

No. 22A_____

In the Supreme Court of the United States

In re: Igor Lukashin,

Applicant.

CA9 No. 22-80034

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of
the United States and Circuit Justice for the Ninth Circuit

**CORRECTED REQUEST TO EXTEND TIME TO FILE A PETITION
FOR A WRIT OF CERTIORARI UNTIL DECEMBER 16, 2022**

Igor Lukashin (pro se)

1405 NE McWilliams Rd.
Ste. 103, PMB #373
Bremerton, WA 98311
(360) 447-8837
igor_lukashin@comcast.net

QUESTIONS PRESENTED

1. Whether the Ninth Circuit has been denying Due Process by applying a purportedly categorical rule, *Ramirez-Alejandre v. Ashcroft*, 320 F.3d 858, 875 (9th Cir. 2003) (en banc), allegedly supported by *Padgett v. Wright*, 587 F.3d 983, 985 n. 2 (9th Cir. 2009) to thousands of *pro se* appeals, *a-la* secret policy in *Schexnayder v. Vannoy*, 140 S. Ct. 354 (U.S. 2019) (Sotomayor, J.)
2. Whether the Ninth Circuit retaliated against Lukashin for repeatedly bringing the “*Padgett* fraud” to that court’s attention via Circuit Rule 36-4 requests for publication and motions to intervene, *e.g.* *California River Watch v. City of Vacaville*, 14 F.4th 1076, 1079 (9th Cir. 2021), *intervention denied by amended opinion*, 39 F.4th 624 (9th Cir. 2022) (“*CRW*”), via a pre-filing review order and denying reconsideration, all without following requirements of binding circuit precedent or engaging with Lukashin’s detailed arguments
3. Whether the entered pre-filing review order is a de-facto filing ban for lack of a reasoned explanation and effective suspension of Circuit Rule 27-10

IDENTITY OF THE PARTY AND RELATED PROCEEDINGS

Applicant is Igor Lukashin, *pro se*. Lukashin was the only party to the case below, *In re Igor Lukashin*, No. 22-80034 (9th Cir. 2022), *sua sponte* initiated by the Ninth Circuit Court of Appeals via an April 22, 2022 Order to show cause why a pre-filing review order should not be entered against Lukashin.

A related proceeding in this Court is *Lukashin v. Washington State Department of Revenue*, No. 22-189 (U.S. 2022), *petition set for conference of October 14, 2022*.

REQUEST TO EXTEND TIME TO FILE A PETITION UNTIL 12/16/2022

Applicant Igor Lukashin respectfully requests additional sixty days, up to and including December 16, 2022, to file his Petition for Writ of Certiorari.

On May 24, 2022 the Ninth Circuit entered a pre-filing review order, DE:8, *In re: Igor Lukashin* (9th Cir. 2022) (App. 2). On July 19, 2022, the Court denied, without explanation a motion for reconsideration / reconsideration en banc (App. 4). On July 20, the Clerk denied permission to proceed (App. 5) in *CRW*, No. 20-16605, including to seek reconsideration unexplained denial of a motion to intervene (DE: 60 therein), filed subject to the pre-filing order in No. 22-80034.

Absent an extension of time, the Petition for Writ of Certiorari would be due by October 17, 2022. Petitioner **mailed the original version of this** request on October 4, 2022¹ more than ten days prior to that due date.

This Court has jurisdiction to review CA9's July 19 and July 20, 2022 orders, as well as subsequent orders, pursuant to 28 U.S.C. § 1254(1).

Lukashin's attempts to secure pro bono counsel, including by contacting Supreme Court, appellate, and civil rights clinics at Top-20 law schools, have thus far been unsuccessful; and it is anticipated that additional time will be required to secure counsel and adequately prepare the Petition for Writ of Certiorari in this case. The certiorari might be granted in this case under Sup. Ct. R. 10(a), as the CA9 decisions below issued contrary to the Due-Process-grounded CA9's own test in *Ringgold-Lockhart v. County of Los Angeles*, 761 F.3d 1057, 1062–67 (9th Cir. 2014) and failed to provide Lukashin with an opportunity to be *meaningfully* heard,

¹ USPS tracking No. 9405 5036 9930 0361 9258 05 indicates item was picked up 11:10 a.m. October 6, 2022

“call[ing] for an exercise of this Court’s supervisory power”; also Sup. Ct. R. 10(c).

