

FEDERAL PUBLIC DEFENDER

FOR THE NORTHERN DISTRICT OF TEXAS

JASON D. HAWKINS
FEDERAL PUBLIC DEFENDER

500 SOUTH TAYLOR STREET
SUITE 110
AMARILLO, TEXAS 79101

J. MATTHEW WRIGHT
ASSISTANT FEDERAL PUBLIC DEFENDER
matthew_wright@fd.org

PHONE 806-324-2370

Via Electronic Filing and Federal Express

April 10, 2023

Scott S. Harris
Clerk of the Court
United States Supreme Court
1 First Street, N.E.
Washington, D.C. 20543

**Re: *United States v. Zackey Rahimi*, No. 22-915: Respondent's Request for
Extension of Time**

Dear Mr. Harris:

The petition in the above-captioned case was filed March 17, 2023. The Brief in Opposition is due April 20, 2023. I am writing to request an extension of that deadline to and including May 23, 2023. *See* S. Ct. R. 15.3; 30.4.

I cannot complete an adequate Brief in Opposition by the current deadline without compromising representation of other clients. Preparing the BIO in this case will be a substantial undertaking. Petitioner casts a wide net in its search for historical firearm laws resembling 18 U.S.C. § 922(g)(8), including at least one short-lived order from South Carolina's military government that Petitioner never cited below. Pet. 10. At least six other attorneys have given notice that they intend to file *amicus curiae* briefs in support of Petitioner, and some of those briefs may also cite obscure historical provisions. I will need an extension to respond to *amici* as well as the petition.

The petition was filed Friday, March 17, 2023. I have been and will be fully engaged working on these other matters:

- CLE Presentation: "Federal Sentencing According to the Statutes and the Guidelines," Amarillo Federal Criminal Practice Seminar (March 27, 2023)

- *United States v. Green*, 5th Cir. No. 22-11034 (Initial Brief was due March 28, 2023, after one extension; a dispositive motion filed that day remains pending);
- *United States v. EtchisonBrown*, 5th Cir. No. 22-10892 (Initial Brief was filed March 31);
- *Vickers v. United States*, N.D. Tex. No. 3:15-cv-3912 (Supplemental Brief on remand in a complex 28 U.S.C. § 2255 action is due today (April 10) after one extension);
- *Gonzalez-Enriquez v. United States* (The petition for certiorari is due April 11);
- *United States v. Wallace*, 5th Cir. No. 22-11116 (The Initial Brief is due April 13, after two extensions);
- *United States v. Cariaga*, 5th Cir. 22-11243 (The Initial Brief is due April 13, after one extension)
- *Wooten v. Lumpkin*, 5th Cir. No. 21-10924 (The Initial Brief is due April 21, after multiple extensions);
- *United States v. Clark*, N.D. Tex. No. 3:16-cr-109 (Objections to Presentence Report Addendum on remand from Fifth Circuit are due April 14; objections to the next PSR addendum will be due May 12; and the court will re-sentence my client on June 16);
- *Perez-Mendoza v. United States* (The petition for certiorari is due April 17);
- *United States v. Mayes*, 5th Cir. No. 22-10929 (The Initial Brief is due April 18, after my extension request was granted in part);
- *United States v. Rose*, 5th Cir. No. 22-10571 (The Initial Brief is due April 24)
- *Sosebee v. United States* (The petition for certiorari is due May 2);
- *Wheeler v. United States* (The petition for certiorari is due May 3);
- *Jimenez v. United States*, N.D. Tex. No. 2:16-cr-83 (A magistrate judge will preside over a change-of-plea hearing on May 10 after the district court vacated Mr. Jimenez's convictions and life sentence under 28 U.S.C. § 2255. We negotiated a new plea agreement.); and
- *United States v. Diggs*, 5th Cir. No. 20-10583 (The petition for rehearing is due May 12).

I will surely have to seek extensions in some of those cases. Even so, I expect to have those assignments either completed or transferred to someone else after the rehearing deadline in *Diggs*. I will then be free to fully focus on this case. I have stopped accepting new appellate assignments and already transferred any cases with deadlines after May 12. We even hired an experienced appellate attorney who will step in and accept new assignments to relieve some of the deadline pressure on my colleagues while I am working on this case. But she cannot begin until May, and it would be difficult to re-distribute all the cases listed above because of complex procedural histories and governing law. I have been working on *Vickers*, *Wooten*, *Rose*, *Sosebee*, *Wheeler*, *Jimenez*, and *Diggs* for years.

Respondent will not gain any unfair advantage if the Court extends the deadline. As of the date of this letter, Respondent is not yet in federal custody. He is awaiting trial in state court on several pending charges, some of which are related to the federal conviction. The Fifth Circuit issued its mandate, but the district court has not yet dismissed the case against Respondent.

This Court routinely extends BIO deadlines by 60 days or more. *See, e.g., Morton v. United States*, No. 22-6489 (Original deadline February 8, 2023; deadline extended to April 10, 2023); *Dominguez-Morales v. United States*, No. 22-6475 (Response requested by March 17, 2023; deadline extended to April 17 and additional extension requested to May 8); *Vargas-Soto v. United States*, No. 22-5503 (Original deadline October 3, 2022; deadline extended to December 2); *Lipscomb v. United States*, No. 22-5159 (Response requested by September 16, 2022; deadline extended to November 16). In each of those cases, Petitioner here was the respondent and someone from my office represented the petitioner. In each of those cases, we consented to extensions beyond 30 days.

I may need additional time beyond May 23. If so, I will file a motion or application after conferring with opposing counsel.

Respectfully submitted,

/s/ J. Matthew Wright

Assistant Federal Public Defender
500 South Taylor Street, Suite 110
Amarillo, Texas 79101
Matthew_Wright@fd.org

Counsel for Respondent

Cc:

Via e-mail, electronic filing, and FedEx:
Office of the Solicitor General

Via e-mail:

Alex Hemmer

Benjamin G. Shatz

Fredericka Sargent

Minh Nguyen-Dang

Andrew Weber

Michael R. Dreeben