

IN THE
SUPREME COURT OF THE UNITED STATES

No. _____

The West Virginia Senate; Mitch Carmichael, President of the West Virginia Senate; Donna Boley, President Pro Tempore of the West Virginia Senate; and Lee Cassis, Clerk of the West Virginia Senate,

Applicants,

v.

State of West Virginia ex. rel. Margaret Workman,

Respondents.

APPLICATION TO THE HONORABLE JOHN G. ROBERTS, JR., CHIEF JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

Applicants, by counsel, hereby move, pursuant to Rule 13.5 of the Rules of this Court, for a 60 day extension of the deadline for filing a Petition for a Writ of Certiorari concerning the **October 11, 2018 decision** of Supreme Court of Appeals of West Virginia in *State ex rel. Workman v. Carmichael*, No. 18-0816 (Exhibit 1). This Court has jurisdiction under 28 U.S.C. § 1257.

1. The current deadline for filing a petition for a writ of certiorari, in the absence of the requested extension, is **January 9, 2018**. If the extension is granted, the new deadline would be **March 10, 2019**.

2. This case, which involves the recent impeachment of multiple members of the Supreme Court of Appeals of West Virginia, raises questions of paramount importance implicating the doctrine of separation of powers with respect to the requirement, secured in Article IV, Section 4 of the Constitution, that a State shall have a “Republican Form of Government.”

3. There is good cause for an extension of time. Applicants were represented by other counsel during the proceedings below. *See* Petition for Rehearing (Exhibit 2)¹. Applicants only engaged the Office of the Attorney General as counsel last week, Monday, December 10, 2018. Additional time is needed, in light of the complex nature of the question presented and the forthcoming holiday season, to prepare a thoroughly-researched petition. Furthermore, the undersigned counsel of record, as the State’s Solicitor General, has substantial commitments in other state and federal forums, including oral arguments in the Supreme Court of Appeals of West Virginia currently scheduled for January 8, 2019 and January 16, 2018.

4. No meaningful prejudice would arise from the grant of this extension. Although Respondent was impeached by the West Virginia House of Delegates, her impeachment trial has been stayed as a result of the decision of the Supreme Court of Appeals of West Virginia that would be at issue in this petition. Thus, Respondent suffers no impediment to the discharge of her duties as a Justice of the Supreme Court of Appeals, and an increase in the timeframe to file this petition would not impact that status in any way.

Thus, for the foregoing reasons, the Applicants hereby request a 60 day extension of the deadline to file a Petition for a Writ of Certiorari, up to and including **March 10, 2019**.

¹ Although Applicants Petition for Rehearing was timely filed, *see* W. Va. R. App. P. 25(a) (“A petition for rehearing may be filed within thirty days of release of any memorandum decision or opinion of this Court that passes upon the merits of an action . . .”), the Supreme Court of Appeals of West Virginia refused to docket or otherwise consider that petition. *See* November 19, 2018 Order (Exhibit 3)

Respectfully Submitted,

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