No. 25A_____

In the Supreme Court of the United States

GEORGE ANIBOWEI,

Applicant,

v.

TODD BLANCHE, ACTING U.S. ATTORNEY GENERAL; U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. CUSTOMS AND BORDER PROTECTION; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN, SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY; RODNEY S. SCOTT, COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION; DAVID J. VENTURELLA, SENIOR OFFICIAL PERFORMING THE DUTIES OF THE DIRECTOR OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT.

APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicant George Anibowei respectfully requests a 60-day extension of time, to and including August 17, 2026, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Fifth Circuit issued its opinion on November 19, 2025. A copy of the opinion is attached as Exhibit A. The Fifth Circuit denied Applicant's timely petition for rehearing en banc on March 20, 2026. A copy of the order is attached as Exhibit B. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on June 18, 2026. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case by Applicant.

3. This case seeks review of an exceptionally important question that has divided courts throughout the country: Whether the government's Directives authorizing border agents to search the contents of electronic devices without warrants or suspicion violate the Fourth Amendment. The United States has itself sought certiorari on this Fourth Amendment question, explaining that it implicates an "entrenched circuit conflict on an important and recurring Fourth Amendment issue" "with considerable practical importance for border officials' inspection of the hundreds of millions of travelers at U.S. ports of entry each year." Pet. for Writ of Cert. at 13, 22, *United States v. Cano*, No. 20-1043 (filed Feb. 1, 2021).

4. In *Riley v. California*, 573 U.S. 373, 396 (2014), this Court held that the search incident to arrest exception did not extend to searches of cell phones, reasoning that "a cell phone search would typically expose to the government far *more* than the most exhaustive search of a house." The Court explained that, given the quantitative and qualitative distinctions between cellphones and other effects, "any extension of" the traditional warrant exceptions "to digital data has to rest on its own bottom." *Id.* at 393. That should have made clear that extending the border search exception to cellphone searches must be independently justified. And it cannot be. *See* Orin Kerr, *The Digital Fourth Amendment: Privacy and Policing in Our Online World* 120-25 (2025). Nevertheless, numerous lower courts have inverted *Riley*'s reasoning, declining to "*extend*

Riley v. California to border searches," rather than conducting the inquiry the other way around, as *Riley* requires. *See, e.g.*, *Malik v. DHS*, 78 F.4th 191, 201 (5th Cir. 2023) (emphasis added).

5. Specifically, the Eleventh Circuit has held that no individualized suspicion at all is required to conduct a search of the digital data on a cell phone at the border—no matter how intrusive the search. *United States v. Vergara*, 884 F.3d 1309 (11th Cir. 2018); *United States v. Touset*, 890 F.3d 1227 (11th Cir. 2018). Additionally, at least five other circuits have concluded that border agents may conduct manual border searches of cell phone data without any particularized suspicion, while holding that, at most, reasonable suspicion is required to conduct a forensic search. *Alasaad v. Mayorkas*, 988 F.3d 8 (1st Cir. 2021); *United States v. Castillo*, 70 F.4th 894 (5th Cir. 2023); *Malik*, 78 F.4th 191; *United States v. Mendez*, 103 F.4th 1303 (7th Cir. 2024); *United States v. Xiang*, 67 F.4th 895 (8th Cir. 2023); *United States v. Williams*, 942 F.3d 1187 (10th Cir. 2019). Finally, and more consistent with *Riley*, two circuits, and multiple district courts in a third, have held that warrants *are* required to search cell phones at the border in many or virtually all circumstances. *United States v. Aigbekaen*, 943 F.3d 713 (4th Cir. 2019); *United States v. Cano*, 934 F.3d 1002 (9th Cir. 2019); *see, e.g.*, *United States v. Smith*, 673 F. Supp. 3d 381 (S.D.N.Y. 2023) (Rakoff, J.), *appeal pending*, No. 24-1680 (2d Cir.).

6. Applicant here is a U.S. citizen and immigration attorney living and working in Texas who often travels internationally for both work and leisure. ROA.563-64. On October 10, 2016, border agents at Dallas-Fort Worth International Airport seized Applicant's cell phone as he returned home from a weekend visit to Toronto. ROA.568.

Acting without a warrant or any individualized suspicion, the agents reviewed and copied the data on his phone, which they retain to this day. ROA.550, 568-69; Oral Arg. at 16:43-18:41 (acknowledging "there still is data in the government's possession"). Since that initial forensic search, border agents have warrantlessly searched Applicant's phone at least four additional times. ROA.569. As a result, although Applicant continues to travel internationally, he has been forced to stop carrying his work phone abroad. ROA.569-70.

7. Applicant has been seeking to prevent future warrantless searches, and the return of his personal and client data, for a decade. Applicant initially filed a preliminary injunction motion, but that motion was denied, the Fifth Circuit affirmed on the basis of irreparable harm, ROA.967-79, and this Court denied certiorari at that preliminary stage, *Anibowei v. Mayorkas*, 144 S. Ct. 551 (2024). When the case returned to the district court, that court concluded that Applicant's claim was foreclosed by the Fifth Circuit's intervening decisions in *Castillo* and *Malik*.

8. On November 19, 2025, a new Fifth Circuit panel affirmed the dismissal of Applicant's complaint in a four-page, per curiam opinion. Like the district court, the panel explained that it was bound "to follow *Castillo* and *Malik*," which "foreclose [Applicant's] argument." Op.4. The panel made clear that its affirmance was only "due to the rule of orderliness." Op.4; *see* Op.3 n.2. And it emphasized that the question at issue here is clearly and cleanly presented: "this case turns squarely *and solely* on the question whether the Fourth Amendment generally requires warrants to search cell phones at the border." Op.4. The Fifth Circuit denied Applicant's timely petition for rehearing en banc on March 20, 2026. Ex. B.

9. Applicant respectfully requests a 60-day extension of time to file a petition for writ of certiorari. A 60-day extension would allow counsel sufficient time to fully research and analyze the issues presented, coordinate with co-counsel, and manage numerous competing deadlines in matters before this Court and other federal courts.

10. Moreover, this Court is currently considering another Fourth Amendment new technology case, *Chatrie v. United States*, No. 25-112, the disposition of which may inform the content of this petition. A 60-day extension would permit Applicant to file his petition on a timeline that averts the need for supplemental briefing in light of *Chatrie*.

Wherefore, Applicant respectfully requests that the time to file a petition for a writ of certiorari be extended to and including August 17, 2026.

Dated: May 22, 2026

Respectfully submitted,

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