

IN THE SUPREME COURT OF THE UNITED STATES

No. 26A90

MAHMOUD KHALIL, APPLICANT

v.

DONALD J. TRUMP, et al.

OPPOSITION TO AN 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 THIRD CIRCUIT

Applicant Mahmoud Khalil seeks a 30-day extension of time, to and including September 21, 2026, to file a petition for a writ of certiorari seeking review of the court of appeals' decision dismissing his collateral attack on his removal proceedings. The government opposes that extension and respectfully requests that it be denied.

1. Applicant is a native of Syria and citizen of Algeria. He entered the United States on a student visa in December 2022 to study at Columbia University. Application Appendix (Appl. App.) A3. In November 2023, he married an American citizen, and he became a lawful permanent resident the next year. Ibid.

While a student at Columbia, applicant took a lead role "in antisemitic protests and disruptive activities [that] foster[ed]

a hostile environment for Jewish students in the United States.” In re M-K-, 29 I. & N. Dec. 556, 557 (B.I.A. 2026). As a result, Secretary Rubio determined that applicant was removable under 8 U.S.C. 1227(a)(4)(C)(i), which provides that an alien is removable when the Secretary of State determines that his “presence or activities in the United States * * * would have potentially serious adverse foreign policy consequences for the United States.” Soon after, the Department of Homeland Security added a second charge of removability under 8 U.S.C. 1227(a)(1)(A) and 1182(a)(6)(C)(i), which render removable an alien who obtains legal status via fraud or material misrepresentation, alleging applicant had failed to disclose certain affiliations. Appl. App. A5.

Rather than properly challenge those proceedings before the immigration judge in Louisiana (where applicant was being held), applicant filed a habeas petition and motion for preliminary injunction in New Jersey (where he had been temporarily held as part of his transfer to Louisiana), contending primarily that his detention and potential removal were unconstitutional on various grounds. Appl. App. A4-A6. Following a complicated procedural history, id. at A6-A9, the district court enjoined applicant’s detention and removal, id. at A7.

In a per curiam opinion joined by Judges Hardiman and Bibas, the court of appeals vacated the preliminary injunction. Appl. App. A1-A38. The court held that the district court lacked ju-

jurisdiction over applicant's removal proceedings under 8 U.S.C. 1252(b)(9), which channels "[j]udicial review of all questions of law * * * arising from any action taken or proceeding brought to remove an alien" into a single petition for review filed with a court of appeals. Appl. App. A2-A3. Judge Freeman dissented in part and dissented from the judgment. Id. at A42-A70. The court of appeals later denied rehearing en banc by a 6-5 vote. Id. at B1 & n.1.

Over the government's opposition, the court of appeals agreed to stay its mandate for at least 90 days, and provided further that if applicant files a petition for certiorari with this Court, the "mandate shall be stayed pending the Supreme Court's final disposition of that Petition." Appl. App. D1-D2. The court of appeals also provided that if this Court grants "a request by [applicant] for an extension of time" to file his petition, then the "mandate shall be stayed for an additional 30 days or for the duration of the extension from the Supreme Court, whichever is shorter." Id. at D1. The court stated too: "The parties are ordered to provide a status report to the [court of appeals] immediately upon the expiration of the initial 90-day period and upon the filing of any request for an extension of time from the Supreme Court for filing a Petition for Writ of Certiorari." Ibid.

Meanwhile, applicant's removal proceedings continued in Louisiana. In September 2025, an immigration judge found that applicant is removable on both the foreign-policy and fraud grounds,

and that he is otherwise ineligible for any relief or protection from removal. Appl. App. A7-A8. On April 9, 2026, the Board of Immigration Appeals affirmed in full. M-K-, 29 I. & N. Dec. at 556-557. Applicant filed his petition for review of the Board's decision in the Fifth Circuit on May 14, 2026. Following an extension, his opening brief is currently due August 14, 2026. So long as the Third Circuit's mandate is stayed -- and the district court's preliminary injunction remains in effect -- the government is unable to effectuate applicant's removal.

On July 14, 2026, applicant filed another suit in the Southern District of New York against a number of private entities (e.g., the Heritage Foundation) and public officials (e.g., Secretary Rubio). See Khalil v. Heritage Foundation, No. 1:26-cv-5929 (S.D.N.Y.). There too, applicant seeks, among other things, an injunction barring his detention and removal.

2. Applicant now seeks to further delay any effort to remove him via an extension of time to file a petition for a writ of certiorari -- which, in turn, will extend the stay of the court of appeals' mandate. That application should be denied.

There is no "good cause" for an extension. Sup. Ct. R. 13.5. The court of appeals issued its original decision on January 15, 2026. That court denied rehearing en banc over four months later, on May 22, 2026. And applicant has been given 90 days to file a petition for certiorari, challenging the single question of law the court below decided. Applicant has had months to consider and

brief that legal issue, both at the panel stage and then in his rehearing petition; and he has been on notice since January 2026 that he might need to seek this Court's review of that question.

