

Supreme Court, U.S.
FILED
OCT 03 2022
OFFICE OF THE CLERK

NO.

IN THE
SUPREME COURT OF THE UNITED STATES

DAWUD C.S. GABRIEL,
Petitioner,

v.

TRANS AM TRUCKING CO.,
Respondent.

To the Attention
of
The Honorable Associate Justice
Neil M. Gorsuch

On Petition for Writ of Certiorari To
The United States Court of Appeals
For the Tenth (10th) Circuit
(Tenth (10th) Cir. Case No. 22-3102)

Petitioner's Application for Relief-
Motion for an Extension
To File
Petition for Writ of Certiorari

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**PETITIONER'S APPLICATION FOR RELIEF-
MOTION FOR AN EXTENSION TO FILE PETITION FOR WRIT OF CERTIORARI**

I. INTRODUCTION

October 3, 2022

Pursuant to 28 U.S.C. § 2101(c), S.Ct.R.13.5, & S.Ct.R.30.2, Petitioner **DAWUD C.S. GABRIEL** ("Gabriel") motions the Court for an extension until January 22, 2023, to file a petition for Writ of Certiorari, to request the US Supreme Court to review the August 25, 2022, Judgment of the Tenth (10th) Cir. Court of Appeals [Ex. A]. Gabriel request the Court to extend the time primarily for reason that Gabriel is a victim of Hurricane Ian. Gabriel's hometown of Sebring, Florida, took a direct hit from Hurricane Ian, causing him to lose power for three (3) days and loss of access to essential services. For such good cause reason, the Court should grant Gabriel's request for relief and extend the time to January 22, 2023, to file a § 1254(1) Petition.

II. RELEVANT PROCEDURAL HISTORY

1. On August 26, 2021, Gabriel timely filed a Charge of Discrimination ("Charge") against the Respondent **TRANS AM TRUCKING CO.** ("Trans Am") with the Government's Equal Employment Opportunity Commission ("EEOC") (EEOC Case No. 563-2021-00710) for violations of Americans with Disabilities Act of 1990 ("ADA"), pursuant to 42 U.S.C. §§ 12117 & 2000e-5(e)¹. See District Court's ("D.C.") DE 01, Pg. 194-196.
2. The Government failed to investigate the allegations therein the timely filed Charge; therefore, Gabriel exhausted all administrative remedies on February 23, 2022, after the passing of 180 days after the timely filing of the Charge². 42 U.S.C. § 2000e-5(f)(1).
3. On April 5, 2022, Gabriel timely filed a civil action against Trans Am for violations of the ADA in the U.S. District Court for the District of Kansas³ ("USDC-Kansas") within the ninety (90) days as prescribed by Congress⁴. See DE 01, DE 01-1 through DE 01-13. 42 U.S.C. § 2000e-5(f)(1).

¹ Basis for District Court's jurisdiction.

² Basis for District Court's jurisdiction.

³ Basis for District Court's jurisdiction. US District Court-Kansas had subject-matter jurisdiction to hear Gabriel's claims, because the employment record relevant to the unlawfully employment practices alleged are maintained and administered with the judicial district of US District Court-Kansas. 42 U.S.C. § 2000e-5(f)(3).

⁴ Basis for District Court's jurisdiction.

