

App No. _____

In The
Supreme Court of the United States

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JAMES DALY,

Applicant,

v.

CITY OF DE SOTO, MISSOURI, and JEFF MCCREARY,

Respondents.

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

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October 21, 2024

As Circuit Justice for the United States Court of Appeals for the Eighth Circuit:

In accordance with this Court's Rules 13.5, 22, 30.2, and 30.3, Applicant James Daly respectfully requests that the time to file his petition for a writ of certiorari be extended for 46 days, up to and including Monday, December 16, 2024. The Court of Appeals issued its opinion on June 27, 2024 (Exhibit B) and denied rehearing en banc on August 2, 2024 (Exhibit A). Absent an extension of time, the petition would be due on October 31, 2024. Applicant is filing this Application at least ten days before that date. The jurisdiction of this Court is based on 28 U.S.C. 1254(1). Respondents' counsel, Christine Vaporean, was contacted and counsel has advised that Respondents take no position as to this Application for Extension of Time.

Judgment Sought to Be Reviewed

This case presents an important question on the application of temporal proximity relative to an individual's First Amendment protected speech: Whether a public official has the right to terminate a public employee's employment over a year after the alleged speech took place. Also under consideration is the proper application of the applicable law as relates to Mr. Daly's claims.

Applicant James Daly ("Daly") was a police sergeant who served Respondent City of De Soto and Police Chief Jeff McCreary in a highly successful manner prior to his wrongful termination. Up until the accusations leading to his termination, Mr. Daly's tenure as a De Soto police officer was an unquestionable success. He maintained a clean disciplinary record, was promoted from officer to sergeant, and was widely viewed as a commanding officer with a lot of positive

experience to provide for the department.

Mr. Daly pursued a retaliation claim after aiding a female officer under his supervision who complained about harassment in the workplace. Mr. Daly filed his freedom of speech claims after a Facebook post was made regarding Halloween decorations in his yard from the prior year of 2019, prompting an investigation and his termination.

At this certiorari stage, the only claim that is relevant is: a First Amendment protected speech claim against Respondents for Daly's termination relative to his display of Halloween decorations, and the proper application of the law as it relates to Mr. Daly's claims. The trial court dismissed both claims at summary judgment based on Respondent's right to terminate an officer's employment, without analyzing whether the City violated Mr. Daly's rights to free speech on his own private property. The Court of Appeals for the Eighth Circuit affirmed, also without addressing the issue. The Eighth Circuit declined Daly's petition for en banc review.

Reasons For Granting an Extension of Time

Good cause exists for an extension of time to prepare a petition for a writ of certiorari in this case. On October 15, 2024, Applicant's counsel was admitted as an attorney to the United States Supreme Court Bar for the purposes of filing a petition for certiorari in this action. This new status required a learning curve for Applicant's counsel. The instant application affords applicant and his counsel additional time in which to properly prepare the petition and file the same.

Applicant has not previously sought an extension of time from this Court.

Conclusion

Applicant requests that the time to file a writ of certiorari in the above-captioned matter be extended 46 days to and including December 16, 2024.

Dated this 21st day of October 2024.

Respectfully submitted,

/s/ Albert F. Kuhl

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CERTIFICATE OF SERVICE

A copy of this application was served on October 21, 2024, by email and U.S. mail to the counsel listed below in accordance with Supreme Court Rule 22.2 and 29.3.

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