

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

JENNIFER DUPREE *ET AL.*,

Applicants,

vs.

MRS. PAMELA OWENS, *ET AL.*,

Respondents.

*On Application for an Extension of Time to File
A Petition for Writ of Certiorari to the United States Court of Appeals
For the Eleventh Circuit (CA11 Nos. 21-12571 & 21-13198)*

**Application for an Extension of Time to
File a Petition for Writ of Certiorari**

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Counsel of Record

To the Honorable Clarence Thomas, Associate Justice of the U.S. Supreme Court as Circuit Justice to the U.S. Court of Appeals for the 11th Circuit:

Pursuant to Supreme Court Rule 13.5, Applicants Jennifer Dupree and Detrich Battle respectfully request a 30-day extension of time, to and including June 5, 2024, in which to file a petition for writ of certiorari to review the Eleventh Circuit's consolidated judgment filed on February 6, 2024. A copy of the published opinion below is attached as an appendix to this Application.

In support of this request for time, Applicants would respectfully show as follows:

1. Ms. Dupree and Mr. Battle originally filed separate appeals to the Eleventh Circuit, which consolidated the cases for argument and decision.

2. Below, the Eleventh Circuit recruited undersigned counsel as *pro bono* counsel prior to oral argument for Mr. Battle. Following the consolidated oral argument below, the Eleventh Circuit substituted undersigned counsel for Ms. Dupree's *pro bono* counsel, after her prior recruited attorney changed firms and could not continue the representation.

3. The question below was whether the Eleventh Amendment permitted Congress to abrogate state sovereign immunity for retaliation claims under the Americans with Disabilities Act of 1990 (“ADA”), 101 P.L. 336, 104 Stat. 327 (July 26, 1990), *codified as amended* at 42 U.S.C. §§ 12101 *et seq.*, as Congress expressly sought to do, ADA, 101 P.L. 336, 104 Stat. 327, 370, § 502, *codified at* 42 U.S.C. § 12202. Via a published decision, the Eleventh Circuit determined that Congress lacked the power to do so. A petition for certiorari will ask this Court to definitively decide that question, which this Court has not previously addressed. *See* App. 12 (“Notably, there is not controlling case law from our circuit or the Supreme Court addressing whether the Eleventh Amendment specifically bars Title V ADA claims against State entities when brought with Title I claims.” (footnote omitted)).

4. The current deadline for the petition for writ of certiorari is May 6, 2024. Thus, this application has been filed more than 10 days in advance.

5. Undersigned counsel requests a 30-day extension of the current deadline because of his heavy caseload. For example, undersigned counsel is currently working on a petition for certiorari to this Court due on May 7, 2024, in a criminal appeal (for which no extension is being

sought). To date during the month of April, undersigned counsel has filed five briefs in the federal courts of appeals, in addition to attending trial-court hearings. Undersigned counsel will also present oral arguments before the Georgia Supreme Court on April 18 and before the South Carolina Court of Appeals on May 6, 2024.

6. Besides his caseload, an extension is requested because undersigned counsel has annual leave scheduled from April 19 to April 26.

7. Undersigned counsel has conferred with Respondents' counsel and reports that Respondents have no objection to this extension request.

Conclusion

Accordingly, Petitioners Jennifer Dupree and Detrich Battle respectfully request that the deadline for filing a petition for writ of certiorari be extended to and including June 5, 2024.

Dated: April 17, 2024

Respectfully submitted,

JENNIFER DUPREE
DETRICH BATTLE



Howard W. Anderson III