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June 25, 2024

The Honorable Elena Kagan
Associate Justice
United States Supreme Court
1 First Street, NE
Washington, DC 20543

*Re: Rule 13.5 Request for 60-day Extension of Time to file Petition for Writ of
Certiorari in Buckovetz v. United States Navy*

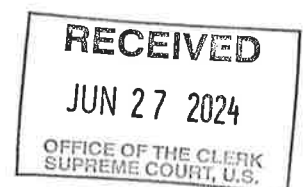
Dear Associate Justice Kagan and Chamber:

Pursuant to Supreme Court Rule 13.5, Attorney Terry L. Mutchler, counsel for Petitioner, United States Marine Lt. Col. (retired) Dennis Buckovetz, requests, for good cause, a 60-day extension of time, to and including Tuesday, September 3, 2024, to file a Petition for a Writ of Certiorari in *Buckovetz v. United States Navy*.

The reason for a request for a 60-day extension stems from a serious medical issue, explained below, that has temporarily sidelined the Petitioner's lawyer, Transparency Counsel Terry L. Mutchler, a national expert on the nation's Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). Applicant has not previously requested an extension of time for this filing.

I. Jurisdiction

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).



II. Procedural History

The Ninth Circuit Court of Appeals entered its judgment on April 5, 2024, on this case, which stems from a scheme by military personnel to sell coveted Marine Challenge memorabilia and coins. Unless an extension is granted, the time within which to file the Petition for Writ of Certiorari will expire on July 5, 2024. By way of further procedural background in this case:

On April 13, 2021, Plaintiff Dennis M. Buckovetz, initiated this action against Defendant, United States Navy, by filing the Complaint. Buckovetz is a Marine Corps Lieutenant Colonel (retired) domiciled in San Diego County, California, who served as the Administrative Director of the Marine Corps Community Services (MCCS) at the Marine Corps Recruit Depot (MCRD) located in San Diego. Defendant is a United States agency subject to FOIA.

Buckovetz had been inadvertently included in an email by other high-ranking military personnel regarding a scheme of selling coins for cash using the ill-gotten gains without oversight or expense procedure. Buckovetz attempted to garner information informally about the program but was rebuffed by military colleagues. As a result, he filed a request for public records pursuant to FOIA on January 23, 2015. The FOIA request was denied in part, and thus, he filed a complaint at the trial court level. The District Court denied discovery and granted summary judgment. He filed for relief in the Ninth Circuit Court of Appeals. The Ninth Circuit Court of Appeals remanded the case with the instruction to dismiss the action as nonjusticiable.

The Complaint requested relief as follows: (1) a declaration that Defendant violated FOIA; (2) an Order requiring Defendant to produce responsive records; (3) an injunction against Defendant's continued withholding of any responsive records; (4) written findings concerning whether agency personnel acted arbitrarily or capriciously; (5) an award of Plaintiff's attorneys' fees and litigation costs; and (6) other such relief as the Court deems just and proper, including sanctions. Before all discovery alleging no genuine issue of material fact was completed, the Navy untimely and improperly moved for summary judgement.

III. Transparency Counsel

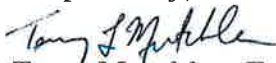
Attorney Terry L. Mutchler is a nationally recognized expert in Transparency Law matters at the federal and state levels. She has been inducted into the National Freedom of Information Coalition 50 State Hall of Fame, honored as Pennsylvania's 2023 Attorney of the Year, 20 Powerful Women in Philadelphia Mainline, and received the Bob Edgar Public Service Award for integrity and sheer force of will in ensuring transparency in government. Ms. Mutchler has served as amicus counsel to the Ninth Circuit Court of Appeals in favor of the Appellant. The Appellant requested counsel's lead representation to submit a Petition for a Writ of Certiorari to this Court on May 2024 and has been so engaged. Additionally, counsel is currently completing the necessary paperwork to become barred by this Court, also slowed by the foregoing.

