

November 21, 2023

By Electronic Filing and Hand Delivery

The Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First Street, NE
Washington, D.C. 20543

Re: *Boresky v. Graber*, No. 23-384

Dear Mr. Harris,

Petitioner Michael Boresky opposes Respondent's request for an extension of time to file a Brief in Opposition.

As undersigned counsel explained when Respondent sought our position on his motion, Respondent's requested extension would prevent the Court from hearing this case this Term, which in turn would prolong this already lengthy, unnecessary, and unconstitutional *Bivens* litigation. The costs of that delay will fall directly on Mr. Boresky—a former Secret Service Special Agent who for years has been enmeshed in a lawsuit the District Court should have dismissed immediately at the outset.

There is no parity between Respondent's current request for a 60-day extension and Petitioner's prior extension of time to file the Petition. In the courts below, Mr. Boresky was represented by the Department of Justice. Shortly before the Petition was due, and in light of the lengthy process required to retain private counsel for federal employees in this Court, undersigned counsel was contacted to represent Mr. Boresky. Undersigned counsel then sought additional time from this Court to familiarize himself with this important matter. By contrast, Respondent is represented by the same counsel who represented him below. Respondent's counsel should already be familiar with the legal and factual issues in this case, which were fully fleshed out in a thorough majority opinion and a vigorous dissent from Judge Hardiman.

Respondent has had considerable time to prepare a Brief in Opposition. Respondent has known since July 28, 2023 that Petitioner would file a Petition in this Court. The Petition itself was filed on October 6, 2023, well over one month ago. Respondent nevertheless voluntarily choose to waive his response, despite the strong possibility that the Court would call for a response.

Petitioner already bears the costs of living with this prolonged and unnecessary *Bivens* litigation. He should not be required to bear those costs for an additional Supreme Court Term.

We respectfully urge the Court to deny the requested extension and to ensure that the case could be resolved this Term if the Petition were granted.

Sincerely,

/s/ Neal Kumar Katyal
Neal Kumar Katyal
HOGAN LOVELLS US LLP
555 Thirteenth St., NW
Washington, DC 20004
(202) 637-5528
neal.katyal@hoganlovells.com

Counsel for Petitioner Michael Boresky

cc: Paul J. Hetznecker