kauichko,

Defendant-Appellant.

No. 21-50291

D.C. No. 2:20-cr-00579-SVW-2
Central District of California,
Los Angeles

ORDER

Before: CANBY, TASHIMA, and NGUYEN, Circuit Judges.

Appellee's motion to dismiss this appeal (Docket Entry No. 8) under the fugitive disentitlement doctrine is granted. *See Molinaro v. New Jersey*, 396 U.S. 365, 366 (1970) (per curiam) (fugitive criminal defendant is not entitled to call upon resources of the court for determination of her claims); *Parretti v. United States*, 143 F.3d 508, 510-11 (9th Cir. 1998) (en banc) (describing fugitive disentitlement doctrine).

This appeal is dismissed with prejudice subject to the following qualification: if appellant returns to the jurisdiction of the United States within 120 days, she may move for reinstatement of this appeal.

DISMISSED.