

No. A

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

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PETER WILLIAMS,  
*Applicant,*

v.

ENVIRONMENTAL PROTECTION AGENCY, *ET. AL.*,  
*Respondents.*

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To the Honorable John G. Roberts, Jr.,  
Chief Justice of the United States and  
Circuit Justice for the District of Columbia Circuit

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**APPLICATION TO EXTEND THE TIME TO FILE  
A PETITION FOR A WRIT OF *CERTIORARI***

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**APPENDIX**

*RMS of Georgia, LLC v. Evtl. Protection Agency,*  
    Nos. 22-1313, 22-1314 (D.C. Cir. July 7, 2023)..... 1a  
*Williams v. Evtl. Protection Agency,*  
    No. 22-1314 (D.C. Cir. Oct. 26, 2023)..... 4a

**RULE 29.6 STATEMENT**

Applicant is a natural persons without parent companies or stock.

**APPLICATION TO EXTEND THE TIME TO FILE A PETITION  
FOR A WRIT OF *CERTIORARI***

To the Honorable Chief Justice John G. Roberts, Jr., as Circuit Justice for the United States Court of Appeals for the District of Columbia Circuit:

Pursuant to Supreme Court Rule 13(5), Peter Williams (“Applicant” or “Williams”) hereby respectfully applies for a 60-day extension—to and including March 24, 2024—of the time within which to petition for a writ of *certiorari*. Unless an extension is granted, the deadline for filing the petition for a writ of *certiorari* will be January 24, 2024. Applicant files this application more than ten days prior to that current deadline.

In support of this request, Applicant states as follows:

1. In a summary Order dated July 7, 2023 (App. 1a), the United States Court of Appeals for the District of Columbia Circuit granted the motion to dismiss for lack of jurisdiction filed by respondents Environmental Protection Agency and its Administrator (collectively, “EPA”). According to the Order, Williams did not file his petition for review within 60 days of the final agency action that he challenged under § 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), and—to the extent that he challenged EPA’s inaction on his long-pending administrative petition for reconsideration—Williams needed to initiate his action in district court under § 304(a)(2), not in the court of appeals under § 307(b)(1). *Compare id.* with 42 U.S.C. § 7604(a)(2).

2. By Order dated October 26, 2023 (App. 4a), the United States Court of Appeals for the District of Columbia Circuit denied Williams’ petition for panel and

*en banc* rehearing. App. 4a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

3. The underlying dispute concerns EPA’s denying Williams admission into a hydrofluorocarbon (“HFC”) allocation program for which annual allocations began in calendar 2022. 87 Fed. Reg. 19,683 (Apr. 5, 2022). In a case of mistaken identity, EPA assumed that Williams was applying as a corporation named New Era Group, Inc. of Georgia, although the text of Williams’ application materials made clear that he was applying as an individual in his own name with a trade name—or “dba”—of New Era Group. Williams petitioned EPA administratively to correct its oversight by letter from counsel dated April 20, 2022, but EPA has not yet acted on that petition (or on subsequent administrative petitions to address EPA’s error).<sup>1</sup>

4. In No. 22-1314, Williams timely challenged EPA’s issuance of the 2023 HFC allocation as constructive denial of his administrative petition to reconsider the denial of his initial application, as well as EPA’s denial of his initial application. The latter challenge—to the denial published on April 5, 2022—would admittedly have been filed untimely if EPA’s denial were ripe for review within 60 days of publication,

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<sup>1</sup> Leaving aside the factual disputes clarified in the administrative petitions, it is not legally possible for an individual to act as a corporation through a trade name: “An individual doing business under a trade name is clearly a sole proprietor distinct under Georgia law from a corporation in which that individual holds stock.” *Miller v. Harco Nat’l Ins. Co.*, 274 Ga. 387, 390 (2001); *see also BellSouth Corp. v. FCC*, 162 F.3d 678, 684 (D.C. Cir. 1998) (“it is obvious that there are differences between a corporation and an individual under the law”). Moreover, “[c]orporations are creatures of state law,” *Cort v. Ash*, 422 U.S. 66, 84 (1975); *Business Roundtable v. SEC*, 905 F.2d 406, 412 (D.C. Cir. 1990); *Doe v. McMaster*, 355 S.C. 306, 313 (2003); *Tr. Co. of Ga. v. State*, 109 Ga. 736, 755 (1900), and no relevant provision of law equates individuals with corporations.

but Williams argued that the initial denial did not become ripe for judicial review until after he filed his administrative petition for reconsideration to rebut EPA's new argument about his applying as a corporation. *See Louisiana Env'tl. Action Network v. Browner*, 87 F.3d 1379, 1385 (D.C. Cir. 1996) (60-day window does not begin to run on constitutionally or prudentially unripe claims).

