

NO. \_\_\_\_\_

In the  
Supreme Court of the United States  
October Term, 2019

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JAMES K. COLLINS AND TONI SHARRETT COLLINS,

Petitioners

v.

D.R. HORTON-TEXAS, LTD.,

Respondent

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Appeal from the Supreme Court of Texas  
Cause No. 19-0397

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**APPLICATION FOR EXTENSION OF TIME TO  
FILE PETITION FOR CERTIORARI  
TO THE UNITED STATES SUPREME COURT**

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Feb. 21, 2020

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**To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court  
of the United States and Circuit Justice for the Fifth Circuit:**

Pursuant to 28 U.S.C. § 2101(c) and Rule 13.5 of the Rules of this Court, Petitioners, JAMES K. COLLINS and TONI SHARRETT COLLINS (“COLLINS”), pray for a sixty (60) day extension of time to file their petition for certiorari in this Court to and including May 10, 2020.

On June 9, 2017, the trial court granted a summary judgment, which is the decision sought to be reviewed. On Dec. 20, 2018, after oral argument, the Fourteenth Court of Appeals of the State of Texas affirmed the trial court’s judgment. On July 26, 2019, the Texas Supreme Court denied COLLINS’ petition for review. On Sept. 13, 2019, the Texas Supreme Court granted COLLINS’ motion for extension of time to file a motion for rehearing. On Oct. 11, 2019, COLLINS filed their amended motion for rehearing for petition for review. On Dec. 13, 2019, the Texas Supreme Court denied COLLINS’ amended motion for rehearing, being the final ruling by the Texas Supreme Court. COLLINS time to petition for certiorari in this Court expires March 12, 2020. This application is being filed more than 10 days before that time.

Copies of the opinion and orders referenced above are attached. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

As shown by the opinion below and Petitioners' amended motion for rehearing, this case involves whether the Fourteenth Amendment allows a state to enforce a void federal judgment obtained without the personal jurisdiction over and notice to the defendant land owners resulting in an unconstitutional taking of land. The case also presents the issue of whether a federal court may simply "opine out of existence" the vested property rights of landowners without following the state statutes, rules of survey, property record interpretation and certified patents of the Texas General Land Office in violation of the Tenth Amendment.

In the instant case, a federal trial court opined that the patented Sieberman state land survey certified by the Texas General Land Office does not exist. This federal decision was made without notice or joinder to the landowners, without notice to the Texas General Land Office and without application of state property and survey law resulting in a void federal judgment. Such void federal judgment is the only basis for the Respondent's title.

This case presents important questions under the Constitution of the United States that were determined adversely to Petitioners by the court below in violation of the Fourteenth and Tenth Amendments. First, whether the Fourteenth Amendment allows a state to enforce a void judgment obtained without personal jurisdiction over and notice to the defendant. Second, whether a district court may "extinguish" an existing certified state Texas General Land Office survey without

joinder of or notice to the state and in contradiction to state law and the Tenth Amendment. The questions presented are substantial because they determine whether the United States allows title to land to be taken from an owner by summary judgment predicated entirely on a void federal judgment.

Petitioners had at all times been represented in the trial court by Michael D. Jones, a member of the Bar of this Court. Petitioners have at all times been represented in the appellate court by Toni Sharretts Collins, a party to this case and a member of the Bar of this Court. The requested extension is necessary because Petitioners were celebrating the holidays with family during Dec. 2019. In January and February, Ms. Collins suffered serious illness related to infection of her artificial hip and compromised immune system resulting in incapacity that she has only recently been able to return to practice. Despite Ms. Collins' illness, she continued to maintain substantial trial and briefing obligations, including a pending adversarial probate jury trial in *Melissa McFaden Estate, et al., v. William Clay McFaden, et al.*, Cause No. 456775-401, Harris County Probate Court 1, a significant number of *pro-bono* immigration cases due to the overwhelming number of illegal aliens needing adjudication for relief of deportation and complex felony trials in Harris County defending claims of kidnapping, retaliation, violation of protective orders, DWIs, drug possession and aggravated assault. Ms. Collins is a new member of the Bar of this Court, and due to her illness, overwhelming caseload and inexperience

in this Court, Ms. Collins recently hired consulting counsel to assist in presentation of Petitioners' case. Consulting counsel needs additional time to familiarize himself with the voluminous record (23 volumes and over 6000 pages) and to perform the necessary legal research so that the questions may be properly framed and argued to this Court.

For these reasons, Petitioners respectfully request that an order be entered extending their time to petition for certiorari in the above-captioned case to and including May 10, 2020.

Respectfully submitted,

s/ Toni L. Sharretts Collins  
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