

No. \_\_\_\_\_

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**In the Supreme Court of the United States**

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MICHAEL POFFENBARGER,  
ON BEHALF OF HIMSELF AND OTHERS SIMILARLY SITUATED  
*Applicant*

v.

FRANK KENDALL, III, in his official capacity as Secretary of the Air Force;  
LIEUTENANT GENERAL ROBERT I. MILLER, in his official capacity as Surgeon General of  
the Air Force; LIEUTENANT GENERAL RICHARD W. SCOBEE, in his official capacity as  
Commander, Air Force Reserve Command; MAJOR GENERAL JEFFREY T. PENNINGTON,  
in his official capacity as Commander, 4th Air Force; LIEUTENANT COLONEL  
CHRISTOPHER KOJAK, in his official capacity as Commander, 445th Operations Support  
Squadron; COLONEL RAYMOND A. SMITH, JR., in his official capacity as Commander,  
445th Airlift Wing; and UNITED STATES OF AMERICA,  
*Respondents.*

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

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To the Honorable Brett M. Kavanaugh  
Associate Justice for the Supreme Court of the United States and Circuit Justice for the  
Sixth Circuit

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July 18, 2025

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

1. Pursuant to Supreme Court Rule 13.5, Applicant, Michael Poffenbarger, on behalf of himself and other similarly situated, respectfully requests that the time to file a Petition for a Writ of Certiorari in this matter be extended for sixty days, to, and including October 14, 2025. That extension would not exceed the maximum 60-day extension authorized by Supreme Court Rule 13.5 and 28 U.S.C. § 2101(c).

2. The Sixth Circuit issued its opinion and judgment on May 12, 2025. The opinion is appended as Exhibit A. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254.

3. Absent an extension of time, the Petition would therefore be due on August 12, 2025. Petitioner is filing this Application at least ten days before that date. *See* S. Ct. R. 13.5. This Court would have jurisdiction over the judgment under 28 U.S.C. § 1254(1).

4. This case involves a challenge under RFRA to a now-repealed vaccination requirement for COVID-19 by religious adherents in the Air and Space Force. The District Court ultimately dismissed the case, finding it moot, even though it left unremedied lost backpay and reserve retirement points. The Government argued in preliminary injunctive proceedings that such relief could be awarded in final judgment, and on that basis, the District Court did not extend preliminary injunctive relief restoration to duty of reservists who were placed out of service. Then,

upon repeal of the mandate, the Government did an about-face, and argued that RFRA could not afford such relief, and thus the case was moot. The District Court and Sixth Circuit agreed.

5. The time to file a Petition for a Writ of Certiorari should be extended for sixty days for these reasons:

- a. Undersigned counsel have another Petition for a Writ of Certiorari due in this Court on July 31, 2025, in the matter of *Miller et al. v. McDonald et al.*, which has required substantial attention.
- b. Undersigned counsel have several significant briefs due in the Sixth Circuit Court of Appeals in the next 45 days, including on a significant Free Speech case in *Dutton v. Shaffer et al.*, Case No 25-5352 (due August 1, 2025) and in three other matters.
- c. Undersigned counsel have prior settings in trial courts, including two preliminary injunctions hearings set in two different courts, in the next 30 days.
- d. Preparation of a Petition in this case requires careful attention, consideration, and preparation, and on that basis, additional time is requested.

6. For the foregoing reasons, the time to file a Petition for a Writ of Certiorari in this matter should be extended sixty days to, and including, October 14, 2025.

Respectfully submitted,

/s/ Aaron Siri

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