No. 23-_____

IN THE
SUPREME COURT OF THE UNITED STATES

_____◆_____

VLADIMIR BLASKO,

Petitioner,

v.

LASHA BOYDEN, Acting United States Marshal for the Eastern District of California,

Respondent.

_____◆_____

On Petition for Writ of Certiorari
to the United States Court of Appeals For The Ninth Circuit

_____◆_____

PETITION FOR WRIT OF CERTIORARI

_____◆_____

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QUESTIONS PRESENTED

The first question presented is when the express terms of an extradition treaty require a district court to determine whether the statute of limitations has run for the offenses for which extradition is sought under the law of the requesting or foreign state, can the district court abdicate its role under the extradition treaty to interpret and apply the requesting or foreign state's statute of limitations laws by deferring to the legal conclusion of an official from the requesting or foreign state regarding the requesting or foreign state's own statute of limitations laws, or is it the role of the district court, as required by the express terms of the extradition treaty to meaningfully interpret and apply the requesting or foreign state's statute of limitations laws?

The second question presented is when the district court does interpret and analyze the meaning of a requesting or foreign state's statute of limitations laws, as required by the express terms of the extradition treaty, can the district court conduct its own common-sense and plain textual reading of the requesting or foreign state's statute of limitations laws, or is the district court required to interpret and analyze the requesting or foreign state's statute of limitations laws in accordance with the history, context, and tradition of the requesting or foreign state's statute of limitations laws?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

TABLE OF CONTENTS

Page

APPENDIX

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES (Cont'd)

Page

CASES (Cont'd)

TABLE OF AUTHORITIES (Cont'd)

Page

STATUTES

OTHER AUTHORITIES

PETITION FOR A WRIT OF CERTIORARI

Petitioner Vladimir Blasko respectfully petitions this Court for a writ of certiorari to review the judgment of the Ninth Circuit in this case.

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OPINIONS BELOW

The August 14, 2023 Memorandum of a panel of the United States Court of Appeals for the Ninth Circuit is unpublished and reproduced in the Appendix to this petition at Appendix at 1a-5a. The Ninth Circuit's Order denying rehearing and rehearing *en banc* is unpublished and is reproduced in the Appendix at 6a.

The Order of the United States District Court for the Eastern District of California denying Mr. Blasko's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 is reproduced in the Appendix at 7a-19a. The Amended Memorandum and Order of the United States District Court for the Eastern District of California certifying the extraditability of Mr. Blasko is reproduced in the Appendix at 20a-71a.

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JURISDICTION

Petitioner Vladimir Blasko seeks review of the August 14, 2023 decision of the Ninth Circuit Court of Appeals affirming the district court's denial of his 28 U.S.C. § 2241 petition for a writ of habeas corpus. A timely petition for rehearing

and rehearing *en banc* was filed, which the Ninth Circuit Court of Appeals denied on January 8, 2024. This Court has jurisdiction under 28 U.S.C. § 1254(1).

TREATY PROVISION INVOLVED

Article V of the Extradition Treaty between the United States of America and the Czechoslovak Republic, as amended and supplemented by the Instrument on Extradition between the United States of America and the Slovak Republic, and integrated in the Annex to the Instrument, provides:

> A criminal offender shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of either of the States within the jurisdiction of which the criminal offense was committed, the criminal offender is exempt from prosecution or punishment for the offense for which the surrender is asked.

See Extradition Treaty Between the United States of America and the Slovak Republic, T.I.A.S. No. 10-201.19, 2010 WL 11437839 at *4.

INTRODUCTION

The Ninth Circuit's decision below perpetuates a split among, and within, district and circuit courts across the country and is in sharp tension with this Court's line of extradition jurisprudence that safeguards the judiciary's important role to interpret and apply extradition treaties in accordance with their terms. *See e.g., Factor v. Laubenheimer*, 290 U.S. 276, 295 (1933) (highlighting the role of U.S.

courts to interpret and opine on extradition treaty language and construction); *see also In re Kaine*, 55 U.S. (14 How.) 103, 113 (1852) (warning that "extradition without an unbiased hearing before an independent judiciary . . . [is] highly dangerous to liberty and ought never to be allowed in this country").

