



U.S. Department of Justice

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Southern District of New York*

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May 1, 2024

BY ECF

Honorable Jesse M. Furman
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

**Re: *United States v. Joshua Adam Schulte,*
S3 17 Cr. 548 (JMF)**

Dear Judge Furman:

The Government writes to respectfully request that the Court issue an order (1) extending by 30 days the Government's time to appeal the Opinion and Order dated April 9, 2024 (D.E. 1139) (the "Order"), which directed the Government to propose additional redactions, if any, to transcripts of proceedings held pursuant to Section 6 of the Classified Information Procedures Act ("CIPA"), Title 18, United States Code, app. 3, by May 2, 2024, or otherwise to docket redacted, post-classification-review copies of those transcripts by May 3, 2024; and (2) stay the Order until the deadline for any appeal of the Order. The Government advised Schulte's counsel of this request but has not yet been informed of counsel's position.

fp Under Federal Rule of Appellate Procedure 4(b)(1)(B)(i), the Government has 30 days from the date the Order was entered to file any notice of appeal. Accordingly, any such notice would normally be due on May 9, 2024. Department of Justice policy requires this Office to confer with the Office of the Solicitor General concerning the possibility of appealing any adverse decision. This process is currently expected to take longer than the 30-day period set forth in Fed. R. App. P. 4(b)(1)(B)(i). Accordingly, the Government respectfully requests that the Court issue an order pursuant to Fed. R. App. P. 4(b)(4) and 26(a)(1)(C) extending the time within which the Government must file a notice of appeal, if any, by 30 days from May 9, 2024, which is Monday, June 10, 2024.

The Government further respectfully requests that the Court stay the Order until the time to appeal has expired. Compliance with the Order before the time to appeal has expired would render any appeal moot. Courts consider four factors in determining whether to issue a stay pending appeal: "(1) whether the stay applicant has made a strong showing that [it] is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the

