

No.

In the

SUPREME COURT OF THE UNITED STATES

MOHAMED MOHAMED MOHAMUD, ISSA DOREH and
AHMED NASIR TAALIL MOHAMUD,

Petitioners

v.

UNITED STATES OF AMERICA,

Respondent

APPLICATION FOR EXTENSION OF TIME TO FILE PETITION
FOR A WRIT OF CERTIORARI

TO: The Honorable Elena Kagan, Associate Justice of the Supreme
Court of the United States and Circuit Justice for the United States
Court of Appeals for the Ninth Circuit

Pursuant to Supreme Court Rule 13.5 and Title 28 U.S.C. § 2101(c),
petitioners respectfully request an extension of 60 days to file a petition
for writ of certiorari to the United States Court of appeals for the Ninth

Circuit in *United States of America v. Moalin, et al v.*, Nos. 13-50572, et al.

This application is unopposed by respondent. (Email communication with Daniel Zipp, Assistant United States Attorney.

Oral argument was on November 10, 2016. On September 20, 2020, the Opinion was filed. A copy is attached as Exhibit A. A petition for panel rehearing and petition for rehearing en banc was filed by petitioners on November 13, 2020. Respondent USA filed a petition for rehearing en banc was filed on November 13, 2020 and denied the same day as untimely. Respondent USA filed a motion to extend time which was granted on December 1, 2020.

On January 15, 2021, the panel ordered petitioners to file a response to the USA's petition for rehearing en banc and the government was ordered to file a response to petitioners' petition for rehearing en banc.

On February 27, 2025, the panel unanimously voted to deny the petitions for rehearing. The full court had been advised of the petitions for rehearing en banc and no judge requested a vote on whether to rehear

the matter en banc. A copy of that order is attached as Exhibit B. The mandate was issued on March 5, 2025.

This Court has jurisdiction to review the Ninth Circuit's judgment pursuant to Title 28 U.S.C. §1255. A petition for writ of certiorari is currently due by May 28, 2025. This application is filed more than ten days before that date. The requested sixty-day extension would extend the due date to July 27, 2025.

Grounds for the Extension Request

As grounds for this request, petitioners state as follows:

1. This case involves important questions concerning the Fourth Amendment. The panel held that when it collected, pursuant to the Foreign Intelligence Surveillance Act (FISA), the telephony metadata of millions of American, including at least one of the defendants, the government may have violated the Fourth Amendment. However, the panel concluded suppression was not warranted on the facts of this case; “the panel was convinced that under established Fourth Amendment standards, the metadata collection, even if

unconstitutional, did not taint the evidence introduced by the government at trial.” Furthermore, the panel confirmed that the Fourth Amendment requires notice to a criminal defendant when the prosecution intends to enter into evidence or otherwise use or disclose information obtained or derived from the surveillance of that defendant conducted pursuant to the government’s foreign intelligence authorities. However, the panel did not decide whether the government failed to prove any required notice in this case because the lack of notice failed to prejudice the defendants.

2. Petitioner Issa Doreh maintains that contrary to the summary statement of the Ninth Circuit, there was insufficient evidence to support his conviction.

Good Cause Exists for the Extension Request

Good cause exists for the requested and unopposed sixty-day extension for filing the petition. This appeal has presented novel and complex issues concerning the collection of data pursuant to FISA. It should also be noted that counsel have represented their respective

petitioners for approximately 12 years and have worked closely in presenting consolidated briefs to the Ninth Circuit.

In addition to the fact that since the time of oral argument nearly nine years ago, there have been numerous decisions by various district and circuit courts on issues related to this petition – decisions which need further study and possible incorporation into the petition for writ of certiorari – the following circumstances have limited the time available to attorneys Missakian and Zugman to work on the cert petition.

- A. Counsel for Issa Doreh has been unable to work since early November 2024 due to a pelvic fracture and subsequent surgery on April 1, 2025. Based on her recovery to date and a further medical procedure, an extension of sixty days will enable her to participate in the preparation of the petition for writ of certiorari
- B. Counsel for Mohamed Mohamed Mohamud has pressing work commitments caused by time-sensitive appointments from the district court in rapid succession which prevents counsel from devoting the time necessary

to adequately prepare the petition by the current due date of May 28, 2025. In the Counsel had set aside time to work on the petition, however on April 8, 2025, he was appointed by District Court Judge Hayes to *United States v. Chaabani*, Southern District of California Case No. 24cr2713-WQH, which is a trial case eight weeks from now and which also has a bail appeal attached in the Ninth Circuit. *United States v. Chaabani*, 25-2650 Counsel has a reply brief due in June in the Ninth Circuit in *United States v. Kheyre*, Ninth Circuit Case No. 24-7529. Further, since April 8th, the Southern District of California has appointed attorney Zugman to three more substantive criminal cases. (See *United States v. Oropeza-Aguilar*, Case No. 25-MJ-01762-MSB (4/14/25); *United States v. Garcia Contreras*, Case No. 25-CR-01447-MSB-MSB; *United States v. Polanco-Casillas*, Case No. MJ-01796-LR (4/25/25), and a supervised release revocation in *United States v.*

Jaramillo, Case No. 22cr2561-JLS (4/24/25). The *Polanco* case is especially burdensome as the client is housed in El Centro, 115 miles from attorney Zugman's San Diego Office and so there will be a day used for travel to go Mr. Polanco. Furthermore, the CJA panel in the Southern District of California generally appoints a case or two a month to counsel on the panel. Since January 2025, attorney Zugman has been appointed to 14 cases. Counsel will pause his panel appointments prior to the June trial and then after that trial is completed, he will work on the cert petition in the instant case. That will be sufficient time to get the brief filed with a sixty-day extension.

Therefore, petitioners respectfully request a sixty-day extension for their petition for writ of certiorari, rendering it due on July 27, 2025. This extension is not sought for the purpose of delay but to enable counsel for petitioners to prepare an adequate petition for writ of certiorari in this important case.

Respectfully submitted,

By: /s/ *Elizabeth A. Missakian*
Counsel for Issa Doreh

/s/ *David Zugman*
Counsel for Mohamed Mohamed
Mohamud

/s/ *Benjamin Coleman*
Counsel for Ahmed Nasir Taalil
Mohamud

Dated: May 9, 2025