

No. 24A-

IN THE
SUPREME COURT OF THE UNITED STATES

ASHLEE MARIE MUMFORD,

Applicant,

v.

STATE OF IOWA,

Respondent.

On Petition for a Writ of Certiorari
to the Iowa Supreme Court

APPLICATION FOR EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI

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February 24, 2025

**APPLICATION FOR EXTENSION OF TIME IN WHICH TO FILE A
PETITION FOR A WRIT OF CERTIORARI**

TO: The Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Eighth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rule 13.5 of the Rules of this Court, Applicant Ashlee Marie Mumford respectfully requests an extension of thirty (30) days in which to file a petition for a writ of certiorari in this case. The Iowa Supreme Court issued its decision on December 6, 2024. *See State of Iowa v. Ashlee Marie Mumford*, 14 N.W.3d 346 (Iowa 2024); App. Exh. 1.

Absent extension, the deadline for filing a petition for writ of certiorari is March 6, 2025. With the requested extension, the petition would be due on April 7, 2025. This application is being filed more than ten days before the petition is due. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1257.

In support of this application, Applicant states:

1. The petition for certiorari in this case will present a constitutional question that has divided federal and state courts: Whether a drug detection dog's sniff within the interior of a stopped vehicle violates the Fourth Amendment.

Although a dog sniff that is confined to the exterior of a lawfully stopped vehicle is permissible, multiple courts have recognized that the Fourth Amendment is violated if the dog's nose extends into the interior of the vehicle. *See, e.g., United States v. Ngumezi*, 980 F.3d 1285, 1289 (9th Cir. 2020) ("Although the intrusion here may have been modest, the Supreme Court has never suggested that the magnitude of a physical intrusion is relevant to the Fourth Amendment analysis [W]e apply a bright-line rule that opening a door and entering into the interior space of a vehicle constitutes a Fourth Amendment search."); *United States v. Pulido-Ayala*, 892 F.3d 315, 318–19 (8th Cir. 2018) (distinguishing between situations in which the dog gives a strong

reaction while outside the vehicle and situations in which the dog gives no such reaction until after entering the interior of the vehicle); *State v. Randall*, 496 P.3d 844, 853 (Idaho 2021) (“*Jones and Jardines* make clear that a drug dog’s trespass into a car during an exterior sniff converts what would have been a non-search . . . into a search.”); *see also State v. Organ*, 697 S.W.3d 916, 919–21 (Tex. App. 2024) (concluding that a drug dog’s “interior sniff of [defendant’s] car violated [his] Fourth Amendment rights”); *State v. Campbell*, 5 N.W.3d 870, 876–80 (Wis. Ct. App. 2024) (noting that because the defendant “had a property interest in the interior of her vehicle under the common-law trespassory test,” her Fourth Amendment rights were violated when a dog alerted after entering her vehicle).

2. In this case, a divided Iowa Supreme Court held that there was no Fourth Amendment violation even though the drug detection dog’s nose extended inside the vehicle. The majority acknowledged that “[o]ther courts have addressed the issue of whether a K–9 unit’s entry into the cabin of a vehicle constituted an unconstitutional search” and “have come to different conclusions under a variety of rationales.” Exh. 1 at 10a. The majority viewed this Court’s decision in *Illinois v. Caballes*, 543 U.S. 405 (2005), as “the controlling case.” Exh. 1 at 10a. *Caballes* held that “[a] dog sniff conducted during a concededly lawful traffic stop that reveals no information other than the location of a substance that no individual has any right to possess does not violate the Fourth Amendment.” *Caballes*, 543 U.S. at 410.

On the other hand, the two dissenting justices of the Iowa Supreme Court asserted that *Caballes* approved only an *exterior* sniff around the perimeter of the vehicle. Moreover, this Court’s decision in *Caballes* was grounded in the reasonable-expectations test of *Katz v. United States*, 389 U.S. 347 (1967), while the decisions recognizing that an intrusion inside the vehicle violates the Fourth Amendment rest on a common-law trespassory test. As the dissenters observed,

this Court has made clear that “[t]he *Katz* reasonable-expectations test . . . is unnecessary to consider when the government gains evidence by physically intruding on constitutionally protected areas.” Exh. 1 at 19a (quoting *Florida v. Jardines*, 569 U.S. 1, 11 (2013)); see also *United States v. Jones*, 565 U.S. 400, 409 (2012) (“[T]he *Katz* reasonable-expectation-of-privacy test has been added to, not substituted for, the common law trespassory test.”).

3. In short, this case presents a substantial and recurring constitutional question on which the lower courts are divided. There is a reasonable prospect that this Court will grant the petition, such that additional time is warranted to allow this important question to be fully addressed in the petition for certiorari.

4. The University of Virginia Supreme Court Litigation Clinic and Mr. Murphy are working diligently to prepare the petition, but need additional time to research, complete, print, and file Applicant’s petition. The University of Virginia Clinic became involved in this case after the Iowa Supreme Court issued its decision, and additional time is needed for the Clinic’s faculty and staff to fully familiarize themselves with the record, the decisions below, and the relevant case law. In addition, the Clinic will, on February 26, 2025, present oral argument in *Ames v. Ohio Department of Youth Services* (No. 23-1039), and on or before April 9, 2025, file a certiorari reply brief in *Meadors v. Erie County Board of Elections* (No. 24-684). In light of these obligations, Applicant’s counsel would face significant challenges completing the petition by the current due date.

For these reasons, Applicant requests that this Court grant an extension of thirty days, up to and including April 7, 2025, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,

_____/s/ Xiao Wang _____

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