

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

C.B., FATHER

Applicant,

v.

STATE OF VERMONT,

Respondent.

On Petition for a Writ of Certiorari
to the Supreme Court of the State of Vermont

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

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

TO: Sonia Sotomayor, Circuit Justice for the United States Court of Appeals for the Second Circuit:

Under this Court's Rules 13.5 and 22, Applicant C.B. requests an extension of sixty days to file his petition for a writ of certiorari. That petition will challenge the decision of the Vermont Supreme Court in *In re W.B., L.B., S.B., J.B.*, No. 23-AP-227 (unpub.) (mem.), a copy of which is attached. In support of this application, Applicant provides the following information:

1. The Vermont Supreme Court issued its initial decision in on January 12, 2024. App. 1. Without an extension, the petition for a writ of certiorari would be due on April 12, 2024. With the requested extension, the petition would be due on June 11, 2024. This Court's jurisdiction will be based on 28 U.S.C. § 1257(a).

2. Applicant's parental rights to his children were terminated by a court that relied extensively on hearsay statements from the children detailing acts of domestic abuse and substance use. Applicant was not permitted to challenge this evidence in any way – the trial court would not allow applicant to call the children as witnesses, even the older 13 and 15 year-old children, to rebut the hearsay statements. Applicant was deprived of his fundamental right to parent his children based on evidence that he was

not permitted to contest. *See Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S.Ct. 625, 626, 67 L.Ed. 1042 (1923).

Moreover, the court terminated applicant's parental rights even though no court had ever adjudicated applicant unfit to parent his children. As held in *Stanley v. Illinois*, a finding of parental unfitness is a prerequisite to the termination of parental rights. 405 U.S. 645, 658, 92 S.Ct. 1208, 1216, 31 L.Ed.2d. 551 (1972). Rather, the Vermont Supreme Court concluded that the question of fitness had been waived, even though no finding regarding fitness was ever made by the trial court.

3. This case is a serious candidate for review. The issue presented is important. Termination of parental rights is one of the most severe and irreversible remedies available at law – it is commonly referred to as a “civil death penalty.” *See Martinez-Cedillo v. Sessions*, 896 F.3d 979 (9th Cir. 2018) (vacated as moot by *Martinez-Cedillo v. Barr*, 923 F.3d 1162 (9th Cir. 2019) (mem.)). Parents whose parental rights are terminated are made strangers to their children – they typically never see their children again. This Court has outlined the *procedural* requirements for terminating parental rights several times. *See, e.g., Santosky v. Kramer*, 455 U.S. 745, 769, 102 S. Ct. 1388, 1403, 71 L. Ed. 2d 599 (1982) (requiring proof by “clear and convincing evidence” but not defining what the State must prove prior to terminating parental rights). But this Court has never defined what *substantive* limitations exist

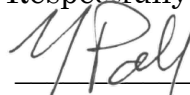
when the state wishes to permanently and irrevocably sever the parent-child relationship.

As a result, states have adopted incredibly different substantive and procedural standards to guide terminations of parental rights. In numerous states, the standard rules of evidence apply at termination of parental rights hearings and hearsay of the type that the Vermont court relied upon to terminate applicant's parental rights would not have been admissible. Additionally, other states specifically permit any party to call any witness, including a child – as long as the child is competent – at an adjudicatory hearing on the termination of parental rights. And numerous states have held that, whether child witnesses are generally permitted or not, if hearsay evidence is introduced in a termination hearing, parents are entitled to the opportunity for cross-examination. There is a wide split of authority regarding the issues raised by this case.

4. This application seeks to accommodate Applicant's legitimate needs. Undersigned counsel is the Chief Juvenile Defender and Deputy Defender General for the State of Vermont. Undersigned counsel has a heavy a caseload of previously assigned appellate and trial court cases while also supervising the juvenile division and providing management for the entire public defense system. In light of undersigned counsel's other pending appeals and responsibilities, the undersigned would not be able to adequately prepare a petition by April 12.

For these reasons, Applicant requests that the due date for his petition for a writ of certiorari be extended to June 11, 2024.

Respectfully submitted,



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