The Ninth Circuit's decision below found that the district court "properly deferred" to a foreign official's interpretation of a foreign statute of limitations tolling provision, and, in the alternative, approved of a "textual" analysis of a translated foreign statute of limitations tolling provision. Such findings are in direct conflict with numerous district and circuit courts across the country with respect to the role of the judiciary—when called upon by the applicable extradition treaty—to interpret and apply foreign statute of limitations law in accordance with foreign law. *See Skaftouros v. United States*, 667 F.3d 144, 156 (2d Cir. 2011) ("Judicial officers considering extradition requests . . . should not engage in an analysis of the demanding country's laws and procedure, *except to the limited extent necessary to ensure that the requirements of the federal extradition statute and the applicable extradition treaty have been satisfied*.") (emphasis added); *Arias Leiva v. Warden*, 928 F.3d 1281, 1289 (11th Cir. 2019) (holding that district courts must exercise their "*independent duty* to interpret treaties—extradition or otherwise—just as [they would] do for any statute, Constitutional provision, or other source of law") (emphasis added).

Extradition of an individual, like Mr. Blasko, to a foreign country has enormous consequences, both for the individual sought and for foreign relations

between the United States and its extradition treaty partners. This is why, even though "the Executive remains primarily responsible for extradition," ultimate "[a]uthority over the extradition process is shared between the executive and judicial branches." *Santos v. Thomas*, 830 F.3d 987, 991, 1040 (9th Cir. 2016). This Court's case law has historically safeguarded the judiciary's role in extradition proceedings and "does not allow [the judiciary] to leave [its] determination to the Secretary of State—or, for that matter, to the [requesting country's] courts—under principles of deference to the executive or international comity." *Id.* at 1007. Rather, such determinations "[have] been placed squarely in the judiciary's hands." *Id.*

By holding that deference to a requesting country's interpretation of its own statute of limitations law is proper notwithstanding an applicable treaty provision requiring the district court to meaningfully interpret and apply the requesting country's own statute of limitations law, the Ninth Circuit's decision below erodes the judiciary's role in extradition proceedings and is in direct conflict with district and circuit court opinions across the country that have held otherwise. Accordingly, guidance from this Court is critically important to achieving fair and consistent outcomes in the lower courts with respect to the district court's role in extradition proceedings to interpret and apply applicable treaty provisions, including those provisions that require the district court to interpret and apply a requesting state's statute of limitations law.

STATEMENT OF THE CASE

On April 15, 2013, a district court in Nitra, Slovakia tried Mr. Blasko *in absentia* and convicted him of abuse of power by a public official and infliction of bodily harm, in violation of Articles 326(1) and (2) and Article 156(1) of the Slovakian Criminal Code, respectively. The charges stemmed from an incident that occurred on July 13, 2007, while Mr. Blasko was employed as a police officer working for the Regional Directorate of Police Forces in Nitra, Slovakia. When the *in absentia* trial occurred in Slovakia, Mr. Blasko was residing in the United States and had no knowledge of the trial and did not participate in it. Following the *in absentia* trial and conviction, the district court in Slovakia sentenced Mr. Blasko to a four-year term, which was subsequently upheld on appeal by the Regional Court in Nitra, Slovakia, on November 7, 2013.

On January 21, 2014, an international arrest warrant was issued for Mr. Blasko's arrest. On June 6, 2017, the Embassy of the Slovak Republic submitted a formal extradition request to the U.S. Department of State, requesting the extradition of Mr. Blasko. Following Slovakia's formal extradition request, on October 2, 2017, the U.S. Attorney's Office for the Eastern District of California (Fresno) filed a Complaint seeking the arrest of Mr. Blasko. Mr. Blasko was then arrested in Fresno, California, on October 6, 2017.

As part of its extradition request, the government provided the applicable extradition treaty between the United States and Slovakia. *See* Extradition Treaty Between the United States of America and the Slovak Republic (hereinafter "the Extradition Treaty"), T.I.A.S. No. 10-201.19, 2010 WL 11437839. Relevant here, Article V of the Extradition Treaty provides that:

> A criminal offender shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of either of the States within the jurisdiction of which the criminal offense was committed, the criminal offender is exempt from prosecution or punishment for the offense for which the surrender is asked.

