

No. _____

In the Supreme Court of the United States

BAOMING CHEN,

Applicant,

v.

KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE DEPARTMENT OF
HOMELAND SECURITY; UR M. JADDOU, IN HER OFFICIAL CAPACITY AS DIRECTOR OF U.S.
CITIZENSHIP & IMMIGRATION SERVICES.

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

To the Honorable Sonia Sotomayor, Associate Justice of the Supreme Court of the
United States and Circuit Justice for the United States Court of Appeals for the Second
Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicant Baoming Chen respectfully
requests a 60-day extension of time, to and including February 7, 2026, within which to file
a petition for a writ of certiorari. The United States Court of Appeals for the Second Circuit
dismissed the appeal as moot in a summary order on May 22, 2025. A copy of the summary
order is attached as Exhibit A. The Second Circuit denied a timely petition for rehearing
and petition for rehearing en banc on September 10, 2025. 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 December 9, 2025. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case.

3. This case presents an exceptionally important recurrent question of federal law regarding the application of mootness doctrine over which the Circuits are squarely divided: Whether a “voluntary cessation of offensive conduct will only moot litigation if it is clear that the defendant has not changed course simply to deprive the court of jurisdiction.” *Harrell v. The Fla. Bar*, 608 F.3d 1241, 1266 (11th Cir. 2010) (quoting *Nat’l Advert. Co. v. City of Miami*, 402 F.3d 1329, 1333 (11th Cir. 2005)).

4. Baoming Chen entered the United States without inspection over twenty years ago and has been trying to normalize his immigration status since that time, with the assistance of his citizen sister, so that he can help care for their elderly parents. At what should have been the tail end of that process, in April 2021, Mr. Chen filed an application with U.S. Citizenship and Immigration Services (“USCIS”) for a “Provisional Unlawful Presence Waiver,” which would allow him to travel to China to complete a visa interview. That application, the nine-page USCIS Form I-601A, should have been granted virtually instantaneously. Yet after two years of waiting, USCIS still had not acted. With his parents diagnosed with anxiety and depression due to his unsettled immigration status, Mr. Chen filed a lawsuit in February 2023 alleging “unreasonable delay,” which the government vigorously contested. After a year of litigation, and three years after Mr. Chen filed his I-601A form, the district court dismissed Mr. Chen’s complaint, holding that USCIS’s delay was not sufficiently egregious to warrant an order compelling agency action.

5. Mr. Chen timely appealed to the Second Circuit. On the very next business day, 3.5 years after his application was submitted, USCIS granted Mr. Chen's I-601A waiver. The government then argued Mr. Chen's appeal was moot.

6. The Second Circuit agreed in a summary order, applying a test that excuses a party's calculated cessation of unlawful conduct to evade a federal court's jurisdiction so long as "(1) there is no reasonable expectation the action will recur, and (2) interim relief or events have completely and irrevocably eradicated the effects of the alleged violation." Exhibit A at 4.

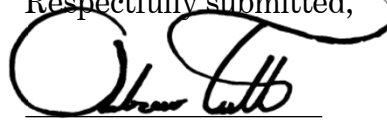
7. The panel's decision deepens a circuit split over whether courts retain jurisdiction to hear and decide a case whenever a party unilaterally ceases unlawful conduct with the deliberate purpose of evading a possible adverse decision by a court, as the Eleventh Circuit holds, or whether such tactical conduct is permitted so long as there is no "reasonable expectation" the action will recur, and the "effects" of the alleged violation have been "irrevocably eradicated," as the Second Circuit holds.

8. Applicant respectfully requests an extension of time to file a petition for a writ of certiorari. A 60-day extension would allow counsel of record sufficient time to fully examine the Second Circuit's decision's consequences, research and analyze the issues presented, and prepare the petition for filing. Additionally, the undersigned counsel has a number of other pending matters that will interfere with counsel's ability to file the petition on or before December 9, 2025.

Wherefore, Applicant respectfully request that an order be entered extending the time to file a petition for a writ of certiorari to and including February 7, 2026.

Dated: November 12, 2025

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew T. Tutt", written over a horizontal line.

Andrew T. Tutt

Counsel of Record

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