

APP NO.

IN THE SUPREME COURT OF THE UNITED STATES

ANDRE BISASOR,

Petitioner/Petitioner,

v.

BRIAN MOUSHEGIAN, ET. AL.,

Respondents.

On Application for an Extension of Time to File Petition for Writ of Certiorari

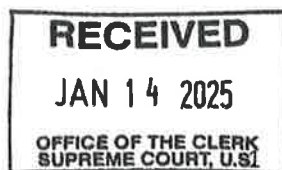
with respect to the New Hampshire Supreme Court

**PETITIONERS' APPLICATION TO EXTEND TIME TO FILE PETITION FOR
WRIT OF CERTIORARI**

Submitted by the petitioner, pro se

Andre Bisasor
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January 10, 2025



Handwritten initials: JM and 537

Corporate Disclosure Statement

Petitioner Andre Bisor is an individual and is not a corporation and has no parent company.

To the Honorable Ketanji Brown Jackson, Associate Justice of the Supreme Court of the United States and Circuit Justice for the First Circuit:

1. Pursuant to Supreme Court Rules 13.5, 22, 30.2, and 30.3, the petitioner Andre Bisasor (“Petitioner”), proceeding pro se, respectfully requests a 60-day extension of time, up to and including March 15, 2025, within which to file a petition for a writ of certiorari (“petition”) to review the judgment of the New Hampshire Supreme Court (“NHSC”) in Case: Andre Bisasor v. Brian Moushegian, et. al, Case No. 2023-0520. The New Hampshire Supreme Court issued its final order denying a timely filed motion for reconsideration on October 16, 2024. Absent an extension, the petition would be due on January 14, 2025. Petitioner is filing this application 5 days before that date, pursuant to Rule 13.5 of the Rules of this Court.
2. The petition will challenge this decision of the NHSC. Because this appeal is from a state supreme court and implicates petitioner's rights under the U.S. Constitution (including but limited to the Due Process Clause, the Equal Protection Clause of the Fourteenth Amendment as well as the First Amendment), the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, 42 U.S.C. § 1983, and other federal laws, this Court would have jurisdiction over the judgment. The jurisdiction of this Court is thus invoked under 28 U. S. C. 5 1257(a).

I. TIMELINESS OF EXTENSION REQUEST

3. While this application is being filed less than 10 days before the petition's due date, extraordinary circumstances justify its consideration and granting.
4. The 10-day deadline fell on or about January 4, 2025, a Saturday, during a period encompassing major holidays and court closures. Petitioner was unable to prepare and file this request earlier due to the following factors:
 - a. The holiday period from Christmas to New Year's Day impeded application preparation.

- b. January 9, 2025, is a federal holiday (National Day of Mourning for President Carter), closing the Court and precluding communication with the Clerk's office for guidance¹.
 - c. Petitioner has two medical procedures scheduled for January 9 and 10, 2025, requiring pre-procedure preparations from January 6-8.
 - d. Multiple medical appointments are scheduled for January 13-16, further constraining Petitioner's ability to prepare this request or the petition itself.
5. These circumstances constitute good cause or extraordinary circumstances justifying the timing of this application (See Shapiro et al., Supreme Court Practice §6.5(b) (11th ed. 2019). Moreover, this application has been sent via special courier services, to arrive on January 10, ensuring its arrival to the court before the petition's due date (which is still somewhat within a reasonable time prior to the deadline²). Petitioner respectfully requests expedited processing and an urgent ruling on this time-sensitive matter.
6. This constitutes good cause or extraordinary circumstances that justify filing on January 10.

II. REASONS FOR GRANTING EXTENSION OF TIME

7. The petitioner intends to file a petition for writ of certiorari and now apply for an extension of time to do so. An extension to file the writ of certiorari in this case is needed to permit petitioner to file a petition that fully and adequately addresses important issues. The issues to be presented are somewhat intricate and nuanced, and so more time is needed to present the best advocacy to this Court. Petitioner thus seeks a 60-day extension to file the petition for writ of certiorari on the following grounds:

¹ NB: The petitioner called the clerk's office several time from January 8 through January 10, and left several voice messages, which was only returned finally on January 10 by clerk staff, to address questions of the petitioner.