IV. Good Cause Reason for Requesting 60-Day Extension

The reason for the request for additional time stems from a medical reason as follows. Lead counsel has been diagnosed with myasthenia gravis and, since April 2024, has been suffering from an exacerbation of her symptoms, colloquially referred to as a “flare-up.” She is under the treatment of renowned board-certified neurologist Dr. Olga Katz of Philadelphia, who specializes in these rare conditions. Ms. Mutchler’s treatment includes receiving weekly infusions for the exacerbated symptoms, with her last treatment scheduled at the end of July 2024. Additionally, Counsel contracted Covid-19 virus on July 19, 2024, which exacerbated the MG and her psoriatic arthritis symptoms. Attached as Exhibit 1 is a letter from her treating rheumatologist, Dr. Mohan Gurubhagavatula. Treatments for these autoimmune ailments can be grueling as they include weekly six-hour intravenous immunoglobulin infusions and a two-day recovery period.

Because of counsel’s ongoing treatments, Counsel respectfully asks that the Honorable Associate Justice Elena Kagan grant a 60-day extension of time up-to-and-including September 3, 2024, to file a Petition for Writ for Certiorari that would adhere to the Court’s standards and provide counsel’s client with the highest quality work possible leveraging her national expertise on this law.

Respectfully,



Terry Mutchler, Esquire

Obermayer, Rebmann, Maxwell and Hippel LLP
Transparency Law & Public Data Group
1500 Market Street
Philadelphia, PA 19101
PA Bar Id: 308052 / IL Bar Id: 6271359

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 5 2024

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DENNIS M. BUCKOVETZ, an individual,

No. 23-55284

Plaintiff-Appellant,

D.C. No.

and

3:21-cv-00640-WQH-KSC

LYNNE M. BIRD, an individual,

MEMORANDUM*

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
THE NAVY,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of California
William Q. Hayes, District Judge, Presiding

Argued and Submitted March 27, 2024
Pasadena, California

Before: GRABER, IKUTA, and FORREST, Circuit Judges.

Plaintiff Dennis M. Buckovetz appeals from the judgment in favor of
Defendant United States Department of the Navy (Navy) in this Freedom of

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

Information Act (FOIA) action. We vacate the judgment and remand with the instruction that the district court dismiss the action as nonjusticiable. See Gonzales v. Gorsuch, 688 F.2d 1263, 1267 (9th Cir. 1982) (“It is a prerequisite of justiciability that judicial relief will prevent or redress the claimed injury, or that there is a significant likelihood of such redress.”); see also Arizonans for Official English v. Arizona, 520 U.S. 43, 73 (1997) (“When the lower federal court lacks jurisdiction, we have jurisdiction on appeal, not of the merits but merely for the purpose of correcting the error of the lower court in entertaining the suit.” (cleaned up) (citations omitted)).

When all documents responsive to a FOIA request have been produced, a party’s FOIA claim ceases to present a live case or controversy. Eventual production, “however belatedly, moots FOIA claims.” Papa v. United States, 281 F.3d 1004, 1013 (9th Cir. 2002) (citation and internal quotation marks omitted). “That result obtains because once the defendant agency has fully complied with the FOIA’s production mandate, the plaintiff is no longer suffering or threatened with ‘an actual injury traceable to the defendant’ that is ‘likely to be redressed by a favorable judicial decision.’” Yonemoto v. Dep’t of Veterans Affs., 686 F.3d 681, 689 (9th Cir. 2012) (citation omitted), overruled in part on other grounds by Animal Legal Def. Fund v. U.S. FDA, 836 F.3d 987, 989 (9th Cir. 2016) (en banc) (per curiam).

Plaintiff filed this action in district court years after the Navy produced the responsive documents. Despite Plaintiff's speculative contention that there may exist additional documents that were either destroyed or concealed, nothing in the record supports a reasonable inference that there were unproduced responsive documents at the time Plaintiff filed this action. Accordingly, the district court lacked jurisdiction at the time the case was filed. See, e.g., Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc., 528 U.S. 167, 180 (2000) (noting that courts have "an obligation to assure . . . that [the plaintiff] had Article III standing at the outset of the litigation"); see also id. at 191 ("Standing admits of no . . . exception; if a plaintiff lacks standing at the time the action commences, . . . the complainant [is not entitled] to a federal judicial forum.").

The judgment of the district court is vacated, and the case is remanded with the instruction to dismiss the action as nonjusticiable.

