

No. \_\_\_\_\_

**In the Supreme Court of the United States**

---

GERALD S. OSTIPOW,  
individually and as Personal Representative  
of the Estate of Royetta L. Ostipow,  
Petitioner,

v.

WILLIAM L. FEDERSPIEL,  
Respondent.

---

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

---

To the Honorable Brett M. Kavanaugh, Associate Justice of the United States Supreme Court and Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

1. Pursuant to Supreme Court Rule 13.5, Petitioner Gerald S. Ostipow, both individually and as personal representative of the estate of his late-wife Royetta L. Ostipow, respectfully requests a 60-day extension of time, to and including, Monday, April 15, 2024, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Sixth Circuit issued its opinion on September 29, 2023. A copy of the opinion is attached as Exhibit A. The Sixth Circuit denied Petitioner's timely rehearing petition in an order issued on November 16, 2023. A copy of the order is attached as 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 February 14, 2024. 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 a county sheriff's office, who mostly lost his state-level suit for civil forfeiture of the Ostipows' private property, violated the Constitution when *still* refusing, after more than fifteen (15) years, to return the non-forfeited property or alternatively kept the proceeds from the sale of the non-forfeited property for a public use.

4. The Sixth Circuit ruled that the Fifth Amendment takings claim is precluded by the possibly of state law processes that *might* exist under Michigan law even though no one, including the Sixth Circuit, could readily identify such.

5. That ruling is contrary to this Court's rule in *Knick*—

[Even if] the State has provided a property owner with a procedure that may subsequently result in just compensation cannot deprive the owner of his Fifth Amendment right to compensation under the Constitution, leaving only the state law right. And that is key because it is the existence of the Fifth Amendment right that allows the owner to proceed directly to federal court under § 1983. *Knick v. Twp. of Scott, Penn.*, 139 S. Ct. 2162, 2171 (2019).

6. In simple terms, a “plaintiff[] may bring constitutional claims under § 1983 ‘without first bringing any sort of state lawsuit, even when state court actions addressing the underlying behavior are available.’” *Id.* at 2172-2173.

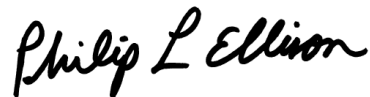
7. Petitioner respectfully requests an extension of time to file a petition for a writ of certiorari for full consideration or, more pointedly, summary reversal of the decision below.

8. A sixty (60) day extension would allow Petitioner sufficient time to fully prepare the needed petition for filing. Additionally, undersigned counsel has a number of other pending matters with proximate due dates that will interfere with counsel's ability to file the petition on or before February 14, 2024.

*Wherefore*, Petitioner respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to and including Monday, April 15, 2024.

January 4, 2024

Respectfully submitted,



---

Philip L. Ellison  
OUTSIDE LEGAL COUNSEL PLC  
PO Box 107  
Hemlock, MI 48626  
(989) 642-0055  
pellison@olcplc.com

*Counsel for Petitioner*