² Petitioner is unclear if there will be a delay in processing this extension request but assume that a decision can be rendered by Monday or Tuesday of next week, by or before the deadline.

A. Pro Se Status and Pursuit of Legal Representation:

8. The petitioner is in the process of securing legal counsel and has not yet obtained counsel to file a petition for certiorari. Legal counsel is needed to assist the petitioner with fully assessing the legal issues in the case with a view to preparing and filing a petition for certiorari. Because petitioner is currently acting pro se, he may not be able to present these issues and arguments in as legally skilled manner as a trained lawyer could, especially as it pertains to the requirements for US supreme court jurisprudence. The requested extension is warranted to permit petitioner, an African-American male with limited resources, to obtain counsel to represent him in the US Supreme Court, and to permit such counsel to familiarize themselves with the history of this litigation and the legal issues to be presented, and also to allow counsel an opportunity to narrow the questions presented for this Court's consideration. Conversely, should petitioner ultimately be unable to secure legal representation, the petitioner would require additional time to become more acquainted with this Court's Rules, and to prepare a petition towards this Court's just, accurate and fair adjudication, given that the petitioner has not previously appeared before this Honorable Court. Furthermore, more time is needed to allow potential amici to be filed in this case.
9. Thus, as a pro se litigant navigating complex legal issues, Petitioner requires additional time to either secure legal representation or obtain legal advice to prepare a compelling petition. The extension would allow for consultation with potential counsel and proper petition preparation.

B. Complex and Novel Legal Issues:

10. The underlying case involves potentially novel questions of law under the Americans with Disabilities Act (ADA), among other things, likely presenting issues of first impression for this Court. The complexity and significance of these issues warrant additional time for thorough research and articulation (See Supreme Court Rule 10(c)).

C. Substantial Nature of the Case:

11. The ADA issues at stake have far-reaching implications for disability rights and access to justice.

The additional time would ensure that these weighty matters are presented comprehensively for the Court's consideration (See *Tennessee v. Lane*, 541 U.S. 509 (2004), exemplifying the Court's recognition of the ADA's importance in ensuring equal access to courts).

E. Interests of Justice:

12. Granting this extension would serve the interests of justice by allowing for a well-prepared petition that fully articulates the important legal issues at stake, thereby aiding the Court in its consideration of whether to grant certiorari.

13. Given these compelling reasons, the requested 60-day extension is both reasonable and necessary to ensure that the petition for writ of certiorari is prepared with the diligence and thoroughness that this Court and the important issues involved deserve.

III. KEY POINTS ABOUT THE CASE

14. Protecting people with disabilities against discrimination from public entities is one of Congress's motivating factors in passing the Americans with Disabilities Act ("ADA"). 42 U.S.C. § 12101(a)(3). The importance of ensuring access to justice for individuals with disabilities cannot be overstated. As this Court has recognized, the unequal treatment of disabled persons in the administration of judicial services has a long history, and has persisted despite several legislative efforts to remedy the problem of disability discrimination. *Tennessee v. Lane*, 541 U.S. 509, 531 (2004). This case presents an opportunity for this Court to affirm the fundamental principle that individuals with disabilities must be afforded equal access to courts.

15. Title II of the ADA prohibits discrimination against individuals with disabilities in the services, programs, or activities of public entities, including state courts. 42 U.S.C. § 12132; *Tennessee v. Lane*, 541 U.S. 509, 531 (2004).

16. The ADA requires public entities to make reasonable modifications to policies, practices, and procedures when necessary to avoid discrimination on the basis of disability. 28 C.F.R. § 35.130(b)(7). The NHSC is a public entity subject to Title II of the ADA. 42 U.S.C. § 12131.
17. Petitioner is an African-American individual with disabilities as defined by the ADA. Petitioner's disabilities qualify as disabilities under the ADA, as they substantially limit one or more major life activities. 42 U.S.C. § 12102(1)(A).

IV. FURTHER GROUNDS FOR REVIEW

18. The petition that petitioner plans to file with this court relates to a decision rendered by the NHSC, which is the highest court or the court of last resort for the state of New Hampshire.

