

IN THE SUPREME COURT OF THE UNITED STATES

INDIANA GREEN PARTY, et al.,	:	
	:	
<i>Applicants,</i>	:	No. 24A576
	:	
v.	:	7th Cir. No. 23-2756
	:	
DIEGO MORALES, in his official capacity	:	
as Secretary of State of Indiana,	:	
	:	
<i>Respondents.</i>	:	

APPLICATION TO THE HON. AMY CONEY BARRETT FOR LEAVE TO FILE OUT OF TIME A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Indiana Green Party, Libertarian Party of Indiana, John Shearer, George Wolfe, David Wetterer, A.B. Brand, Evan McMahon, Mark Rutherford, Andrew Horning, Ken Tucker and Adam Muehlhausen (“Applicants”) respectfully move for leave to file out of time a Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit. Applicants respectfully submit such relief is warranted under the extraordinary circumstances present here. Specifically, Applicants timely applied for an extension of time to file their Petition 12 days before it was due, but there was a seven-day delay in docketing the Application, and it was ultimately denied 19 days later, after the deadline for filing the Petition had expired. Applicants therefore have no recourse except to request leave to file the Petition out of time. Should such relief be granted, Applicants respectfully request that they be permitted to file the Petition on or before February 21, 2025, as requested in their Application, or any other date deemed appropriate.

In support of this request, Applicants state as follows:

1. The Opinion of the Court of Appeals for the Seventh Circuit was entered on August

19, 2024 (Exhibit 1) and the Court of Appeals' Order denying rehearing was entered on September 23, 2024 (Exhibit 2). Applicants seek review of that Opinion and Order. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

2. On December 10, 2024, Applicants applied for an initial extension of time for the filing of a petition for a writ of certiorari. On December 12, 2024, Justice Barrett granted that application and extended the time to and including January 22, 2025.

3. On January 10, 2025, Applicants timely applied for a further extension of time to file their Petition, to and including February 21, 2025. Applicants hand-delivered the required paper copies of the Application to the Court that same day.

4. On January 17, 2025, a Clerk of the Court contacted Applicants' counsel to request paper copies of the Application. The undersigned counsel advised that the paper copies had been hand-delivered to the Court on January 10, 2025.

5. At the Clerk's request, on January 17, 2025 the undersigned counsel submitted via email a Declaration attesting that the paper copies had been hand-delivered on January 10, 2025, and attached as an exhibit the file-stamped sticker confirming the Court received the paper copies at 11:40 AM that day (Exhibit 3).

6. On January 17, 2025, the Clerk advised the undersigned counsel that the Application had been docketed and submitted to Justice Barrett that day, although the Court's docket reflects that it was docketed on January 10, 2025.

7. On January 29, 2025, Justice Barrett denied the Application.

8. Because Applicants' timely filed Application was not denied until 19 days after it was filed, and seven days after the January 22, 2025 deadline for filing the Petition, its denial

foreclosed Applicants' right to seek this Court's review. Good cause therefore exists to allow Petitioners leave to file the Petition out of time, on or before February 21, 2025 or any other date deemed appropriate.

9. Good cause also exists to grant the extension of time requested in the Application. As set forth in the Application, the undersigned counsel had several commitments in other matters that did not allow sufficient time for the preparation of the Petition in this case by the January 22, 2025 deadline. Most significant is the petition for certiorari the undersigned counsel filed on the date of this filing, February 7, 2025, in *Miller v. Nelson*, No. 23-50537 (5th Cir.). As lead counsel in this case and in *Miller*, with primary responsibility for authoring the petitions for certiorari in both cases, the undersigned could not have prepared two separate petitions that would be maximally helpful to the Court in the time available.

10. Applicants respectfully submit that the Application set forth good cause for granting the requested extension of time for filing the Petition in this case until February 21, 2025, and further, such an extension is authorized under Rule 13.5. Applicants are prepared, however, to comply with any deadline deemed appropriate should they be granted leave to file the Petition.

11. Additionally, no party will be prejudiced if the requested relief is granted and Applicants are permitted to file their Petition within the time permitted under this Court's rules. By contrast, Applicants will be severely prejudiced if relief is not granted, because their right to seek review by this Court will be foreclosed.

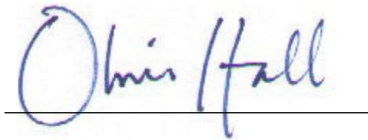
12. Finally, as explained in the Application, this case, which involves a challenge to the constitutionality of Indiana's statutory scheme governing ballot access, raises issues of vital importance to voters nationwide that merit this Court's review. The decision of the Court of

Appeals upholding that scheme reflects a confusion among the lower courts as to the proper legal standard to apply when analyzing the constitutionality of ballot access statutes. That issue should be presented to the full Court so it may consider whether, as Applicants believe, its review is warranted.

WHEREFORE, Applicants respectfully request that they be granted leave to file a petition for certiorari out of time, on or before February 21, 2025 or any other date deemed appropriate.

Dated: February 7, 2025

Respectfully submitted,



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