

# Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

November 6, 2023

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

Re: Appellant Garcia's Opposition to Appellee State of Washington's Request for 60-Day Extension in No. 23-467, *Garcia v. Hobbs et al.*

Dear Mr. Harris:

Appellant Benancio Garcia III filed his Jurisdictional Statement in this case on October 31, 2023. On November 3, 2023, Appellee State of Washington sent a letter to the Clerk requesting a 60-day extension to reply to Appellant's Jurisdictional Statement. Appellant opposes an extension.

Although the undersigned understands and respects that counsel for Appellee are public servants with another matter pending before the Supreme Court, circumstances outside of the control of the parties and their counsel mean that an extension here will, in fact, prejudice Appellant. Remedial proceedings at the district court in the related *Soto Palmer* case, No. 23-\_\_\_\_, which Appellant has alleged will inevitably cause his harm to recur, are beginning in December. And the longer the Court does not act or allows briefing to drag on, the greater the chance that an unconstitutional map is in place for the 2024 elections. The Court should act as quickly as needed in this case to ensure that the two related cases do not proceed on dual tracks, as described in detail in the Jurisdictional Statement. Delaying everything for two months will only exacerbate the problems described in the Jurisdictional Statement and increase the likelihood that Appellant's harm is compounded in the remedial proceedings in the related *Soto Palmer* matter. The imminent onset of the remedial proceedings has also prompted the undersigned, who is counsel of record in both this appeal and the *Soto Palmer* case, to seek a stay of proceedings in *Soto Palmer* at the district court, which will be filed presently in *Soto Palmer v. Hobbs et al.*, No. 3:22-cv-5035 (W.D. Wash.).

Appellee State of Washington's other points are unconvincing. Primarily, they are premised on an errant idea—that the Court will need to “grant review and schedule argument” so that the “earliest possible date it could reverse and remand would be April 2024.” That is incorrect and not how these types of appeals work. As Appellant stated clearly in his Jurisdictional Statement, Appellant's primary request to the Court is for it to summarily reverse without further briefing or argument, which can be accomplished at any time after a timely response. Summary disposition is appropriate—indeed, often run-of-the-mill—for these types of direct appeals under Rule 18.12. Because the merits were not decided below, it is unclear how or why the Supreme Court would schedule argument in this case. For the mootness issue, Appellant has laid out sufficient reasons in the Jurisdictional Statement for the Court to summarily reverse and remand.

A jurisdictional statement may (as here) request summary disposition, after which an appellee has 30 days to file a response. After that deadline passes (if no extension is granted), the Clerk must distribute the jurisdictional statement and the motion to dismiss or affirm to the Members of the Court no less than 14 days later but may do so immediately if the Appellant waives the two-week period. Therefore, if the undersigned waives that period, and an extension is not granted, these papers could be distributed to the Court promptly after Appellee's response due date of December 4, in time for the Court's December 8 conference. The Court could then summarily dispose of the appeal immediately thereafter. Counsel for Appellee therefore is four months off in its understanding of Rule 18 procedures. And we have little doubt that, considering Appellee "has filed many" briefs at the Supreme Court, counsel for Appellee is entirely capable of briefing a motion to dismiss or affirm within the next four weeks.

Last, Appellant corrects the incorrect assertion that "the parties have stipulated that Washington's legislative district map must be finalized by March 25, 2024, to avoid disrupting the 2024 election cycle." There was no such formal stipulation to that deadline; rather, Appellee Secretary Hobbs has stated that March 25 was the absolute deadline for its own administrative needs, and the parties agreed that the Secretary had set that deadline for itself.

For those reasons, we respectfully request that the deadline not be extended.

Respectfully submitted,

/s/ Jason B. Torchinsky

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**CERTIFICATE OF SERVICE**

I, Jason B. Torchinsky, certify that I filed Appellant's November 6, 2023 letter electronically with the Court and that I emailed the foregoing on this 6<sup>th</sup> day of November 2023, to the following counsel of record:

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