A. Summary

19. This case³ arises from the denial of Petitioner's requests for reasonable accommodations⁴ under the ADA in connection with actions before the NHSC. The NHSC has persistently denied Petitioner's rights as a litigant with disabilities. Despite Petitioner's documented disabilities and repeated requests for reasonable accommodations, the NHSC has refused to grant necessary accommodations. The NHSC's actions violate the ADA, Section 504, and Petitioner's constitutional rights to due process and equal protection.
20. Similarly, the ADA issues is an important area of law that appears to be novel for the NHSC. These ADA issues affects many citizens who would seek access to the NHSC and to the courts of NH. This is a timely issue of great concern and public importance that should align with the interests of this court in protecting federal civil rights throughout the states.

³ The underlying case in the NHSC involves important right-to-know issues and right to public access constitutional issues. The issues are novel because these have not been presented to or ruled on by the NHSC before and thus represents a case of first impressions and it goes to critically important rights for all citizens, whether from NH or from outside of NH (including from neighboring states like Massachusetts where its citizens of travel to, work in, conduct business or interact in the state of NH), and is thus a consequentially important public interest case. It should be of particular importance how citizens of other states, such as the petitioner, are treated in NH and whether they are being systematically stripped and deprived of their federally protected civil rights because they interact with the state of NH.

⁴ Petitioner has disabilities that substantially limit one or more major life activities. These disabilities are documented by medical providers. Petitioner has made multiple requests to the NHSC for reasonable accommodations under the ADA.

21. This case also further involves impermissible prior restraint posed by the NHSC, the cumulative effects of which amount to unconstitutional prior restraint, severely impeding petitioner's right to freedom of speech, to petition the courts for redress under the First Amendment, and to due process under the Fourteenth Amendment of the United States Constitution. In addition to his ADA and due process claims, Petitioner's right of access to the courts is protected by the First Amendment. See *Bill Johnson's Restaurants, Inc. v. NLRB*, 461 U.S. 731, 741 (1983). By denying reasonable accommodations, the NHSC has effectively denied Petitioner his First Amendment right to petition the courts for redress of grievances. This Court has recognized that the right of access to the courts is a fundamental right protected by the Constitution. This right assures that no person will be denied the opportunity to present to the judiciary allegations concerning violations of fundamental constitutional rights. By denying Petitioner's requests for reasonable accommodations, the NHSC is effectively blocking Petitioner's access to the judicial system.

B. Examples of Issues Presented To The Court

22. The petitioner will present to this Court certain constitutional issues involving due process, equal protection, and federal questions.

i. Right to An Impartial Judge:

23. The petitioner contends that the constitutional principle of the right to an impartial judge and fair trial was violated in this case. Article 35 of the NH Constitution's Bill of Rights declares: "*that there be an impartial interpretation of the laws, and administration of justice. It is the light of every citizen to be tried by judges as impartial as the lot of humanity will admit.*" This principle is also codified within the Due Process clause of the 14th amendment. There are justices of the NHSC who refuse to address serious conflicts of interest. This bias impaired Petitioner's right to a fair and impartial tribunal. Out of the 5 justices on the NHSC, 2 have been recused for conflict or bias. Other justices have conflicts and bias as well, but refuse to recuse themselves. They have refused to address concerns raised in more than one motion to recuse (except blanket denial).

The petitioner cannot obtain a fair and impartial trial without a fair and impartial judge to make the proper fact or legal determinations'. Proof of the above will be provided in the petition. Judicial recusal is a crucial mechanism for safeguarding both the reality and perception of judicial integrity. This implicates the due process clause of the Constitution and contradicts precedents set by this court. This will be elaborated on in the petition.

ii. Right to A Fair Process/Trial:

24. The petitioner also believes that due process was violated and that the NHSC's decision has resulted in the unjust deprivation of property without due process of law. The petitioner also believes this case implicates the equal protection provisions of the Fourteenth Amendment to the U.S. Constitution.. This will be elaborated upon in the petition.

iii. Arbitrary & Capricious Application of the Rules/Law:

25. The petitioner also believes that due process was violated because the NHSC did not follow its own rules. The petitioner believes that the NHSC decision is also self-contradictory and arbitrary. This will be elaborated upon in the petition.

iv. Violations of the ADA:

26. The NHSC blatantly violated several key aspects of the ADA.

- a. The NHSC has denied all of petitioner's ADA requests and has erred in denying these ADA requests of the petitioner.
- b. In denying the ADA requests, the NHSC did not show that the requested accommodations would fundamentally alter the court program or activity. It did not even address it.
- c. The NHSC did not provide an interactive process
- d. The NHSC did not offer any alternative accommodation.
- e. The NHSC engaged in an extensive and demanding analysis and a grueling demeaning burdensome arbitrary process, without any due process or procedural safeguards, in violation of the ADA.

