No. _____

In the Supreme Court of the United States

NORIANA RADWAN,

Applicant,

v.

WARDE MANUEL, LEONARD TSANTIRIS, AND MONA LUCAS, IN THEIR INDIVIDUAL CAPACITIES, AND THE UNIVERSITY OF CONNECTICUT BOARD OF TRUSTEES.

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

To the Honorable Sonia Sotomayor, Associate Justice of the United States Supreme Court and Circuit Justice for the United States Court of Appeals for the Second Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicant Noriana Radwan respectfully requests a 60-day extension of time, to and including Monday, July 17, 2023, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Second Circuit issued its opinion on November 30, 2022. A copy of the opinion is attached (Exhibit A). The Second Circuit denied Applicant's timely rehearing petition on February 17, 2023. A copy of the order is attached (Exhibit B). This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on Thursday, May 18, 2023. 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 it is clearly established that a university or college official violates a student's First Amendment rights by punishing the student for expressing a viewpoint that the official finds offensive.

4. The Second Circuit held that it is not "clearly established" that a university official may not punish a student for expressing a viewpoint—raising a middle finger—because the official finds the viewpoint offensive. In reaching this holding, the panel reasoned that this Court has not held that the First Amendment exceptions to protected speech that apply in the K-12 setting do not also apply in the university setting. The panel thus held that it would not be unreasonable for a university official to conclude that the exceptions identified in two cases from this Court's K-12 precedent—*Bethel School District No. 403 v. Fraser*, 478 U.S. 675 (1986), and *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988)—permit an official to punish a university student for expressing a viewpoint the official finds offensive.

5. The decision below deepened a circuit split on the application of clearly established First Amendment law. The decision directly conflicts with settled law in the Fourth, Sixth, Eighth, and Tenth Circuits. *See IOTA XI Chapter of Sigma Chi Fraternity v. George Mason Univ.*, 993 F.2d 386 (4th Cir. 1993); *Ward v. Polite*, 667 F.3d 727 (6th Cir. 2012); *Gerlich v. Leath*, 861 F.3d 697 (8th Cir. 2017); *Thompson v. Ragland*, 23 F.4th 1252 (10th Cir. 2022). These circuits recognize that *unless* a school's decision to punish student speech falls squarely within one of the narrow First Amendment exceptions that this Court has acknowledged in the context of K-12 public schools, *see Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 514 (1969); *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675,

685 (1986); *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 273 (1988); *Morse v. Frederick*, 551 U.S. 393, 405 (2007), no reasonable university official would believe that the First Amendment permits punishment for student speech on the conjecture that the Supreme Court might one day expand the exceptions beyond the narrow bounds those cases identified.

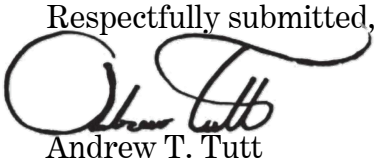
6. This case is exceptionally important. The decision curtails the First Amendment rights of thousands of public university students in the Second Circuit and imperils the rights of hundreds of thousands of public university students nationwide by creating ambiguity in clearly established First Amendment doctrine, leaving the rights of university students to engage in unpopular speech uncertain and, in practice, unprotected. By proclaiming that virtually every aspect of the application of the First Amendment to the university setting is unclear, the Second Circuit's decision effectively immunizes university officials from liability for First Amendment violations for an extraordinary breadth of conduct.

7. Petitioner respectfully requests an extension of time to file a petition for a writ of certiorari. A 60-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 that will interfere with counsel's ability to file the petition on or before Thursday, May 18, 2023.

Wherefore, Applicant respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to Monday, July 17, 2023.

March 20, 2023

Respectfully submitted,



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