

No.

IN THE
Supreme Court of the United States

JOSEPH SULLIVAN,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

**APPLICATION FOR A 30-DAY EXTENSION OF TIME WITHIN WHICH TO
FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**

Application to the Honorable Elena Kagan,
as Circuit Justice for the Ninth Circuit

Pursuant to Supreme Court Rule 13.5, Applicant Joseph Sullivan, hereby requests a 30-day extension of time, to and including March 12, 2026, within which to file a petition for a writ of certiorari.

1. The decision below is *United States of America v. Joseph Sullivan*, No. 23-927 (9th Cir. 2025). The Ninth Circuit issued its opinion on amended opinion on March 13, 2025 and subsequently amended the opinion and denied rehearing en banc on November 12, 2025, *see* App. A. Unless extended, Applicant's time to seek certiorari in this Court expires February 10, 2026. Applicant is filing this application at least ten days before that date. *See* S. Ct. R. 13.5. This Court's jurisdiction

would be invoked under 28 U.S.C. § 1254(1). Respondent does not object to this extension request.

2. This case presents a novel issue on a voluminous record. After a nearly month-long trial, Mr. Sullivan was convicted on charges of obstruction of justice, in violation of 18 U.S.C. § 1505, and misprision of a felony, in violation 18 U.S.C. § 4, for his role in responding to a data-security incident at Uber in November 2016 while he was employed there. Petitioner Joe Sullivan protected hundreds of thousands of Uber drivers’ personal information from public exposure—and was prosecuted for it.

The district court failed to instruct the jury that it needed to find a “nexus” between Mr. Sullivan’s allegedly obstructive acts and the government’s investigation. The panel relied on *United States v. Bhagat*, 436 F.3d 1140 (9th Cir. 2006), to affirm—even after the government conceded on appeal that *Bhagat* wrongly rejected a nexus requirement for § 1505. App. A 10-13. *Bhagat* conflicts with Supreme Court precedent and decisions of other circuits.

3. Good cause exists for a 30-day extension. An extension is justified by the press of business on numerous other pending matters. Counsel of Record has an oral argument on February 3 in *Massoumi v. Ganju*, No. 2024-07636 (N.Y. App. Div.) and oral argument on February 11 in *Doe 1 v. GitHub, Inc.*, No. 24-7700 (9th Cir.).

4. The requested 30-day extension would cause no prejudice to Respondent, who has advised that it has no objection to the extension.

5. For the foregoing reasons, Applicant hereby requests that an extension of time be granted, up to and including March 12, 2026, within which to file a petition for certiorari.

Respectfully submitted,

/s/Christopher J. Cariello

Christopher J. Cariello

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