

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

BOB JACOBSON, IN HIS OFFICIAL CAPACITY AS
COMMISSIONER OF THE MINNESOTA DEPARTMENT OF PUBLIC SAFETY,
Applicant,

v.

KRISTIN WORTH, ET AL.,
Respondents.

**APPLICATION FOR AN EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT**

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To the Honorable Justice Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eighth Circuit:

Pursuant to Rules 13.5 and 30.2 of the Rules of this Court and 28 U.S.C. § 2101(c), Applicant Commissioner of the Minnesota Department of Public Safety (the “Commissioner”) respectfully requests a 59-day extension of time, up to and including January 17, 2025, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit in this case.

1. The Eighth Circuit entered judgment on July 16, 2024. *See Worth v. Jacobson*, 108 F.4th 677 (8th Cir. 2024); App. 2a–34a. The court denied the Commissioner’s petition for rehearing en banc on August 21, 2024. App. 1a. Without an extension, the time to file a petition for a writ of certiorari will expire on November 19, 2024. This application is being filed more than 10 days before the petition is due. *See* Sup. Ct. R. 13.5. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

2. This case involves a Second Amendment challenge to Minnesota’s common sense regulation of the public carry of guns by those under 21 years of age. Whether the government may regulate firearm use by people under 21 is an important question that is currently pending in five federal circuits as well as district courts in other circuits.¹ Those cases stem from state and federal laws limiting public

¹ *E.g.*, *Natl. Rifle Assn. v. Bondi*, 72 F.4th 1346 (11th Cir. 2023) (granting rehearing en banc); *Reese v. Bureau of Alcohol*, No. 23-30033 (5th Cir.) (pending Second Amendment challenge to 18 U.S.C. § 922(b)(1) and (c)(1) which bar the commercial

firearm use to those 21 and older. The Eighth Circuit’s is the only un-vacated circuit court decision on this important question.²

3. Minnesota allows significant access to guns by young people. Minnesota does not, for example, restrict the possession or use of firearms by youths of any age when supervised by parents or guardians. Minn. Stat. § 624.713, subd. 1(1). By age 14, teenagers may possess guns when hunting without parental supervision if they obtain a firearms safety certificate. Minn. Stat. § 97B.021. And by age 18, Minnesotans can buy and possess semiautomatic assault-style weapons if they obtain a permit to purchase. Minn. Stat. § 624.713, subd. 1(1); Minn. Stat. § 624.7131.

4. In 2003, however, the Minnesota legislature imposed a modest age regulation on access to firearms: it decided that permits to carry pistols in public should be limited to those who are “at least 21 years old.” Minn. Stat. § 624.714, subd. 2(b)(2). Minnesota’s law has now been in effect for over two decades. The federal government, thirty states, and the District of Columbia have similar age regulations.

sale of handguns to individuals under 21); *Rocky Mountain Gun Owners v. Polis*, No. 23-1251 (10th Cir.) (pending Second Amendment challenge to Colorado statute restricting firearm transfers if person under 21); *Chavez v. Bonta*, No. 3:19-cv-01226 (S.D. Cal.) (on remand from 9th Circuit, Second Amendment challenge to California statute regulating gun use by those under 21); *McCoy v ATF*, No. 23-2085 (4th Cir.) (pending Second Amendment challenge to 18 U.S.C. § 922(b)(1) and (c)(1) which bar the commercial sale of handguns to individuals under 21); *Meyer v. Raoul*, Case No. 3:21-cs-00518 (S.D. Ill.) (pending Second Amendment challenge to Illinois statute limiting gun permits to those 21 and older).

² This Court recently vacated the Third Circuit’s earlier decision on this same question and remanded it for further consideration in light of *Rahimi. Paris v. Lara*, ___ S. Ct. ___, 2024 WL 4486348 (Oct. 15, 2024).

5. In 2022, three individual plaintiffs and three organizational plaintiffs sued the Commissioner in the United States District Court for the District of Minnesota, alleging that Minnesota’s age regulation violated the Second Amendment rights of 18-to-20 year olds. In 2023, the district court granted summary judgment to the plaintiffs, concluding that the age regulation violated the Second Amendment, as incorporated against the States by the Fourteenth Amendment, under the rationale of *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 30 (2023), because there were insufficient examples of similar statutes in the 18th century. App. 35a–86a.

6. A panel of the Eighth Circuit affirmed. In doing so, the panel applied the two-part test from *Bruen*, considering text first, and then history. As for text, the panel held that 18-to-20 year olds were among the “people” protected by the Second Amendment. App. 15a–22a. As for history, the panel held that Minnesota’s age regulation had no adequate historical analogue, after rejecting each piece of historical evidence proffered by the state for being insufficiently similar. App. 22a–32a. The panel issued its decision less than a month after this Court’s decision in *United States v. Rahimi*, 144 S. Ct. 1889 (2024), and it did so without ordering any supplemental briefing or argument on *Rahimi*’s impact. The Commissioner requested rehearing, arguing that the Eighth Circuit’s analysis was inconsistent with *Rahimi*’s clarification of the Second Amendment test, because it had not attempted to identify the principles underpinning the regulatory tradition and measured the age regulation against that principle. The Eighth Circuit denied rehearing en banc. App. 1a.

7. Good cause exists for a 59-day extension to file a petition for a writ of certiorari. The Office of the Minnesota Attorney General needs additional time to consult with the Commissioner, government and law enforcement officials, and other stakeholders regarding certiorari.

Additional time is also necessary because counsel have several significant upcoming obligations in other matters. Among other things, counsel represent Minnesota Governor (and Vice Presidential candidate) Tim Walz and the Minnesota Department of Education in responding to Congressional subpoenas regarding fraud in federal food programs during the COVID-19 emergency.³ The investigation is time sensitive and involves coordinating witness interviews as well as searching millions of potentially responsive documents, then reviewing and producing appropriate results. Moreover, counsel have upcoming briefing and argument deadlines in several constitutional and statutory cases in state and federal court, including but not limited to (1) a petition for review with the Minnesota Supreme Court in *State v. Madison Equities, Inc.*, No. A24–0107 (Minn.), due October 23, 2024, in a significant case about the Minnesota Attorney General’s enforcement discretion; (2) an opposition to a motion for a preliminary injunction in *Kohls v. Ellison*, No. 24-cv-03754 (D. Minn.), due November 1, 2024 with a hearing on November 25, 2024, in a First Amendment facial challenge to Minnesota’s ban on the dissemination of AI-generated deepfakes in the leadup to the election; (3) a motion to dismiss in *Pharmaceutical Researchers*

³ https://edworkforce.house.gov/uploadedfiles/9.4.24_feeding_our_future_subpoenas.pdf.

& Manufacturers of America v. State, No. 62-cv-24-5744 (Ramsey Cnty. Dist. Ct.), due November 15, in a constitutional challenge to Minnesota’s prohibition on drug manufacturer interference with access to federally discounted drugs; and (4) strategic advice and coordination on multiple lawsuits related to the 2024 election.

The requested extension will ensure that counsel have time to fully assess and brief the important issues in this case if the Commissioner seeks certiorari.

8. For all these reasons, the Commissioner respectfully requests that the Court extend the time to file a certiorari petition to and including January 17, 2025.

Dated: October 22, 2024

Respectfully submitted,

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