

No. _____

**In The
Supreme Court of the United States**

RYAN CROWNHOLM; and CROWN CAPITAL ADVENTURES, INC.,
d/b/a MYSITEPLAN.COM,

Applicants,

v.

RICHARD B. MOORE, in his official capacity as Executive Officer of the
California Board for Professional Engineers, Land Surveyors, and Geologists, et al.

Respondents.

**Application for an Extension of Time to File Petition for a Writ of
Certiorari to the United States Court of Appeals for the Ninth Circuit**

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To the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

In accordance with this Court's Rules 13.5, 22, 30.2, and 30.3, Applicants Ryan Crownholm and Crown Capital Adventures, Inc., d/b/a MySitePlan.com, respectfully request that the time to petition for a writ of certiorari be extended for 56 days, to and including September 9, 2024. The Court of Appeals issued its amended memorandum opinion (Exhibit A) and its order denying Applicants' petition for rehearing (Exhibit B) on April 16, 2024. Without an extension of time, the petition would be due on July 15, 2024. This Court's jurisdiction would be based on 28 U.S.C. § 1254(1). Applicants have not previously sought an extension of time from this Court, and the application is being filed more than 10 days before the petition is due.

Background

This case involves the limits on states' ability to regulate speech through the filter of occupational-licensing laws. Plaintiff-Applicant Ryan Crownholm, through his company MySitePlan.com, creates and disseminates information for a living. This Court has held that creating and disseminating information for money is speech. *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570 (2011). Yet California's Board for Professional Engineers, Land Surveyors, and Geologists claims Mr. Crownholm needs a professional surveying license to engage in that speech. When Mr. Crownholm and his company sued, the Ninth Circuit held that this does not violate the First Amendment because, by regulating Mr. Crownholm's speech through a professional-

licensing law, the Board’s regulation of his speech turned into a regulation of “unlicensed land-surveying *conduct*” instead. Ex. A at 4 (emphasis added).

Most local California building departments require a “site plan” drawing before issuing a building permit, even for small projects. These drawings show only the basic layout of the property—its physical features and their location relative to property lines—and an explanation of the changes proposed to be made to the property. Site plans are not authoritative because they do not create legally enforceable property lines. Because of the basic nature of the drawings, many county and municipal governments throughout California accept site plans drawn by lay homeowners and contractors. Many even *teach* lay homeowners and contractors how to draw their own site plans by tracing publicly available maps, like GIS (Geographic Information Systems). Thousands of contractors and homeowners across California (and elsewhere) successfully obtain permits after submitting self-drawn site plans every year.

For years, Ryan Crownholm worked as a contractor in California. During his contracting years, Mr. Crownholm spent many hours tracing public GIS maps to create and submit site-plan drawings to obtain permits for the contracting projects he was hired for. Eventually, he learned to copy the relevant information from public GIS maps into a computer-aided drawing program. This both produced a cleaner image for permitting staff to use and made the drawing process far more efficient. Soon, other contractors began to ask Mr. Crownholm to draw site plans for them.

From there, Mr. Crownholm saw an entrepreneurial opportunity. He started a business, MySitePlan.com, to save contractors and homeowners the time and hassle

of tracing their own drawings. The business's clients submit the property's address and a description of the changes proposed to be made to it, and MySitePlan.com drafts a computer-drawn site plan in exchange for a fee. Local building departments regularly accept and issue building permits based on MySitePlan.com's drawings. Because MySitePlan.com's drawings do not purport to establish the property lines depicted on the drawing with certainty or legal effect, no one has ever confused MySitePlan.com's drawings for a survey prepared by a licensed surveyor. Indeed, MySitePlan.com is replete with disclaimers and explanations that its drawings are not surveys and should only be used where the local building department will accept non-surveyor site plans.

Even so, the California Board for Professional Engineers, Land Surveyors, and Geologists cited Mr. Crownholm for unlicensed "land surveying." In the Board's view, any drawings "which depict the location of property lines, fixed works, and the geographical relationship thereto fall[] within the definition of land surveying" and therefore require a professional land-surveying license. Mr. Crownholm paid the \$1,000 fine issued by the Board.

Mr. Crownholm (and his company) then sued the Board's members in federal district court, asserting that his site-plan drawings were the creation and dissemination of information and protected by the First Amendment's Free Speech Clause. The district court denied a preliminary injunction and dismissed the suit.