VACATED and REMANDED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 28 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DENNIS M. BUCKOVETZ, an
individual,

Plaintiff - Appellant,

and

LYNNE M. BIRD, an individual,

Plaintiff,

v.

UNITED STATES DEPARTMENT
OF THE NAVY,

Defendant - Appellee.

No. 23-55284

D.C. No. 3:21-cv-00640-WQH-KSC
U.S. District Court for Southern
California, San Diego

MANDATE

The judgment of this Court, entered April 05, 2024, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

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June 25, 2024

The Honorable Elena Kagan
Associate Justice
United States Supreme Court
1 First Street, NE
Washington, DC 20543

Re: Mutchler – U.S. Bar Admission Status in Dennis Buckovetz v. United States Navy

Dear Associate Justice Kagan:

The purpose of this correspondence is to provide status information regarding my application to have the high honor of being barred at the United States Supreme Court in conjunction with my application for an extension of time to file a Petition for Grant of Writ of Certiorari pursuant to Rule 13. The case is *Dennis Buckovetz v. United States Navy*.

The appellant, United States Marine Lt. Col. Dennis Buckovetz asked attorney Terry Mutchler Chair of Transparency Law and Public Data Practice at Obermayer, Rebmann, Maxwell and Hippel, LLC to serve as lead counsel in his appeal to the Supreme Court from a decision of the Ninth Circuit Court of Appeals on April 5, 2024. She previously served as Amicus counsel in this matter at the Ninth Circuit. Ms. Mutchler is in the process of completing the necessary paperwork to become barred by this Court.

Terry Mutchler has been admitted to practice in the highest court of Illinois for twenty-four years (admitted May 2000) and in the highest court of Pennsylvania for

fourteen years (admitted February 2010). Counsel has not been the subject of any adverse disciplinary action in either jurisdiction. Additionally, attorney Mutchler has secured the two sponsors and movant who are barred at the United States Supreme Court bar, necessary for admission. Those individuals are The Honorable Ann M. Williams, State Representative, Illinois House of Representatives, and Mr. James R. Ronan, Jr., Esquire, of the Commonwealth of Pennsylvania.

Respectfully,

A handwritten signature in black ink, appearing to read "Terry Mutchler". The signature is fluid and cursive, written over a light blue horizontal line.

Terry Mutchler, Esquire
Obermayer, Rebmann, Maxwell and Hippel LLP
Transparency Law & Public Data Group
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Philadelphia, PA 19101
PA Bar Id: 308052
IL Bar Id: 6271359

The Arthritis Center
301 E. City Ave, Ste 235
Bala Cynwyd, PA 19004
610-664-8200

TERRY MUTCHLER

Patient ID: 78061159 DOB: 12/24/1965 Sex: F Account No.:

Encounter ID: 303901999 Encounter Date: 06/19/2024

Encounter Type: Office Visit

SUBJECTIVE:

Chief Complaint: Re: Time Extension Needed for Petition to Supreme Court

To whom it may concern:

I am writing on behalf of my patient, Terry Mutchler, who has been under my care for the management of psoriatic arthritis and rheumatoid arthritis. Additionally, Terry has a documented history of myasthenia gravis. At present, she is experiencing a significant flare in her rheumatoid and psoriatic arthritis symptoms.

Due to the severity of this flare, Terry is currently facing considerable physical discomfort and functional limitations, which impede her ability to perform her usual activities, including her job-related duties. This exacerbation of her condition has necessitated an intensive treatment regimen, which includes increased medical appointments and medication adjustments.

Given these circumstances, I recommend that Terry be granted an extension of time to prepare for her upcoming job responsibilities. This extension will allow her the necessary time to manage her health and achieve a more stable condition, thereby ensuring she can fulfill her professional obligations effectively once her symptoms have been better controlled.

We anticipate that with appropriate medical management, Terry's condition will improve within the next few weeks. However, we will continue to monitor her progress closely and provide any necessary updates regarding her health status.

Thank you for your understanding and consideration of this request. Please do not hesitate to contact me directly should you require any further information or documentation regarding Terry's medical condition.

Sincerely,

Mohan Gurubhagavatula, DO

[Electronically Signed] - Date: 6/19/2024 2:39:43 PM

[Provider]: MOHAN GURUBHAGAVATULA, DO