
In the
Supreme Court of the United States

B.W., A MINOR, BY NEXT FRIENDS M. W. AND B. W., FORMERLY KNOWN HEREIN AS JON
AISD DOE,

Petitioners,

v.

AUSTIN INDEPENDENT SCHOOL DISTRICT,

Respondent.

**SECOND OPPOSED APPLICATION FOR EXTENSION OF TIME WITHIN
WHICH TO RESPOND TO A PETITION FOR WRIT OF CERTIORARI**

To the Honorable Samuel A. Alito, Jr., Associate Justice of the United States
and Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

Pursuant to Rules 13.5, 30.2 and 30.4 of this Court, Respondent Austin
Independent School District respectfully requests that the time to respond to the
pending Petition for Writ of Certiorari in this matter be extended for an additional
14 days, to and including June 6, 2025.

I.

1. The Fifth Circuit issued its opinion in this matter on January 9, 2023.
B.W. timely filed a Petition for Rehearing *En Banc*, which was granted. The Fifth
Circuit issued its en banc opinion on November 13, 2024, and by an equally divided
vote, affirmed the district court's dismissal of the case.

2. Petitioners' Petition for Writ of Certiorari was filed on February 10,

2025.

3. Respondent waived its right to file a Response to the Petition for Writ of Certiorari on March 10, 2025.

4. On March 25, 2025, this Court requested a Response to the Petition for Writ of Certiorari, to be filed by April 24, 2025.

5. On April 14, 2025, Respondent filed an unopposed Application for Extension of Time Within Which to Respond to a Petition for Writ of Certiorari, specifically to allow the parties to mediate this case. The Application for Extension was granted on April 15, 2025.

6. The parties jointly sought an order from the lower court in this matter referring the case to mediation with United States Magistrate Judge Susan Hightower of the Western District of Texas, Austin Division. After significant communications between Judge Hightower, counsel for the District and Petitioner's Texas counsel, Judge Hightower agreed to mediate the case on May 8, 2025.

7. Then, starting on Saturday, April 19, 2025, Petitioner started manufacturing obstacles to mediation – even though Petitioner's Texas counsel had initially suggested mediation, and the parties had been in agreement to mediate not days earlier (and when they filed the original Application for Extension in this case). This cumulated on Friday, May 2, 2025, when Petitioner unilaterally asked the court to cancel the mediation.

8. Respondent agrees with Petitioners that jurisdiction of this Court is proper under 28 U.S.C. § 1254(1). Copies of the Fifth Circuit Court of Appeals'

opinions have been filed with this Court.

II. REASONS FOR GRANTING AN EXTENSION OF TIME

9. Petitioner’s unexplained and extremely unexpected behavior in this case has cost the Respondent at least 14 days to work on a Response to the Petition for Writ of Certiorari. Counsel for the Respondent was working in good faith towards the mediation that Petitioner’s Texas counsel had requested and pursued for months. While a party has the right to change his mind about mediation, the school district should not be penalized by a sudden reversal of a path that counsel for the school district and Petitioner’s Texas counsel had been working towards in good faith.

10. And if Petitioner files a response to this application and states that there were “significant preconditions” that the parties could not agree on prior to mediation, that is simply not true: there were no preconditions at all. When the parties filed their Joint Motion for Referral to ADR/Mediation, all they had agreed to do was try to reach a resolution – there were no outstanding issues, no “significant preconditions,” or other “related matters” that had been expressed to the District. It was only after a date was set for mediation that Petitioner suddenly started manufacturing obstacles to mediation. This should not be laid at the feet of the District, in any form or fashion.

11. To that end, Respondent is simply requesting, under Rule 30.4 of this Court, a 14-day extension of the May 23, 2025 deadline, to and including June 6, 2025, within which to file the Response to the Petition for Writ of Certiorari. This is only fair.

12. **CERTIFICATE OF CONFERENCE:** Counsel for the Respondent has been in communications by email with Petitioner's Texas counsel about this matter. On May 14, 2025, counsel confirmed that Petitioner is opposed to this extension.

III. CONCLUSION

For the foregoing reasons, Respondent's application for a 14-day extension to and including June 6, 2025, within which to file the Response to the Petition for Writ of Certiorari in this case, should be granted.

Respectfully submitted,



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DATED: May 14, 2025