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IN THE SUPREME COURT OF THE UNITED STATES

ISAAC TEKOLA,
Applicant / Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

Application for an 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

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July 30, 2026

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APPLICATION FOR EXTENSION OF TIME

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

Pursuant to Rule 13.5 of the Rules of this Court and 28 U.S.C. § 2101(c), Applicant Isaac Tekola prays for a 30-day extension of time within which to file a petition for a writ of certiorari in this Court, to and including Thursday, September 17, 2026.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *United States v. Tekola*, 176 F.4th 606 (9th Cir. 2026), a copy of which is attached as Exhibit A.

JURISDICTION

The United States Court of Appeals for the Ninth Circuit entered judgment via the filing of an amended opinion upon denial on rehearing en banc on May 20, 2026. This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254. Under Rules 13.1, 13.3, and 30.1 of this Court, Applicant's current time to petition for a writ of certiorari expires on Tuesday, August 18, 2026.

In accordance with Rule 13.5, Applicant has filed this application more than 10 days in advance of that date.

REASONS JUSTIFYING AN EXTENSION OF TIME

Petitioner Isaac Tekola seeks additional time to file his petition for certiorari in this case, which concerns the correct interpretation of the sentencing enhancement

for maintaining a drug premises under U.S.S.G. § 2D1.1(b)(12). The proper interpretation of the enhancement is important in its own right because application of the enhancement meaningfully increases the Guidelines range for a drug offender, and so its misapplication improperly drives up already harsh federal drug sentences. But the Guideline is also based on and shares language with 21 U.S.C. § 856(a), so its interpretation has implications for that statute as well.

Mr. Tekola pleaded guilty to four counts of violating 21 U.S.C. §§ 841(a)(1), (b). At sentencing, the district court applied the § 2D1.1(b)(12) enhancement, which provides for a 2-level increase in the offense level for “maintain[ing] a premises for the purpose of manufacturing or distributing a controlled substance.” The Guideline commentary instructs that for the enhancement to apply, “[m]anufacturing or distributing a controlled substance . . . must be one of the defendant’s primary or principal uses for the premises, rather than one of the defendant’s incidental or collateral uses for the premises.” U.S.S.G. § 2D1.1 cmt. n.17. It further instructs that “[i]n making this determination, the court should consider how frequently the premises was used by the defendant for manufacturing or distributing a controlled substance and how frequently the premises was used by the defendant for lawful purposes.” *Id.*

The premises in question in this case was not a stash house, crack house, or drug den, but Mr. Tekola’s Santa Barbara home, where he lived with a roommate. While Tekola at times sold drugs to some trusted clients from home and had a safe in his bedroom in which he stored drugs and cash, there was no evidence that any room

of the home was dedicated to drug purposes or that his incidental use of his home in his drug business interfered with or in any way impinged on his primary use of the home as a place to live and sleep. The Ninth Circuit nonetheless affirmed the district court's decision. Notwithstanding the Guideline commentary's instruction that a sentencing court determine whether drug distribution was a primary purpose of a home by considering the relative frequency with which the home was used for drug purposes against the frequency of its use for lawful purposes. U.S.S.G. § 2D1.1 cmt. n.17, the Ninth Circuit held that no "explicit[]" comparison was required. *Tekola*, 176 F.4th at 611. To demonstrate that the district court did not err, it cited, *inter alia*, a case in which the Eighth Circuit held that only three controlled drug buys at a residence was enough to establish that drugs sales were a primary purpose of that residence. *Id.* at 610-11 (citing *United States v. Miller*, 698 F.3d 699, 706-07 (8th Cir. 2012)). It is anticipated that a petition for certiorari in this matter will demonstrate that the Ninth Circuit's holding is contrary to both the text of the Guideline and the commentary, misunderstanding what it means to maintain a residence for a purpose and what it means to be a "primary" use of a residence.

Undersigned counsel needs additional time to prepare a petition that will assist the Court in deciding whether to grant certiorari. Undersigned counsel is the only attorney assigned to this matter. Because of a colleague's extended illness, he is currently the Acting Chief of Writs and Appeals for the Office of the Federal Public Defender for the Central District of California, and the Acting Administrator of the Criminal Justice Act Appellate Panel and Appellate Appointing Authority for the

same district. Those positions carry substantial and time-consuming administrative and supervisory responsibilities. In the time between now and the current deadline for the petition, he has a merits brief due on August 7, 2026, to the California Supreme Court in *United States v. Anthony Valentino Soto and Stephen Reid*, Cal. Supreme Ct. No. 294703. He also has a long-planned and pre-paid family trip out of the country and to the East Coast. He is scheduled to return to the office on Friday, August 14, 2026, which will not leave enough time to properly prepare a certiorari petition in this matter before the current August 18, 2026, deadline.

In light of these circumstances, counsel for Mr. Tekola requests an additional 30 days, to and including September 17, 2026, to file the petition for certiorari in this matter.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that an order be entered extending the time to file his petition for a writ of certiorari to and including September 17, 2026.

Respectfully submitted,

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