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In The Supreme Court of the United States

Viewpoint Neutrality Now!; Evan Smith; Isaac Smith,

Petitioners,

v.

Board of Regents of the University of Minnesota; Kendall J. Powell, Regent Chair, in their respective official capacities; Steven A. Sviggum, Regent Vice Chair, in their respective official capacities; Mary A. Davenport, Regent in their respective official capacities; Kao Ly Ilean Her, Regent in their respective official capacities; Mike O. Kenyanya, Regent in their respective official capacities; Janie S. Mayeron, Regent in their respective official capacities; David J. McMillan, Regent in their respective official capacities; Darrin M. Roshia, Regent in their respective official capacities; Joan T.A. Gabel, President in her respective official capacity; James T. Farnsworth, Regent in their respective official capacities; Douglas A. Huebsch, Regent in their respective official capacities; Ruth E. Johnson, Regent in their respective official capacities; Kodi J. Verhalen, Regent in their respective official capacities; Calvin D. Phillips, Vice President for Student Affairs and Dean of Students in his respective official capacity,

Respondents.

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE EIGHTH CIRCUIT**

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

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To: The Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the U.S. Court of Appeals for the Eighth Circuit.

Petitioners, Viewpoint Neutrality Now!,¹ Evan Smith, and Isaac Smith, through the undersigned counsel and pursuant to Supreme Court Rules 13.5, and 30.2, and 28 U.S.C. § 210(c), respectfully apply to Associate Justice Kavanaugh, Justice for the United States Court of Appeals for the Eighth Circuit and request a 50-day extension of time from October 23, 2024 until December 12, 2024 to file their petition for a writ of certiorari. Extra ordinary circumstances have occurred requiring this application regarding a serious, life-threatening illness to counsel's daughter overseas in Barcelona, Spain.

1. On July 25, 2024, the United States Court of Appeals for the Eighth Circuit issued an opinion affirming a decision from the United States District Court for the District of Minnesota that found a challenge to the University of Minnesota's policies favoring certain student minority culture centers over other minority cultural centers did not violate the First Amendment and viewpoint neutrality. The University provided free office space, for years, to nine specific identified minority cultural centers in a limited public forum. *See*, decision attached and judgment (July 25, 2024).

¹ Viewpoint Neutrality Now!, a University of Minnesota student organization (and neither a non-profit nor for profit corporation) pursuant to Supreme Court Rule 29.6, disclose through its attorney, that there is no parent or publically held company owning 10% or more of the student organization.

2. In the appellate court's decision, the court explained that in the context of a limited public forum, the University has the right to make distinctions in access to the forum and hence, any decision is based upon "status," or "status discrimination" and not viewpoint discrimination, relying upon *Turning Point USA at Arkansas State U. v. Rhodes*, 973 F.3d 868, 876 (8th Cir. 2020) quoting *Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 430 U.S. 37, 49 (1983). However, historical facts reveal, combined with the University's overt scheme to ensure the same specific nine minority cultural centers remain in the forum for years to the exclusion of other minority cultural centers is the tether of viewpoint discrimination. Using "status discrimination" to supplant "viewpoint discrimination" to deny access to the forum who otherwise have a right of access as entities of similar character is in conflict with *Perry Educ.* 430 U.S. at 48.
3. One of the important issues requires review of a court's use of "status discrimination" in the context of limited public forums versus the application of viewpoint discrimination principle where "status discrimination" is or should be confined to nonpublic forums. *See, id.*
4. The principal counsel responsible for the appeals and the petition for a writ of certiorari, Erick G. Kaardal, of Mohrman, Kaardal & Erickson, P.A., suffered tragic news late Friday, October 10, 2024. My youngest daughter, Terese Kaardal (22 years old), collapsed and brought to the emergency

room in Barcelona, Spain. Terese is a marketing student at the University of Minnesota-Duluth and was studying in Barcelona for the semester (September to December). Apparently, Terese has a yet-to-be diagnosed blood infection. Her condition is life-threatening. Since Saturday, October 11, 2024, Terese has undergone five blood transfusions. On October 11, 2024, my wife Alison Kaardal flew to Barcelona, Spain to be with our daughter (*see* attached notes from my wife indicating the seriousness of my daughter's condition and attached hospital medical records received yesterday October 14, 2024). I may have to fly to Spain to be at my daughter's side and to support my wife. In short, things are in flux but as of today, October 15, 2024, nothing has improved. While my wife remains in Spain, I am also scrambling and trying to have Terese medevaced to the United States for medical care, if at all possible, dependent on her condition.

5. Meanwhile, just before my daughter's incident, my mother-in-law, Jean Scott, Alison's mother, suffered her fifth stoke last weekend, on or about October 5, 2024 and hospitalized. Although presently at home, she requires care. Members of our family have been called to assist with her care as I deal with our daughter's medical care.
6. I have endeavored to completely limit my current schedule that can be immediately affected if I must fly to Spain, as I focus and deal with getting

my daughter to the United States if possible and care for my mother-in-law.

For example, I have a hearing before the United States District Court, Middle District of Pennsylvania in the matter *Guy Reschenthaler, et al. v. Al Schmidt, et al.*, (Oct. 18, 2024), and an argument before the United States Court of Appeals for the Eighth Circuit, in the matter of *Association for Government Accountability, et al. v. Steve Simon, et al.* (Oct. 23, 2024). Both can be handled by others, if necessary.

7. My law-firm is small. Although my firm has a total of six practicing attorneys, three are young associates (less than one to two years out of law school). Because I was the principal attorney for this matter both at the district court and appellate court levels, none of the remaining attorneys in my firm have any knowledge of the case or the issues, and do not have the background to draft or complete the petition to this Court for a writ of certiorari.
8. I also move that the application not be made publicly available because of the private nature of the medical and personal therein.

Wherefore, under the extraordinary circumstance explained above, in the interest of justice and for good cause shown, counsel for Petitioners, Viewpoint Neutrality Now!, Evan Smith, and Isaac Smith, respectfully request that this Court extend the current October 23, 2024 deadline until December 12, 2024.

Dated: October 15, 2024

/s/Erick G. Kaardal

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