

No. 17A821

IN THE SUPREME COURT OF THE UNITED STATES

ROBERT J. RICE, Petitioner,

v.

UNITED STATES, Respondent.

**APPLICATION FOR SECOND EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT**

TO THE HONORABLE SAMUEL A. ALITO, ASSOCIATE JUSTICE OF THE
SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE
FOR THE THIRD CIRCUIT:

Pursuant to this Court's Rules 13.5 and 30.2, applicant-petitioner Robert J. Rice prays for an additional 30-day extension of time to file his petition for a writ of certiorari in this Court to and including April 16, 2018 (the sixtieth day being Sunday, April 15).

1. On February 6, 2018, the Circuit Justice granted the applicant's initial, timely request for a 30-day extension, through Friday, March 16, 2018.

2. As noted in the initial Application, the applicant first advised counsel on January 29, 2018, that he had been able to make arrangements to retain the undersigned for purposes of filing a petition. Those arrangements involved the sale of two parcels of real estate. On February 27, 2018, the applicant's grown son called to advise the undersigned that one parcel had sold and the sale had closed, generating

more than enough funds, and that the proceeds would be transferred to the escrow account of the applicant's divorce attorney for re-transfer of the retainer to the undersigned. Two days later, counsel was advised that transfer of the funds was delayed for a short time. As of today, March 2, 2018, counsel is advised by the divorce attorney that the funds have not been received, and once received cannot be released to the undersigned without approval of the family court judge overseeing the applicant's divorce (which counsel was assured would be likely, if not routine, as the funds in question are not, we are told, marital assets).

3. On Sunday, March 4, 2018, the undersigned is scheduled to travel from Philadelphia to Denver in connection with the anticipated birth this weekend of counsel's first grandchild. Counsel expects to be out of the office for almost a week on this most important family matter, with little time to work, leaving insufficient time on his return to complete the petition by the first extended due date of March 16, even if retained early next week.

4. As noted in the initial extension application, this case presents a properly-preserved issue of a character consonant with this Court's exercise of its certiorari jurisdiction, to wit:

The 1968 federal Wiretap Act, 18 U.S.C. §§ 2510–2522, as amended by the 1986 Electronic Communications Privacy Act, provides for “suppression” of illegally seized “wire” and “oral” communications but not of illegally seized “electronic communications.” See *id.* §§ 2515, 2518(10)(a), 2518(10)(c). Yet the Act also provides that witnesses must not “disclose” illegally seized “electronic communications” through testimony during a trial. *Id.* §§ 2511(1)(c), 2517(3). In light of these seemingly conflicting provisions of

the governing statute, is the court required to bar admission at trial of testimony that discloses illegally seized electronic communications?

5. Applicant Rice is currently incarcerated serving a court martial sentence which runs concurrently with the sentence at issue in this case. He does not seek delay for any tactical advantage. For the same reasons, the government would not be prejudiced by the requested extension.

WHEREFORE, the Applicant-Petitioner prays that the Circuit Justice enter an Order extending the time within which he may petition this Court for certiorari by an additional 30 days, to and including April 15, 2018, making the petition due not later than Monday, April 16, 2018.

Dated: March 2, 2018

Respectfully submitted,

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