

No. _____

In the Supreme Court of the United States

DANIEL J. VAN LINN,

Petitioner,

v.

STATE OF WISCONSIN,

Respondent.

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

To the Honorable Amy Coney Barrett, Associate Justice of the United States Supreme Court and Circuit Justice for the United States Court of Appeals for the Seventh Circuit:

1. Pursuant to Supreme Court Rule 13.5, petitioner Daniel J. Van Linn respectfully requests a 58-day extension of time, until Friday, August 19, 2022, within which to file a petition for a writ of certiorari. The Supreme Court of Wisconsin issued its opinion on March 24, 2022. A copy of the opinion is attached. This Court's jurisdiction would be invoked under 28 U.S.C. § 1257(a).

2. Absent an extension, a petition for a writ of certiorari would be due on Wednesday, June 22, 2022. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case.

3. This case concerns whether a court seeking to determine if a source of evidence is “genuinely independent” for purposes of the “independent source” exception to the exclusionary rule must ask whether the actual officers involved would have sought the untainted evidence had the unlawful search never taken place or instead may ask only whether a hypothetical reasonable officer would have sought the untainted evidence had the unlawful search never taken place.

4. This question—whether the independent source inquiry is “objective” or “subjective”—is the subject of a division of authority between federal courts of appeals and state supreme courts. Most courts, following this Court’s decision in *Murray v. United States*, 487 U.S. 533, 542-43 (1988), apply the subjective test, asking whether the actual officers involved would have lawfully obtained the evidence had the unlawful search never happened. But some courts—including the Supreme Court of Wisconsin in this case—apply an objective test, asking only whether a reasonable officer would have lawfully obtained the evidence had the unlawful search never happened.

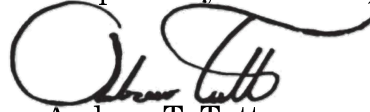
5. This is an important case. Different standards for the application of the exclusionary rule are being applied in different states and in different federal circuits. Moreover, in jurisdictions that apply the objective test, the “independent source” doctrine threatens to eliminate the exclusionary rule in any case where officers had probable cause but failed to secure a warrant. In every such case, under the objective test, a court can admit the evidence under the “independent source” doctrine on the theory that a reasonable officer would have sought a warrant.

6. Petitioner respectfully requests an extension of time to file a petition for a writ of certiorari. Following the decision below, petitioner engaged additional counsel who were not previously involved in the case. A 58-day extension would allow counsel sufficient time to fully examine the decision's consequences, research and analyze the issues presented, and prepare the petition for filing. Additionally, the undersigned counsel have a number of other pending matters in this Court and in federal courts of appeals that will interfere with counsel's ability to file the petition on or before June 22, 2022.

Wherefore, petitioner, Daniel J. Van Linn, respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to August 19, 2022.

May 12, 2022

Respectfully submitted,



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