

No. _____

In the
Supreme Court of the United States

PETER THOMPSON,

Petitioner,

v.

CATTAIL CREEK COMMUNITY ASSOCIATION,
A MONTANA NONPROFIT CORPORATION,

Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of Montana

MOTION FOR LEAVE TO FILE AND
PETITION FOR A WRIT OF CERTIORARI

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MOTION FOR LEAVE TO FILE

To the Honorable Elena Kagan, Justice for the Ninth Circuit:

Petitioner moves for an order directing the Clerk to file the included petition for certiorari as timely per Application No. 19A839 under the Thursday, March 19, 2020 COVID-19 order of this Court.

The March 19, 2020 COVID-19 order extended the time to file any “petition for a writ of certiorari due on or after the date of this order to 150 days from the date of the lower court . . . order denying a timely petition for rehearing. *See* rules 13.1” Thus the 90 day jurisdictional time period of 28 U.S.C. § 2101(c) was changed from 90 days to 150 days. Adjustment of the 90 day § 2101(c) period to 150 days plus the 60 day extension of time granted under Application 19A839 operates to make this petition timely filed on or before June 2, 2020. This petition is timely filed bearing a post marked date of June 2, 2020.

Petitioner Peter Thompson (Thompson) understood from widespread news reports that, notwithstanding cases where certiorari had already been granted, the US Supreme Court would as a matter of course be granting all reasonable requests for extensions of time due to COVID-19 related problems. Thompson does construction management work in Yellowstone National Park for Xanterra. Within days of when the COVID-19 order was issued, four significant construction projects that Thompson was in Spring start up process on received stop work orders. In reliance on

reports that the US Supreme Court would be granting all reasonable requests for extensions of time related to COVID-19 issues, Thompson took time to help numerous impacted people learn how to file SBA relief requests, including but not limited to several senior citizens. Among other things, Thompson helps write procedures for complicated infrastructure systems and onsite work safety plans, so Thompson took time to write and propose several plans regarding what the new normal needed to be if we were going to get back to work.

After taking time to help others work through Covid-19 issues, on April 2, 2020, Thompson's consultant overnight mailed a motion for an extension of time to the April 3, 2020 petition filing deadline that had been established under application 19A839.

The Clerk received Thompson's motion for an extension of time to file the petition on April 13, 2020 and returned the motion without docketing it, explaining that the maximum extension of time under Rule 13.5 and U.S.C. § 2101(c) had already been granted. Accepting that the Clerk was correct in assessing that no further extensions of time were available under Rule 13.5 and also considering the ABA reporting that the US Supreme Court had "said in an order that the deadline is extended to 150 days, rather than the usual 90 days, report Bloomberg Law, Law360 and SCOTUSblog." Thompson proceeded with completion of the petition for Certiorari because the Covid-19 order expressly includes petitioners in his circumstances and it would be less than equitable for the Covid-19 order not to provide relief to those who acted on it and are expressly included within the

scope of the order. Thompson's analysis of the Covid-19 order as follows:

1. The opening sentence says the order applies to cases "prior to ruling on a petition". So this order applies to the Thompson petition.
2. The second sentence says "that the deadline to file any petition . . . is extended to 150 days . . ." This sentence cites rule 13.1 and has been widely interpreted as changing the initial 90 day time period to 150 days. This sentence uses the all-inclusive phrase "any petition" and could have, but does not say "that, notwithstanding deadlines previously extended under rule 13.5, the deadline to file any other petition . . . is extended to 150 days . . ." Nor does the order explain itself as acting automatically "under rule 13.5"; thereby taking rule 13.5 out of operation for perspective petitioners.
3. The next to last sentence of the order says that "these modifications to the Court's rules . . . do not apply to cases in which certiorari has been granted or a direct appeal or original action . . ." Hence, the order expressly includes cases like Thompson's writ because the petition has not yet been ruled on. However, based on the Clerk's analysis, the order does not function to allow for a second extension of time under rule 13.5.
4. The third paragraph on page one provides pinpoint rules "notwithstanding" the order. Nowhere in the order is it said that the order does not operate on petitions that have had the due date previously changed under rule 13.5.

The order informs that intended specific rule exclusions were considered and identified and the

order otherwise uses all-inclusive language describing its application to cases in processes prior to ruling on the merits.

It follows that the jurisdictional statement within the Thompson petition is a fair interpretation of the order and that the petition should be docketed as timely filed. Should opposing counsel disagree, the rules of procedure provide means for them to contest the jurisdictional statement of Thompson within their responsive pleadings.

The Thompson petition is pro se filed and the subject matter deals with systemic violations of federally protected rights. "Where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief", *see Bell v. Hood*, 327 US 678 - Supreme Court 1946.

For the reasons stated above, Thompson respectfully moves the Court to issue an order directing the Clerk to docket the included petition as timely filed.

Respectfully submitted this 2nd day of June 2020.

By: 

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