

App. No. \_\_\_\_\_

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In the Supreme Court of the United States

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Mark Stuart, an individual

*Applicant,*

v.

State of Arizona, acting through the Scottsdale city prosecutor.

*Respondents*

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**APPLICATION TO EXTEND TIME TO  
FILE A PETITION FOR WRIT OF CERTIORARI**

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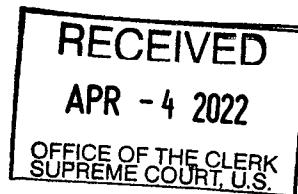
**Directed to the Honorable Elena Kagan  
Circuit Justice for the United States Court of Appeals for the Ninth Circuit**

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March 30, 2022



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**To the Honorable Elena Kagan, as Circuit Justice for the United States  
Court of Appeals for the Ninth Circuit:**

Petitioner Mark Stuart, pursuant to Supreme Court rule 13.5, respectfully requests a 60-day extension of time to file his petition for writ of certiorari. (“Stuart”) This request, if granted, would extend the deadline from April 24, 2022, to June 24, 2022. Stuart will be asking this Court to review a judgment of the Arizona Supreme Court issued on January 24, 2022, declining to review a lower court ruling, (**Attachment A**) an Arizona Court of Appeals ruling declining to review the same lower court ruling (**Attachment B**) the underlying ruling of the Maricopa County Superior Court, upholding Stuart’s conviction for refusal to obey police under Scottsdale revised code SRC 19-13. (**Attachment C**), and the ruling of City Court declining to vacate Stuart’s conviction. (**Attachment D**) This Court’s jurisdiction to review the Arizona Supreme Court’s decision rests on 28 U.S.C. § 1257.

The underlying criminal case deals directly with an arrest and prosecution by the Scottsdale city attorney and the Scottsdale police solely to prevent Stuart from peacefully speaking about an issue of public concern in a public meeting, based on the State’s own admissions. The prosecution was pursued, based on the State’s admissions, solely to punish peaceful exercise of free speech and petitioning for redress of grievances in a public meeting. Stuart was acquitted of trespassing, which was based solely upon his peaceful attempt to speak in a public meeting. Stuart was convicted of refusal to obey police for refusing to sit on a bench after he was unlawfully arrested to prevent his speech. Stuart argued to the city court and to the Superior Court that because his arrest was unconstitutional and unlawful,

the continuation of the arrest was also unconstitutional and unlawful . Both the City Court and the Superior Court rejected Stuart's arguments. This case is factually similar to *Lozman v. City of Riviera Beach*, 138 S. Ct. 1945 (2018) . Unlike the plaintiff in *Lozman*, Stuart was prosecuted solely because of the content of his proposed speech.

The Court should grant the extension of time because Stuart needs extra time to retain an attorney to file the petition for certiorari pro bono. Stuart is actively seeking pro bono representation to file a writ of certiorari. Thus far, Stuart's efforts have been unsuccessful. Stuart does not have the funds to pay an attorney, because his assets have been depleted by the costs of his defense in the underlying prosecution and appeals. Without an extension of time, Stuart will not be able to file his petition, and issues of universal importance to all Americans will be left unaddressed by this Court.

The Court should grant this extension of time because this case presents at least two issues of universal importance to all Americans:(1) Whether the government can arrest someone to prevent them from peacefully speaking in a public meeting, based solely on the content of the proposed speech? and (2) Whether the government can seek to punish someone via public prosecution, solely because that person refused to obey an unconstitutional order from a police officer? In this case , police and prosecutors sought to accomplish indirectly what this Court has stated they cannot do directly, suppress the peaceful exercise of free speech, based solely on its content, and punish someone because of the peaceful exercise of his free

speech rights. "Obviously, however, one cannot be punished for failing to obey the command of an officer if that command is itself violative of the Constitution."

*Wright v. Georgia*, 373 U.S. 284, 292 (1963) Government action that "has no other purpose or effect than to chill the assertion of constitutional rights by penalizing those who choose to exercise them" are "patently unconstitutional." *U.S. v. Jackson*, 390 U.S. 570, 581(1968)

For these reasons, Stuart respectfully requests an extension of time to file his petition for writ of certiorari. Stuart requests that the deadline be extended an extra sixty days, up to and including June 24, 2022.

Respectfully submitted this 30<sup>th</sup> day of March ,2022

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