

No. 24A1284

In the
Supreme Court of the United States

ANTHONY BERNARD WINGFIELD,
Applicant,

v.

UNKNOWN GARNER, CO; UNKNOWN HINEJOSA, CO; UNKNOWN
ELLIS, SERGEANT, MICHAEL UNIT; UNKNOWN GARNER, SERGEANT, MICHAEL
UNIT; UNKNOWN CUNNINGHAM, SERGEANT, MICHAEL UNIT; UNKNOWN
MARSHON, CO, MICHAEL UNIT,
Respondents.

**APPLICATION DIRECTED TO THE HONORABLE SAMUEL A. ALITO, JR.
FOR A FURTHER EXTENSION OF TIME WITHIN WHICH TO FILE A
PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

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TO THE HONORABLE SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE FIFTH CIRCUIT:

Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5, 22, and 30.2, Applicant Anthony Bernard Wingfield respectfully requests a further 20-day extension of time, to and including August 26, 2025, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit. The petition for certiorari is currently due on August 6, 2025, which reflects one 30-day extension of time granted on June 26, 2025. Jurisdiction to review the judgment of the Fifth Circuit in this case will be invoked under 28 U.S.C. § 1254(1).

This case raises an important and recurring question regarding the proper liability standard to recover damages under Title II of the Americans with Disabilities Act (ADA). In the decision below, the Fifth Circuit affirmed dismissal of Mr. Wingfield’s ADA claims because it was “constrained by precedent” to hold that he failed to sufficiently allege that officials intended to discriminate on the basis of his disability. Op. 10-11.* This decision directly implicates and further entrenches a deep and persistent circuit conflict. As this Court recently recognized, a “majority” of circuits have held that a plaintiff can satisfy the intentional-discrimination requirement by showing that the defendant acted with “deliberate indifference” to the plaintiff’s federally protected rights. *A.J.T. v. Osseo Area Schs.*, 145 S. Ct. 1647, 1655 (2025). But “[u]nlike other circuits,” the Fifth Circuit has held that “deliberate

* The Fifth Circuit’s opinion (“Op.”) is attached to Mr. Wingfield’s first application for an extension of time, filed on June 23, 2025.

indifference” is “not enough.” Op. 10. Instead, plaintiffs must satisfy a heightened standard that “require[s] something more than deliberate indifference,” such as “discriminatory motive” or “animus.” *J.W. v. Paley*, 81 F.4th 440, 450-51 (5th Cir. 2023) (citations omitted). “[C]onstrained by [that] precedent,” the Fifth Circuit in this case held that, even if Mr. Wingfield’s allegations “amount[ed] to deliberate indifference,” his ADA claims failed as a matter of law because he did not satisfy the Fifth Circuit’s heightened standard. Op. 11-12.

This circuit conflict implicates an issue of profound importance for Americans with disabilities. Unless this Court intervenes, the standard for liability under the ADA will continue to differ depending on the circuit in which a plaintiff suffers harm. This Court’s review is therefore needed to correct inconsistency in the administration of a critical federal anti-discrimination law. This forthcoming petition for certiorari will provide an excellent vehicle for this Court to resolve the split over the correct standard for money-damages liability under the ADA.

Undersigned counsel respectfully requests an additional 20 days within which to file the petition. This additional time will enable counsel to fully review the record, narrow the issues for this Court’s consideration, and adequately prepare and file a petition for certiorari. It will also facilitate counsel’s communication about the petition with Mr. Wingfield, who remains incarcerated. Your Honor has granted additional extensions of time in similar circumstances, *see, e.g., Zadeh v. Robinson*, No. 19A308 (Oct. 17, 2019) (Alito, J.) (granting additional 28-day extension after

having granted a 30-day extension), and should grant the additional 20-day extension here.

BACKGROUND

1. Title II of the Americans with Disabilities Act (ADA) requires public entities to provide reasonable accommodations for people with disabilities. *See Fry v. Napoleon Cmty. Schs.*, 580 U.S. 154, 170 (2017). It also prohibits discrimination or exclusion from public services “by reason of” disability. 42 U.S.C. § 12132. In terms of remedies for statutory violations, the ADA expressly incorporates “[t]he remedies, procedures, and rights set forth in” the Rehabilitation Act of 1973. *Id.* § 12133. And the Rehabilitation Act, in turn, expressly incorporates “[t]he remedies, procedures, and rights set forth” in Title VI of the Civil Rights Act of 1964. 29 U.S.C. § 794a(a)(2). Accordingly, the ADA follows Title VI in “authoriz[ing] individuals to seek redress for violations” by “bringing suits” for “money damages.” *Fry*, 580 U.S. at 160.