- f. The NHSC did not address (or sidestepped) the petitioner's disabilities, in order to avoid the requirements of the ADA and to protect itself in pending federal court litigation.
 - g. The NHSC unnecessarily dragged out the process to the harm of the Petitioner
 - h. The NHSC has intentionally evaded or circumvented the requirements of the ADA.
 - i. The NHSC engaged in unwarranted stereotyping and bias against the petitioner.
 - j. The NHSC has sought to dissuade petitioner from asserting/pursuing his ADA rights.
 - k. The NHSC has failed to protect the privacy of the petitioner's medical documentation.
 - l. The NHSC has erected burdensome barriers, making it unnecessarily difficult to seek and obtain reasonable accommodation under the ADA.
 - m. The NHSC is not following the ADA law and its requirements including its due process and privacy requirements.
 - n. The NHSC is not following its own ADA policy.
 - o. The NHSC is engaging in arbitrary and capricious actions that cause discrimination against the petitioner as a person with disabilities.
 - p. The NHSC has engaged in retaliation because petitioner raised concerns about discrimination in violation of the ADA.
 - q. The NHSC is engaging in discrimination and retaliation in violation of the ADA.
 - r. The NHSC violated other aspects of the ADA which will be outlined further in the petition.
27. It should be noted that opposing defendants (the NH department of justice) in the underlying case gave their assent to the accommodation requested by the petitioner, yet the NHSC still denied that petitioner's ADA requests, which is stupefying.
28. Other courts have granted the reasonable accommodation requested by the petitioner. There are at least 4 courts that have granted the reasonable accommodation for the same or similar

ADA issues at around the same timeframe⁵, including a NH superior court, a MA superior court, the MA appeals court and the NH federal court. The NHSC is the only court that has not granted the reasonable accommodation for the same ADA issues. This further highlights the fact that the NHSC actions are unreasonable, discriminatory, biased, unfair and unjust.

29. The NHSC has engaged in discriminatory practices, including:
 - a. Refusing to grant reasonable accommodations;
 - b. Delaying and avoiding ruling on ADA requests;
 - c. Failing to provide an opportunity to submit medical documentation;
 - d. Threatening to expose Petitioner's private medical information;
 - e. Retaliating against Petitioner for raising ADA concerns;
 - f. Engaging in unwarranted stereotyping and bias against the Petitioner;
 - g. Failing to follow its own ADA policy and the requirements of the ADA law.
30. Other courts, including a NH superior court, a MA superior court, the MA appeals court, and the NH federal court, have granted similar accommodations to Petitioner, around the same timeframe. Out of the 5 justices on the NHSC, 2 have been recused for conflict or bias. Other justices have conflicts and bias as well but refuse to recuse themselves.
31. The NHSC has engaged in a pattern of conduct that demonstrates bias and animus against Petitioner, including denying nearly every motion or request filed by Petitioner while granting similar requests by other parties, and imposing onerous procedural requirements on Petitioner not applied to other litigants, among other things.
32. The NHSC failed or refused to provide reasonable accommodations to Petitioner in violation of the ADA, which thus constitutes disability discrimination. The NHSC's actions constitute

⁵ NB: It is consistent and logical that ADA requests were made to all of the courts, including the ones listed here, where petitioner had other unrelated litigation pending, at the same time.

discrimination in violation of Title II of the ADA, 42 U.S.C. § 12132, and its implementing regulations at 28 C.F.R. pt. 35. The NHSC has violated and continues to violate the ADA and, accordingly, has injured the petitioner by (a) administering and delivering its services in a manner that deprived or denied him of the opportunity to participate in the benefits of state services as a result of medical disabilities, and (b) failing to reasonably modify its administration and delivery of these services in a manner that would avoid discrimination against the petitioner and of such individuals with said medical disabilities.

