

IN THE SUPREME COURT OF THE UNITED STATES

Mark Miller, et al.,	:	
	:	
<i>Applicants,</i>	:	
	:	No. 24A525
v.	:	
	:	5th Cir. No. 23-50537
JANE NELSON, in her official capacity as	:	
Secretary of State of Texas, et al.,	:	
	:	
<i>Respondents.</i>	:	

**APPLICATION TO THE HON. SAMUELA ALITO, JR. FOR A FURTHER
EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

Pursuant to Supreme Court Rule 13.5, and for good cause, Mark Miller, Scott Copeland, Laura Palmer, Tom Kleven, Andy Prior, America’s Party of Texas, Constitution Party of Texas, Green Party of Texas and Libertarian Party of Texas (“Applicants”) hereby move for a second extension of time of 30 days, to and including February 7, 2025, to file a petition for writ of certiorari. The petition for certiorari is currently due January 8, 2025.

In support of this motion, Applicants state as follows:

1. The Judgment and Opinion of the Court of Appeals for the Fifth Circuit were entered on September 10, 2024 (Exhibit 1). Applicants seek review of that Judgment and Opinion. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).
2. On November 22, 2024, the undersigned counsel applied for an initial extension of time 2025, for the filing of a petition for a writ of certiorari.
3. On December 3, 2024, Justice Alito granted that application and extended the time to file a petition for a writ of certiorari until January 8, 2025.

4. As explained in Applicants' initial extension application, this case involves a challenge to the constitutionality of Texas's statutory scheme governing ballot access. The undisputed facts and uncontested evidence establish that it costs a new political party or independent candidate for statewide office \$1 million or more to comply with that statutory scheme. The Court of Appeals nevertheless upheld the constitutionality of Texas's statutory scheme, based in part on its conclusion that Applicants "failed to establish that the costs amount to a *consequential* burden in this case." Ex. 1 at 9 (emphasis original).

5. The decision of the Court of Appeals reflects a confusion among the lower courts as to the proper legal standard to apply when analyzing the constitutionality of ballot access statutes. Applicants seek an extension of time to file a petition for a writ of certiorari to allow them adequate time to conduct the legal research necessary to demonstrate that lower courts are divided with respect to this issue, and to prepare a petition for certiorari demonstrating that this case is an appropriate vehicle for the Court to decide the issues it raises.

6. The undersigned counsel is Applicants' lead counsel in this matter. While Applicants' counsel has been working diligently to prepare the petition in this case, he is also lead or co-counsel with substantial responsibilities in several other pending cases. *See Ortiz, et al. v. North Carolina State Board of Elections*, No. 5:24-cv-00420 (E.D. N.C.); *Stein v. LaRose*, No. 2:24-cv-4042 (S.D. Oh.); *Indiana Green Party, et al. v. Morales*, No. 23-2756 (6th Cir.); *Brown, et al. v. Yost*, No. 24-3354 (6th Cir.). In particular, in *Brown*, a time-sensitive matter involving Ohio's initiative procedure, the undersigned counsel must prepare a Motion for Leave to File an Amended Complaint and prepare the accompanying pleading. The undersigned counsel also must prepare a petition for writ of certiorari in *Indiana Green Party*, which is currently due January 22.

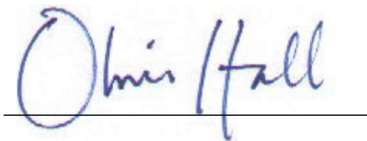
Additionally, as in-house counsel to the defendant in two cases pending in the Superior Court for the District of Columbia, the undersigned counsel continues to dedicate substantial time to supporting and advising lead defense counsel in those cases, including the preparation of two motions to dismiss and an opposition to a motion to consolidate. *See Vest v. McArdle, et al.*, No. 2024-CAB-002804 (D.C. Sup. Ct.); *Harlos v. McArdle, et al.*, No. 2024-CAB-006230. Finally, the undersigned counsel is seeking to collaborate with additional counsel in the preparation of this petition, and co-counsel will need time to review and revise the petition. More time is therefore required, commensurate with the undersigned counsel's other responsibilities, to prepare the petition for certiorari in this matter.

7. For the foregoing reasons, and due to the onset of the holiday season, good cause exists for the Court to grant the requested extension of time.

WHEREFORE, Applicants respectfully request that an extension of time be granted, to and including February 7, 2025, within which they may file a petition for writ of certiorari.

Dated: December 27, 2024

Respectfully submitted,



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