Id. at *4. Under Article V of the Extradition Treaty, an individual sought under the Extradition Treaty may not be extradited if the statute of limitations for either the initiation of the prosecution or the execution of the punishment under the Slovakia's law has run. *See id.*

On August 25, 2018, Mr. Blasko opposed the government's request for extradition, and argued, *inter alia*, that his extradition was barred under Article V of the Extradition Treaty because the statute of limitations for the execution of punishment set forth in Article 90 of the Slovakian Criminal Code had run. Article 90 of the Slovakian Criminal Code provides that because the sentence imposed by the district court in Nitra was four years, the appropriate statute of limitation on the execution of punishment is five years from the date of conviction. Accordingly, because the district court judgment imposing punishment in this case was executed on April 15, 2013, the statute of limitation for the execution of punishment for the

offenses for which extradition is sought, absent any tolling of the statute of limitations, ran on April 15, 2018.

On November 19, 2018, the extradition court issued its Amended Memorandum and Order, which granted the government's request to certify Mr. Blasko for extradition. *See* Appendix at 20a-71a. In so finding, the extradition court relied on the tolling provisions of Article 90 of the Slovakian Criminal Code, which provide that the applicable "limitation period shall not include the period during which the punishment could not be enforced because the convicted sojourned abroad with the intent to avoid the punishment." Additionally, the extradition court deferred to a written declaration submitted by the district court judge in Nitra, Slovakia, who stated that the statute of limitation for the execution of punishment had been tolled under Slovakian law because Mr. Blasko "sojourned abroad with the intent to avoid the punishment" since "he has been fighting against his extradition, after being arrested in October 2017" which "confirms that he has known about the judgment." *See* Appendix at 68a-70a.

On November 30, 2018, Mr. Blasko filed an initial petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The district court referred the matter back to the extradition court to prepare findings and recommendations. On January 23, 2019, Mr. Blasko filed his formal petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, where he renewed the argument that his extradition was barred by Article V of the Extradition Treaty because the statute of limitations for the execution of punishment ran on April 15, 2018, and was not otherwise tolled. In

addition, Mr. Blasko objected to the extradition court's deference to the written declaration of the Slovakian judge, arguing that the terms of the Extradition Treaty—specifically, Article V—compelled the court to conduct its own analysis as to the statute of limitations issue and that it was error for the court, without more, to defer to the Slovakian judge's declaration. The extradition court issued its Findings and Recommendations Recommending Denying the Petition for Habeas Corpus on March 7, 2019. Mr. Blasko filed written objections to the extradition court's Findings and Recommendations on March 21, 2019.

On May 16, 2022, the district court, after conducting a *de novo* review, issued its Order Adopting the Findings and Recommendations and Denying the Petition for Writ of Habeas Corpus. *See* Appendix at 7a-19a. In the district court's order, the court adopted the findings of the extradition court, including the finding that it was appropriate for the magistrate court to defer to the Slovakian judge's declaration stating that the statute of limitations for the execution of punishment was tolled by Article 90 of the Slovakian Criminal Code. *See* Appendix at 12a-13a. Mr. Blasko filed a notice of appeal to the Ninth Circuit Court of Appeals on May 27, 2022.

On appeal, Mr. Blasko argued that the district court erred by deferring to the Slovakian judge's declaration and legal conclusion as to whether the statute of limitations for the execution of punishment had run under Slovakian law, and that to the extent that the district court did not rely on the declaration from the Slovakian judge, and otherwise concluded that the Slovakian statute of limitations for the execution of punishment had been tolled because Mr. Blasko "had sojourned

abroad with the intent to avoid the punishment" within the plain meaning of that phrase, that the district court erred by not interpreting and applying the tolling provisions of Article 90 of the Slovakian Criminal Code in accordance with Slovakian law and legal principles.