This Court has held that, under Title VI, “private individuals [may] not recover compensatory damages . . . except for intentional discrimination.” *Alexander v. Sandoval*, 532 U.S. 275, 282-83 (2001). That intent requirement derives from the fact that Title VI is a Spending Clause statute—a context in which this Court has held that money damages are available only when the defendant is on notice of the statutory violation and thus only violations that are intentional. *See Cummings v. Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212, 218 (2022). Because the ADA incorporates Title VI’s rights and remedies, the courts of appeals agree that plaintiffs

may not recover compensatory damages under the ADA without proving “intentional discrimination.” *A.J.T.*, 145 S. Ct. at 1655.

As this Court recently recognized in *A.J.T.*, “a majority’ of the Courts of Appeals to have weighed in on the question . . . find the requirement to show ‘intentional discrimination’ satisfied by proof that the defendant acted with ‘deliberate indifference.’” *Id.* (citation omitted). Those courts have done so based on this Court’s precedent adopting a deliberate indifference standard under Title IX, which was likewise modeled after Title VI. *See id.* at 1655 n.4. In contrast, the Fifth Circuit has held that ADA plaintiffs must demonstrate “something more than deliberate indifference,” such as “discriminatory motive” or “animus.” *J.W.*, 81 F.4th at 450-51 (citations omitted).

2. Applicant Anthony Wingfield is a “below-the-knee amputee” incarcerated in a Texas state prison. *Op.* 2, 10. Mr. Wingfield wears special shoes that “were prescribed as medically necessary” for effective ambulation. *Id.* at 2. In December 2020, correctional officers confiscated Mr. Wingfield’s shoes. *Id.* at 6. Mr. Wingfield told officers on multiple occasions that “medical staff gave him the shoes and that he needed them because he wore a prothesis and had no other appropriate footwear.” *Id.* at 7. But the officers proceeded in a “bullying” manner, “asserting power over” Mr. Wingfield by refusing to return the shoes. *Id.* at 7, 10. In one instance, an officer justified refusing Mr. Wingfield’s renewed request for his shoes by remarking that “she could do whatever she wanted.” *Id.* at 10. Officers also rebuffed his requests for alternate mobility aids, such as crutches. *Id.* at 2. Despite

Mr. Wingfield's many requests, they returned his shoes only after Mr. Wingfield "fil[ed] multiple complaints" with the prison. *Id.* at 7. Later in July 2021, officers confiscated his shoes again, even though the officers had "s[een] medical paperwork of Wingfield's amputation and medical need for the shoes." *Id.* And, in addition to confiscating his shoes, officers also "denied Wingfield access for thirty-eight days to an appointment at the limb clinic to get his prosthesis altered." *Id.* at 8.

In all, Mr. Wingfield was "forc[ed] [] to walk barefoot" for almost two months and was denied medical care for over one month. *Id.* at 2, 8. During this period, he was forced "to walk through urine and fecal matter in socks while attempting to go to the bathroom." *Id.* at 6. He was "unable to go outside and get food whenever it rained," *id.*, and thus "missed meals." *Id.* at 12. And he suffered pain because he was unable to see medical professionals to alter his prosthesis. *Id.* at 9.

After exhausting administrative remedies, Mr. Wingfield sued the officers in federal court, proceeding pro se. *Id.* at 2. Mr. Wingfield's complaint alleged constitutional and statutory violations, including disability discrimination and failure-to-accommodate claims under the ADA. *Id.* The officers moved to dismiss. *Id.* A magistrate judge recommended that Mr. Wingfield's complaint be dismissed, and the district court adopted the magistrate judge's report and recommendation over Mr. Wingfield's objections and dismissed his claims. *Id.* at 3. Mr. Wingfield appealed. *Id.*

The Fifth Circuit affirmed the dismissal of Mr. Wingfield's claims. *Id.* at 1, 12. As to his ADA claims, the court held that Mr. Wingfield's allegations failed to state a

claim because he did not allege facts showing that the officers intended to discriminate against him. *Id.* at 11. The court noted that “[e]ven assuming [the officers’ actions] amount[ed] to deliberate indifference once Wingfield had explained his medical needs and an officer had seen medical documentation, it is still not enough.” *Id.* at 10. That was because “[u]nlike other circuits, [the Fifth Circuit] ha[s] not held that deliberate indifference suffices.” *Id.* (quoting *Smith v. Harris County*, 956 F.3d 311, 318 (2020)). “Therefore, given a lack of evidence that any alleged discrimination was *intended* to discriminate against [Mr. Wingfield] *because of* his disability, [the panel was] constrained by precedent to deny” Mr. Wingfield’s claims for money damages. *Id.* at 11.

3. The Fifth Circuit issued its opinion on April 8, 2025. On June 23, 2025, Mr. Wingfield requested an extension of time within which to file a petition for certiorari. On June 26, 2025, Your Honor extended the deadline for filing a petition by 30 days, to and including August 6, 2025.

REASONS FOR GRANTING THE APPLICATION

1. The petition for certiorari will demonstrate that this Court’s review is warranted to decide the proper standard for intentional discrimination under Title II of the ADA.

