

No. _____

In the
Supreme Court of the United States

D.K. WILLIAMS, in her individual and official capacity as Warden of FCI Danbury
and HERMAN QUAY, in his individual capacity,

Petitioners,

v.

RAFIQ SABIR and JAMES J. CONYERS,

Respondents.

**On Petition for Writ of Certiorari
to the United States Court of Appeals for the Second Circuit**

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

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March 15, 2023

**TO: THE HONORABLE SONIA SOTOMAYOR, ASSOCIATE JUSTICE OF
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT
JUSTICE FOR THE SECOND CIRCUIT**

Pursuant to Supreme Court Rule 13.5, Petitioners respectfully request a 60-day extension of the time to file a petition for a writ of certiorari up to and including May 28, 2023.¹ The decision of the United States Court of Appeals for the Second Circuit was issued on June 17, 2022 and corrected on October 28, 2022. Both opinions are attached as Exhibits A and B. The Second Circuit's order denying rehearing and rehearing en banc was issued on December 29, 2022, and is attached as Exhibit C. Under Rules 13.1, 13.3 and 30.1 of the Rules of this Court, absent an extension, a petition for a writ of certiorari is due on or before March 29, 2023. This Court has jurisdiction over any such petition under 28 U.S.C. § 1254(1). This application is timely because it has been filed more than ten days before the date on which the petition is otherwise due. S. Ct. R. 13.5. Counsel for Respondents does not oppose the requested extension.

1. Petitioners Herman Quay and D.K. Williams are former wardens at the Federal Correctional Institution in Danbury, Connecticut. Respondents Rafiq Sabir and James J. Conyers filed suit contending that the facility's policy regarding group prayer violated the Religious Freedom Restoration Act. Petitioners moved to dismiss on qualified immunity grounds, and the district court denied that motion.

¹ May 28 is a Sunday, and May 29 is Memorial Day. The effective deadline will therefore be May 30. *See* Rule 30.1. If the requested extension would be deemed to exceed Rule 13.5's 60-day limit, then Petitioners in the alternative request an extension until Friday, May 26, 2023.

Represented by Department of Justice counsel, Petitioners appealed. The Second Circuit affirmed. Represented by undersigned counsel pursuant to 28 C.F.R. § 50.15 & .16, Petitioners sought rehearing and rehearing en banc. The Second Circuit amended its opinion but denied rehearing.

2. On March 7, 2023, the parties held a settlement conference before Magistrate Judge S. Dave Vatti. *See* Dkt. 119.² A copy of the district court docket is attached as Exhibit D. The parties have reached a preliminary agreement to settle this matter (though neither side has formally signed off yet and Department of Justice approval is required). While the settlement is not yet final, the Magistrate Judge reported that the case was “settled,” and on March 8, 2023, the district court ordered that the case be administratively closed. Dkts. 119, 120. The parties have until June 9, 2023 to either file a stipulation of dismissal or move to reopen the case. Dkt. 120.

3. An extension of 60 days for Petitioners to file a petition for certiorari will conserve both party and judicial resources by giving the parties time to finalize the current preliminary agreement. If that agreement is finalized, a petition for certiorari will not be necessary. The requested 60-day extension, until May 28, 2023, closely aligns with the district court’s June 9, 2023 deadline to either dismiss the case pursuant to settlement or move to reopen the case.

² Docket entry citations refer to: *Sabir v. Williams*, No. 3:17-cv-00749-VAB (D. Conn.).

4. As noted above, counsel for Respondents does not oppose this requested extension.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that this Court grant an extension of 60 days, up to and including May 28, 2023, to file a petition for certiorari.

Respectfully submitted,

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