On August 14, 2023, the Ninth Circuit issued an unpublished Memorandum affirming the district court's denial of Mr. Blasko's petition for a writ of habeas corpus. *See* Appendix 1a-5a. In the Memorandum, the panel held that "[t]he extradition court properly deferred to a Slovakian judge's declaration" in ruling that the statute of limitations for the execution of punishment was tolled, and stated that the Extradition Treaty "does not require us to conduct an 'independent analysis' of the meaning of Slovakia's statute of limitations." Appendix at 3a. It further held that to the extent that the district court did not defer to the Slovakian judge's declaration and legal conclusion regarding the tolling of the statute of limitations for the execution of punishment, the district court did not err by "conduct[ing] its own analysis of the textual meaning" of the Slovakian tolling provision. Appendix at 3a.

On October 12, 2023, Mr. Blasko petitioned the Ninth Circuit for rehearing *en banc*, which the Ninth Circuit denied on January 8, 2024. *See* Appendix at 6a.

REASONS FOR GRANTING THE WRIT

A. The Ninth Circuit's Decision Below Erodes the Judiciary's Role in Extradition Proceedings Because It Sanctions the District Court's Abdication of Its Obligation to Meaningfully Apply Pertinent Extradition Treaty Provisions, Including Those Provisions That Require a District Court to Interpret and Apply a Requesting State's Statute of Limitations Law.

For over 100 years, this Court has warned that "extradition without an unbiased hearing before an independent judiciary . . . [is] highly dangerous to liberty and ought never to be allowed in this country." *Kaine*, 55 U.S. at 113. Because of this, "the judiciary's role in the extradition process," though "limited," is not "meaningless" and "a judge . . . [in] an extradition proceeding is [not] expected to wield a rubber stamp." *Santos*, 830 F.3d at 1006 (*quoting Skaftouros*, 667 F.3d at 158); *In re Mazur*, 2007 WL 2122401, at *17 (N.D. Ill. July 20, 2007) (unpublished) ("[T]he judicial branch's role in extradition proceedings" though "limited, [is] important.")

Accordingly, the judiciary's "function in an extradition hearing is . . . to ensure that our judicial standard of probable cause is met by the [r]equesting [n]ation," which also includes determining whether the offense for which extradition is sought "falls within the terms of the extradition treaty between the United States and the requesting state." *Santos*, 830 F.3d at 991. In fulfilling this role, "Supreme Court case law . . . does not allow [the judiciary] to leave this determination to the Secretary of State—or, for that matter, the [requesting country's] courts—under

principles of deference to the executive or international comity." *Id.* at 1007. Rather, such determinations "[have] been placed squarely in the judiciary's hands and is ours alone." *Id.*

When the applicable extradition treaty, like the Extradition Treaty between the United States and Slovakia, contains a provision that prohibits the extradition of an individual if, under the laws of the requesting state, the statute of limitations for either the initiation of the prosecution or the execution of the punishment has run, the government bears the burden of establishing, by a preponderance of the evidence, that the offense for which extradition is sought is not barred by the applicable statute of limitations laws of the requesting state. *See e.g., Jhirad v. Ferrandina*, 536 F.2d 478, 484-85 (2d Cir. 1976); *United States v. Gonsalves*, 675 F.2d 1050, 1052 (9th Cir. 1982); *Causbie Gullers v. Bejarano*, 2009 WL 10720930, at *5 (S.D. Cal. Mar. 20, 2009) (unpublished); *Matter of Extradition of Netzky*, 2022 WL 2315976, at *9 (D. Or. June 28, 2022) (unpublished). In such circumstances, the applicable extradition treaty also requires that the district court interpret and apply the law of the requesting state to determine whether the government has met its burden of establishing, by a preponderance of the evidence, that requesting country's statute of limitations laws has not run.

This Court has long recognized that statute of limitations represent an important right of the accused because they are irretrievably connected to liberty and afford protections that are central to our system of justice. *See Wood v. Carpenter*, 101 U.S. 135, 139 (1879); *see also Caplan v. Vokes*, 649 F.2d 1336, 1341

n.7 (9th Cir. 1981). They also protect against the bringing of stale charges and "provide predictability by specifying a limit beyond which there is an irrebuttable presumption that a defendant's right to a fair trial would be prejudiced." *United States v. Marion*, 404 U.S. 307, 322 (1971). This is especially true in the case of extradition proceedings, where individual liberty is at risk, often many years after the offense is alleged to have occurred. For these reasons, statutes of limitations are liberally interpreted in favor of repose. *See Toussie v. United States*, 397 U.S. 112, 115 (1970).

