

No. 24A827

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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March 28, 2025

**APPLICATION FOR A SECOND EXTENSION OF TIME 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 additional extension of ten (10) days, up to and including April 17, 2025, 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). By order dated February 27, 2025, the deadline for filing a petition for a writ of certiorari in this case was extended by 30 days, from March 6, 2025, to April 7, 2025. With the requested second extension, the petition would be due on April 17, 2025, which is 40 days after the original due date. 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 presents a constitutional question that has divided federal and state courts: Whether a drug detection dog's sniff of the interior of a lawfully stopped vehicle violates the Fourth Amendment absent consent or probable cause to believe that the vehicle contains illegal drugs.

Several courts, including the Ninth Circuit and the Idaho Supreme Court, have applied a trespass analysis to this question. Rooting their reasoning in *Florida v.*

Jardines, 569 U.S. 1 (2013), and *United States v. Jones*, 565 U.S. 406 (2012), these courts have recognized that the Fourth Amendment is violated if the dog’s nose extends into the interior of the vehicle. *See United States v. Ngumezi*, 980 F.3d 1285, 1289 (9th Cir. 2020) (“[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.”); *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. Other courts, including the Third, Sixth, Seventh, and Tenth Circuits do not look to the trespassory framework to answer this question. Instead, they bypass the trespass analysis, relying on either pre-*Jones* and *Jardines* precedent in *Illinois v. Caballes*, 543 U.S. 405 (2005), or on the reasonable expectation of privacy approach in *Katz v. United States*, 389 U.S. 347 (1967), to find that no search has taken place. *See, e.g., United States v. Sharp*, 689 F.3d 616, 617 (6th Cir. 2012) (declining to apply the trespass framework and finding that a “canine’s jump and subsequent sniff inside the vehicle” did not violate the Fourth Amendment); *United States v. Guidry*, 817 F.3d 997, 1006 (7th Cir. 2016) (referencing but not invoking the trespass analysis

when a drug dog placed its head through an open window, finding “no Fourth Amendment violation”); *United States v. Pierce*, 622 F.3d 209, 214–15 (3d Cir. 2010) (finding no Fourth Amendment violation when a dog physically jumped into the car because “interior sniffs” are a “a natural migration from his initial exterior sniffs”); *United States v. Seybels*, 526 F. App’x 857, 859 n.1 (10th Cir. 2013) (finding that *Jones’s* and *Jardines’s* trespassory test is “based on property rights not implicated in the traffic stop context”).

In this case, a divided Iowa Supreme Court held similarly, finding no Fourth Amendment violation notwithstanding that the drug detection dog’s nose extended inside the vehicle. *State of Iowa v. Ashlee Marie Mumford*, 14 N.W.3d 346, 352–53 (Iowa 2024); App. Exh. 1 at 10a. Acknowledging that “[o]ther courts have addressed th[is] issue” and “have come to different conclusions,” the majority did not apply the trespassory framework from *Jones* and *Jardines*, viewing *Illinois v. Caballes*, 543 U.S. 405 (2005), as “the controlling case.” *Id.*

In dissent, two justices of the Iowa Supreme Court reasoned that *Caballes* approved only an exterior, “free air” sniff around the perimeter of the vehicle, noting that this Court’s decision in *Caballes* was grounded in the reasonable-expectations test of *Katz v. United States*, 389 U.S. 347 (1967). 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. As a result, 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.

4. The University of Virginia Supreme Court Litigation Clinic, Mr. Long, and Mr. Murphy are working diligently to prepare the petition, but need additional time to research, complete, print, and file Applicant’s petition. On or before April 9, 2025, Clinic faculty and staff shall file a certiorari reply brief in *Meadors v. Erie County Board of Elections* (No. 24-684). The Clinic is also reviewing and preparing a possible sentence modification request in *Ford v. Reagle* (7th Cir. 21-3061), and is reviewing a March 18, 2025 partial remand order in *Coastal Environmental Rights Foundation v. Naples LLC* (9th Cir. 23-55469). To ensure that this petition is filed in a timely manner, Mr. Long has joined the matter, and will lend his resources and expertise to the preparation of the petition.

For these reasons, Applicant requests that this Court grant an extension of ten days, up to and including April 17, 2025, within which to file a petition for a writ of certiorari.

Respectfully submitted,

_____/s/ Xiao Wang _____

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