
IN THE SUPREME COURT OF THE UNITED STATES

Pinoleville Pomo Nation, Angela James, Leona L. Williams, Lenora Steele, Kathy Stallworth, Michelle Campbell, Julian J. Maldonado, Donald Williams, Veronica Timberlake, Cassandra Steele, Jason Edward Running Bear Steele, and Andrew Stevenson

Petitioners

v.

JW GAMING DEVELOPMENT, LLC
a California limited liability company,

Respondent

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

Padraic McCoy
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Counsel for Petitioners

**TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT
JUSTICE FOR THE NINTH CIRCUIT:**

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioners respectfully request a 30-day extension of time, up to and including January 30, 2020, to file a petition for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit to review that court's decision in *JW Gaming Dev., LLC v. James et. al*, 778 Fed. Appx. 545 (9th Cir. 2019) (attached as Exhibit A). The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1), and the time to file a petition for a writ of certiorari will expire without an extension on December 31, 2019. This application is timely because it has been filed at least ten days prior to the date on which the time for filing the petition is to expire.

1. This case presents substantial and important questions of federal Indian law and the critical and protective role of sovereign immunity: Whether, under this Court's decision in *Lewis v. Clarke*, 137 S. Ct. 1285, 197 L. Ed. 2d 631 (2017), elected tribal officials can be stripped of tribal sovereign immunity from suit—a necessary corollary to tribal self-determination—for actions taken expressly within their official capacities, so long as plaintiff merely alleges claims against the officials in their individual capacities and those officials will be bound by any money judgment entered against them. Below, the Ninth

Circuit held that tribal officials can be denied the protections of sovereign immunity in these circumstances. In doing so, it created a conflict with prior decisions of this Court which hold that the interests served by sovereign immunity are not to be sacrificed to the mechanics of captions and pleading, and that courts must examine the nature of the claims based on the record as a whole to determine if the sovereign is the real party in interest. *See, e.g., Alden v. Maine*, 527 U.S. 706, 756 (1999); *Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. 261, 270 (1997); *Ex parte Ayers*, 123 U.S. 443 (1887).

2. Padraic I. McCoy is counsel of record for the petitioners in this matter. He has a number of client financing transactions to complete before the end of the calendar year and immovable regulatory requirements which are due January 2nd and 3rd of 2020. He has also dedicated substantial time in recent weeks to the underlying litigation in the United States District Court for the Northern District of California, Case No. 3:18-cv-02669-WHO, which litigation is ongoing. Additionally, he has longstanding end-of-year travel plans with family. All of these commitments will limit counsel's availability to work on this matter between today and December 31, 2019.

3. Counsel for petitioners attempted to obtain the position of Respondent, JW Gaming Development, LLC, via an email on

December 19th and a phone call on December 20th. However, counsel for Respondent did not respond to such request.

Accordingly, the petitioners respectfully request that an order be entered extending the time to file a petition for a writ of certiorari for 30 days, up to and including January 30, 2020.

Dated: December 20, 2019

Respectfully submitted,

A handwritten signature in blue ink, appearing to be 'P. McCoy', with a large, stylized initial 'P'.

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CERTIFICATE OF SERVICE

In accordance with Supreme Court Rules 29.3 and 29.5(b), I hereby certify that the foregoing Application for an Extension of Time to File a Petition for a Writ of Certiorari was served on counsel for Respondent via first class mail and electronic mail.

Dated: December 20, 2019

Respectfully submitted,



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