

IN THE SUPREME COURT OF THE UNITED STATES

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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>	:	
_____	:	

MOTION TO DIRECT THE CLERK TO FILE A PETITION FOR A WRIT OF CERTIORARI OUT OF TIME

Due to the extraordinary circumstances set forth below, 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 the Court to direct the Clerk to file a Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit out of time. A copy of the Petition is submitted herewith.

Applicants respectfully submit that the extraordinary circumstances present here warrant the relief requested. Specifically, Applicants timely applied for an extension of time to file their Petition 12 days before it was due, and hand-delivered three paper copies to the Court the same day. Due to an apparent delay in the Court’s receipt of those paper copies, however, the Application was not entered on the docket for seven more days. The Application was ultimately denied 19 days after it was filed, and seven days after the deadline for filing the Petition expired. Applicants respectfully submit that their timely-filed Application set forth good cause for the requested extension of time, and that such extension was authorized by this Court’s Rule 13.5.

Further, this Motion and the accompanying Petition are submitted to the Court for filing within the time authorized by Rule 13.5. Should the relief requested herein be granted, therefore, the Petition will be filed within the time authorized by the Court's rules. Applicants respectfully submit that such relief is warranted to ensure that an administrative delay does not foreclose their right to seek this Court's review in a case that raises recurring First Amendment questions of national importance.

In support of this Motion, Applicants state as follows:

1. The Opinion of the Court of Appeals for the Seventh Circuit was entered on August 19, 2024 and the Court of Appeals' Order denying rehearing was entered on September 23, 2024.¹ 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, 12 days before the deadline for filing their Petition, Applicants applied for a further extension of time, 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

¹ The Opinion and Order were filed with Applicants' initial Application to extend the time to file a petition for a writ of certiorari, on December 10, 2024, and are reproduced in the Appendix of the Petition submitted herewith, at page 1a and page 37a, respectively.

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. That Declaration does not appear on the docket but it is submitted herewith as Exhibit 1.

6. On January 17, 2025, the Clerk advised the undersigned counsel that the Application had been docketed and submitted to Justice Barrett that day. The Court's docket reflects that the Application 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. Further, it appears that the Application may have been denied due to a delay in the Court's receipt of the timely-filed paper copies of the Application. Good cause therefore exists to allow Petitioners leave to file the Petition out of time, on February 20, 2025, which is within the time authorized by Rule 13.5.

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 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. On February 7, 2025, the same date as the petition for a writ of certiorari was filed in *Miller*, the undersigned counsel filed an Application for Leave to File Out of Time a Petition for a Writ of Certiorari. The Clerk rejected that filing by letter dated February 12, 2025, which the undersigned counsel received on February 14, 2025.

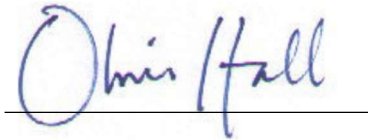
11. No party will be prejudiced if the relief requested herein is granted and Applicants are permitted to file their Petition within the time permitted under this Court's rules. By contrast, Applicants will be severely prejudiced if relief is not granted, because their right to seek review by this Court 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 February 20, 2025.

Dated: February 20, 2025

Respectfully submitted,



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Counsel for Applicants

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DECLARATION OF OLIVER B. HALL
(Pursuant to 28 U.S.C. § 1746)

I, Oliver B. Hall, hereby declare as follows:

1. I am over the age of 18 and reside in Washington, D.C.
2. I have personal knowledge about the matters to which I attest herein. If called to testify, I could and would competently testify to these statements.
3. I am counsel to Petitioners in the above-captioned action.
4. On January 10, 2025, I filed electronically, using the Court’s online filing system, Petitioners’ Application to the Hon. Amy Coney Barrett for a Further Extension of Time to File a Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.
5. On January 10, 2025, after filing the foregoing Application electronically, I also hand-delivered three paper copies of the Application to this Court’s physical address, where it was accepted by an officer of the Supreme Court of the United States Police Office.
6. The officer gave me a stamped sticker confirming that the three paper copies of the Application were accepted at 11:40 A.M. on January 10, 2025.
7. A true and correct copy of that sticker is attached hereto as Exhibit A.

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: January 17, 2025

Oliver Hall

EXHIBIT A

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RECEIVED
SUPPLEMENT OF THE
US POLICE OFFICE

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