

ORIGINAL

App. No. _____

In the
Supreme Court of the United States

KATHRINE MAE MCKEE,
Petitioner,

v.

WILLIAM H. COSBY, JR.,
Respondent.

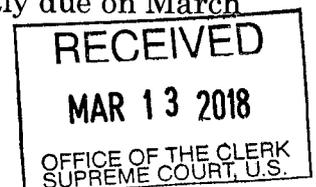
Application to:
The Honorable Stephen G. Breyer,
Associate Justice of the
Supreme Court of the United States.

Petitioner's Application to Extend the Time
to File a Petition for Writ of Certiorari to the
United States Court of Appeals for the First Circuit

Petitioner *Pro Se* Kathrine Mae McKee ("Ms. McKee") respectfully requests that her time to file a Petition for Writ of Certiorari ("the petition") be extended for thirty (30) days to April 19, 2018.

The petition seeks review of the opinion and judgment of the Court of Appeals for the First Circuit ("court of appeals") entered on October 18, 2018 ("the opinion"). See Appendix.A.

On December 20, 2018, the court of appeals issued an order denying rehearing *en banc*. See Appendix.B. As such, the petition is currently due on March



20, 2018. *See* Rule 13(3). This court has jurisdiction under 28 U.S.C. § 1254(1).

Issues Presented

The opinion affects every person in the United States who speaks out about sexual misconduct, including the *#metoo* movement, and the *#timesup* movement.

First, the opinion holds that any person who speaks out in public about sexual misconduct becomes a “public figure” as a matter of law, which effectively denies that person the ability to bring a defamation lawsuit to protect his or her reputation from destruction at the hands of his or her abuser.

Second, the opinion denies substantive due process under the Fifth Amendment to victims of sexual misconduct because it denies their rights under state law to pursue a tort suit under a theory of defamation by innuendo, which is the use of true statements to create a defamatory effect.

Nature of the Case

On December 22, 2014, Ms. McKee alleged in an interview with the *New York Daily News* that well-known actor and comedian Bill Cosby (“Cosby”) (sued herein as “William H. Cosby, Jr.”) raped Ms. McKee in a hotel room in Detroit, MI, in 1974. In retaliation, Cosby instructed his attorney Martin Singer, Esq., to write a 6-page letter (“the Singer Letter”) to the *New York Daily News*.

The Singer Letter states, or implies by innuendo, that McKee is a liar, an unchaste woman, and has a “criminal background”. All of which are false and defamatory. The Singer Letter makes objective statements of fact about McKee which are provably false, and further uses defamation by innuendo to

mischaracterize true statements for defamatory effect. The Singer Letter creates an effect upon the mind of the reader that is different from what the pleaded truth would have produced.

Ms. McKee alleged that Singer published the false and defamatory factual statements with constitutional “actual malice” (knowing falsity or reckless disregard for falsity), and with common law “actual malice” (ill will, spite and malevolence), because ultimately Cosby knows that McKee is not lying about the rape.

The opinion of the court of appeals held that the Singer Letter defames McKee. The opinion further found that the purpose of the Singer Letter is to undermine the credibility of McKee’s rape allegation.

However, the opinion erred when it found that the defamatory statements in the Singer Letter were “immunized” from defamation liability because Singer disclosed “hyperlinks”, which revealed the sources of his factual statements.

The opinion further erred in finding that McKee is a “limited purpose public figure”, because she spoke out in public about Cosby raping her.

Rulings Below

Ms. McKee filed a tort lawsuit seeking damages for defamation in the district court based on total diversity jurisdiction, which was dismissed on a Rule 12(b)(6) motion by Cosby. McKee appealed to the court of appeals, which affirmed the dismissal in the district court. App.A. McKee petitioned the court of appeals for a rehearing *en banc*, but said petition was denied. App.B.

McKee Has Good Cause for the Extension

1. A brief extension of time of thirty (30) days is warranted here because the decision to file the petition is a serious and weighty one. Ms. McKee needed time to consult with her attorney, and her friends and family, and then to carefully consider the risks vs. rewards of pursuing her case to the U.S. Supreme Court, and the considerable expenditure of funds required to file the petition.

2. Ms. McKee's case is uniquely important and complex, and it affects the rights of all victims of sexual misconduct to speak out in public without fear of having their reputations and careers destroyed by their abusers. After careful thought, Ms. McKee made a final decision to pursue the petition.

3. Although this application is made *pro se*, this case requires an experienced attorney to prepare the petition, and Ms. McKee is still finalizing the decision of which counsel to retain. As such, appellate counsel will need a short extension of time to prepare the petition and appendix, and to have them printed. A thirty (30) day extension will be sufficient time to complete and file the petition.

4. No meaningful prejudice will accrue to the respondent, as thirty (30) days is not a significant delay to this proceeding.

Conclusion

For the foregoing reasons, applicant-movant-petitioner *pro se* Kathrine Mae McKee respectfully requests an extension of time to file her petition for writ of certiorari for thirty (30) days to and including **April 19, 2018**.

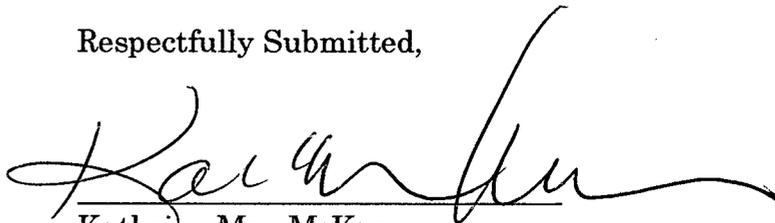
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I, Kathrine Mae McKee declare under penalty of perjury that the foregoing is true and correct.

Executed on March 6, 2018.

Respectfully Submitted,

March 6, 2018



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