

No. A-_____

In the
SUPREME COURT OF THE UNITED STATES
October Term 2023

JOSEPH W. FISCHER,
Applicant/Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

Application for an Extension of Time
to File a Petition for a Writ of Certiorari
to the United States Court of Appeals
for the District of Columbia Circuit

**APPLICATION TO THE HONORABLE
JOHN G. ROBERTS, JR., AS CIRCUIT JUSTICE**

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August 9, 2023

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PARTIES TO THE PROCEEDINGS

The petitioner herein, who was the defendant-appellant below, is Joseph W. Fischer.

The respondent herein, which was the appellee below, is the United States of America.

APPLICATION FOR EXTENSION OF TIME

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

Pursuant to Rule 13.5 of the Rules of this Court, the applicant-petitioner hereby prays for a 45-day extension of time within which to file a petition for a writ of certiorari, to and including October 5, 2023.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *United States v. Fischer, et al.* (Nos. 22-3038, 22-3039 & 22-3041). A copy of the decision is attached as an exhibit to this application.

JURISDICTION

The District of Columbia Court of Appeals entered judgment in this case on May 23, 2023. Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, the current deadline for the filing of a petition for a writ of certiorari in this case is August 21, 2023. This Court will have jurisdiction over any timely filed petition pursuant to 28 U.S.C. § 1254(1). In accordance with Rule 13.5, this Application, dated August 10, 2023, is

being filed more than 10 days in advance of the filing date for a petition for writ of certiorari.

REASONS JUSTIFYING AN EXTENSION OF TIME

Applicant/Petitioner Fischer respectfully requests a 45-day extension of time to file a petition for writ of certiorari seeking review of the Order of the United States Court of Appeals for the District of Columbia Circuit in this case, to and including October 5, 2023, for the following reasons:

1. This Application seeks an extension of time to file a petition for writ of certiorari because in the course of preparing Fischer’s Petition, it has become apparent that the legal issues are substantially more complicated than initially anticipated.

2. Filing on August 21 would pose a challenge for all undersigned counsel because they have numerous other obligations before the federal judiciary. For example, among numerous briefing and filing obligations in the upcoming weeks, counsel of record and his colleagues in the Appellate Unit of the Federal Public Defender (M.D. Pa.) are responsible for:

- (1) *U.S. v. Rios*, No. 23-1165 Cert Petition – to be filed Aug. 9
- (2) *U.S. v. Nixon*, No. 23-1942. Opening Brief – to be filed Aug. 14
- (3) *U.S. v. Gott*, No. 23-1352. Opening Brief – to be filed Aug. 14
- (4) *U.S. v. Dupree*, No. 20-2052 Cert. of Appealability– to be filed Aug. 15
- (5) *U.S. v. Nickas*, No. 23-1316 Opening Brief – to be filed Aug. 21
- (6) *U.S. v. Cash*, No. 17-1205. Sur-Reply Brief to be filed Aug. 21

- (7) *U.S. v. Streitmatter*, No. 23-1339.Opening Brief – to be filed Aug. 23
- (8) *U.S. v. Stoney*, No. 21-1784 Cert Petition – to be filed Sept. 5
- (9) *U.S. v. Brown*, No. 22-6389 (U.S.). . .Merits Reply Brief – to be filed Sept. 14
- (10) *U.S. v. Davila*, No. 21-2836. Cert Petition- to be filed Sept. 25
- (11) *U.S. v. Leinheiser*, No. 22-2256. Cert Petition – to be filed Sept. 28

Further, the Third Circuit Court of Appeals has directed counsel to file responses in the following 13 matters on August 24 to discuss the impact of recent Third Circuit case law on their appeals:

- U.S. v. Davenport*, No. 21-1280; *U.S. v. Thomas*, No. 20-3540; *U.S. v. Pollard*, No. 21-1484
- U.S. v. West*, No. 21-1336; *U.S. v. Roane*, No. 21-1444; *U.S. v. Robinson*, No. 21-1445
- U.S. v. Mosley*, No.21-1785; *U.S. v. Whiting*, No. 21-1482; *U.S. v. Cunningham*, No. 20-3446
- U.S. v. Whiting*, No. 21-1481; *U.S. v. Bonner*, No. 21-1540; *U.S. v. Livingston*, No. 21-1541
- U.S. v. Scott*, No. 21-1539.

3. In addition, co-counsel Jeffrey T. Green, Esq. is co-director of the Northwestern University School of Law Supreme Court Practicum. The 2023 fall semester does not begin until August 21, so the current due date would deny Practicum students the opportunity to assist in drafting the petition. Granting a 45-day extension would give students reasonable time to meaningfully engage in and substantively contribute to the drafting process of the petition, thereby facilitating an educational and professionally rewarding experience.

4. Finally, counsel for respondent, the United States, James I. Pearce, Esq., concurs in this request.

5. Applicant/Petitioner Fischer has at all times been represented in the courts below by the Office of the Federal Public

Defender, Middle District of Pennsylvania, and specifically on appeal by undersigned counsel of record, Frederick W. Ulrich, Esq., Assistant Federal Public Defender, a member of the Bar of this Court.

6. Accordingly, to provide undersigned counsel with adequate time to prepare a petition for a writ of certiorari that will assist this Court in resolving this matter, counsel believes that a 45-day extension of the period for filing a petition is appropriate.

CONCLUSION

For the foregoing reasons, the applicant-petitioner respectfully requests that this Court grant a 45-day extension, to and including October 5, 2023, in which to file a petition for a writ of certiorari.

Respectfully submitted,

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August 9, 2023

CERTIFICATE OF SERVICE

I, Frederick W. Ulrich, do hereby certify that, on this 10th day of August 2023, I caused copies of this Application for Extension of Time to be served on the following parties by Electronic Case Filing, or by placing a copy in the United States mail, first class, postage prepaid, in Harrisburg, Pennsylvania:

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