

No. _____

In the Supreme Court of the United States

KARYN D. STANLEY,
Applicant,

v.

CITY OF SANFORD, FLORIDA,
Respondent.

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

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Eleventh Circuit:

Applicant Karyn D. Stanley respectfully seeks a 60-day extension of time within which to file a petition for a writ of certiorari to review the Eleventh Circuit's judgment in this case, to and including March 11, 2024. Absent an extension, the deadline for filing the petition will be January 9, 2024. In support of this request, the applicant states as follows:

1. On October 11, 2023, the Eleventh Circuit entered judgment and issued its opinion, a copy of which is attached. This Court has jurisdiction under 28 U.S.C. § 1254(1).

2. Karyn Stanley became a firefighter for the City of Stanford, Florida in 1999. She was diagnosed with Parkinson's disease in 2016 but continued to work as a firefighter for two more years, eventually taking disability retirement at the age of 47. When she first joined the fire department in 1999, the city provided health insurance at very reduced rates

for employees that retired for qualifying disability reasons until the age of 65. And because Ms. Stanley's Parkinson's disease was a qualifying disability, she continued on the city's health insurance with the city's retiree health insurance subsidy. Unbeknownst to her, however, the city had changed its policy to limit the retiree health insurance subsidy for disability retirees to just twenty-four months. Ms. Stanley was never made aware of this policy change while she was working for the city.

3. Under the city's new policy, Ms. Stanley was set to lose her health insurance at the end of 2020. So, in April 2020, she filed suit to maintain her entitlement to the city-provided health insurance subsidy until the age of 65. Her complaint alleged that the city's policy change discriminated against her on the basis of her disability under Title I of the Americans with Disabilities Act (ADA).

4. The district court dismissed Ms. Stanley's disability-discrimination claim on the basis of circuit precedent and, on appeal, the Eleventh Circuit affirmed. The court of appeals recognized that the ADA "protects against discrimination in fringe benefits, such as health insurance." *Stanley v. City of Sanford*, 83 F.4th 1333, 1338 (11th Cir. 2023). But the court found itself bound by its earlier precedent holding that "a former employee who does not hold or desire to hold an employment position cannot sue over discriminatory post-employment benefits." *Id.* at 1337 (citing *Gonzales v. Garner Food Servs., Inc.*, 89 F.3d 1523 (11th Cir. 1996)). The court determined that this Court's decision in *Robinson v. Shell Oil Co.*, 519 U.S. 337 (1997), which held that an individual could sue a former employer under Title VII for a post-employment act, did not compel a different result. In *Robinson*, this Court explained that because "sections of [Title VII] plainly contemplate that former

employees will make use of the remedial mechanisms of Title VII,” the term “employees” “includes former employees.” 519 U.S. at 339, 345.

5. The Eleventh Circuit also rejected Ms. Stanley’s argument that the court’s prior precedent in *Gonzales* had been abrogated by recent amendments to the text of the ADA. Among other things, the court held that *Gonzales* survives the Lily Ledbetter Fair Pay Act’s modification of Title I to provide that an employer’s liability accrues whenever an individual “is affected by application of a discriminatory compensation decision,” 42 U.S.C. 2000e-5(e)(3)(A); see *Stanley*, 83 F.4th at 1342.

6. The court, however, “acknowledge[d] that the circuits are split,” and that its decision “aligns [] with the Sixth, Seventh, and Ninth Circuits.” *Stanley*, 83 F.4th at 1341. The court explained that those circuits similarly found that “(1) *Robinson* does not implicate Title I’s anti-discrimination provision and (2) Title I does not protect people who neither held nor desired a job with the defendant at the time of discrimination.” *Id.* The court recognized that, on the other side of the split, the “Second and Third Circuits” read Title I’s anti-discrimination provision “in favor of former employees” on this issue. *Id.* The court also recognized that a prior panel of the Eleventh Circuit, in *Johnson v. K Mart Corp.*, 281 F.3d 1368 (11th Cir. 2002), had agreed with the holding of the Second and Third Circuits. That decision, however, had been vacated when the full court set the issue for rehearing en banc and the case settled before the rehearing could take place.

7. This case thus presents an acknowledged circuit split, as well as a conflict between the reasoning in the decision below and this Court’s precedent, over an important question of statutory construction: Does Title I of the Americans with Disabilities Act

prohibit discrimination on the basis of disability with respect to benefits earned during an employee's tenure but distributed post-employment?

8. Ms. Stanley respectfully requests a 60-day extension of time to file a petition for a writ of certiorari seeking review of the Eleventh Circuit's ruling and submits that there is good cause for granting the request. Counsel of record, Deepak Gupta did not previously participate in this litigation and needs time to study the record, in consultation with the applicant and her counsel, and to prepare the petition. In addition, counsel of record and his colleagues will be heavily engaged with other appellate matters, including multiple briefs and arguments in this Court. These matters include a brief in opposition due in this Court in *BASF Metals v. KFPP Investment* on December 13; a reply brief due in this Court in *Bissonnette v. Lepage Bakeries* on January 12; and oral arguments in *Bissonnette* and *Cantero v. Bank of America*, both of which will likely take place during this Court's February sitting.

9. Extending the deadline to March 11, 2024, will allow the applicant's counsel sufficient time to carefully research and prepare a petition in cooperation with co-counsel.

10. Respondent's counsel does not oppose this request.

CONCLUSION

For the foregoing reasons, the applicant respectfully requests that the Court extend the time within which to file a petition for a writ of certiorari in this matter to and including March 11, 2024.

Dated: December 12, 2023

Respectfully submitted,

/s/ Deepak Gupta

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