Moreover, an extension is not harmless. If the Court were to permit applicant to file his petition for certiorari on September 21, 2026, the Court would likely not be able to consider it until a conference late in the fall. While that would not significantly affect the timing of this Court's disposition of the case if it were to grant review, further review is unlikely here, because (among other things) the decision below is plainly correct. Applicant's suit is fundamentally a challenge to the government's decision to commence removal proceedings against him and detain him for their duration. "But addressing any of those claims would require deciding whether removing [applicant] would be unlawful -- the very issue decided through the" Fifth Circuit's consideration of his petition for review. Appl. App. A26. Such a collateral attack falls in the heartland of Section 1252(b)(9). Jennings v. Rodriguez, 583 U.S. 281, 294 (2018) (plurality opinion) (recognizing that Section 1252(b)(9) covers, at minimum, suits "challenging the decision to detain [an alien] in the first place or to seek removal").

Accordingly, postponing the Court's ability to consider the petition would, in the event of a denial of certiorari, delay the release of the mandate of the decision below. That delay harms the "public interest in prompt execution of removal orders." Nken

v. Holder, 556 U.S. 418, 436 (2009). That interest is particularly weighty where, as here, the Secretary of State has personally determined that applicant's continued presence in the United States harms our foreign-policy interests, and that he should be promptly removed.

Finally, further delay at this stage is especially unjustifiable because applicant will have another opportunity to contest his removal, including in this Court. Once the Third Circuit's mandate issues, the government will promptly seek to execute applicant's removal order, at which point applicant will have the opportunity to seek a stay of removal in the Fifth Circuit (and if denied, in this Court). That is how this case was supposed to progress all along: first through the immigration judge and the Board of Immigration Appeals; and then in the court of appeals with jurisdiction to review the Board's decision (i.e., the Fifth Circuit). See Appl. App. A38 ("That scheme ensures that petitioners get just one bite at the apple -- not zero or two."). If applicant is to be entitled to a stay of his removal, the Fifth Circuit is the proper forum for evaluating that interim relief (with potential review by this Court). But it is inequitable to allow applicant to create further delay through procedural maneuvers in this Court, all as part of seeking review over a court of appeals decision dismissing a collateral challenge that should have never gotten off the ground to start.

3. Applicant fails to offer any compelling reason justifying further delay.

As for why applicant requires "additional time," the sole reason offered is that counsel has "significant other case commitments." Appl. 3. But the application cites four filings that will occur over the course of the coming months for some of the nine separate legal groups and almost 30 different lawyers who are listed as his counsel. Applicant does not explain why "good cause" will prevent his able counsel from preparing a certiorari petition within 90 days for a case that has been actively pending "for more than a year," Appl. 3, and with which counsel is well familiar.

Moreover, as noted above, applicant is wrong to assert that the government will suffer "no prejudice from a routine 30-day extension of time." Appl. 4. Applicant cites (at 4) a 14-day extension request filed by the government for its en banc response. But that motion was filed April 8, 2026 -- i.e., one day before the Board dismissed applicant's appeal and his removal order became final. See C.A. Doc. 149, at 3 (government explaining that there would be no harm from an extension, because applicant's "removal proceedings remain ongoing before the Board"). And the government did not seek any subsequent extension. Likewise, while 30-day extensions are ordinarily "routine," the consequences of such an extension for this particular case are not. This case presents the unusual circumstance where an extension would effectively ex-

tend the current stay of the mandate (and thus continue to thwart the government's ability to remove applicant expeditiously).

Applicant notes that the court of appeals found "good cause" to stay its mandate. Appl. 4-5. But the court of appeals also properly recognized that it would be up to this Court to decide whether a 30-day extension was appropriate. Appl. App. D1. And whether good cause exists to stay a mandate for some period is a distinct question from whether good cause exists for this Court to extend it further. As for that, the application is lacking.

Finally, applicant says (at 3) that his upcoming petition will raise "important federal issues," which are the "same [or] similar" to those "currently before at least three other federal courts of appeal." But applicant presents nothing to suggest that this case could satisfy the Court's ordinary certiorari criteria. Applicant correctly refrains from suggesting that those cases present a current circuit conflict. One of the other cases -- Hoque v. Trump, No. 25-2516 (8th Cir.) -- does not involve any circuit ruling at all. The other two -- Mahdawi v. Trump, No. 25-1113 (2d Cir.), and Suri v. Trump, No. 25-1560 (4th Cir.) -- involved non-precedential orders that were issued in stay postures. See Ozturk v. Hyde, 155 F.4th 187, 189 (2d Cir. 2025) (Menashi, J., concurring in the denial of rehearing en banc) ("The opinion of the motions panel will not constrain what the merits panel may decide either as law of the case or through precedent."); see also Suri v. Trump, 2025 WL 1806692 (4th Cir., July 1, 2025). As applicant notes,

both of those cases were recently argued at the merits stage and remain pending before those courts of appeals. App. 3. To the extent the strength of any upcoming petition by applicant informs the propriety of this application, that too cuts in favor of denial. Cf. Camreta v. Greene, 563 U.S. 692, 709 n.7 (2011).

The application should be denied.

Respectfully submitted.

D. JOHN SAUER
Solicitor General

JULY 2026