V. CONCLUSION

33. For the foregoing reasons, Petitioner respectfully requests that the time to file a petition for writ of certiorari in this case be extended for 60 days, and that an order be entered extending the time to file a petition for a writ of certiorari in this case to and including March 15, 2025.

Respectfully submitted,

/s/ Andre Bisasor

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THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2023-0520, Andre Bisor v. Brian Moushegian & a., the court on October 4, 2024, issued the following order:

This order addresses all pending motions, requests, and other prayers for relief, including the “corrected” or “amended” versions and the plaintiff’s requests for accommodations under the Americans with Disabilities Act (ADA). For purposes of this order, we assume, without deciding, that the plaintiff has a disability within the meaning of the ADA. See Jones v. Nationwide Life Ins. Co., 696 F.3d 78, 81 (1st Cir. 2012) (“bypassing the question of whether [plaintiff] met the definition of ‘disability’ and holding that the reasonable accommodation provisions of [the] statutes do not save his case”).

The plaintiff’s motion to reconsider the order denying his motion to recuse Justice Countway is denied. The motion to reconsider identifies no basis for a reasonable person to question the impartiality of Justice Countway. “Judicial rulings alone almost never constitute a valid basis for a bias or partiality motion.” State v. Bader, 148 N.H. 265, 271 (2002) (quotation and brackets omitted). “Adverse rulings against the [party] in the same or a prior judicial proceeding do not render the judge biased.” Id. (quotation omitted).

Each of the motions filed by the plaintiff for permission to file a reply to an objection or response is granted. The plaintiff filed each reply as an attachment to the applicable motion for permission. The parties should not assume that motions for permission to file a reply will be granted in the future. See Supreme Court Rule 21(3-A).

The plaintiff’s motions to seal ex parte reiteration of his ADA request are denied. His motion to reconsider the court’s order of September 13, 2024, to the extent that it addressed his earlier request for ex parte treatment, is also denied. The court determines that the plaintiff’s ADA requests — through which he seeks an additional extension of time to file his brief, a relaxation of the rules governing citation to the record, a waiver of the court rule that prohibits filing by email, the intervention of a new party, and the scheduling of oral argument — are entitled to confidential treatment, see Rule 3(a) of the Supplemental Rules for E-Filing, but not ex parte treatment, see Rule 3(h) of the Supplemental Rules for E-Filing. Withholding the information in those requests from other parties could allow the plaintiff to gain a procedural or tactical advantage by depriving other parties of a meaningful opportunity to respond. See Rule 2.9(A)(1) of the Code of Judicial Conduct (Supreme Court Rule 38).

The plaintiff's motion to reconsider the other portions of the court's September 13, 2024 order is denied. After review of the September 4 and 13, 2024 orders, we conclude that the court did not overlook or misapprehend any points of fact or law in those rulings.

The motion to allow intervention of Natalie Anderson is denied. This case was commenced in the superior court nearly three years ago, and it has been pending in this court for more than a year. Allowing intervention at this point, after the due date for the plaintiff's brief, would disrupt the orderly processing of the appeal. All other motions and requests by Natalie Anderson are therefore denied as moot. To the extent that Natalie Anderson has sought intervention to assist the plaintiff with this appeal, she may provide such assistance. However, the two are not co-parties, and she is not his representative. Accordingly, the court and other parties shall serve documents solely to, and receive filings solely from, the plaintiff. He is permitted to add Natalie Anderson as an "alternate email" in his e-filing account and to treat her as his assistant for purposes of sharing his log-in information with her so that she may help him with receiving electronically issued documents and with submitting documents through the e-filing system. See Rule 8(b)(1) of the Supplemental Rules for E-Filing.

The relief requested in the plaintiff's "emergency/expedited motion to stay the decision on whether to grant the plaintiff's ADA request for accommodation (including the 9-4-24 ADA medical explanation/documentation filing and the 2 additional ADA requests filed on 9-23-24) until all the ADA requests can be reviewed and decided together and until all of the pending issues are resolved" is denied to the extent that this order does not render the motion moot. We turn now to the plaintiff's August 20, 2024 "final motion" for a 60-day extension to file his brief and his ADA requests that seek the same extension of time as an accommodation.

