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IN THE SUPREME COURT
OF THE UNITED STATES OF AMERICA

Lonzie Hershner and Hersh-Fam Enterprises, LLC,
Petitioners,

v.

The City of Dallas; Austin Levisay;
Sondra Parker; Kelly Kaltenbacher; Elizabeth Lopez;
David Hernandez; and Sherry Swanson,
Respondents.

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

**APPLICATION TO JUSTICE ALITO
FOR EXTENSION OF TIME TO FILE A
PETITION FOR WRIT OF CERTIORARI**

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To the Honorable Samuel Alito, Associate Justice of the United States Supreme Court and Circuit Justice for the Fifth Circuit.

Petitioners, Lonzie Hershner and Hersh-Fam Enterprises, LLC, respectfully apply to this Court for an extension of time to file a Petition for Writ of Certiorari to review the judgment of the U.S. Court of Appeals for the Fifth Circuit. This application for an extension of time is made pursuant to Rules 13.5, 22, 30.2, and 30.3 of the Rules of this Court and 28 U.S.C. § 2101(c). Petitioner requests an extension of time to file a Petition for Writ of Certiorari, up to and including February 8, 2025.

CORPORATE DISCLOSURE

No public company owns 10% or more of the stock of Hersh-Fam Enterprises, LLC, or any parent company.

JURISDICTION

Upon filing the petition, jurisdiction of the Court shall be invoked under 28 U.S.C. § 1254.

BACKGROUND

“You gay people need to leave this community and stop parking near my house you fucking niggers.” ROA.23-11214.180. It was these words spewed at patrons of Petitioners that revealed the racial animus that prompted governmental interference with a historically homosexual and black businesses on Juneteenth¹

¹ In the event that this date’s important is lost on anyone; while the Emancipation Proclamation was issued in 1863, it could not be enforced in Confederate territories that were still under rebel control. In Texas, the westernmost Confederate state, enslaved people remained in bondage until much later.

and related dates. ROA.23-11214.337. While the trial court was concerned with the timeline, it was not necessary to demonstrate that Swanson's vitriol occurred prior to the various unconstitutional conduct of Respondents. Rather, the observed meeting between a member of the Dallas City Council and Swanson was sufficient to identify the unconstitutional motive behind the events that occurred. Petitioners focus on the highlights of the governmental action and the motivation for those actions.

Lonzie Hershner and Hersh-Fam Enterprises LLC (collectively "Hershner") operate Marty's Live, an entertainment venue with high patronization and popularity by the LGBTQ+ (Lesbian, Gay, Bisexual, Transgender, Queer, plus) community, specifically those of African American decent. ROA.23-11214.181. Petitioners representing their own rights and the rights of the harassed patrons, filed suit in Dallas County. The City removed, and all Defendants moved to dismiss under Rule 12(b)(6). The Court, following a hearing, issued a paragraph long grant of the Motion to Dismiss, without applying the law, the facts, or making any other rulings in the order.

Following that dismissal, the Petitioners then appealed to the U.S. Court of Appeals for the Fifth Circuit, which entered its opinion on October 11th, 2024.

(App.1)

Their freedom was officially declared on June 19, 1865, when approximately 2,000 Union soldiers arrived in Galveston Bay. The troops informed the more than 250,000 enslaved Black individuals in Texas that they were free under executive order. This day became known as "Juneteenth" among the newly freed people in Texas. Juneteenth is now recognized as an official holiday in the state of Texas.

REASONS FOR GRANTING AN EXTENSION OF TIME

Counsel for Petitioners is currently briefing several different matters before several courts of appeals and the Texas Supreme Court. Additionally, certain medications Counsel for Petitioners take for conditions that materially affect his ability to brief matters fell into a nationwide shortage in October 2023 and each month there are days to weeks before the prescription can be filled, if at all, due to this nationwide shortage—this (still) continues to be an issue presently.

This is the Petitioners first request for an extension of time on the petition for review. Thus, the Petitioners and his undersigned Counsel request an additional 60 days to prepare and file the Petition for Certiorari.

CONCLUSION

Petitioners pray that this Court will grant an extension to file a Petition for Writ of Certiorari in light of these conditions.

Respectfully submitted,

/s/ Nicholas D. Mosser

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