

No. ____

IN THE SUPREME COURT OF THE UNITED STATES

NATHAN MOWERY,
Petitioner,

v.

William J. Burns, Director of the Central Intelligence
Agency in his official capacity and the National Geospatial Intelligence Agency,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

APPLICATION FOR EXTENSION OF TIME
TO FILE A PETITION FOR WRIT OF CERTIORARI

/s/ Christina A. Jump

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To the Honorable Chief Justice John G. Roberts Jr. of the
Supreme Court of the United States and Circuit Justice for the Fourth Circuit:

Petitioner Nathan Mowery prays for a forty-five day extension to file his petition for writ of certiorari in this Court, up to and including Thursday, December 15, 2022.

The United States Court of Appeals for the Fourth Circuit issued its Opinion on August 2, 2022, affirming the decision of the District Court for the Western District of Virginia to dismiss Petitioner's claims. *Mowery v. Nat'l Geospatial-Intelligence Agency*, 42 F.4th 428 (4th Cir. 2022). Petitioner's deadline to file a petition for writ of certiorari currently expires on Monday, October 31, 2022. Pursuant to Rule 13.5, Petitioner files this application more than ten days before that date. Petitioner also attaches copies of the opinions below, pursuant to Rule 13.5. This Court has jurisdiction under 28 U.S.C. § 1254. Petitioner Nathan Mowery files this application solely as to himself, via his counsel, and not on behalf of any other parties.

The Fourth Circuit's Opinion in this matter presents several important issues that are ripe for review by this Court. Petitioner Nathan Mowery raises questions concerning the strength of anti-discrimination protections available to individuals employed by federal agencies, when the terms of that employment involve a security clearance or credential. The district court dismissed Petitioner's claims based on its determination that this Court's precedent of *Department of the Navy v. Egan* wholly deprived the district court of subject matter jurisdiction. 484 U.S. 518 (1988). The Fourth Circuit affirmed. The principal issue presented centers on whether this Court's holding in *Egan* applies so expansively that it deprives a litigant of any right to review whatsoever, including internal review by the relevant agency or *in camera* review conducted by a court on specific and narrow questions of whether evidence of discrimination is present. The Circuits disagree in their reading of *Egan's* proper scope. Since this Court's holding in *Egan*, its

interpretation and application vary significantly. In cases like Mr. Mowery's, courts use *Egan* to deprive individuals of their federally protected anti-discrimination rights, without adequate consideration of whether judicial review would actually create a credible risk of harm to national security. Other courts recognize the need for at least some showing by the government, and refuse to completely preclude any examination of whether the relevant facts do implicate national security concerns. *See, e.g., Rattigan v. Holder*, 689 F.3d 764, 767 (D.C. Cir. 2012) (recognizing that although *Egan* may prohibit judicial review of certain employment decisions, *Egan* does not “insulate[] from Title VII all decisions that might bear upon an employee’s eligibility to access classified information”). Mr. Mowery’s intended petition addresses this disparity, one worthy of this Court’s consideration.

The undersigned counsel, Christina A. Jump, serves as the Civil Litigation Department Head for the Constitutional Law Center for Muslims in America (CLCMA). At present, she appears as lead counsel on fourteen (14) active federal court civil litigation cases, in addition to a docket of administrative-level matters and her management responsibilities inherent in supervising a department. CLCMA is a small nonprofit law center with nationwide practice and lean staffing; Ms. Jump therefore has only limited ability to delegate tasks to other attorneys.¹ In addition to general casework, the following specific deadlines support this request for additional time:

- Ms. Jump serves as lead counsel for the Appellant in *Abdullah v. Paxton*, No. 22-50315, pending before the Fifth Circuit Court of Appeals. Appellant’s Reply Brief is due on November 1, 2022, the day after the current deadline for Mr. Mowery’s Petition.

¹ Ms. Jump’s co-counsel in representing Mr. Mowery, Alyssa F. Morrison, is not as yet admitted to this Court, but plans to seek admission as this matter and others proceed.

- Ms. Jump also serves as lead counsel in *Haisam Elsharkawi v. USA, et al*, No. 21-56206. The Ninth Circuit Court of Appeals set this matter for oral argument on September 20, 2022. The preparation and travel for this matter will encompass a significant portion of counsel's available time in the month of September.²
- Ms. Jump is also lead counsel in *Boim et al v. American Muslims for Palestine et al*, No. 1:17-cv-03591. This alter ego matter, remanded by the Seventh Circuit to the Northern District of Illinois, involves ongoing intensive discovery efforts that will require a significant time commitment in September, October and early November.
- Ms. Jump will also serve as lead counsel in four new lawsuits CLCMA expects to file in federal court within the D.C. District in the months of September and October. Although these matters are not yet a part of the public record, Counsel will gladly provide further information to this Court upon request or after the upcoming filings.

Additional time to prepare a Petition on behalf of Mr. Mowery will allow lead counsel to better represent Mr. Mowery's interests, and best present the important legal issues implicated here to this Court.

Petitioner respectfully requests that his time to file a petition for writ of certiorari be extended by forty-five days, to and including December 15, 2022. This extension will better allow Mr. Mowery's counsel to meet all professional and ethical obligations, in this Court and others.

² Ms. Jump's availability in the months of September and October became further limited by her approval by the Texas Board of Legal Specialization to sit for the Certification exam in Civil Appellate Law. That exam takes place on October 4, 2022, and she still needs to study a lot more.

Respectfully submitted this 16th day of September, 2022

/s/ Christina A. Jump

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CERTIFICATE OF SERVICE

I, Christina A. Jump, the undersigned counsel and a member of the Bar of this Court, hereby certify that on this day, September 16, 2022, I caused a copy of this Application for Extension of Time to File Writ of Certiorari to be served by first class mail and by email upon the most recent appellate counsel of record for Respondents listed below:

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