

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

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

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SIXING LIU,  
*Pro Se*, PETITIONER,

vs.

UNITED STATES OF AMERICA,  
RESPONDENT.

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PETITION FOR A *WRIT OF CERTIORARI* TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

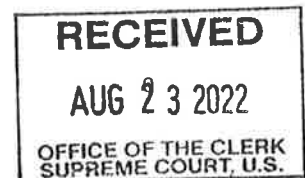
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APPLICATION TO JUSTICE SAMUEL ALITO,  
AS THE THIRD CIRCUIT JUSTICE, TO EXTEND  
TIME TO FILE PETITION FOR CERTIORARI  
PURSUANT TO *SUP. CT. R. 13.5*

Respectfully Submitted by  
Sixing Liu, *Pro Se*

Dated on August 12, 2022

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APPLICATION TO JUSTICE SAMUEL ALITO, AS THE THIRD CIRCUIT JUSTICE,  
TO EXTEND TIME TO FILE PETITION FOR A WRIT OF CERTIORARI  
PURSUANT TO SUP. CT. R. 13.5

**RELIEF SOUGHT**

SIXING LIU, *Pro Se* Petitioner, on behalf of himself in the above-entitled proceeding, HEREBY respectfully requests that JUSTICE Alito, as the third circuit Justice, extend the time for his filing a petition for a writ of certiorari to the United States Court of Appeals for the Third Circuit in the matter of SIXING LIU v. UNITED STATES OF AMERICA (No. 21-2642), for a period of 60 days, or from August 15, 2022 up to and including October 14, 2022, due to the presence of extraordinary circumstances described briefly below.

**GROUND FOR RELIEF**

**Petitioner's Background**

1. Petitioner, SIXING LIU, was born in Shanghai, People's Republic of China, in 1986, he graduated from Shanghai Jiao Tong University (Shanghai, China), which granted him a Bachelor's degree of Science in "Precision Instruments", and later, granted him a Master's degree in "Inertial Navigation System" in 1988, and a Doctor of Philosophy (Ph.D.) in "Theory of Automatic Control and its Application" in 1991, when he was retained to enter China's post-doctoral program in Tsinghua University (Beijing, China). In 1993, he was offered by a tenure faculty position in Tsinghua University, where he worked as professor in "Advanced Measuring and Control since then, and thereafter, he was invited as a research fellow/visiting professor working in the University of Michigan (Ann Arbor, Michigan) until 1998 when he was employed by some notable companies, related to manufacturing industry, in their Research and Development ("R&D") Department: Corporate Researcher in Bridgestone/Bandag (Muscatine, IA, 1998-2006); Senior Design Engineer in Primex Family Companies (Lake Geneva, WI, 2006-2007); Principal Electrical Engineer (Oxford Global Resources, 2007-2009 to handle new projects in John Deere Power Center in Iowa/Illinois); and since 2009, a senior Staff Engineer in L-3 Communications, working in the Space & Navigation Division (Budd lake, NJ) from which this case arose around the end of 2010, to force him involuntarily ending his professional career, which he looks upon as a great honor with priceless treasure as his lifelong goal.

2. Actually, during the pendency of his trial, for the sake of "presumed innocent until proven guilty", Petitioner was still holding positive attitude, optimistically looking for any job opportunity and also trying to compensate for that huge legal fee costed by this case, in October 2011, he finally received an offer of full time employment with General Electric INC. as a

principal scientist. Unfortunately, he was not allowed to work anymore due to vigorous objection from the government (ECF No. 45-47 under Cr. Act. No. 11-208, NJ District Court) although this job offer was from GE's Healthcare Division for medication treatment instruments, not related to any defense or sensitive high-tech productions which he was purposely trying to avoid during his job seeking ... So, theoretically speaking, his last job title, on his long proven track record of success in his career path, should be that "Principal Scientist", despite that fact that he was unlawfully deprived of his right to employment.