In light of the factual and procedural history behind this extradition request, it is difficult to imagine a case where the judiciary's role in critically reviewing all aspects of an extradition request could have more importance. Here, Slovakia is seeking the extradition of Mr. Blasko to serve a four-year sentence that was imposed after an *in absentia* trial was held in Slovakia sometime in 2012, for conduct allegedly occurring in July 2007, now almost seventeen years ago. Importantly, this *in absentia* trial took place in Slovakia without Mr. Blasko's knowledge or participation and without the constitutional and procedural safeguards associated with due process and a fair trial in the United States.

Following the *in absentia* trial, and subsequent imposition of judgment and sentence on April 15, 2013, Slovakia obtained an international arrest warrant for Mr. Blasko on January 21, 2014. Thereafter, despite knowing Mr. Blasko's precise whereabouts in the United States, Slovakia made no effort to seek Mr. Blasko's extradition until it submitted its request to the U.S. Department of State on June 6,

2017, over four years after the *in absentia* trial took place, and over three years after the issuance of the international arrest warrant. As a result of this delay, the five-year statute of limitations for the execution of the four-year sentence imposed by the district court in Slovakia, on April 15, 2013, ran on April 15, 2018.

The district court, rather than interpreting and applying Slovakian statute of limitations law, in accordance with the express terms of the Extradition Treaty between the United States and Slovakia, instead deferred to the declaration and legal conclusion of a Slovakian judge, who had no meaningful understanding of the facts necessary to reach her conclusion. The Ninth Circuit's decision below, rather than ensuring that the district court, in accordance with its mandate under Article V of the Extradition Treaty, meaningfully interpret and apply Slovakian statute of limitations law, sanctioned the district court's deferral to the declaration and legal conclusion of the Slovakian judge. In so doing, the Ninth Circuit's decision below erodes the judiciary's role in extradition proceedings generally, and further perpetuates a conflict between district and circuit courts across the country with respect to a district court's role in interpreting and applying the express provisions of extradition treaties, including those provisions that require a district court to interpret and apply foreign law.

B. The Ninth Circuit's Decision Below Perpetuates a District and Circuit Court Split and Guidance From This Court is Necessary to Ensure That District Courts in Extradition Proceedings, When Required by the Express Terms of the Applicable Extradition Treaty, Meaningfully Carry Out Their Role to Apply Treaty Provisions, Including Those Provisions That Require a District Court to Interpret and Apply a Requesting State's Statute of Limitations Law.

It is black-letter law that district courts considering extradition requests where the express terms of the applicable extradition treaty require the district court to undertake an interpretation and analysis into the requesting country's statute of limitations laws may do so "to the limited extent necessary to ensure that the requirements of the federal extradition statute and the applicable extradition treaty have been satisfied." *Skaftouros*, 667 F.3d at 156. Yet, despite this clear mandate for district courts to interpret and apply a requesting country's statute of limitations laws if called upon to do so by the express terms of the applicable extradition treaty, district and circuit courts across the country have reached conflicting opinions as to their ability to undertake such an analysis.

The Ninth Circuit's decision below further deepens the conflict that exists between lower courts that defer outright "to a foreign official's interpretation of their own law in extradition proceedings, including their interpretation of the applicable limitations period," *Matter of Extradition of KoZeluh*, 610 F. Supp. 3d 1066, 1083-84 (E.D. Tenn. 2022) (citing to the district court in this case in *Blasko v. Thomas*, 2019 WL 1081209, at *6 (E.D. Cal. Mar. 7, 2019) (unpublished)), adopting report and recommendation, 2022 WL 1541728 (E.D. Cal. May 16, 2022) (unpublished), and those that believe "[t]he judiciary serves an independent, but

limited, review function" in extradition matters, *Matter of Extradition of Wallace*, 543 F. Supp. 3d 1296, 1301 (M.D. Fla. 2021), which requires the district court "to make such a determination on an open record and to determine the applicable statute of limitations accordingly." *Causbie Gullers v. Bejarano*, 293 F. App'x 488, 491 (9th Cir. 2008) (unpublished). In light of this nationwide conflict and lack of uniformity in this area of extradition law, urgent action is needed by this Court to provide guidance to lower courts to ensure that district courts are meaningfully carrying out their treaty-required obligations in extradition proceedings.

