

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2022

ROHAN RAMSINGH,
Petitioner

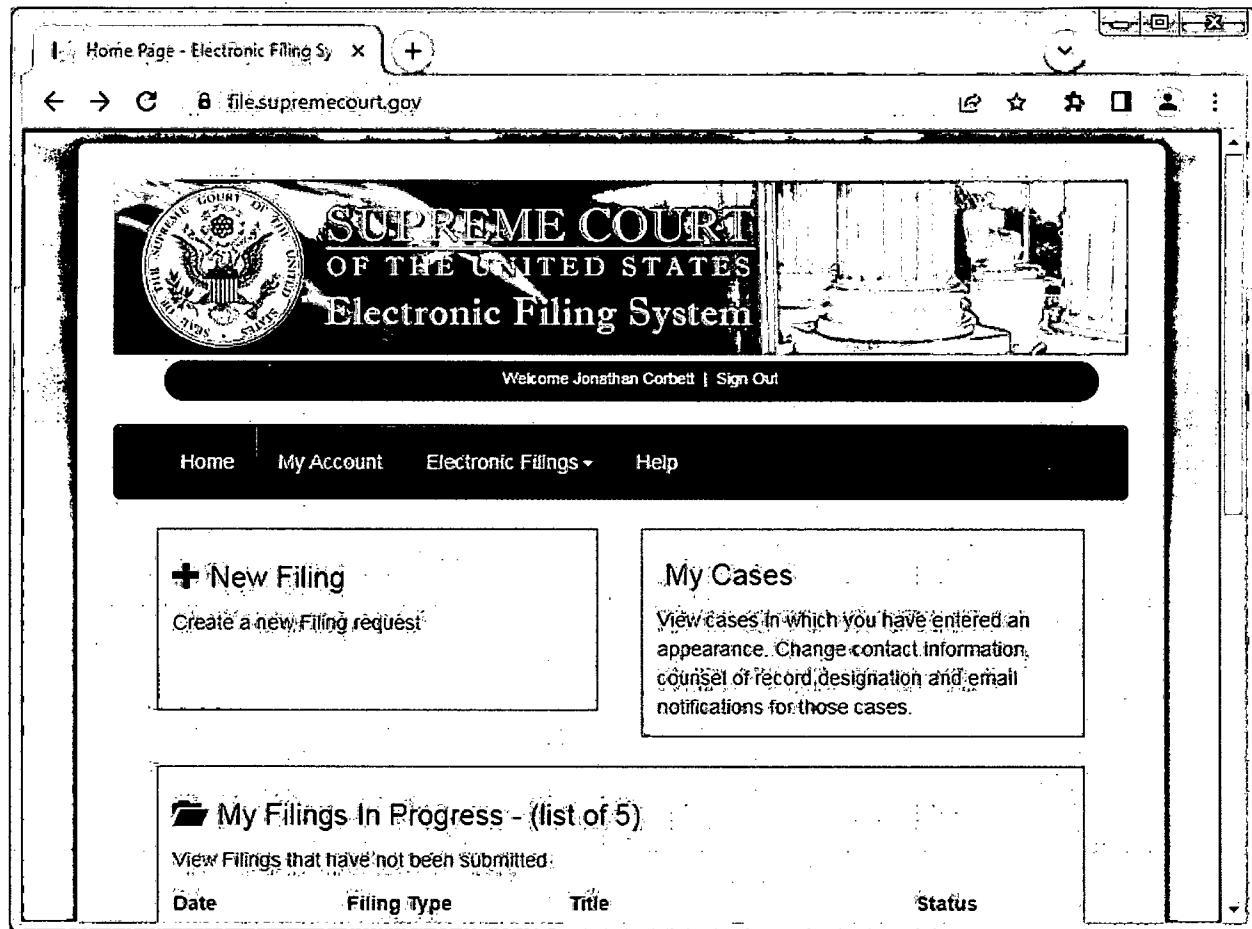
v.

TRANSPORTATION SECURITY ADMINISTRATION,
Respondent

**MOTION TO DIRECT THE CLERK TO FILE
PETITION FOR A WRIT OF CERTIORARI OUT OF TIME**

To the Honorable John Roberts, Chief Justice of the United States Supreme Court and Circuit Justice to the District of Columbia Circuit:

1. Comes before the court Rohan Ramsingh, to respectfully inform the Court of an ambiguity in its procedures that has caused multiple attorneys admitted to the Bar of the Court in 2022 alone to be advised that their Petition for Certiorari was presented out of time and, pursuant to Rules 13 and 30 of this Court, respectfully moves the Court to file his Petition for *Certiorari* out of time.
2. The issue is whether electronic filing, using the Court's official Web site entitled "Electronic Filing System," at <https://file.supremecourt.gov/> "counts" as filing for the purposes of the deadline for a Petition for Certiorari.
3. When an attorney logs into the Electronic Filing System, they are prompted to "Create a new Filing request."



*Image 1 – View of Electronic Filing System Home Screen as Seen by Attorneys Attempting to File *Certiorari* Petitions*

4. After pressing the New Filing button, attorneys are prompted to upload their documents, including the full Petition for *Certiorari*, Appendix, and any required certificates.
5. At the end of the process, the attorney is informed that “Your electronic filing was submitted on [date/time].”
6. No warnings are provided during this process that the “electronic filing” will not be counted as a “filing” for the purpose of meeting a deadline to file a Petition for a Writ of *Certiorari*, and any reasonable attorney completing the process detailed *supra* would have solid reason to believe that they have actually “filed” their documents.