3. In addition to a textbook (co-author), he authored over 100 original research papers, half of which were peer-reviewed and published in China. Except this case, Petitioner has no prior criminal history, without any misdemeanor record in both China and United States, of course, including any other places all over the world, even no parking lot ticket was ever issued against him all over the universal...

### **His Case Proceedings**

4. On November 12, 2010, Petitioner left for China, using his own vacation time, to visit his elderly and infirm parents there, on his regular basis (he is the only son to his parents). Without going out of his way, among others, he made several academic exchanges through ALL PUBLICLY ANNOUNCED seminars as he had done countless times throughout his whole course of his career both in China and United States, like other professionals all over this world. On November 29, 2010, Petitioner arrived back home from China, and was stopped at the Newark Liberty International Airport, and questioned by a special government's long-well-planned interview with some special agents, who were conducting an investigation long time ago regarding his suspected "violations", which Petitioner had no ideas when/what/how to start. The agents took custody of his laptop computer and other personal belongings.

5. On March 8, 2011, Petitioner was arrested by the FBI by way of a criminal complaint with knowingly and willfully exporting and attempting to export to the People's Republic of China defense article, without a license. The case was issued as 11-208 (SRC) in the United States District Court for the District of New Jersey (ECF No. 1 under Cr. Act. No. 11-208). The federal criminal complaint was based on a nine-page document found in his computer, entitled as "Summary of Simulation for IPADS-I", that Petitioner authored for the project he was leading in L-3, it was only a simulation analysis how to reduce the navigation performance. All analysis, including results and charts is based on widely accepted published theories (Gaussian Distribution), and taught in school. Petitioner started learning this method when he was in high school around 1981.

6. Petitioner's jury trial commenced on September 11, 2012 and continued until September 26, 2012 when jury verdict was rendered, found him guilty of 9 counts, from total 11, listed on the 2<sup>nd</sup> superseding indictment, on "his attempting" to benefit the Chinese

Government by intending Exportation of defense article without license, possession of stolen trade secrets, interstate transportation of stolen goods, and false statements to federal agents. However, he got two counts acquitted on false statements to federal agents.

7. On March 25, 2013, the Court sentenced Petitioner to 70 months of imprisonment, Petitioner had been in continuous custody since he was convicted until on August 31, 2017, he, as a brutally persecuted prisoner, successfully completed severing every day of his long term sentence imposed by the District Court.

8. On April 1, 2013, Petitioner's Notice of Appeal was timely filed with the Court of Appeals for the Third Circuit to appeal his conviction and sentence. Case number was issued in the Third Circuit as No. 13-1940. Petitioner raised the issue, among others, that he has been deprived of his right to access to all his case-related materials, through his motion filed on August 26, 2013 to the Third Circuit.

9. Instead of his resting idle, Petitioner had kept his best and unyielding efforts to diligently pursue his direct appeal right, he had taken every possible opportunity to press his case by collecting his case-related materials, bit by bit, through the public resources gradually although extremely slow, and he had repeatedly reported all issues to the Appeal Court through his timely numerous *Pro Se* motions. However, beyond his capability to overcome all kind of obstacles, assiduously and unjustifiably imposed by the government on his direct appeal efforts. Finally, on December 31, 2015, the Third Circuit issued an order dismissing his direct appeal for "failure to timely file Appellant's brief".

10. Petitioner timely filed his *Pro Se* petition for a writ of certiorari (*Sixing Liu v. United States*, No. 16-5541, U.S. 2016), which was denied on October 3, 2016 by the Supreme Court (*Sixing Liu v. United States*, 137 S.Ct. 246, 196 L.Ed.2d 187), and on October 27, 2016, Petitioner timely filed his motion for a rehearing, which was denied on December 12, 2016 (*Sixing Liu v. United States*, 137 S.Ct. 610, 196 L.Ed.2d 489).

