

No. A

In the Supreme Court of the United States

MALCOLM JOHNSON, *ET. AL.*,
Applicants,

v.

TINA KOTEK, *ET. AL.*,
Respondents.

To the Honorable Elena Kagan,
Associate Justice of the United States and
Circuit Justice for the Ninth Circuit

**APPLICATION TO EXTEND THE TIME TO FILE A
PETITION FOR A WRIT OF *CERTIORARI***

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RULE 29.6 STATEMENT

Seventy-two of the Applicants are natural persons.

Free Oregon is an Oregon non-profit which has no parent organization.

Children’s Health Defense, Oregon is an Oregon non-profit corporation; its parent organization, Children’s Health Defense, is also a non-profit corporation.

APPLICATION TO EXTEND THE TIME TO FILE A PETITION FOR A
WRIT OF *CERTIORARI*

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

Pursuant to Supreme Court Rule 13(5), Malcolm Johnson, et. al. (“Applicants”) hereby respectfully apply for an extension of 42 days—to and including August 13, 2024—of the time within which to petition for a writ of *certiorari*. Unless an extension is granted, the deadline for filing the petition for *certiorari* will be July 2, 2024. Applicant files this application more than ten days prior to the current deadline.

In support of this request, Applicant states as follows:

1. In a memorandum dated February 23, 2024 (App. 1a), the United States Court of Appeals for the Ninth Circuit affirmed the dismissal of this action in part, vacated in part, and remanded. (App. 10a). The remand was with instructions dismiss Applicants’ claims for injunctive and declaratory relief without prejudice rather than with prejudice. (App. 4-5a). The Ninth Circuit affirmed the dismissal of Applicants’ § 1983 claims under the Supremacy Clause, 14th Amendment Privileges and Immunities Clause, and 14th Amendment Due Process Clause. (App. 5-9a). The Ninth Circuit denied Applicants’ petition for rehearing on April 3, 2024. (App. 11a). This Court has jurisdiction under 28 U.S.C. § 1254(1).

2. Applicant’s counsel has competing professional obligations that have affected his ability to complete the petition for a writ of *certiorari* by the current deadline. The undersigned counsel is a solo practitioner who obligations concerning:

(i) a new lawsuit filed in the District of Oregon on May 14, 2024 (6:24-cv-790), along with a motion for temporary restraining order and preliminary injunction, followed by associated briefing which is ongoing; (ii) a new lawsuit filed in the District of Oregon on March 12, 2024 (3:24-cv-456), for which an amended complaint is in progress and which will face a motion to dismiss, (iii) oral argument in the Ninth Circuit (23-35456) scheduled for August 21, 2024; (iv) a new lawsuit expected to be filed in the Southern District of Texas in August; (v) a reply brief due in the Ninth Circuit (24-80) on July 12, 2024; (vi) a week of vacation scheduled in July; (vii) a petition for writ of certiorari to the Ninth Circuit (23-35833) due on July 25, 2024; and (viii) discovery and trial preparation in four other cases.

4. The requested 42-day extension would not prejudice the respondents.

CONCLUSION

WHEREFORE, for the foregoing reasons, Applicant requests a 42-day extension—to and including August 13, 2024—of time within which Applicant may file a petition for a writ of *certiorari*.

Dated: June 12, 2024

Respectfully submitted,

s/ Stephen J. Joncus

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CERTIFICATE AS TO FORM

Pursuant to Sup. Ct. Rules 22 and 33, I certify that the foregoing application is proportionately spaced, has a typeface of Century Schoolbook, 12 points, and contains 2 pages (and 439 words), excluding this Certificate as to Form, the Table of Contents, and the Certificate of Service.

Dated: June 12, 2024

Respectfully submitted,

s/ Stephen J. Joncus

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