7. This belief is reinforced by the fact that *in every other federal court in this country* of which the undersigned is aware, an electronically filed document is sufficient to meet a filing deadline.
8. This is true even for courts that require paper copies to be filed contemporaneous with the electronic filing: even when an attorney completely neglects to file paper copies, the attorney has merely failed to comply with the rule regarding paper copies (a correctable error), and has not triggered any jurisdictional time bar (an error often not correctable).
9. The Rules of the Court do not make clear that electronic filing does not “count,” and in fact, their phrasing may lead attorneys to draw the opposite conclusion.
10. For example, Rule 29.7 makes clear that electronic filing does not constitute service *upon the other parties*, but says nothing to the effect that it would not constitute filing *with the Court*.
11. As another example, the Court’s “Guidelines for the Submission of Documents to the Supreme Court’s Electronic Filing System,” § 1, states: “Documents should be submitted through the electronic filing system contemporaneously with their filing pursuant to Rule 29.2, *i.e.*, at or near the time they are delivered to the Court, placed in the mail, delivered to a third-party carrier, etc.” but does not specify which must come first.
12. Furthermore, § 1 also enumerates documents that *may* be filed entirely electronically, without paper copies, leading a reasonable reader to conclude that an electronic filing is indeed considered a filing.
13. The sole clue to an attorney who thoroughly reads the Rules of the Court, the Electronic Filing Guidelines, and the information provided with the Electronic Filing System that the Court will not accept electronically filed documents as sufficient to meet a deadline is Rule 29.2, which provides several means of filing documents and does not list electronic filing among them.
14. However, even Rule 29.2 does not state that its list of means is “exhaustive;” that is, it states that documents will be considered timely filed “if” one of the enumerated means is achieved, but does not state “*only if*.”

15. While assuming that a list is non-exhaustive is likely not most attorneys' default interpretation in most circumstances, a reasonable attorney may have concluded the same in light of the circumstances described *supra*, summarized:

- a. The Court maintains a Web site called "Electronic Filing System,"
- b. The system prompts the attorney to create a "filing,"
- c. The system affirmatively tells the attorney that their "filing" has been submitted,
- d. The system does not provide any warning to the attorney that their "filing" does not count as a "filing" for the purposes of deadlines,
- e. The Court's Electronic Filing Guidelines do not clarify the same, merely stating that paper and electronic filings should be done "at or near" the same time,
- f. The Court's Electronic Filing Guidelines make clear that the Court is capable of considering *some* documents submitted via Electronic Filing System as timely filed even when paper copies are *never* filed,
- g. Every other federal court is *contra* to this one, and
- h. The Court was in actual possession of the documents before the deadline.

16. Ramsingh's Petition for a Writ of Certiorari was unfortunately ensnared by this issue.

17. The case below was *Ramsingh v. Transp. Sec. Admin* et al., No. 21-1170, in the U.S. Court of Appeals for the District of Columbia Circuit.

18. Ramsingh's timely Petition for Rehearing & Rehearing *En Banc* was denied by the court below on September 23rd, 2022, resulting in a deadline to petition this Court for a Writ of Certiorari of December 22nd, 2022.

19. Ramsingh's attorney electronically timely filed such a petition (and appendix) to the electronic filing system in the evening on that date, December 22nd, 2022.

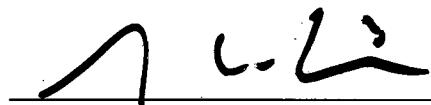
20. Having read the Court's Electronic Filing Guideline's statement that paper copies must be mailed "at or near" the time of electronic filing, Petitioner's attorney placed paper copies in the mail the next day.

21. However, counsel was advised on January 9th, 2023 by the Clerk of the Court that the petition was rejected for being untimely because the postmark on the paper copies was December 23rd, 2023.
22. This is at least the third time an attorney who was a member of the Bar of the Court had the same misunderstanding in 2022 alone, as evidenced by other motions on the Court's docket asking for the same relief. See 22M12 and 22M53.
23. Notwithstanding this recurring problem, no clarification has been made to the rules, nor has any informal notice been placed within the Electronic Filing System to attempt to warn of the same.
24. As rejected petitions are not visible on the public docket, and given that the Court denied each and every motion to file a *certiorari* petition out of time filed in 2022 for any reason (including 22M12 and 22M53), surely additional attorneys have made the same mistake but spared themselves the embarrassment of putting their mistake on the public docket by filing a motion unlikely to be granted.
25. But this would merely perpetuate unawareness of the issue, and the undersigned believes that the interest of justice for both his client and the clients of other attorneys who would fall into the same situation in the future far outweigh the awkwardness accompanying a *mea culpa*.
26. The undersigned regrets not spotting the ambiguity (at least, in his perception) in the Court's rules and seeking pre-clarification from the Clerk, and respectfully asks the Court to give his client the benefit of the ambiguity.
27. Attached to this Motion are a copy of the Petition and Appendix that Ramsingh electronically filed and for which Ramsingh respectfully moves the Court to order the Clerk to file out of time.
28. The Petition raises an important question as to the scope of the protections offered by the substantive due process clause subsequent to the Court's modification of that scope in *Dobbs v. Jackson Women's Health Organization*, No. 19-1392, 597 U. S. ____ (June 24th, 2022).

29. No federal law prohibits the Court from interpreting its rules to consider an electronically filed document as "filed" for the purposes of a deadline, either in this one case or as a general matter in the future.
30. Considering the above circumstances, and where the Court had actual receipt of the Petition and Appendix before the deadline, and paper copies mailed mere hours thereafter, this Motion brings to the Court a truly "extraordinary" reason to vary its normal rules and grant this motion.

For the foregoing reasons, movant Rohan Ramsingh respectfully prays that the Court order its Clerk to file the attached Petition and Appendix "out of time."

Respectfully,



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