

No. \_\_\_\_\_

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

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DOUGLAS B. MOYLAN,  
ATTORNEY GENERAL OF GUAM,

*Applicant,*

v.

LOURDES LEON GUERRERO,  
GOVERNOR OF GUAM,

*Respondent.*

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**APPLICATION FOR AN EXTENSION OF TIME TO FILE  
A PETITION FOR A WRIT OF CERTIORARI TO THE  
SUPREME COURT OF GUAM**

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**TO THE HONORABLE ELENA KAGAN, CIRCUIT JUSTICE FOR THE U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT:**

In accordance with Supreme Court Rule 13(5), Applicant Moylan respectfully requests a 60-day extension of time to file a petition for a writ of certiorari, to and including December 30, 2024. The Supreme Court of Guam issued its decision on May 31, 2024. *See* Ex 1. Applicant Moylan petitioned for rehearing, which the Supreme Court of Guam denied on July 31, 2024. *See* Ex. 2. Unless an extension is granted, the deadline for filing the petition certiorari will be October 29, 2024. Applicant has not previously sought or received an extension of that deadline. This Court has jurisdiction to review the judgment below under 28 U.S.C. §1254(1).

In support of this request, Applicant states as follows:

1. Congress bears responsibility for administering the Territory of Guam. U.S. Const. art. IV, § 3, cl. 2. This case implicates important questions under the principal statute by which Congress has done so—the 1950 Organic Act of Guam, which establishes Guam’s system of government. More specifically, this case involves the fundamental separation of powers between the three coequal branches of Guam’s government and the respective duties of offices created by Congress for the proper functioning of the territorial government.

2. On March 14, 2024, the Governor of Guam filed a request for declaratory judgment in the Supreme Court of Guam under 7 Guam Code Annotated §4104.

That statute purports to allow the Supreme Court of Guam to act, in certain circumstances, as a court of original jurisdiction.

3. The Governor's request arose from the Attorney General's withdrawal from representing over 20 Executive Branch agencies and officials who were under civil and criminal investigation by the Attorney General's Office and the Office of the Public Auditor, an office created by Congress and the Legislature of Guam under 48 USC § 1421g(c). The Attorney General temporarily withdrew from representing territorial agencies being investigated for government corruption after facing disqualification by the Territorial Judiciary in the performance of the Attorney General's duty to prosecute criminal statutes against government officials. In fact, when the Attorney General temporarily withdrew from his representation, some of those officials had already been indicted by a Territorial grand jury by the Attorney General's Office in his dual role as the Territorial Chief Legal Officer and Territorial Public Prosecutor.

4. The Guam Supreme Court accepted jurisdiction over four questions submitted by the Governor. The court later answered those questions, holding that (1) the Attorney General cannot withdraw from legal representation of agencies; (2) there is no inherent conflict between the Attorney General's role as Chief Legal Officer and Public Prosecutor; (3) the Attorney General must take reasonable steps to implement protective measures when a conflict arises; and (4) in certain circumstances, the Governor may appoint a Special Assistant Attorney General to represent the agencies.

5. Because the power given to the Guam Supreme Court comes from the Guam Organic Act, the Guam Supreme Court's authority to issue opinions under §4104 is inherently a question of federal law. And because the power of the Governor and Attorney General likewise are rooted in the Guam Organic Act, this dispute raises important questions affecting the proper functioning of the territorial government.

6. The Guam Supreme Court erred by holding that the Attorney General represents *individual office holders* rather than the Government and people of Guam. Consequently, it also mistakenly held that the duties of the Attorney General of Guam to serve both as the Territory of Guam's public prosecutor and also as the Territorial Government's Chief Legal Officer created a divided-loyalties problem. Based on those mistakes of law, the Guam Supreme Court limited the Attorney General's ability to prosecute criminal actions against government officials to protect the People of Guam. That prohibits the Attorney General from fulfilling the mandate and structural design of Congress as set forth in the Organic Act of Guam under 48 USC §§ 1421g(c) and 1421g(d)(1).

7. As the Chief Legal Officer of the Territory of Guam, the Attorney General has substantial obligations in other pending cases between now and the current due date of the petition that will affect the Guam Attorney General Office's ability to review and analyze the potential bases for filing a petition for a writ of certiorari. Counsel of record likewise has significant obligations and briefing deadlines in other pending cases during the month following the current due date, including responding

on November 8 to seven motions to dismiss in *SGCI Holdings III LLC et al v. Federal Communications Commission et al.*, No. 1:24-cv-1204 (D.D.C.); responding on November 8 to a motion for summary judgment in *League of Women Voters of Utah et al. v. Utah State Legislature et al.*, No. 22091712 (Utah 3d Dist. Ct.); and filing a motion for summary judgment on November 15 in *Corner Post, Inc. v. Board of Governors of the Federal Reserve System*, No. 1:21-cv-95 (D.N.D.).

8. Applicant requests an extension to allow sufficient time to properly evaluate the underlying issues presented in the Supreme Court of Guam’s opinion and then decide whether to file a petition for writ of certiorari that fully addresses them.

9. For these reasons, Applicant respectfully requeststhat the time to file a petition for a writ of certiorari be extended to and including December 30, 2024.

Dated: October 18, 2024

Respectfully submitted,

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