We begin by noting that the self-represented status of the plaintiff does not warrant an accommodation or an extension of time. It is well-settled in New Hampshire that self-represented litigants and nonlawyers are bound by the same procedural rules that govern parties represented by counsel. In the Matter of Birmingham & Birmingham, 154 N.H. 51, 56 (2006). Federal procedural law, which does not apply here but which the plaintiff nonetheless invokes, observes the same principle. See, e.g., McNeil v. United States, 508 U.S. 106, 113 (1993) ("we have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel"); Goguen v. Allen, 780 F.3d 437, 457 n.58 (1st Cir. 2015) ("We have long held, and oft repeated, that pro se status does not free a litigant in a civil case of the obligation to comply with procedural rules." (quotation omitted)); Eagle Eye Fishing Corp. v. United States Dep't of Commerce, 20 F.3d 503, 506 (1st Cir. 1994) ("Indeed, there is a long line of authority rejecting the notion that pro se litigants in either civil or regulatory cases are entitled to extra procedural swaddling."). Similarly, the overwhelming number of issues that the plaintiff

listed in his notice of appeal (47 issues, including various subparts) does not justify an accommodation or an extension of time to file his brief.

The original briefing order in this case was issued on May 31, 2024. That order required the plaintiff to file his brief on or before July 1, 2024 (*i.e.*, within 30 days, which is the court’s standard period of briefing time for a civil case with a transcript of fewer than 100 pages). On June 13, the plaintiff filed an “assented-to” notice of a 15-day automatic extension to file his brief. *See* Supreme Court Rule 21(6-A)(a). The plaintiff then filed a second “assented-to” notice of a 15-day automatic extension to file his brief. As a result, his brief became due on July 31. Supreme Court Rule 21(6-A)(b) provides: “A maximum of two assented-to notices of automatic extension of time may be filed by the parties collectively. Thereafter, no additional extension of time will be granted by the court absent a showing of extraordinary circumstances.” On July 15, the plaintiff filed an “assented-to” motion for a 30-day extension to file his brief.¹ In that motion, the plaintiff represented that “[n]o further extension will be requested by the plaintiff-appellant.” In apparent reliance on that representation and the parties’ “assent,” the clerk granted the motion, thereby extending the due date for the plaintiff’s brief to August 30.

On August 20, the plaintiff filed an “assented-to . . . final motion for 60-day extension of time to file brief,” which requested a new due date of October 29. In that motion, the plaintiff again represented that it would “be the final request for extension requested by the plaintiff-appellant.” The intervenor promptly notified the court that he had not assented to the motion and that he intended to file an objection. The plaintiff then filed an ADA request with an “affidavit/supplement to assented-to [sic] motion for extension” on August 21, which contained no specific information about the plaintiff’s disability or about the linkage between the disability and the requested accommodation (an additional extension of 60 days to file his brief). *See Jones*, 696 F.3d at 89 (discussing requirements of an accommodation request under Title I of the ADA). For that reason, the court denied the request on August 27, but extended the due date for the plaintiff’s brief to September 6. In response to the plaintiff’s ensuing motion to clarify, the court permitted the plaintiff to submit medical documentation in support of his ADA request on an ex parte basis, but explained that the court would review the documentation, once submitted, to determine whether continued ex parte treatment was warranted.

On September 4, the plaintiff submitted “medical explanation/ medical documentation” in support of his requested accommodation. The documentation identified the plaintiff’s medical conditions and stated that he

¹ It appears that the two “assented-to” notices and the “assented-to” motion did not receive the assent of counsel for the intervenor, Craig Donais, who is a full party to this appeal as our January 10, 2024 order confirmed. Despite that order, the plaintiff continues to treat the intervenor as an interloper, rather than as a party.

