

No. _____

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

County of Isanti,

Respondent,

v.

Keith Allen Kiefer,

Petitioner.

To: The Honorable Neil M. Gorsuch, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eighth Circuit.

Petitioner Keith Allen Kiefer through his undersigned counsel and under 28 U.S.C. § 2101(c) and Supreme Court Rule 13, make application for an extension of time within which to file a petition for a writ of certiorari from January 23, 2018 to March 5, 2018.

The appellate judgment sought to be reviewed is from the Minnesota Court of Appeals (Case No. A17-0326) dated August 14, 2017, with review denied on October 25, 2017 by the Minnesota Supreme Court. The Court of Appeals opinion is attached as Exhibit A. The Minnesota Supreme Court denial is attached as Exhibit B.

REASONS FOR GRANTING THE EXTENSION

Supreme Court Rule 13 requires an applicant for an extension of time to set out specific reasons why the application should be granted.

The specific reason that the application should be granted is that petitioner Keith A. Kiefer only recently hired the undersigned counsel. Mr. Kiefer has had serious health issues since the denial by the Minnesota Supreme Court of his Petition for Review requiring surgical procedures and in turn, has suffered some personal financial difficulties. These personal events delayed his request for the undersigned to evaluate the constitutional issue under the Takings Clause of the U.S. Constitution and decision to seek a petition for a writ of certiorari. Although Mr. Kiefer's financial situation remains in question, the undersigned has agreed to represent him.

The central issue involves a question of federal law in which noneconomic interests, first annunciated in *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992), are ignored when county governments impair the use of lands through prohibitive ordinances for which the lands are zoned. Lands zoned as agricultural or agricultural-residential have inherent expectations or accommodations of uses with the zoning designation such as such as outdoor storage. *Lucas* suggests that noneconomic interests in land invites exceedingly close scrutiny under the Takings Clause. But, when county ordinances are used to achieve an outright or limited ban on inherent expectations or accommodations of uses associated with the designated zoned land use—noneconomic interests—the government nor the courts can ignore or avoid close scrutiny of the inherent expectations or accommodations without violating the Takings Clause. A farmer

seeking to use land zoned agricultural for agricultural or ranching operations is prohibited from the full use of the lands for those operations if county ordinances, as here, impair or impede the setting aside any part of those lands for outdoor storage. The inherent expectations and accommodations of the zoned land include such noneconomic interests.

Meanwhile, because of the late decision of the Petitioner Keith Kiefer to pursue his last opportunity to seek review of the lower court's decision, it has caused a conflict with the undersigned counsel's schedule to provide this Court with the quality of a petition for a writ of certiorari expected. The petition is due January 23, 2018. However, the undersigned counsel has a state district court trial on January 22, 2018 and the preparation for that trial before that date. (*Lonnette Sidne Campbell v. Commissioner of Public Safety*, Wash. Cty. 82-CV-17-219 (St. Distr. Ct. Minn.) representing Lonnette Campbell). In addition, immediately following the trial is a hearing in U.S. District Court, District of Minnesota in a case in which the undersigned counsel has recently been engaged. The hearing concerns objections of a Report and Recommendation filed by the client *pro se* and a request to stay those proceedings in light of the posture of the case involving complex jurisdictional issues and governmental misrepresentations to the Court. (*Dwight D. Mitchell, individually and on behalf of his children, B.M., X.M., and A.M. v. Dakota County Social Services*, 17-CV-1693 WMW/KMM (U.S. Distr. Ct. Minn.) (representing the Plaintiffs)). Also, due on January 22nd is a state appellate court reply brief. (*Collegians for a Constructive Tomorrow v. The University of Minnesota*, A17-1311 (Minn. App.) (representing the Relator Collegians for a Constructive Tomorrow)).

In addition, we will be preparing for oral argument before this Court on February 28, 2018 in the matter *Minnesota Voters Alliance, et al. v. Joe Mansky, et al.* (No. 16-1435).

The undersigned counsel, on behalf of his client Keith Kiefer, respectfully request the instant application be granted because the identified issue under the Takings Clause of the U.S. Constitution regarding noneconomic interests as delineated above is an important issue for the U.S. Supreme Court to consider. While these are the types of extraordinary circumstances that allow for a filing with 10 days of the due date as referenced in Supreme Court Rule 13, and we are unfortunately within this particular window, but could not do so earlier because of the client's circumstances as we have described.

The undersigned believe that the extra 41 days requested to Monday, March 5, 2018 is adequate time to prepare and file the petition. The full 60 days is not requested nor needed.

CONCLUSION

Therefore, it is respectfully requested that the time within which to file the petition for a writ of certiorari for all parties be extended to and including February 22, 2018.

Dated: January 16, 2018.

/s/Erick G. Kaardal
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