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IN THE

Supreme Court of the United States

AHMAD ABOUAMMO,

Applicant,

v.

UNITED STATES,

Respondent.

Application for Extension of Time Within Which to File a Petition for a Writ of Certiorari to the U.S. Court of Appeals for the Ninth Circuit

APPLICATION TO THE HONORABLE ELENA KAGAN AS CIRCUIT JUSTICE

JODI LINKER
CARMEN SMARANDOIU
OFFICE OF THE FEDERAL PUBLIC DEFENDER FOR THE NORTHERN DISTRICT OF CALIFORNIA
450 Golden Gate Avenue
San Francisco, CA 94102

TOBIAS S. LOSS-EATON
Counsel of Record
SIDLEY AUSTIN LLP
1501 K Street NW
Washington DC 20005
(202) 736-8427
tlosseaton@sidley.com

JEFFREY T. GREEN
DANIELLE HAMILTON
THE CARTER G. PHILLIPS/ SIDLEY AUSTIN LLP SUPREME COURT CLINIC
NORTHWESTERN PRITZKER SCHOOL OF LAW
375 East Chicago Ave.
Chicago, IL 60611

JAMES R. HORNER
SIDLEY AUSTIN LLP
787 7th Avenue
New York, NY 10019

Counsel for Applicant

June 5, 2025

APPLICATION FOR EXTENSION OF TIME

Under this Court's Rule 13.5, Applicant Ahmad Abouammo respectfully requests a 30-day extension of time within which to file a petition for a writ of certiorari, to and including July 16, 2025.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *United States* v. *Abouammo*, 122 F.4th 1072 (9th Cir. 2024), attached as Exhibit 1.

JURISDICTION

This Court will have jurisdiction over any timely petition under 28 U.S.C. § 1257(a). The Ninth Circuit denied a timely petition for rehearing on March 18, 2025 (Exhibit 2). Thus, under Rule 13.1, a petition to this Court is currently due by June 16, 2025. In accordance with Rule 13.5, this application is being filed at least 10 days before that date.

REASONS JUSTIFYING AN EXTENSION OF TIME

1. This case involves an important question of constitutional law dividing the federal appellate courts: Is the fact that a criminal defendant's conduct in one state had or might have effects in another state a sufficient basis for trying the defendant in the latter state, even if the potential effects are not elements of the charged offense?

When FBI agents based in San Francisco visited Ahmad Abouammo at his Seattle home as part of a criminal investigation, he created a fake invoice, which he then emailed to the agents while they were still in his home. Ex. 1 at 11. Based on

this conduct, Abouammo was tried and convicted in the Northern District of California for violating 18 U.S.C. § 1519, which prohibits (among other things) "knowingly … falsif[ying] … any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States."

On appeal, Abouammo argued that his prosecution in California based on conduct occurring solely in Washington violated the Constitution's guarantee that any criminal "[t]rial shall be held in the State where the said Crimes shall have been committed." U.S. CONST., Art. III, Sec. 2. The Ninth Circuit disagreed. It held that, where a "statute's language expressly contemplates a defendant falsifying a document with intent to impede an investigation, venue can be proper in either the district where the wrongful conduct was initiated—where the false record was created—or the district of the expressly contemplated effect—where the investigation it was intended to stymie is ongoing or contemplated." Ex. 1 at 37–38. And in the Ninth Circuit's view, Section 1519 "expressly contemplate[s] [] effects" because it has an explicit obstructive intent requirement. *Id.* at 42. In other words, the Ninth Circuit reasoned that even if Section 1519 does not require the prohibited conduct to have any effects on a federal investigation, the location of any potential effects is enough to establish venue because of the statute's intent requirement.

This analysis and holding conflict with decisions from this Court and other circuits. This Court held in *United States* v. *Rodriguez-Moreno* that venue must be based on where an offense's "essential conduct elements" occurred—as opposed to the

offense's "circumstance elements." 526 U.S. 275, 280 & n.4 (1999). But the court below determined venue based on the location of potential effects that are not elements of the offense at all. The Ninth Circuit's holding also conflicts with other circuits' recognition that "the location in which a crime's effects are felt is relevant to determining whether venue is proper" only where "an essential conduct element is itself defined in terms of its effects." *United States* v. *Auernheimer*, 748 F.3d 525, 537 (3d Cir. 2014) (cleaned up); see also *United States* v. *Bowens*, 224 F.3d 302, 312 (4th Cir. 2000) (same).

2. An extension is also warranted to allow counsel time to coordinate and prepare a petition that will aid the Court's review of these issues. Applicant has asked the Carter G. Phillips/Sidley Austin LLP Supreme Court Clinic at Northwestern Pritzker School of Law to help prepare the petition. Because the academic year has ended, the Clinic has no enrolled students and is thus short-staffed. In addition, the Clinic is responsible for forthcoming petitions for writs of certiorari in *Jerald* v. *United States*, No. 24A1141 (currently due July 3), *Zielinski* v. *United States*, No. 23-3575 (8th Cir.) (currently due July 8), and *Clay* v. *United States*, No. 24A1124 (currently due July 17). Undersigned counsel is also responsible for appellate briefing in *ManhattanLife Insurance* v. *HHS*, No. 25-4007 (government's brief currently due July 7), and ongoing dispositive-motion briefing in *Commuter Rail Division* v. *Union Pacific Railroad*, No. 1:25-cv-02439 (N.D. Ill.), and *State of Texas* v. *Union Pacific Railroad*, No. 1:25-cv-00627 (W.D. Tex.).

Further, in addition to her managerial and supervisory duties as Appellate Chief, applicant's appellate counsel is responsible for appellate briefing in *United States* v. *Gamez*, No. 25-1893 (9th Cir.) (currently due July 14, 2025), petition for rehearing en banc in *In re Davis*, --- F.4th ----, 2025 WL 1551409 (9th Cir. June 2, 2025) (currently due June 16, 2025), and dispositive-motion briefing in *United States* v. *Florendo*, No. 24-cr-618 TLT (N.D. Cal.). An extension will thus help the Clinic faculty work with co-counsel to complete a cogent and well-researched petition while also discharging these other obligations.

CONCLUSION

For these reasons, Applicant respectfully requests a 30-day extension of time within which to file a petition for a writ of certiorari, to and including July 16, 2025.

Respectfully submitted,

JODI LINKER
CARMEN SMARANDOIU
OFFICE OF THE FEDERAL PUBLIC DEFENDER FOR THE NORTHERN DISTRICT OF CALIFORNIA
450 Golden Gate Avenue
San Francisco, CA 94102

JEFFREY T. GREEN
DANIELLE HAMILTON
THE CARTER G. PHILLIPS/ SIDLEY AUSTIN LLP SUPREME COURT CLINIC
NORTHWESTERN PRITZKER SCHOOL OF LAW
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