Importantly, even in cases where the district court conducts an independent determination of the requesting country's statute of limitations law, in accordance with the applicable extradition treaty, courts have noted their reluctance "to override the position of the United States on matters of extradition," but have nonetheless understood that the applicable extradition treaty "require[d] the Court to interpret [the relevant treaty provision]" and that "[o]n matters of construction, courts have the final word" and "the views of the Executive, while important, are 'not conclusive.'" *Wallace*, 543 F. Supp. 3d at 1305 (citing *Factor*, 290 U.S. at 295). Ultimately, in such circumstances, district courts have recognized that it "must exercise its independent duty to interpret treaties—extradition or otherwise—just as [it would] do for any statute, Constitutional provision, or other source of law." *Id.*

As one example, in *Causbie Gullers*, an unpublished decision from the Ninth Circuit, the petitioner argued that Article 7 of the Extradition Treaty between the United States and Mexico provided that extradition should not be granted, if, under

the statute of limitations laws of either "the requesting or requested party" the prosecution or punishment for the offense was time-barred. *Causbie Gullers*, 293 Fed. App'x at 489. After it was determined that extradition was not barred by the applicable statute of limitations law of the United States ("the requested country"), the petitioner argued that "she cannot be extradited under the Treaty because her prosecution is time barred under Mexican law." *Id.* at 490.

Specifically, she argued "that the criminal fraud action was effectively extinguished because the alleged victims failed to file complaints within a six-month limitations period" set forth under a specific provision of Mexican statute of limitations law. *Id.* In evaluating the issue, the panel in *Causbie Gullers* then interpreted and applied multiple provisions of Mexican law, with the panel ultimately concluding that due to "our limited understanding of Mexican law" the answer to whether the statute of limitations had run under Mexican law "is not apparent on the record before us," and then remanded for "the district court to make such a determination on an open record and to determine the applicable statute of limitations accordingly." *Id.* at 490-91.

Notably, the panel in *Causbie Gullers* reached this conclusion despite the fact that the "a certified document" from the Mexican court was "submitted with the extradition request" that purported to resolve the statute of limitations issue. *Id.* at 490 n.2. Significantly, rather than outright accepting the Mexican court's legal conclusion, the panel in *Causbie Gullers* stated that "[a]lthough the government argues that we must accept this certified determination of the statute of limitations

under Mexican law, the Treaty requires Mexico to provide the text of the legal provisions, *but requires the United States courts, on their own, to apply the Mexican law to the facts of the particular case*." *Id.* (emphasis added). Ultimately, the panel in *Causbie Gullers* did precisely what the panel here below did not, which is to require that the district court meaningfully interpret and apply the requesting country's own laws to determine whether extradition is barred by that country's relevant statute of limitations provisions. *Compare with* Appendix at 3a (concluding that Article V of the extradition treaty between the United States and Slovakia "does not require us to conduct an 'independent analysis' of the meaning of Slovakia's statute of limitations"). Ultimately, the panel in *Causbie Gullers* remanded the matter back to the district court to, in accordance with the provisions of the applicable extradition treaty, determine, under Mexican law, whether any provision of Mexican statute of limitations law barred extradition. *Causbie Gullers*, 293 Fed. App'x at 491.

The approach of the panel in *Causbie Gullers*—to conduct a meaningful inquiry into the statute of limitations issue and to not otherwise defer outright to the submitted legal conclusions of foreign officials—has been repeated by district courts across the country. For instance, recently, in the *Matter of Extradition of Blacha*, the district court was in receipt of "supplementary information describing how Poland calculates limitations periods under its criminal and fiscal penal codes" as well as a statement from "the deputy circuit prosecutor [in Poland]" who "explained why Poland's statutes of limitations have not lapsed." 2023 WL 3997073,

at *8 (N.D. Ill. June 14, 2023) (unpublished). However, rather than deferring to the bare legal conclusion of the officials from the requesting state, the district court, after "initially agree[ing] with Blacha that the documents submitted by the government did not appear to support the deputy circuit prosecutor's explanation as to why the statute of limitations had not expired" undertook a further examination into Polish law and ultimately determined that "the government has sufficiently shown that the applicable statute of limitations has not expired." *Id.* at *8.

