Opinion in Chambers

SUPREME COURT OF THE UNITED STATES

No. 25A1

IN RE CHARLESKANEKOA

ON APPLICATION FOR STAY

[June 27, 2025]

CHIEF JUSTICE INSLEE, Applications Justice.

CharlesKanekoa proceeding as a *pro se* applicant seeks a stay of the District Court's sentencing order in a criminal contempt proceeding. This application is submitted to me in my capacity as the Applications Justice (see this Court's Rule 20).

On June 26, the District Court held CharlesKanekoa in criminal contempt. Eager to complete the contempt proceeding, the District Court found him guilty of criminal contempt under F.C.C. § 1341 and sentenced him to the maximum term of imprisonment the same day. CharlesKanekoa then sought appeal to the presiding magistrate. With no success, he then filed an application for a stay in this Court, which is now before me.

To begin, the application requires some clarification. First, the application opens with a request for the *District Court* to stay the judgment of the District Court. See application at 1. But its caption and the rest of the document is addressed to this Court. I understand this application to be addressed to this Court, and not the District Court. And second, since the application conflicts by asking for a stay of the judgment and stay of "the District Court's [sentencing] order," see application at 2, I construe the application as seeking to stay the sentencing order, and not the judgment. If an applicant were seeking a stay of a

judgment alone, it would have no practical effect. A stay of the sentencing order in this context would provide relief the applicant is looking for.

Because it takes time to decide a case on appeal, a stay would buy enough time to find recourse "when there is insufficient time to resolve the merits and irreparable harm may result from delay." *Nken* v. *Holder*, 556 U.S. 418, at 432 (2009). Suppose Peter Griffin was found civilly liable in court, and the court ordered him banned from purchasing firearms (assume the court had no basis to ban him). Here, Griffin has a clear Second Amendment claim he could appeal. But litigating takes time. For one, researching and writing consume a great deal of time. And on top of that, courts have procedural rules to go through. Typically, the District Court, for example, gives defendants a day or two to respond to a complaint. And after that, the District Court will allow parties to file further pleadings or documents (like motions) for another day or two. In this Court, considering a certiorari petition could take 4 days at most. That isn't even counting the merits stage, which could take a week or more to resolve. For Peter Griffin, that is a week too many of his Second Amendment rights deprived. This is where a stay saves the day. A litigant can obtain a stay, eliminating irreparable harm, while the underlying merits run their course. And consider too for Griffin what would be beneficial for him: staying the judgment declaring him liable, or staying the order banning him from buying firearms? If you said to stay the order, you are correct. CharlesKanekoa, in applying for a stay, has represented that he next intends to petition for certiorari. Staying the sentencing order would give him the relief he seeks, instead of the judgment, should his application be successful.

And I am satisfied that his application is. The four factors stated in *Nken* govern the traditional assessment of whether to grant a stay. The factors are as follows: "(1) whether the stay applicant has made a strong showing that he 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 proceeding; and (4) where the public interest lies." *Id.* at 434 (quoting *Hilton* v. *Braunskill*, 481 U.S. 770, 776 (1987)). But what these factors essentially are is a balance of equities—an equitable judgment considering the harms associated with an applicant and respondent that may arise out of whatever is sought to be stayed. Here's the elephant in the room though: there is no respondent. There is no adversary at all. There is only one party in this case, and it's the applicant. The only harm that may arise if the sentencing order were enforced would only affect the applicant, period. And even though the applicant bears the burden in showing the four factors, it is my judgment that the burden lessens to some extent when there is no adversary, because, as I've said, the factors are essentially a balance of equities between two parties.

For the second and third factors, CharlesKanekoa clears. Absent a stay, CharlesKanekoa may suffer irreparable harm while he seeks review (which he says he will seek it). The third factor may very well be thrown out the window. The only "other party" that may be interested here is the District Court. In my view, the District Court will not be *substantially* injured by the issuance of a stay.

The first and fourth factors are more difficult. For the first factor, it's hard to follow applicants' reasoning without being given a proper statement of the case. Charles-Kanekoa simply says that there are serious constitutional concerns and complains about the rushed sentence. For the fourth factor, he says that the public interest favors the appellate process to do its job. Obviously, the public relies on courts for important purposes to do important work. I favor doing my job too. But saying so does not pass this factor. This application, especially in addressing the first and fourth factors for a stay, is lackluster. Nonetheless, I am satisfied with it. Papers in this Court—except our

orders and opinions—are regrettably lackluster everywhere. And I mean no disrespect to the applicant, or any other litigant that has or will come before this Court. This is simply an unfortunate symptom of our small judicial economy that courts have struggled with since the birth of our community. This Court has recognized that litigants before us may not meet the standards we require or expect; indeed, they may be below standards. See *jtistheman4* v. *United States*, 1 U.S. ___ (2025)("[N]ot a single coherent argument based in fact or law has been brought forth before this Court during the entire course of these proceedings."). But that's fine, and we carry on. Considering this, I am satisfied that Charles-Kanekoa's showings are sufficient to warrant a stay.

In closing, I have one observation. Before filing a stay with this Court, CharlesKanekoa sought a formal appeal to his presiding judge (in this case a Magistrate)—the same judge who rendered his judgment. Unknown to many, and uncommon everywhere, he can do that. The Criminal Procedure Act of 2025, §12, allows a defendant to appeal "a conviction or sentence if they believe legal errors occurred during trial or sentencing" before appealing to this Court. In fact, there are many other avenues for review and appeal available to litigants, and in particular the Government and defendants in criminal proceedings, like in the Judicial Procedure and Criminal Justice Enhancement Act.

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Accordingly, the application for a stay is granted. The June 26, 2025, contempt sentencing order of the United States District Court for the District of Columbia, No. 1:25-cr-0143, is stayed pending the disposition of a petition for writ of certiorari, if such a writ is timely sought. Should certiorari be denied, this stay shall terminate automatically. In the event certiorari is granted, the stay shall terminate upon the sending down of the judgment of this Court.

It is so ordered.