5. In No. 23-1340, Williams petitioned for review of EPA's 2024 allocation of not only 2024's annual HFC allocations but also a divvying up of annual overstatements (or "fat") for all future years in the annual allocations to some participants. Allocating the "fat" in future allocations makes it less possible for EPA to make Williams whole for the earlier allocations improperly denied him, assuming *arguendo* that a court later orders EPA to grant Williams' admission into the HFC program and backorders HFC allocations for the ones that Williams improperly missed as a result of EPA's error. In No. 23-1340, Williams seeks interim relief under the All Writs Act, 28 U.S.C. § 1651(a), and 5 U.S.C. § 705, so No. 23-1340 is conceptually different from No. 22-1314 and squarely within the statutory subject-matter jurisdiction of § 307(b)(1). *Cf.* 42 U.S.C. § 7607(d)(1) (excepting certain Clean Air Act review from 5 U.S.C. § 706, but not from 5 U.S.C. § 705).<sup>2</sup>

6. Significantly, granting or denying relief to Williams would affect not only Williams but also all other participants in EPA's final agency action. *RMS of*

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<sup>2</sup> The EPA action that Williams challenges does not fall within the Clean Air Act's abbreviated review proceedings under § 307(d), 42 U.S.C. § 7607(d)(1), but 5 U.S.C. § 705 would continue to apply even to EPA actions covered by § 307(d).

*Ga., LLC v. United States EPA*, 64 F.4th 1368, 1374 (11th Cir. 2023). Because the district court lacks jurisdiction under § 304(a)(2) to alter the scope of EPA’s final agency action, the district court lacks jurisdiction to grant the relief that Williams seeks in No. 23-1340.

7. Also significantly, there is a circuit split on whether dismissals under § 307(b)(1)’s 60-day limit are jurisdictional in the first place. *See Clean Water Action Council of Northeastern Wisconsin, Inc. v. United States EPA*, 765 F.3d 749, 751-52 (7th Cir. 2014); *cf. EPA v. EME Homer City Generation, L.P.*, 572 U.S. 489, 512 (2014) (§ 307(d)(7)(B) is not jurisdictional).

8. Williams seeks an extension of the time within which to petition this Court primarily so that he can complete the current proceedings in the court of appeals by an expedited motion for interim relief and—if he does not prevail there—by seeking relief from this Court in a single petition or application. Specifically, Williams seeks an extension for two reasons: (a) the competing personal and professional obligations of his counsel, and (b) the potential effect on this action of the resolution of the issue of interim relief in No. 23-1340, the related action now pending in the District of Columbia Circuit.

9. First, Applicant’s counsel has competing professional obligations that have affected his ability to complete the petition for a writ of *certiorari* by the current deadline: (i) a petition for a writ of *certiorari* to the Fourth Circuit in No. 23-1419 (4th Cir. Aug. 3, 2023), filed December 29, 2023, as well as a forthcoming request for interim relief to preserve the controversy pursuant to the All Writs Act; (ii) a petition

for a writ of *certiorari* to the Ninth Circuit in No. 22-16413 (Oct. 16, 2023), currently due January 16, 2024;<sup>3</sup> (iii) a petition for a writ of *certiorari* to the District of Columbia Circuit in No. 23-5124 (D.C. Cir. Oct. 19, 2023), currently due January 17, 2024;<sup>4</sup> (iv) a motion for interim relief pursuant to the All Writs Act and 5 U.S.C. § 705 in the related Williams case of No. 23-1340 (D.C. Cir.); and (v) a motion to amend a district court complaint. The year-end holidays exacerbated the impact of these other commitments on the schedule of Applicants' counsel.