should be excused from “court matters . . . at least, for the next 10 weeks, as he undergoes evaluation and treatment.” The plaintiff asserted that these “conditions are severely interfering with my life in such a way that I have to seek and undergo treatment as well as multiple evaluations, testing, and procedures from multiple specialists in order to diagnose, address, and treat the conditions/problems identified herein.” The court determined on September 4 that the explanation and documentation were entitled to confidential treatment, but not *ex parte* treatment, and gave the plaintiff an opportunity to withdraw his request in advance of his brief’s September 6 due date if he did not want that information disclosed to the other parties. In doing so, the court found persuasive the federal district court order that was attached as exhibit B to the intervenor’s August 23 objection to the ADA request. The plaintiff neither withdrew that request nor filed a brief. On September 13, the court ordered the plaintiff’s medical information and documentation to be shared with the other parties so that they could file a response within ten days. The court noted that the plaintiff’s pending motion and request for an extension of time to file his brief did not themselves serve to extend the September 6 due date.

The intervenor timely objected, arguing that the plaintiff had already been given sufficient time to file his brief (approximately 100 days, a period of time more than three times greater than the standard 30-day briefing period), that the “extent and expeditious filing of pleadings by the [plaintiff] since his ADA request belies his claim that he is unable to prepare a timely brief,” and that the “allegation of disability that impairs his ability to manage his pending litigation is not new.” On September 23, the plaintiff filed additional requests for accommodations under the ADA based upon a “newly identified” disability. These ADA filings repeated the plaintiff’s prior request for an extension of time “pursuant to my doctors’ orders/recommendations of at least 10 weeks or 2 months.” They also sought additional accommodations, including a relaxation of the rules governing citation to the record, a waiver of the court rule that prohibits filing by email, the intervention of a new party, and the scheduling of oral argument. On September 27, the plaintiff filed a reply to the intervenor’s objection, in which he made the following statement about the impact of his medical conditions on his ability to file a brief: “These disabilities can act up at any stage [of the brief-preparation process], making any stage or section of the briefing task more difficult and unable to be completed.”

Having reviewed the numerous filings submitted by the parties since August 20, we agree with the points set forth in the intervenor’s objection, including its assertion that the volume and frequency of the plaintiff’s filings in this case belie his claim that an additional extension of time to file his brief is necessary as a reasonable accommodation. The motion for a 60-day extension and the ADA requests seeking the same as an accommodation are therefore denied.

We further note, as a separate and independent reason for denial, that the explanations and documentation offered by the plaintiff provide no reliable basis for us to conclude that the plaintiff would submit a brief by the new deadline that he has requested. After all, his July 15 motion stated that “[n]o further extension will be requested by the plaintiff-appellant,” and yet he filed another extension motion just one month later. See Tower Ventures, Inc. v. City of Westfield, 296 F.3d 43, 47 (1st Cir. 2002) (“When a litigant seeks an extension of time and proposes a compliance date, the court is entitled to expect that the litigant will meet its self-imposed deadline.”). The plaintiff’s current requests again represent that no further extensions of time will be sought, but the medical documentation (recommending his excusal from court matters for “at least” 10 weeks) and the plaintiff’s explanations (“These disabilities can act up at any stage [of the brief-preparation process], making any stage or section of the briefing task more difficult and unable to be completed.”) undermine that representation. As the First Circuit has explained, a plaintiff seeking an ADA accommodation must demonstrate the “effectiveness” of the proposed accommodation, Pollack v. Regional School Unit 75, 886 F.3d 75, 81 (1st Cir. 2018), which is a measure of the “reasonableness” of the proposed accommodation and its “likelihood of success,” Jones, 696 F.3d at 91 (quotation omitted). See Trahan v. Wayfair Me., LLC, 957 F.3d 54, 66-67 (1st Cir. 2020). The plaintiff’s documentation provides no “guarantee” that the testing, evaluation, and treatment process that he is undergoing over the next several weeks will be “successful” in addressing the various underlying conditions that he claims have prevented him from filing a brief already. Halpern v. Wake Forest Univ. Health Sciences, 669 F.3d 454, 465-66 (4th Cir. 2012). Thus, “the indefinite duration and uncertain likelihood of [plaintiff’s] proposed accommodation renders it unreasonable.” Jones, 696 F.3d at 91 (quoting Halpern, 669 F.3d at 465); see also Huberty v. Wash. County Housing & Redevelopment Auth., 374 F. Supp.2d 768, 774-75 (D. Minn. 2005) (ruling that the plaintiff’s ADA request was for an “indefinite” extension of time, and was therefore “unreasonable,” because “[e]ven the words plaintiff chose to articulate her request indicated significant doubt regarding the outcome”).

