

No. 25A1070

IN THE  
SUPREME COURT OF THE UNITED STATES

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UNITED STATES OF AMERICA.

Plaintiff-Appellee,

v.

MOTTY MIZRAHI,

Defendant-Appellant.

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

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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 Rules 13.5 and 22, Appellant Motty Mizrahi respectfully requests a second 30-day extension of time, to and including June 5, 2026, in which to file a petition for writ of certiorari to the United States Court of Appeals for the Ninth Circuit to review that court's decision in *United States v. Mizrahi*, No. 23-4399. The Court of Appeals issued its memorandum decision on October 1, 2025. App. A. The Court

denied Mr. Mizrahi's timely petition for rehearing and rehearing en banc. On March 30, 2026, this Court granted an initial 30-day extension until May 6, 2026. Petitioner is filing this Application at least ten days before that date. S. Ct. R. 13.5. This Court has jurisdiction over the judgment under 28 U.S.C. § 1254(1).

The case will present substantial and important questions of federal law including whether the Ninth Circuit's interpretation of the federal aggravated identity theft statute, 18 U.S.C. § 1028A, conflicts with this Court's decision in *Dubin v. United States*, 599 U.S. 110 (2023), and settling the correct standard of review to apply when addressing whether a particular set of facts triggers a sentencing guideline enhancement.

### **Reasons for Granting an Extension of Time**

The time to file a petition for writ of certiorari should be extended for thirty days for the following reasons.

During the previous month, counsel has drafted and filed an extensive reply brief in a habeas case, a motion to dismiss an appeal, a petition for rehearing, and a motion to recall a circuit court's mandate.

In the next two weeks, counsel has to file an application for certificate of appealability and two reply briefs.

The foregoing commitments will limit counsel's availability to work on this matter between now and May 6, 2026. Counsel is a sole practitioner who is unable to assign the foregoing tasks to another lawyer in his firm.

In addition, there is pending in the circuit court below a motion to recall the mandate and to vacate the order denying rehearing in light of subsequently published decision rejecting the cases that the panel relied on to affirm the judgment in Mr. Mizrahi's case. If the panel were to grant that relief, a certiorari petition would be premature and one of the issues currently anticipated to be included could become moot.

Counsel has been working diligently on these tasks, along with the certiorari petition in this case, but will be unable to finalize this petition before its current May 6 due date. In order to more thoroughly research the legal issues and prepare an appropriate petition for consideration by this Court, counsel requests an extension permitting a petition for writ of certiorari to be filed on or before June 5, 2026.

Respectfully Submitted,

LAW OFFICES OF TARIK S. ADLAI



Tarik S. Adlai

*Counsel of Record*

Attorney for Petitioner

APRIL 21, 2026.