A CERTIORARI PETITION MIGHT BE GRANTED HEREIN

As Justice Alito’s four-justice dissent in Yeshiva University v. YU Pride Alliance, No. 22A184 (U.S. Sept. 14, 2022) reminded, “[t]he loss of First Amendment rights for even a short period constitutes irreparable harm, *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U. S. ___, ___ (2020) (per curiam) (slip op., at 5)

Lukashin’s access to the Ninth Circuit and the right to petition, otherwise available to nonlawyer non-parties via motions to intervene on appeal or Circuit Rule 36-4 requests for publication, have been curtailed, subject to a de-facto filing ban via unexplained denials of permission to proceed, App. 6–9, foreclosing Rule 27-10 motions for reconsideration, an *ultra vires* action for the Clerk, see App. 10–16. Lukashin would likely prevail if review is granted, as decisions below failed to follow binding circuit precedent in *e.g. Ringgold-Lokhart, supra, see e.g. Kassas v. State Bar of California*, No. 21-55900 (9th Cir. Sep. 26, 2022):

A panel can only depart from our own precedent “if a subsequent Supreme Court opinion `undercut[s] the theory or reasoning underlying the prior circuit precedent in such a way that the cases are clearly irreconcilable.” *In re Nichols*, 10 F.4th 956, 961 (9th Cir. 2021) (alteration in original) (quoting *Miller v. Gammie*, 335 F.3d 889, 900 (9th Cir. 2003) (en banc))

Lukashin is the only party in No. 22-80034 below, and, as CA9 repeatedly and recently recognized, *Riley’s American Heritage Farms v. Elsasser*, 32 F.4th 707, 731 (9th Cir. 2022) (“*Riley*”) in a stringent injunctive-relief context,

“[T]he deprivation of constitutional rights `unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373, 96 S.Ct. 2673, 49 L.Ed.2d 547

(1976)). Thus, evidence of an ongoing constitutional violation (i.e., a policy or practice) satisfies the second element of the injunctive relief test. *See id.* Finally, "it is always in the public interest to prevent the violation of a party's constitutional rights." *Id.* (quoting *Sammartano v. First Judicial District Court*, 303 F.3d 959, 974 (9th Cir. 2002))

The substance of Lukashin's petitioning activities, identifying ongoing "*Padgett* fraud" affecting thousands of *pro se* appellants, is available below at DE: 30 (App. 17–21), *see also* DE: 35, citing *In re Apple Inc. Device Performance Litigation*, No. 21-15758, p. 21 n. 9 (9th Cir. Sep. 28, 2022) (rule is discretionary), *Sundby v. Marquee Funding Group*, No. 21-55504, pp. 2–3 (9th Cir. Oct. 3, 2022) (mem.) (same), *but cf. Hunt v. City of Los Angeles*, No. 21-55310 (9th Cir. Aug. 29, 2022) (same panel as in *Sundby*; *pro se* appellant; a categorical statement followed by *Padgett* citation); and is an issue Lukashin attempted to bring to Justice Kagan's attention via letters in December 2020 – March 2021 (see attached "Kagan letters").

Since Lukashin now has an opportunity to raise the "*Padgett* fraud" issue (QP 1) as directly related to the reviewable CA9 pre-filing review order entered against Lukashin below, unsuccessful past attempts to bring the issue to Justice Kagan's attention are relevant to this time extension request.

Approximate *Padgett* citation frequency distribution for judges on the Ninth Circuit Seniority List as of April 30, 2022 is available as DE: 6 at 9–11 (App. 22–24)

As CA9 recently noted in *Fellowship Of Christian Athletes v. San Jose Unified School District Board Of Education*, No. 22-15827, p. 43 (9th Cir. Aug. 29, 2022), a loss of First Amendment Freedoms "unquestionably constitutes irreparable injury" *Id.* at 43. Furthermore, one who is seeking "injunctive relief in a First

Amendment context can establish irreparable injury sufficient to merit the grant of relief by demonstrating the existence of a colorable First Amendment claim.”

Sammartano v. First Jud. Dist. Ct., 303 F.3d 959, 973 (9th Cir. 2002), *Id.* at 44. *See also Riley, supra*, 32 F. 4th at 730, “to bring a claim for prospective injunctive relief, a plaintiff “must identify a practice, policy, or procedure that animates the constitutional violation at issue.””. Failure to follow binding Ninth Circuit Due Process-based precedent and apparent purposeful denial of equal protection of the law to thousands of pro se appellants makes a grant of certiorari appropriate here.

While this Court Clerk’s office notified me this morning by email (first attachment hereto) that my original time-extension request was being returned for not being set forth in a separate document, and stay / injunctive relief must first be sought in the lower courts, a voicemail in response to my email inquiry suggested the Clerk may be able to docket this corrected request as timely.

CONCLUSION

Lukashin respectfully requests the Court GRANT the requested extension of time and provide any other and further relief the Court may find appropriate and just.

Respectfully submitted,

October 11, 2022

s/ Igor Lukashin



Igor Lukashin

1405 NE McWilliams Rd., Ste. 103, PMB #373, Bremerton, WA 98311

Tel.: (360) 447-8837

Email: igor_lukashin@comcast.net

Attachments and appendix follow