
IN THE
Supreme Court of the United States

JOHN COPELAND, PEDRO PEREZ, AND NATIVE LEATHER, LTD.,

Applicants,

-v-

CYRUS VANCE, JR. IN HIS OFFICIAL CAPACITY AS THE NEW YORK COUNTY DISTRICT
ATTORNEY, CITY OF NEW YORK,

Respondents.

**APPLICATION TO THE HON. RUTH BADER GINSBURG 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
SECOND CIRCUIT**

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October 22, 2018

Pursuant to Supreme Court Rule 13.5, the above-captioned Applicants respectfully move for an extension of time granting an additional 60 days in which to file a petition for a writ of certiorari to the United States Court of Appeals for the Second Circuit in *Copeland v. Vance*, No. 17-0474-cv. The jurisdiction of this Court is based on 28 U.S.C. § 1254(1). The opinion for which Applicants intend to seek the writ, a copy of which is included with this Application (*see* Appendix at 1a), was filed on June 22, 2018, and the Court of Appeals denied a petition for rehearing *en banc* on August 16, 2018 (*see* Appendix at 46a), so under the ordinary timing requirements in Rule 13.1, Applicants' petition is due on November 14, 2018. With the additional 60 days Applicants are requesting, the petition would be due on January 13, 2019. In support of their request, Applicants state as follows:

1. Petitioner's counsel in the Second Circuit and Counsel of Record in this Court, Daniel L. Schmutter, is/has been involved and occupied with several pending appeals, including *Association of New Jersey Rifle & Pistol Clubs v. Grewal*, No. 18-3170, pending in the United States Court of Appeals for the Third Circuit (as well as a significant preliminary injunction hearing below in the United States District Court for the District of New Jersey), *126 South Street Associates v. Suzi's Skin and Nail Care Studio, Inc.*, No. A-5148-16, pending in the Superior Court of New Jersey, Appellate Division (as well as dispositive motions in a related case in the Superior Court of New Jersey, Law Division), *Wolfe v. Lipka*, No. A-1333-17, pending in the Superior Court of New Jersey, Appellate Division, *In the Matter of the Anna Grumme Trust*, No. A-

196-18, pending in the Superior Court of New Jersey, Appellate Division, as well as a full case load of other matters.

2. The Second Circuit's decision presents substantial issues of law, including whether after *Johnson v. United States*, 135 S. Ct. 2551 (2015), and *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018), a plaintiff need show that a law is vague in all of its applications to succeed in a facial vagueness challenge. The federal courts of appeals and state supreme courts are starkly split on the question of whether the strict "no set of circumstances" rule set forth in *United States v. Salerno*, 481 U.S. 739, 745 (1987) governing facial constitutional challenges was relaxed by this Court in the context of vagueness cases in *Johnson* and *Dimaya*. Applicants contend that Respondents' arrest and prosecution under New York's prohibition on gravity knives ("Gravity Knife Law") of ordinary individuals possessing ordinary folding pocket knives is void for vagueness because no person can ever make the determination of what is a legal pocket knife to possess.

3. Applicants request an additional 60 days to better enable counsel to prepare a petition that adequately presents these important legal issues to this Court for consideration.

4. Because this case comes to this Court on the Second Circuit's affirmance of the District Court's decision in favor of the government, the Gravity Knife Law is currently being enforced by Respondents as before, and Respondents will therefore suffer no prejudice from the 60-day extension Applicants are requesting.

5. No parent or publicly owned corporation owns 10% or more of the stock in Applicant Native Leather, Ltd.

For the foregoing reasons, Applicants hereby respectfully request that Your Honor grant an extension of time up to and including January 13, 2019, for the filing of a petition for writ of certiorari in this case.

Dated: October 22, 2018

Respectfully submitted,

/s/ Daniel L. Schmutter
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