As the opinion below acknowledged, the circuits are split on whether deliberate indifference is sufficient to demonstrate intentional discrimination. *See* Op. 10. This split of authority produces troubling disparities for disability-discrimination plaintiffs. In a majority of circuits, plaintiffs can demonstrate intentional discrimination by showing deliberate indifference. *See A.J.T. v. Osseo Area Schs.*,

145 S. Ct. 1647, 1655 (2025) (collecting cases). But in the Fifth Circuit, “deliberate indifference” is “not enough.” Op. 10; *see J.W. v. Paley*, 81 F.4th 440, 450 (5th Cir. 2023) (explaining that the Fifth Circuit “require[s] something more than deliberate indifference”). That disparity is meaningful. Here, as the panel recognized, Mr. Wingfield alleged facts that would certainly satisfy a deliberate indifference standard and, in a majority of circuits, his claim likely would have survived a motion to dismiss. But the Fifth Circuit denied relief because it was “constrained by [its] precedent.” Op. 12.

Moreover, the Fifth Circuit’s heightened standard is wrong. As explained above, the intentional-discrimination requirement for imposing damages under the ADA flows from the ADA’s relationship to the Rehabilitation Act and Title VI—antidiscrimination laws enacted pursuant to the Spending Clause. *See supra* at 3-4. In the Spending Clause context, this Court “regularly” relies on a “contract-law analogy” to define “the scope of conduct for which funding recipients may be held liable for money damages.” *Cummings v. Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212, 218-19 (2022); *see Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 286-87 (1998). The “central concern” is to ensure that a funding recipient has “notice that it will be liable for a monetary award”—a concern this Court has implemented by requiring that the discrimination be intentional. *Gebser*, 524 U.S. at 287. At the same time, the Court has held in the context of Title IX, another Spending Clause statute, that this intentional-discrimination requirement may be satisfied by showing

that the defendant acted with “deliberate indifference.” *Id.* at 290. That standard, the Court reasoned, satisfies the concerns about notice. *See id.*

As the federal government forcefully argued last Term in *A.J.T.*, the rationales for adopting the deliberate-indifference standard in the Title IX context “apply with full force” to damages claims under the Rehabilitation Act and, by extension, the ADA. U.S. Amicus Br. 18, *A.J.T.*, *supra* (No. 24-249). Indeed, the “standard of deliberate indifference” is not only “consistent with the contract principles at play when legislation is passed via the Spending Clause” but also best “suited to the [ADA’s] remedial goals.” *S.H. ex rel. Durrell v. Lower Merion Sch. Dist.*, 729 F.3d 248, 264 (3d Cir. 2013). The ADA is “targeted to address ‘more subtle forms of discrimination’ than merely ‘obviously exclusionary conduct,’” and it is consistent with that goal to employ “a standard of deliberate indifference, rather than one that targets animus” in this context. *Id.* (citation omitted). By requiring a heightened showing, the Fifth Circuit’s test excludes much of the conduct Congress sought to remedy.

2. Mr. Wingfield respectfully requests a further 20-day extension within which to prepare a petition for certiorari in this case. Good cause exists for a further extension of time. Undersigned counsel did not serve as Mr. Wingfield’s counsel in the Fifth Circuit and was retained to assist in the evaluation and preparation of a petition for a writ of certiorari shortly prior to Applicant’s first application for an extension of time. Counsel has been working diligently on the petition, but has, and has had, several other matters with proximate due dates, including a certiorari-stage

reply brief due in this Court as well as merits and amicus briefs due in the Fourth Circuit, Eleventh Circuit, Federal Circuit, and California Court of Appeal, in addition to beginning his work as amicus appointed by this Court to brief and argue in defense of the judgment below in *National Republican Senatorial Committee v. Federal Election Commission*, No. 24-621. Undersigned counsel will also be engaging in long-planned family travel from July 17 to 22, and from July 30 to August 3. A brief, 20-day extension will permit counsel to fully research and, as appropriate, refine the issues for this Court's review and prepare a petition that addresses the important questions raised by this case in the most direct and efficient manner for the Court's consideration. It will also facilitate counsel's communication about the petition with Mr. Wingfield, who remains incarcerated. The additional time also will assist potential amici in considering this case.

Your Honor has granted further extensions of time in similar circumstances. *See, e.g., Zadeh v. Robinson*, No. 19A308 (Oct. 17, 2019) (Alito, J.) (granting additional 28-day extension after having granted a 30-day extension). Here, a further 20-day extension fully comports with the certiorari statute and this Court's rules, *see* 28 U.S.C. § 2101(c); Sup. Ct. R. 13.5, and would not work any meaningful prejudice on any party. If the Court grants certiorari, the case may be briefed and argued next Term.

CONCLUSION

Accordingly, Applicant respectfully requests a further 20-day extension of time, to and including August 26, 2025, within which to file a petition for a writ of certiorari.

July 17, 2025

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Roman Martinez", is written over a horizontal line.

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