After having received several extensions, the plaintiff was ordered to file his brief on or before September 6, 2024. The plaintiff failed to file a brief as ordered. Consequently, the appeal is dismissed. See Rule 16(12) (explaining that failure of appealing party to file brief will result in dismissal of appeal). Any other pending motion, request for accommodation, or prayer for relief, to the extent not rendered moot by the foregoing, is denied and does not warrant discussion. See Vogel v. Vogel, 137 N.H. 321, 322 (1993).

Appeal dismissed.

Bassett, Donovan, and Countway, JJ., concurred.

**Timothy A. Gudas,
Clerk**

Distribution:

Hillsborough County Superior Court South, 226-2021-CV-00599

Honorable Charles S. Temple

Samuel R.V. Garland, Esq.

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Attorney General

Mr. Andre Bisasor

Ms. Natalie Anderson

File

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2023-0520, Andre Bisasor v. Brian Moushegian & a., the court on October 16, 2024, issued the following order:

The plaintiff's emergency motion to stay proceedings in this court is denied. The plaintiff's motion for reconsideration and clarification of the October 10, 2024 order, which denied his motion for an extension of time to file a motion for reconsideration of our October 4, 2024 decision, is denied. The plaintiff filed a motion for reconsideration of the October 4, 2024 decision on October 15, 2024.

Supreme Court Rule 22(2) provides that a party filing a motion for rehearing or reconsideration shall state with particularity the points of law or fact that the party claims the court has overlooked or misapprehended. We have reviewed the claims made in the plaintiff's motion for reconsideration of our October 4, 2024 decision and conclude that no points of law or fact were overlooked or misapprehended in that decision. Without addressing each individual point in the plaintiff's motion, we note that our citation to decisions involving other titles of the ADA was consistent with the approach taken by federal courts in this circuit. See Trahan v. Wayfair Me., LLC, 957 F.3d 54, 65 (1st Cir. 2020) (Title I case citing a Title II decision, McElwee v. County of Orange, 700 F.3d 635, 641 (2d Cir. 2012)); Pollack v. Regional School Unit 75, 886 F.3d 75, 81 (1st Cir. 2018) (Title II case citing a Title I decision, Reed v. LePage Bakeries, Inc., 244 F.3d 254, 259 (1st Cir. 2001)); Jones v. Nationwide Life Ins. Co., 696 F.3d 78, 81 (1st Cir. 2012) (Title I case citing a Title III decision, Halpern v. Wake Forest Univ. Health Sciences, 669 F.3d 454, 465 (4th Cir. 2012)); Isaacs v. Trustees of Dartmouth College, Case No. 17-cv-040-LM, 2017 WL 4857433 (D.N.H. Oct. 24, 2017) (Title II case against the New Hampshire Board of Medicine citing a Title I decision, Reed, 244 F.3d at 261), aff'd, 2019 WL 10837707 (1st Cir. Jan. 3, 2019). We further note that the plaintiff's recent filings in this court, as well as the length of the document (78 pages) accompanying the plaintiff's emergency motion to stay, confirm the conclusion that we reached on page 4 (final paragraph) of our dismissal decision. Accordingly, we affirm the October 4, 2024 decision and deny the relief requested in the motion.

Relief requested in motion for reconsideration denied.

Bassett, Donovan, and Countway, JJ., concurred.

**Timothy A. Gudas,
Clerk**

APP NO.

IN THE SUPREME COURT OF THE UNITED STATES

ANDRE BISASOR,
Applicant/Petitioner,

v.

BRIAN MOUSHEGIAN, ET. AL.,
Respondents.

CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2025, a true and correct copy of the foregoing **PETITIONERS' APPLICATION TO EXTEND TIME TO FILE PETITION FOR WRIT OF CERTIORARI** was served via United States postal first-class mail, upon counsel of record for defendants:

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