11. In order to prepare for his meaningful petition for a writ of habeas corpus pursuant to 28 U.S.C §2255, as far as early on March 12, 2017, Petitioner, as a then inmate at FCI-Englewood, filed his motion to request for ALL his case-related materials, *inter alia*, necessary to pursue his collateral attack to his conviction. It was initially docketed as ECF No. 6 under Civ. Act. No.16-3851 in the District Court ("MOTIONE TO REQUEST"), later, the District Court directed the Clerk of the Court to docket this submission as a motion ECF 2 under Civ. Act. No.17-7041 ("MOTIONE TO REQUEST")

12. While his MOTIONE TO REQUEST had been pending for unreasonable long, and without any ruling from the District Court, on August 28, 2017, Petitioner filed a 28 U.S.C. §2255 petition for writ of habeas corpus ("MOTION", ECF No.1 under Civ. Act. No.17-7041 in the District Court), with an accompanying his MEMORANDUM OF LAW IN SUPPORT OF PETITIONER'S 28 U.S.C. §2255 MOTION ("MEMO"), providing his twenty five assertions with the District Court to challenge his invalid conviction and sentence based on alleged constitutional errors, from his criminal case proceedings at all critical stages, which had him convicted of crime he did not even commit, and had him punished under long sentence for an act that the law does NOT make criminal.

13. On February 25, 2020, the District Court issued a MEMORANDUM AND ORDER (ECF No. 26 under Civ. Act. No.17-7041), denying Petitioner's request, made a FINAL decision to reject his petition for seeking his access to his ALL and ANY case-related materials.

14. On June 25, 2020, the Government filed a response to his §2255 MOTION ("ANSWER ", ECF No. 32 under Civ. Act. No.17-7041).

15. On March 5, 2021, Appellant replied brief in opposition to Government's answer to his §2255 MOTION ("REPLY", ECF No. 40 under Civ. Act. No.17-7041).

16. On August 24, 2021, the District Court issued an opinion and order denying his §2255 MOTION and a certificate of appealability (ECF No. 43 under Civ. Act. No.17-7041).

17. On August 29, 2021, Petitioner filed a Notice of Appeal to the Third Circuit of his intention to appeal over the above August 24, 2021 order issued by the District Court.

18. On September 2, 2021, the case was docketed as No. 21-2642 in the Third Circuit through a Clerk's Order.

19. On December 5, 2021, Petitioner filed his PETITION FOR A CERTIFICATE OF APPEALABILITY with the Third Circuit, which denied his petition on January 11, 2022 through an order. A copy of the Judgment is attached as **Exhibit A**.

20. On April 25, 2022, Petitioner filed his PETITION for Rehearing *En Banc*, which was also denied by the Third Circuit through an order, of which he petitions for review in this Court now, issued on May 16, 2022. A copy of this judgment is attached hereby as **Exhibit B**.

### **Jurisdiction**

21. The Supreme Court will have jurisdiction over this matter because 28 U.S.C. §1254(1) gives this Court jurisdiction to review the judgment of a United States Court of Appeals upon *writ of certiorari*.

### **Reasons Why Relief from Time Limit Needed**

22. Under Supreme Court Rule 13.1, time for filing of a petition for *writ of certiorari* in this matter expires on August 14 2022 (within 90 days after entry of the order denying discretionary review on May 16, 2022, see Exhibit B). August 14 is Sunday, not a working day.

23. Right now, Petitioner is NOT capable of selecting or personally retaining any attorney who represents him before this Court (actually was not capable of doing so either throughout the whole course of his appeal proceedings, direct or collateral). So he, currently living in China, should heavily rely on the condition how he could handle his legal efforts. Since the current Omicron is spreading everywhere around China and is getting more serious, it's getting more inconvenient to have access to the local public facilities to work on his submission, ALL local public libraries etc. have been officially closed since end of March, although the local policy indicates some of them might open gradually soon if the situation (Covid-19) is getting better.

