

No. _____

IN THE SUPREME COURT OF THE UNITED STATES.

JANA GARCIA,

Petitioner,

v.

WYOMING DEPARTMENT OF HEALTH,

Respondent.

**APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR
WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE TENTH CIRCUIT.**

To the Honorable Neil Gorsuch,
Associate Justice of the United States Supreme Court
and the Circuit Justice for the Tenth Circuit Court of Appeals.

Petitioner, Jana Garcia, respectfully requests an extension of time of sixty (60) days to file her Petition for a Writ of Certiorari pursuant to Rule 13.5 of the Supreme Court Rules. This request is timely made. The Circuit Court's Order and Judgment was entered on October 19, 2021. The date when the application for a Writ of Certiorari will expire is January 17, 2022. This application is submitted more than ten days before the due date. For good cause, the applicant asks that the deadline be extended by sixty (60) days so that the new deadline would be March 18, 2022.

A copy of the opinion of the United States Court of Appeal for the Tenth Circuit is attached.

Jurisdiction

The Supreme Court has jurisdiction of this matter pursuant to 28 U.S.C. §1254 and Supreme Court Rule 13.5; and Justice Gorsuch, as Circuit Judge, for the Tenth Circuit Court of Appeals, has jurisdiction to consider this application for an extension of time to submit a Petition for a Writ of Certiorari.

Background.

Petitioner, a public health nurse, filed suit against the Wyoming Department of Health for discrimination on the basis of disability alleging in her complaint violation of the *Rehabilitation Act of 1973* as amended and the *Americans with Disabilities Act, as amended*.

The Complaint said:

This is a civil action arising under the laws of the United States and is brought pursuant to the Rehabilitation Act of 1973, 29 U.S.C. §793 and 29 U.S.C. 794, the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §§12101 et. Seq.), the Civil Rights Act of 1964 codified at 42 U.S.C.2000e et seq. This court has jurisdiction of the claims pursuant to 28 U.S.C. §1331 and 1343.

Based this language alone the District Court dismissed on summary judgment on the basis of Eleventh Amendment Immunity citing *Bd. of Trs. of Univ. of Ala. v. Garrett*, 531 U.S. 356, 363 (2001).

Order of the Tenth Circuit.

The Circuit Court affirmed, citing *Levy v. Kansas Department of Social and Rehabilitation Services*, 789 F.3d 1164, 1170-71 (10th Cir.2015) even though it's is clear that the jurisdiction of the Federal Court was properly invoked in the complaint under the *Rehabilitation Act of 1973* which waived Eleventh Amendment Immunity for states that received federal funding; and also statutorily incorporated the standards of the *Americans With Disabilities Act*. 29 U.S.C. §794. This decision is in direct conflict with decisions in a number of Circuit Courts of Appeal which should be resolved by this court.

Good Cause.

Good cause exists for the extension of time in this matter. This matter concerns the statutory incorporation into the *Rehabilitation Act of 1973* the standards of determining liability developed under the *Americans with Disabilities Act*. In no way should the citation of the incorporation statute, (29 USC §794), clothe the State of Wyoming with Eleventh Amendment Immunity which was statutorily waived by Congress for states that receive federal funds. To seek relief in the United States Supreme Court by Petition for Writ of Certiorari, the petitioner is endeavoring to systematically and thoroughly marshal legal authority in support of her position; and accumulate sufficient resources to meet the financial requirements of such a Petition.

Additional time is needed. This is the first request for extension.

Respectfully Submitted,

By: s/


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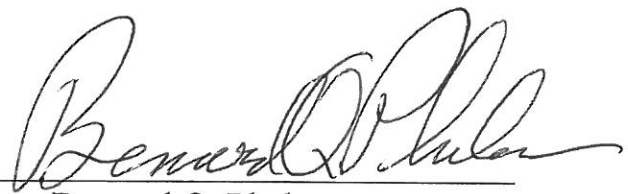
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Dated: December 22, 2021

CERTIFICATE OF SERVICE

This is to certify that on the 22th day of December 2021, the undersigned served the foregoing Petition for Extension of Time upon counsel by depositing a true and correct copy thereof in the United States mail, postage prepaid properly addressed to:

WYOMING ATTORNEY GEN.
2320 CAPITOL AVENUE
Cheyenne, WY 82002

S/ 
Bernard Q. Phelan