10. Second, favorable action on interim relief by either the District of Columbia Circuit (by motion in No. 23-1340) or this Court (by application if denied below) could resolve or moot the jurisdictional basis on which the District of Columbia Circuit dismissed No. 22-1314. *City of Los Angeles v. Lyons*, 461 U.S. 95, 103 (1983) (jurisdiction required for interim relief); *Steel Co. v. Citizens for a Better Env't.*, 523 U.S. 83, 95 (1998). Resolving the jurisdictional question on interim relief would affect the issues presented to this Court in No. 22-1314.

a. If favorable relief occurs in the Court of Appeals by motion in No. 23-1340, Williams could petition that court to recall its mandate or file a new petition for review based on after-arising grounds under § 307(b)(1). 42 U.S.C. § 7607(b)(1).

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<sup>3</sup> Although the undersigned counsel has worked toward the deadline in No. 22-16413, he has applied for an extension of the deadline from the Circuit Justice.

<sup>4</sup> Although the undersigned counsel is working toward the deadline in No. 23-5124, he will seek an extension of the deadline from the Circuit Justice for a reason unrelated to counsel's schedule.

b. Alternatively, if favorable relief occurs in this Court by application, this Court could deem Williams’ application for interim relief as a petition for a writ of *certiorari*, *Nken v. Mukasey*, 555 U.S. 1042 (2008); *Trump v. Mazars USA, LLP*, 140 S.Ct. 660 (2019); *United States v. Texas*, 142 S.Ct. 14 (2021), and summarily reverse, *see, e.g., James v. City of Boise*, 577 U.S. 306, 307 (2016), or “GVR” the case. *Lawrence v. Chater*, 516 U.S. 163, 166 (1996).

In either scenario, Williams’ prevailing on interim relief in No. 23-1340 may moot or alter the need to petition this Court for a writ of *certiorari* in No. 22-1314.

11. Even without Williams’ prevailing on interim relief in either court, a 60-day extension could allow Williams to file a single petition for a writ of *certiorari* to cover all of his related actions.

12. The requested 60-day extension would not prejudice EPA. To the contrary, the requested 60-day extension will conserve the parties’ and this Court’s resources by consolidating the issues to be considered in multiple discrete actions into a single filing.

### **CONCLUSION**

WHEREFORE, for the foregoing reasons, Applicant respectfully requests a 60-day extension—to and including March 24, 2024—of the time within which Applicants may file a petition for a writ of *certiorari* in No. 22-1314.



Dated: January 5, 2024

Respectfully submitted,

/s/ Lawrence J. Joseph

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**CERTIFICATE AS TO FORM**

Pursuant to Sup. Ct. Rules 22 and 33, I certify that the foregoing application is proportionately spaced, has a typeface of Century Schoolbook, 12 points, and contain 6 pages (and 1,685 words) respectively, excluding this Certificate as to Form, the Table of Contents, and the Certificate of Service.

Dated: January 5, 2024

Respectfully submitted,

/s/ Lawrence J. Joseph

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To the Honorable John G. Roberts, Jr.,  
Chief Justice of the United States and  
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**APPENDIX TO APPLICATION TO EXTEND THE TIME TO  
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*Williams v. Evtl. Protection Agency,*  
No. 22-1314 (D.C. Cir. Oct. 26, 2023)..... 4a

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 22-1025**

**September Term, 2022**

**EPA-86FR55841**

**Filed On: July 7, 2023**

RMS of Georgia, LLC, d/b/a Choice Refrigerants,

Petitioner

v.

Environmental Protection Agency and Michael S. Regan, Administrator, United States Environmental Protection Agency,

Respondents

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Consolidated with 23-1104

**No. 22-1313**

**EPA-87FR19683**

**EPA-87FR61314**

RMS of Georgia, LLC, d/b/a Choice Refrigerants,

Petitioner

v.

