

IN THE SUPREME COURT OF THE UNITED STATES

No.: _____

ANDREW TABLACK,

Petitioner,

v.

UNITED STATES OF AMERICA

On Petition for a Writ of Certiorari to the United States Court
of Appeals for the Third Circuit

PETITIONER'S APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR A WRIT OF CERTIORARI

**PETITIONER’S APPLICATION FOR EXTENSION OF TIME TO FILE A
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To the Honorable Samuel Anthony Alito, Jr., Associate Justice of the Supreme Court of the United States and the Circuit Justice for the Third Circuit:

Petitioner, Andrew Tablack, respectfully applies to this Court for an order extending the time in which to file his petition for a Writ of Certiorari from April 26, 2023 to May 26, 2023, a period of thirty (30) days. This Court has jurisdiction under 28 U.S.C. §1257. In support of this Application, Mr. Tablack states as follows:

1. Mr. Tablack is incarcerated as a result of a conviction in the United States District Court for the District of New Jersey for Conspiracy to Manufacture and Distribute Fentanyl Analogue, 21 U.S.C. § 846 and Manufacturing and Distributing a Fentanyl Analogue, 21 U.S.C. § § 841(b)(a)(1), 841(b)(1)(C) and 813, and 18 U.S.C. § 2. Tablack specifically disputes the propriety of charging him in this manner and is the principle basis of his seeking Supreme Court review.
2. Mr. Tablack’s case raises important questions concerning the application of the Controlled Substances Act and its application to Analogues. In this case, the analogue alleged was cyclopropyl fentanyl.

The United States did not schedule cyclopropyl fentanyl as a controlled substance until after Mr. Tablack's arrest. Mr. Tablack submits that the District Court and Court of Appeals did not properly apply this Court's opinion in *McFadden v. United States*, 576 U.S. 186, 191, 135 S. Ct. 2298 (2015) as well as *Xiulu Ruan v. United States*, 142 S. Ct. 2370 (2022).

3. Mr. Tablack now seeks a Writ of Certiorari for the United States Court of Appeals for the Third Circuit with respect to its opinion issued in this matter. This Court's jurisdiction to grant the same arises pursuant to 28 U.S.C. § 1254(1).
4. Counsel was appointed pursuant to Criminal Justice Act to serve as stand by counsel in the United States District Court. Mr. Tablack tried his matter in that court pro se. Due to the logistical issues associated with his incarceration in a United States Penitentiary for thirty (30) years, he requested that counsel assist him in preparing the brief to the Third Circuit. Mr. Tablack wrote a substantial portion of the initial merits brief and the reply brief. He has sent via the Bureau of Prisons email service a substantial portion of what he wishes to be included in the Writ.
5. Counsel has, in the past, filed Petitions for a Writ of Certiorari in

appointed cases. He has not done so in many years. Counsel had requested an extension of time to file a Petition for a rehearing in the United States Court of Appeals for the Third Circuit. An application was not filed. Counsel believed that the thirty (30) days requested extended Petitioner's time to file the Petition before this Court. In reviewing Supreme Court Rule 13.3, it does not appear that counsel's understanding was correct. It appears that the Petition is due on April 25, 2023.

6. In accordance with Supreme Court Rule 13.5, Counsel requests an additional thirty (30) days to file the Petition. Counsel recognizes that this request is not being filed at least ten (10) days in advance of the deadline as counsel misinterpreted the deadline and only now determined that the brief was due. Counsel intended to file the brief next week believing there was sufficient time to do so.
7. The extension is being made in good faith and not for the purposes of delay. Had Counsel correctly applied the dates, the Petition would have been filed in the time allotted. The requested extension is made because of the vital importance associated with the issues at hand and the right to a fair and reliable sentence. This Court has repeatedly emphasized the duty to search for constitutional error with painstaking care. See

Burger v. Kemp, 483 U.S. 776, 785 (1987).

8. The failure to file in a timely manner is through no fault of the Petitioner and only the Petitioner will suffer if the Court does not grant the extension. He should not be procedurally barred because of counsel's mistake. He believes his conviction is based upon a completely improper interpretation of this Court's precedent.
9. It is respectfully submitted that counsel's duty to present all authorized claims of error with care is fundamental. If the Court denies the request, Petitioner will be left without a remedy to set aside what he believes is a fundamentally flawed conviction not based in law or the dictates of this Court.
10. The inability to file the Petition and this Motion in a timely fashion is not the Petitioner's fault. Counsel will file the Petition timely if the court extends the time to do so. Counsel is working on completing the Petition concurrent with this application.
11. In light of the importance of the issues Mr. Tablack wishes to raise, a thirty (30) day extension is necessary and appropriate in order to effectively prepare the Petition.

WHEREFORE, in the interest of justice and for good cause shown, recognizing that Petitioner serving a thirty (30) year sentence, had no part in the delay, Mr.

Tablack requests this Court extend the current April 25, 2023 deadline to May 23, 2023.

Respectfully Submitted,

/s/ Mark W. Catanzaro

Date: April 24, 2023

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IN THE SUPREME COURT OF THE UNITED STATES

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Petitioner

Docket No.:

v.

CERTIFICATE OF SERVICE

UNITED STATES OF AMERICA,

Motion for 30 day Extension

Respondent

I, Mark W. Catanzaro, Esquire, hereby certify that on April 24, 2023, I caused a copy of the attached Motion for a 30 Day Extension to file a Writ of Certiorari and Appendix to be served by Electronic Mail and U.S. Mail upon:

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/s/ Mark W. Catanzaro
Attorney for the Petitioner.