

No. _____

IN THE
Supreme Court of the United States

MAHMOUD KHALIL,

Applicant,

— V. —

DONALD J. TRUMP, ET AL.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE THIRD CIRCUIT

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

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To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court and Circuit Justice for the Third Circuit:

Pursuant to this Court's Rules 13.5 and 30.2, Applicant Mahmoud Khalil respectfully requests an extension of time of 30 days in which to file a petition for a writ of certiorari to review the judgment of the Third Circuit Court of Appeals, from August 20, 2026, until September 21, 2026.

In support of this motion, Mr. Khalil submits the following:

1. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1254(1).
2. On January 15, 2026, the U.S. Court of Appeals for the Third Circuit issued its decision vacating the district court's order granting Mr. Khalil habeas relief. That decision, along with concurring and dissenting opinions, is reported at 164 F.4th 259, and a copy is attached hereto (Appendix A).
3. Mr. Khalil filed a timely petition for rehearing en banc, which the court of appeals denied by a vote of 6 to 5 on May 22, 2026, per the attached order (Appendix B).
4. In a May 26 order (Appendix C) and a June 4 clarification order (Appendix D), the court of appeals stayed the appellate mandate for 90 days from the date the court denied Mr. Khalil's petition for en banc review and for up to an additional 30 days should this Court grant any request for an extension of time to file his petition for certiorari. The court of appeals further indicated that if Mr. Khalil files a timely petition for a writ of certiorari, the mandate will be stayed pending this Court's final disposition of the petition.

5. Pursuant to Supreme Court Rules 13.1 and 30.2, the petition for certiorari is currently due in this Court on August 20, 2026. This Application is timely filed under Rule 13.1. Mr. Khalil respectfully requests a 30-day extension, through September 21, 2026.

6. The forthcoming petition arises from the government's detention of Mr. Khalil, then a lawful permanent resident, on March 8, 2025. The government charged him as removable under 8 U.S.C. § 1182(a)(3)(C)(iii) (the "Foreign Policy Ground"), based on a determination by Secretary of State Marco Rubio that Mr. Khalil's expressive activity, which was "otherwise lawful," would "compromise a compelling foreign policy interest" (the "Rubio Determination"). Within hours of his arrest, Mr. Khalil filed a habeas petition in the Southern District of New York challenging both his detention and deportation on various constitutional grounds.

7. After the case was transferred to the District of New Jersey, where the Mr. Khalil was in government custody at the time of the filing of his habeas petition, the district court issued thorough opinions confirming its habeas and subject matter jurisdiction and, on June 11, granted a preliminary injunction prohibiting Respondents from detaining or seeking to remove Mr. Khalil based on the Rubio Determination. On June 20, the court ordered him released on bail.

8. On appeal, a divided panel of the Third Circuit reversed the district court's preliminary injunction and bail order based solely on the majority's conclusion that a provision of the Immigration and Nationality Act, 8 U.S.C. § 1252(b)(9), strips federal courts of subject-matter jurisdiction over Mr. Khalil's First and Fifth

Amendment challenges to not only his removal but also to his unlawful detention. All three members of the panel agreed that the district court had habeas jurisdiction over the petition. No judge reached the merits of the district court's injunction or bail order.

9. The important federal issues presented by this case include whether 8 U.S.C. § 1252(b)(9) strips a district court of habeas jurisdiction over a constitutional challenge to detention where no federal court can review that detention absent such jurisdiction; whether 8 U.S.C. § 1252(b)(9), if interpreted to bar habeas review of detention claims, would violate the Suspension Clause of the U.S. Constitution, art. I., § 9, cl. 2; and whether 8 U.S.C. § 1252(b)(9), if interpreted to bar habeas review of a First Amendment detention claim, would violate the First Amendment's requirement of speedy review where irreparable First Amendment harms are at issue.

10. These questions, among others, are worthy of careful consideration and should be developed for this Court's review. The same and similar questions are also currently before at least three other federal courts of appeal. *See Mahdawi v. Trump*, No. 25-1113 (2d Cir.) (oral argument held Sept. 30, 2025); *Suri v. Trump*, No. 25-1560 (4th Cir.) (oral argument held Mar. 17, 2026); *Hoque v. Trump*, No. 25-2516 (8th Cir.) (oral argument not yet scheduled).

11. Counsel for Mr. Khalil seek additional time in light of significant other case commitments. Applicant's counsel have numerous other briefing deadlines in this Court prior to or just after the current deadline, including anticipated merits

briefing in *Genalo v. Black*, No. 25-886 (cert. granted June 15, 2026); a brief in opposition to the government’s petition for a writ of certiorari in *Raycraft v. Lopez-Campos*, No. 25-1415; a brief in opposition to a petition for a writ of certiorari in *Bird v. Iowa Migrant Movement for Justice, et al.*, No. 25A1130; and an anticipated petition for a writ of certiorari in *Nathan v. Alamo Heights Independent School District*, No. 26A15.

12. Counsel for the government indicated to Applicant’s Counsel that it does not consent to the relief requested in this Application. However, the government will suffer no prejudice from a routine 30-day extension of time. The district court’s injunction has remained in effect since June 2025, and an additional 30 days will make no meaningful difference to the government, particularly where the government itself has sought and received extensions of time throughout the course of the litigation. *See, e.g.*, Resp.-Appellants’ Mot. for a 14-Day Extension of Time to File Resp. to Pet.’s Pet. for Reh’g En Banc at 3 (government filing emphasizing lack of harm from additional delay of appellate proceedings), *Khalil v. Trump*, No. 25-2162 (3d Cir. Apr. 8, 2026), Dkt. #149.

13. To the extent that the government’s basis for withholding consent for this Application mirrors its opposition to the court of appeals’ stay of its appellate mandate, the court of appeals has already evaluated those arguments in deciding Mr. Khalil’s motion for a stay of the mandate. As discussed above, even after ruling against Mr. Khalil and reversing the district court’s injunction, the court of appeals (which has overseen this case in multiple guises for more than a year and is well

familiar with its facts, claims, and equities) granted Mr. Khalil’s motion to stay its mandate pursuant to Fed. R. App. P. 41(d)(1), which permits a stay of an appellate mandate where a petition for certiorari will present “substantial questions” for Supreme Court review and there is otherwise “good cause.” The court of appeals stayed the mandate (which preserves the effect of the district court’s injunction) for an initial 90 days and up to an additional 30 days should this Court grant an extension of time to file a petition, and if a petition is timely filed, the court of appeals further stayed the mandate until this Court finally disposes of it. *See* Appendices C & D.

For the foregoing reasons, Applicant Mahmoud Khalil respectfully requests an extension of the time to file a Petition for Writ of Certiorari in this case for thirty days, up to and including September 21, 2026.

Dated: July 15, 2026

Respectfully submitted,

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