Environmental Protection Agency and Michael S. Reagan, Administrator, United States Environmental Protection Agency,

Respondents

-----

Consolidated with 22-1314

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 22-1025**  
**No. 22-1313**

**September Term, 2022**

**BEFORE:** Henderson, Walker, and Garcia, Circuit Judges

**ORDER**

Upon consideration of the motion to dismiss No. 22-1314, the opposition thereto, and the reply; the motion for partial summary vacatur in No. 22-1314, the opposition thereto, and the reply; the motion to sever and hold No. 22-1313 in abeyance, the response in support of the motion, and the opposition to the motion; the motions for leave to intervene filed by FluoroFusion Specialty Chemicals, Inc. (“FluoroFusion”) in No. 22-1025, et al., and No. 22-1313, the oppositions to those motions, and the replies; the unopposed motion for entry of a protective order in No. 22-1313, et al.; and the motions to govern future proceedings in No. 22-1025, et al., each containing a motion to consolidate with No. 22-1313, and the response to petitioner’s motion, it is

**ORDERED** that the motion to dismiss No. 22-1314 be granted. Petitioner Peter Williams failed to petition for review of the EPA’s denial of his new-market-entrant application and 2022 allocation of set-aside hydrofluorocarbon (“HFC”) allowances within the requisite sixty days of respondents publishing notice of such action in the Federal Register. See 42 U.S.C. §§ 7607(b)(1), 7675(k)(1)(C); Growth Energy v. EPA, 5 F.4th 1, 12–13 (D.C. Cir. 2021) (per curiam). To the extent Williams claims that the EPA has unreasonably delayed in ruling on his reconsideration petition, jurisdiction over that claim lies in the district court. See 42 U.S.C. §§ 7604(a), 7675(k)(1)(C); Mexichem Specialty Resins, Inc. v. EPA, 787 F.3d 544, 553 n.6 (D.C. Cir. 2015). Lastly, Williams lacks standing to challenge the EPA’s 2023 allocation of allowances because he has failed to demonstrate any injury “fairly traceable” to that agency action, as opposed to the EPA’s earlier action finding him ineligible for allowances. Nat’l Ass’n of Home Builders v. U.S. Army Corps of Engineers, 663 F.3d 470, 474 (D.C. Cir. 2011). It is

**FURTHER ORDERED** that the motion for partial summary vacatur in No. 22-1314 be dismissed as moot. It is

**FURTHER ORDERED** that the motion to sever and hold No. 22-1313 in abeyance be dismissed as moot. The dismissal of No. 22-1314 moots the request for severance, and the Eleventh Circuit’s earlier decision transferring No. 23-1104 to this court moots the request to hold No. 22-1313 in abeyance pending that decision. It is

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

**No. 22-1025**  
**No. 22-1313**

**September Term, 2022**

**FURTHER ORDERED** that No. 22-1025, et al., be returned to the court's active docket and that the motions to consolidate No. 22-1025, et al., with No. 22-1313 be granted. It is

**FURTHER ORDERED** that the motions for leave to intervene be granted. It is

**FURTHER ORDERED** that the motion for entry of a protective order be granted, and the protective order attached hereto be entered. It is

**FURTHER ORDERED** that the EPA file a certified index to the record in the now-consolidated cases within seven days of the date of this order. The Clerk is directed to enter a briefing schedule.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate in No. 22-1314 until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 22-1314****September Term, 2023****EPA-87FR19683****EPA-87FR61314****Filed On:** October 26, 2023

Peter Williams,

Petitioner

v.

Environmental Protection Agency and  
Michael S. Regan, Administrator, U.S.  
Environmental Protections Agency, in his  
official capacity,

Respondents

**BEFORE:** Srinivasan, Chief Judge; Henderson, Millett, Pillard, Wilkins,  
Katsas, Rao, Walker, Childs, Pan, and Garcia, Circuit Judges

**ORDER**

Upon consideration of the petition for rehearing en banc and the absence of a request by any member of the court for a vote, it is

**ORDERED** that the petition for rehearing en banc be denied.

**Per Curiam**

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/  
Daniel J. Reidy  
Deputy Clerk



**CERTIFICATE OF SERVICE**

The undersigned certifies that, on this 5th day of January 2024, in addition to filing the foregoing document—together with its appendix—via the Court’s electronic filing system, one true and correct copy of the foregoing document and appendix was served by Federal Express, next-day service, with a PDF courtesy copy served via electronic mail on the following counsel:

Hon. Elizabeth B. Prelogar  
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The undersigned further certifies that, on this 5th day of January 2024, an original and two true and correct copies of the foregoing document and its appendix were sent via to the Court for hand delivery.

Executed January 5, 2024

/s/ Lawrence J. Joseph

Lawrence J. Joseph