

**IN THE  
SUPREME COURT OF THE UNITED STATES**

\_\_\_\_\_  
No. \_\_\_\_  
\_\_\_\_\_

ARCHDIOCESE OF WASHINGTON, DONALD CARDINAL WUERL, a Roman Catholic  
Archbishop of Washington, a corporation sole,

*Applicant,*

v.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY; PAUL J. WIEDEFELD, IN HIS  
OFFICIAL CAPACITY AS GENERAL MANAGER OF THE WASHINGTON METROPOLITAN  
AREA TRANSIT AUTHORITY,

*Respondents.*

\_\_\_\_\_  
**APPLICATION TO THE HON. JOHN G. ROBERTS, JR.  
FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE  
A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT**  
\_\_\_\_\_

Pursuant to Supreme Court Rule 13(5), the Archdiocese of Washington, hereby moves for an extension of time of 30 days, to and including April 20, 2019, for the filing of a petition for a writ of certiorari. Unless an extension is granted, the deadline for filing the petition for certiorari will be March 21, 2019.

In support of this request, Applicant states as follows:

1. The United States Court of Appeals for the District of Columbia Circuit rendered its decision on July 31, 2018 (Exhibit 1), and denied a timely petition for rehearing on December 21, 2018 (Exhibit 2). This Court has jurisdiction under 28 U.S.C. §1254(1).

2. This case involves an issue of recurring importance under the First Amendment: whether local governments may discriminate against speech conveying a religious viewpoint on the ground that religion is excluded from a forum's subject matter. The Washington Metropolitan Area Transit Authority ("WMATA") owns advertising space on its buses and subway trains, and uses that space for the purpose of generating revenue. The Archdiocese of Washington, a Roman Catholic religious organization, submitted proposed advertisements to run in those spaces as part of its "Find the Perfect Gift" campaign to spread messages of service and welcome during the Advent and Christmas seasons. But although WMATA allowed other holiday advertisements to run on buses and subway trains, WMATA rejected the Archdiocese's message. WMATA relied on its Guidelines Governing Commercial Advertising, which stated in part that "Advertisements that promote or oppose any religion, religious practice or belief are prohibited."

3. The Archdiocese sought a preliminary injunction, which the district court denied. The D.C. Circuit affirmed in a 2-0 decision. Then-Judge Kavanaugh participated in oral argument, but did not join the panel's order.

4. The Archdiocese sought rehearing en banc, which the court denied over spirited dissent. Judge Griffith, with whom Judge Katsas joined, wrote that "the panel opinion conflicts with Supreme Court precedent on an issue of exceptional importance: the freedom to speak from a religious viewpoint." Op. 3. He explained that WMATA's discriminatory policy is "indistinguishable" from policies held unconstitutional in *Rosenberger v. Rector & Visitors of the University of Virginia*, 515

U.S. 819 (1995), *Lamb’s Chapel v. Center Moriches Union Free School District*, 508 U.S. 384 (1993), and *Good News Club v. Milford Central School*, 533 U.S. 98 (2001). Op. 7. By discriminating against only against religious speech related to the Christmas holiday, but not other speech related to that same holiday, WMATA “bar[red] speech on an otherwise-permissible subject.” Op. 10.

5. Applicants’ counsel, Paul D. Clement, has substantial briefing and argument obligations in February and March of this year. Mr. Clement is scheduled to participate in two upcoming arguments before this Court: *Virginia House of Delegates v. Bethune-Hill*, No. 18-281 (U.S.) (March 18, 2019), and *Rucho v. Common Cause*, No. 18-422 (U.S.) (March 26, 2019). He also has merits briefs due in two cases before this Court: *Virginia House of Delegates v. Bethune-Hill*, No. 18-281 (U.S.) (reply brief due February 27, 2019), and *Rucho v. Common Cause*, No. 18-422 (U.S.) (reply brief due March 19, 2019), as well as in one case before the California Court of Appeals: *Hewlett-Packard Co. v. Oracle Corp.*, No. H044371 (Cal. Ct. App.) (opening brief due March 7, 2019).

6. In light of these many existing deadlines, a modest extension would greatly assist in addressing the complex issues raised by the instant petition.

WHEREFORE, for the foregoing reasons, Applicant requests that an extension of time to and including April 20, 2019, be granted within which Applicant may file a petition for a writ of certiorari.

Respectfully submitted,



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