The Ninth Circuit affirmed. The court held that Mr. Crownholm's communication of information through visual images was not speech. Because California

regulated that speech under an occupational-licensing law, the court held, California was instead “penaliz[ing] unlicensed land surveying conduct.” Ex. A at 4. The burden that California’s application of the licensing law imposed on Mr. Crownholm’s speech was “merely incidental to [the] primary effect of regulating Plaintiffs’ unlicensed land surveying activities.” Ex. A at 5-6. The court, however, nowhere identified any non-expressive conduct on Mr. Crownholm’s part that triggered the law. *See Holder v. Humanitarian Law Project*, 561 U.S. 1, 28 (2010) (“as applied to plaintiffs the conduct triggering coverage under the statute consists of communicating a message”); *Cohen v. California*, 403 U.S. 15, 18 (1971) (“The only ‘conduct’ which the State sought to punish is the fact of communication. Thus, we deal here with a conviction resting solely upon ‘speech,’ . . . not upon any separately identifiable conduct.”). And speech regulated by occupational-licensing laws is subject to “ordinary First Amendment principles,” because states cannot have “unfettered power to reduce . . . First Amendment rights by simply imposing a licensing requirement.” *Nat’l Inst. for Fam. & Life Advocs. v. Becerra*, 585 U.S. 755, 773 (2018); *see also Vizaline, L.L.C. v. Tracy*, 949 F.3d 927, 928 (5th Cir. 2020) (rejecting proposed “categorical” exemption from First Amendment scrutiny for occupational-licensing laws). The court further held that regulations imposing “only incidental burdens” on a plaintiff’s speech receive only rational basis review. Ex. A at 6. The court denied rehearing en banc. Ex. B.

Reasons Why an Extension of Time Is Warranted

Good cause exists for an extension of time to prepare a petition for a writ of certiorari here because counsel have conflicting obligations during the relevant time

period. Along with previously scheduled international travel and family obligations, counsel's professional obligations during the relevant time period has included and will include:

- Appeal briefing and oral argument in *Mills v. Arizona*, No. 2 CA-CV 23-0240 (Ariz. Ct. App.);
- Appeal briefing and oral argument in *Platt v. Moore*, No. 2 CA-CV 2023-0264 (Ariz. Ct. App.);
- Appeal briefing and oral argument in *Shaw v. Metropolitan Gov't of Nashville & Davidson Cnty.*, No. M2023-01568-COA-R3-CV (Tenn. Ct. App.);
- Motion-to-dismiss briefing and oral argument, and discovery, in *Brown v. Smith*, No. 1:24-cv-00477-LMB-IDD (E.D. Va.);
- Reply briefing in *Sparger-Withers v. Taylor*, No. 24-1367 (7th Cir.);
- Motion for attorneys' fees in *Snitko v. United States*, No. 2:21-cv-04405-RGK-MAR (C.D. Cal.);
- Appeal briefing in *Martinez v. City of Lantana*, No. 4D2024-1187 (Fla. 4th Dist. Ct. App.);
- An amicus brief in *People v. Armstrong*, No. 165233 (Mich.); and
- Administrative-appeal briefing and oral argument in *In re: Sandersville Railroad Company's Petition for Approval to Acquire Real Estate by Condemnation*, Docket No. 45045 (Ga. Pub. Serv. Comm'n).

An extension will help ensure that each of these matters and the certiorari petition here receive sufficient attention.

In addition, on May 20, 2024, the Fourth Circuit decided *360 Virtual Drone Services LLC v. Ritter*, No. 23-1472, 2024 WL 2263404. That case—also a First Amendment challenge to the scope of a state surveying board’s licensing authority—raises issues similar to those that will be presented in Applicants’ petition, and it is being litigated by the same law firm representing Applicants. The plaintiffs in *360 Virtual Drone Services LLC* intend to apply for a 21-day extension of their deadline to petition for a writ of certiorari, which, if granted, would place their deadline on September 9, 2024—the extended deadline requested here. Applicants believe that submitting the two petitions in close proximity would serve the Court’s interest in judicial economy and provide the Court with a more complete explanation of the crucial legal issues at stake.

Conclusion

Applicants request that the time to petition for a writ of certiorari in the above-captioned case be extended 56 days, to and including September 9, 2024.

June 6, 2024

Respectfully submitted,



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