24. As a then long-term politically held prisoner in the United States, and since he was released from the prison/detention for so many years, he has been facing extremely harsh situation, as mentioned, he is temporary living in China currently, where his status is homeless and jobless under which it is extremely difficult for Petitioner to maintain his daily life, so it is

extremely difficult for him to timely follow Court's schedule to handle his filings since he NOW has no idea where he should stay next night, where he could get his next meal.

25. This is Petitioner's first request for an extension of time, or no prior extension of the time for filing his petition for certiorari has been sought. Due to his complicated experiences stated above, the comprehensive nature of this case and before Petitioner is able to file his petition for certiorari, he does need more time to research, study related laws and reference cases, it's so realistic and appropriate for him to seek an extension to continue to file his fully meaningful and an appropriate submission with the Court.

26. Before the deadline, Petition submits this application the Court for an extension of time, if the Court could grant this application to extend time, it would not prejudice any party in any way.

### **Persuasive Grounds for Certiorari in This Case**

27. As a life-long scientist and professional engineer, it's so common and ordinary for Petitioner to involve academic activities, like others doing so all over the world. In 2010, he just made some academic exchanges through ALL PUBLICLY ANNOUNCED SEMINARS therefore he got charged and convicted only because these activities happened in China and due to his ethnicity? Even NO quid pro que his "personal benefit scheme" got proved during the trial and after the trial. As matter of fact, it was part of his obligation, like other alumni, to share his experiences from his 30-year career with students from his Alma Maters as valuable reference to their future careers!

28. The arrest and conviction of Petitioner due to his race and ethnicity will raise grave constitutional question concerning the First, Fifth, Sixth, Eighth, and Fourteenth Amendments to the Constitution of the United States which reach far into our changing times. How could he be held accountable for some political agendas that conflict between China and America does regard? It is so immoral to have him sacrificed as a scapegoat? Should he, as an innocent person, be treated in a grossly punitive, disproportionate, and even inhuman way to live in the prison? Because he is NOT provided with his due process rights to have access to Judicial access and he has been given incompetency working condition with countless government-planned visible & invisible obstacles, spoken-able and unspoken-able barriers, should he be denied his direct and collateral appeal opportunity? If NONE of these questions that contort these country culture norms will be answered, nothing will be accomplished, by silencing a dissenting voice from Petitioner, to cultivate new creation sources for new science and technology developing for this more challenging society, through accommodating all kind of talents with their various backgrounds!

### **CONCLUSION**

For the foregoing reasons completely beyond his control under such an extraordinary circumstance as described hereinabove, having affected Petitioner's ability to comply with the deadline, Petitioner, in good faith hereby, respectfully requests that the Court, through HON. Circuit Justice Alito, grant his application in which to file a petition for a writ of certiorari; FURTHER respectfully requests that the Court grant Petitioner such other and further relief as

the Court may deem just and proper. At last, due to an understandable difference in legal sophistication, a pleading drafted by a *Pro Se* litigant must be held to a less exacting standard than drafted by trained counsel (*Haines v. Kerner*, 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972)). So, this Court has a special obligation to construe this submission liberally since Petitioner is not professionally trained *Pro Se* litigant.

Executed on: August 12, 2022

Respectfully Submitted  
By s/Sixing Liu  
SIXING LIU, *Pro Se*

**PROVE OF SERVICE**

Pursuant to 28 U.S.C. §1746; and 18 U.S.C. §1621, Petitioner HEREBY CERTIFYS under penalty of perjury that a true and accurate original foregoing is sent to the Court via First-Class U. S. Certified Mail postage prepaid to Supreme Court of the United States, 1 First Street, N.E. Washington, DC 20543. Also, one copy is served and sent to the Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Avenue, N.W. Washington, DC 20530-0001 by the U.S. regular mail for any response it might have.

Executed on: August 12, 2022

Respectfully Submitted  
By s/Sixing Liu  
SIXING LIU, *Pro Se*