4. On April 13, 2022, District Court entered an order [DE 05], requiring Gabriel to file an amended complaint in thirty (30) days, falsely alleging that the Original Complaint [DE 01, DE 01-1 through DE 01-13] failed to comply with federal notice requirements of Fed.R.Civ.P.8(a). See DE 05.
5. On April 16, 2022, Gabriel filed the Amended Complaint⁵ [DE 06].
6. On April 17, 2022, Gabriel filed a Notice of Intentions on Filing a Fed.R.Civ.P.60(b)(1) Motion and Recusal Request Affidavit [DE 07], pursuant to 28 U.S.C. §§ 144 & 455(a).
7. On April 24, 2022, Gabriel filed an unopposed Fed.R.Civ.P.60(b)(1) Motion to Vacate April 13, 2022, Order [DE 05] and Recusal Request affidavit [DE 08, Pgs.10-11], pursuant to 28 U.S.C. §§ 144 & 455(a).
8. On May 8, 2022, Gabriel filed an unopposed Fed.R.Civ.P.4(m) Motion [DE 09], requesting District Court to extend the time to November 24, 2022, to perfect service of the summons and a proposed second (2nd) amended complaint on Trans Am.
9. On May 23, 2022, Magistrate Court illegally acted and entered an unconstitutional Order [DE 10] without the consent of the parties.
10. On May 30, 2022, Gabriel filed an unopposed Fed.R.Civ.P.60(b)(1) Motion [DE 11] for District Court to set aside the Magistrate Court's May 23, 2022, Order [DE 10].
11. On June 2, 2022, District Court entered a Memorandum and Order [DE 12], 1) that **DENIED** Gabriel's April 24, 2022, Fed.R.Civ.P.60(b)(1) Motion and Recusal Request Affidavit [DE 08], 2) denying Gabriel's May 23, 2022, Fed.R.Civ.P.60(b)(1) Motion [DE 11] to Set Aside the Magistrate Court's May 23, 2022, Order [DE 10], 3) dismissing the Original Complaint [DE 01, DE 01-1 through DE 01-13], and dismissing the Amended Complaint [DE 06].
12. On June 2, 2022, Gabriel timely filed a Notice of Appeal [DE 13].
13. On June 3, 2022, Gabriel timely filed an Amended Notice of Appeal [DE 15].
14. On June 13, 2022, Gabriel filed an opening brief in the Tenth (10th) Cir. Court of Appeals. See DE 10110698049, Pgs. 1-50.

⁵ In the Original Complaint [DE 01, DE 01-1 through DE 01-13], Gabriel mistakenly referred to sections 2(B), (C), & (D), in the Statement of Claim section, instead of sections 3(B), (C), & (D). See DE 01, Pg. 191. Gabriel corrected such error in the Amended Complaint [DE 06]. See DE 06, Pg. 189. Gabriel did not file the Amended Complaint [DE 06] in response to District Court April 13, 2022, illegal Order [DE 05].

15. On August 25, 2022, the Tenth (10th) Cir. Court of Appeals entered a non-published, non-per curium partial Judgment⁶ [Ex. A], **AFFIRMING**⁷ District Court's unconstitutional June 2, 2022, Memorandum and Order [DE 12]. See Ex. A., Pgs. 1-5.

16. Gabriel now moves the Court to extend the time until January 23, 2023, to file a § 1254(1) Petition.

III. LEGAL STANDARD

A. Pro Se Standard

“[P]ro se [papers]...we hold to less stringent standards than [papers] drafted by lawyers[.]” Haines v. Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972); Estelle v. Gamble, 429 US 97, 106, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).

B. S.Ct.R.13.5

“For good cause, a Justice may extend the time to file a petition for a writ of certiorari for a period not exceeding 60 days. An application to extend the time to file shall set out the basis for jurisdiction in this Court, identify the judgment sought to be reviewed, include a copy of the opinion and any order respecting rehearing, and set out specific reasons why an extension of time is justified. The application must be filed with the Clerk at least 10 days before the date the petition is due, **except in extraordinary circumstances.**” S.Ct.R.13.5.

C. Good Cause Standard

“[W]here specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is . . . entitled to relief, it is the duty of the court to provide the necessary facilities and procedures for an adequate inquiry. Bracy v. Gramley, 520 US 899, 908-909, 117 S. Ct. 1793, 138 L. Ed. 2d 97 (1997); Harris v. Nelson, 394 US 286, 300, 89 S. Ct. 1082, 22 L. Ed. 2d 281 (1969).

