

IN THE SUPREME COURT OF THE UNITED STATES

No. ____

LUIS SANCHEZ, ET. AL.,

v.

UNITED STATES OF AMERICA

**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A
PETITION FOR CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH DISTRICT**

TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE
UNITED STATES AND CIRCUIT JUSTICE FOR THE ELEVENTH CIRCUIT:

Pursuant to Rules 13.5, 22, and 30.2 of this Court, counsel for Interested Party-Appellants Luis Sanchez, Jaqueline Yupanqui Palacios, and Excentric Import & Export Corporation respectfully requests a 60-day extension of time, to and including April 19, 2024, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case. The Court of Appeals entered judgment on September 11, 2023, App., *infra*, 1a-15a, and denied a timely petition for rehearing on November 21, 2023, App. 16a-17a. Unless extended, the time for filing a petition for a writ of certiorari will expire on February 19, 2024. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1).

1. This case arises from the Eleventh Circuit's judgment in *United States v. Luis Sanchez*, No. 22-11923 (11th Cir. 2023) and presents the questions of whether (1) a District Court has the discretion to provide a civil forfeiture claimant an opportunity to amend a timely-filed 21

U.S.C. § 853(n) petition and (2) whether the intended receipt of a delivery has Article III standing to challenge the government's seizure of their delivery.

2. In the proceedings below, Interested Party-Appellants argued that a timely-filed Section 853(n) civil forfeiture petition may be amended when the government identifies a pleading deficiency that is easily corrected and there is no indication that the petition's claims are frivolous. One reason is that ancillary forfeiture proceedings, which are initiated by a Section 853(n) petition, are governed by the Federal Rules of Civil Procedure, *United States v. Negron-Torres*, 876 F. Supp.2d. 1301, 1304 (M.D. Fla. 2012), and these rules require a court "to freely give leave when justice so requires. Fed. R. Civ. P. 15(a)(2). A second reason is that permitting amendment of a Section 853(n) petition advances Congress' express intent to provide innocent property owners with their day in court, S. Rep. No. 98-225, at 208 (explaining that "third parties are entitled to judicial resolution of their claims"), while also avoiding serious questions regarding the constitutionality of the laws that seize the property of innocent property owners.

In the proceedings below, Interested-PartyAppellants also argued that as intended recipients of the seized property, Sanchez and Excentric had adequately pleaded an injury in fact at the pleading stage insofar as the inability to have and use money to which a party is entitled is an Article III injury and an addressee has a possessory interest in a mailed package. *E.g.*, *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (holding that standing "must be supported ... with the manner and degree of evidence required at [each] successive stage[] of he litigation"); *MSPA Claims 1, LLC v. Tenet Florida, Inc.*, 918 F.3d 1312, 1318 (11th Cir. 2019) ("The inability to have and use money to which a party is entitled is a concrete injury."); *United States v. Hernandez*, 313 F.3d 1206, 1209 (9th Cir. 2002) ("It has long been established that an addressee has both a possessory and a privacy interest in a mailed package.").

As will be presented in their petition for writ of certiorari, Interested Party-Appellants would have prevailed regarding the issue of amendment in both the Second and Seventh Circuits. *United States v. Swartz Family Trust*, 67 F.4th 505, 519-20 (2d Cir. 2023); *United States v. Furnando*, 40 F.4th 567 (7th Cir. 2022). Similarly, Interested Party-Appellants would have prevailed regarding the standing issue in the Ninth Circuit and under this Court's binding authority on the issue. *See e.g., Lujan*, 504 U.S. at 561; *Hernandez*, 313 F.3d at 1209.

3. With this background in mind, counsel for Interested Party-Appellants respectfully requests a 60-day extension, to and including April 19, 2024, within which to file a petition for certiorari in this case. The undersigned counsel has several significant obligations in the weeks leading up to the current deadline, including an oral argument in the Ninth Circuit, a two-day trial, and three other appellate briefs due in the U.S. Courts of Appeal for the Fourth and Ninth Circuits as well as the California Court of Appeals. In addition, the undersigned counsel is reaching out to several well-regarded Supreme Court practitioners to explore their interest in serving as co-counsel on this case, and could use additional time to complete that process. Interested Party-Appellants' counsel accordingly requests that Interested-Party Appellants' time for filing a petition for writ of certiorari in this case be extended by 60 days, to and including April 19, 2024.

Respectfully submitted.



STEPHEN FRANCIS RAIOLA
Counsel of Record
KIBLER FOWLER & CAVE LLP
100 South Juniper, 3rd Floor
Philadelphia, PA 19107
(267) 710-3003
sraiola@kfc.law

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