

No. 18-A-_____

IN THE SUPREME COURT OF THE UNITED STATES

BRADFORD J. DALLEY, District Judge, Eleventh Judicial District, New Mexico, in his official capacity,

Applicant,

v.

NAVAJO NATION; NORTHERN EDGE NAVAJO CASINO,

Respondents.

**APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI**

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*Counsel for Applicant Hon.
Bradford J. Dalley*

November 30, 2018

TO THE HONORABLE SONIA SOTOMAYOR, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE TENTH CIRCUIT:

Pursuant to Supreme Court Rules 13.5, 22, and 30, Applicant Hon. Bradford J. Dalley respectfully requests a 60-day extension of time, up to and including February 8, 2019, to file a petition for writ of certiorari to the United States Court of Appeals for the Tenth Circuit to review that court's decision in *Navajo Nation v. Dalley*, 896 F.3d 1196 (10th Cir. 2018) (attached as Exhibit A). The Tenth Circuit issued its judgment in this case on July 24, 2018. Judge Dalley filed a petition for rehearing, which was denied on September 10, 2018 (attached as Exhibit B). Without extension, a petition for writ of certiorari will be due on December 10, 2018. This application is being filed at least ten days before this deadline, in accordance with Supreme Court Rule 13.5. The Court has jurisdiction to review this case under 28 U.S.C. § 1254(1).

1. This case concerns an important question of federal law, with practical implications for state and tribal governments, and their residents: the validity of jurisdictional provisions in gaming compacts under the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701–2721. The Tenth Circuit held that a provision in New Mexico's gaming compacts that allowed for people injured at tribal casinos to file suit in state court, was not a permissible subject of negotiation under Section 2710(d)(3)(C) of IGRA. This interpretation of IGRA's statutory language regarding what may be negotiated by tribes and states in gaming compacts, conflicts with the

Ninth Circuit's decision in *In re Indian Gaming Related Cases*, 331 F.3d 1094 (9th Cir. 2003).

2. The Tenth Circuit's opinion also contains practical consequences that require careful consideration by the Applicant in preparing a petition for writ of certiorari. By holding that jurisdictional agreements may not be negotiated in gaming compacts, the Tenth Circuit's ruling not only invalidates New Mexico courts' jurisdiction over tort suits, but also leaves uncertain criminal jurisdiction provided for by New Mexico's gaming compacts and jurisdictional agreements in other states' compacts. Applicant's requested extension of time would permit his counsel to consult with prosecutorial agencies and other states regarding the practical implications of this ruling. Moreover, the extension will allow counsel to consult with New Mexico's new gubernatorial administration, which will begin on January 1, 2019, N.M. CONST., art. v., § 1, and is charged with negotiating gaming compacts for the State. N.M. Stat. Ann. § 11-13A-3.

3. Nicholas Sydow, who was counsel for Applicant in the Tenth Circuit, is in the process of applying for admission to the Supreme Court Bar, and intends to become counsel of record if that admission is granted. The requested extension would permit him to become admitted and better familiarize himself with the Court's rules, including its printing and filing process. The extension also would accommodate Mr. Sydow's pending deadlines in other matters, including a brief due on December 10, 2018, in a challenge to the constitutionality of New Mexico's election laws.

For these reasons, Applicant respectfully requests that an order be entered extending the time to file a petition for writ of certiorari for 60 days, up to and including February 8, 2019.

November 30, 2018

Respectfully Submitted,

/s/ MARTHA ANNE WOOD

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