IV. REASON FOR GRANTING SECOND (2ND) EXTENSION REQUEST

A. Hurricane Ian

Gabriel's hometown of Sebring, Florida, took a direct hit from Hurricane Ian, causing him to lose power for three (3) days and loss to access of essential services. Bracy v. Gramley, 520 US 899, 908-909, 117 S. Ct. 1793, 138 L. Ed. 2d 97 (1997); Harris v. Nelson, 394 US 286, 300, 89 S. Ct. 1082, 22 L. Ed. 2d 281 (1969). See Ex. B., Pg. 1, Ex. C., Pgs. 1-2, Ex. D., Pgs. 1-3, and Ex. E., Pgs. 1-2.

B. Gabriel v. Melton Truck Lines, Case no. 22-5070 (10th Cir.2022)

⁶ The lone U.S. Circuit Judge that voted to overturn District Court's unconstitutional June 2, 2022, Memorandum and Order [DE 12] failed to identify himself and failed to enter a dissenting opinion, violating Gabriel's Fifth (5th) & Fourteenth (14th) Amendments' Due Process Rights. Morrissey v. Brewer, 408 US 471, 487, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972); Goldberg v. Kellv, 97 US 254, 271, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970). See Ex. A., Pgs. 1-5.

⁷ The Court has jurisdiction to grant certiorari and to approve this motion, under 28 U.S.C. § 1254(1). Hohn v. United States, 524 US 236, 241, 118 S. Ct. 1969, 141 L. Ed. 2d 242 (1998); Felker v. Turpin, 518 US 651, 666, 116 S. Ct. 2333, 135 L. Ed. 2d 827 (1996). Petitioner timely files this motion within the time constraints to file a petition for writ of Certiorari, set by 28 U.S.C. § 2101(c). Federal Election Comm'n v. NRA Political Victory Fund, 513 US 88, 90, 115 S. Ct. 537, 130 L. Ed. 2d 439 (1994); Missouri v. Jenkins, 495 US 33, 45, 110 S. Ct. 1651, 109 L. Ed. 2d 31 (1990).

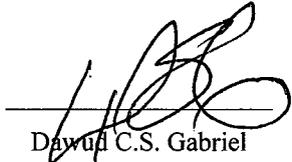
Gabriel is an appellant in the matter of Gabriel v. Melton Truck Lines, Inc., Case 22-5070 (10th Cir.2022). See Ex. F., Pgs. 1-5. Gabriel is contending that the US District Court - Northern District of Court, on August 16, 2022, illegally dismissed the matter⁸. Bracy v. Gramley, 520 US 899, 908-909 (1997); Harris v. Nelson, 394 US 286, 300 (1969). Simultaneous to filing this extension as well as another extension request to filing a § 1254(1) Petition for the case of Gabriel v. Windy Hill Foliage Inc., Case no. 22-12901 (11th Cir. 2022) (with the Honorable Associate Justice Clarence Thomas), Gabriel is motioning for an illegal order⁹ [EX. G.] entered on September 30, 2022, to be vacated, and motioning for sanctions against Melton Truck Lines Inc., in the case Gabriel v. Melton Truck Lines, Inc., Case 22-5070 (10th Cir.2022)¹⁰.

V. CONCLUSION

For the foregoing reasons, the Court should grant Gabriel's request for relief, by extending the time until January 22, 2023, to file a petition of Writ of Certiorari, requesting the Court review the August 25, 2022, Judgment of the Tenth (10th) Cir. Court of Appeals [Ex. A.].

October 3, 2022

Respectfully,


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⁸ The matter of Gabriel v. Melton Truck Lines, Inc., Case no. 4:21-cv-00493 (ND/OK 2021).

⁹ On September 30, 2022, the Tenth Cir. C.O.A. knowingly ordered that Gabriel not receive service of such order, along with other unconstitutional judiciary acts.

¹⁰ Because of partiality issues in violation with 22 U.S.C. 455(a), Gabriel may very well be requesting the Court to review the actions, judgment, and orders of the Tenth Cir. Court of Appeals in the matter of Gabriel v. Melton Truck Lines, Inc., Case 22-5070 (10th Cir.2022) at a future time.