Likewise, the district court in *Dentone v. United States Att'y Gen.*, when tasked by the applicable extradition treaty with interpreting and applying Peruvian statute of limitations law considered "dueling interpretations of Peru's statute of limitations with respect to the prosecution of [the extradite]." 2018 WL 11244835, at *2 (S.D. Fla. Aug. 8, 2018) (unpublished). In so doing, the district court "ma[de] [its] own legal determination after reviewing the submissions of both parties" and the judge "detailed her analysis of the statute of limitations calculation" ultimately finding the government's characterization of the Peruvian statute of limitations provisions "to be both legally and mathematically sound." *Id.* In this respect, the district court did not simply defer to the bare legal conclusion of the requesting state's official, but rather carried out its own meaningful inquiry into the applicable statute of limitations laws in Peru.

Similarly, two recent district court cases, *Schmeer v. Warden of Santa Rosa County Jail*, 2014 WL 5430310 (N.D. Fla. Oct. 22, 2014) (unpublished) and *In re Extradition of Manea*, 2018 WL 1110252 (D. Conn. Mar. 1, 2018) (unpublished),

have articulated the quantum of evidence necessary for the district court to conduct the required analysis under the applicable extradition treaty where the treaty calls upon the district court to interpret and apply a foreign country's statute of limitations law.

For instance, in *Schmeer*, the district court, rather than adopting wholesale the legal conclusions of the requesting country, noted that "German authorities 'specifically addressed' the statute of limitations issue and explained that, under German law, the statute of limitations may be 'interrupted' by 'certain actions'" and went on to explain "a variety of acts that may interrupt the running of the statute of limitations." *Schmeer*, 2014 WL 5430310, at *5. Similarly, in *Manea*, the district court, rather than relying on a single, un-supported legal conclusion of the requesting country, commented that Romanian officials had provided extensive documents to the district court that enabled the extradition court to understand the Romanian "tolling process as it applies to this case." *Manea*, 2018 WL 1110252, at *11.

The approach of the district and circuit courts above stand in stark contrast to the decisions of other district and circuit courts across the country on precisely the same extradition treaty inspired issues. Indeed, the district court in the *Matter of Extradition of Kwak*, when specifically compelled by the applicable extradition treaty between the United States and Poland—which required the district court to interpret and apply the statute of limitations laws of the requesting state—rather than meaningfully interpreting and applying Polish statute of limitations laws

simply "afford[ed] deference to Poland's interpretation of its own laws and statute of limitations" and "concluded that the statute of limitations has not expired." 2023 WL 2499861, at *5 (N.D. Ill. Mar. 14, 2023) (unpublished); *see also KoZeluh*, 610 F. Supp. 3d at 1083-84 (same).

Similarly, in *United States v. Extradition of Risner*, the district court deferred outright, and without more, to the legal conclusion of the requesting state's official, who indicated that the statute of limitations under Colombian statute of limitations law had not run. 2019 WL 1115140, at *26 (N.D. Tex. Mar. 11, 2019) (unpublished). Indeed, in *Risner*, the district court explicitly declined to interpret or apply Colombian statute of limitations laws, notwithstanding the express provisions of the applicable extradition treaty which required the district court to asses Colombia's statute of limitations laws, because "the laws describing the time limit on the prosecution or the execution of punishment for the offense is a matter of Colombian law as to which Colombia has provided its answer." *Id.*

As evidenced above, the Ninth Circuit's decision below further exacerbates an ongoing conflict among and between district and circuit courts across the country regarding the role the judiciary plays in interpreting and applying a requesting country's statute of limitations laws when the express terms of the applicable extradition treaty require the district court to undertake such an analysis. Action is needed from this Court to safeguard the role of the judiciary in extradition proceedings and to provide necessary guidance to lower courts to increase

uniformity among the approaches currently undertaken by conflicting district and circuit courts.

CONCLUSION

For all of the reasons set forth above, Mr. Blasko respectfully requests that this Court grant his petition for writ of certiorari, vacate the Ninth Circuit's decision below, and remand for the reasons set forth herein.

Dated: April 8, 2024

Respectfully submitted,

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