

18-351

In The Supreme Court of the United States

CITY OF PENSACOLA, FLORIDA, ET AL.,

Petitioners,

v.

AMANDA KONDRAT'YEV, ET AL.,

Respondents.

**RESPONDENTS' APPLICATION FOR AN EXTENSION OF TIME TO FILE
A BRIEF IN OPPOSITION**

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October 4, 2018

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
1 First Street, NE
Washington, D.C. 20543

Dear Mr. Harris:

1. Pursuant to Supreme Court Rule 30(4), Respondents, Amanda Kondrat'yev, Andreiy Kondrat'yev, Andre Ryland, and David Suhor (hereafter "Respondents"), respectfully request a 60-day extension of time to and including December 17, 2018, to file a Brief in Opposition to the City's Petition for a Writ of Certiorari ("Petition.").

2. Additional time is necessary for Respondents to adequately draft, edit, print and file their Brief in Opposition in light of: (1) the Petitioner's unexpectedly early submission of its Petition for a Writ of Certiorari, which is now pending simultaneously with a Petition for Rehearing En Banc, requiring Respondents to respond to both; (2) lead counsel's October scheduling conflicts; and (3) the time Respondents were required to devote to opposing Petitioner's Motion to Expedite Consideration of Its Motion for a Writ of Certiorari.

3. This extension of time is sought in the interest of justice, not for delay, and no party will be prejudiced if the requested extension is granted.

4. The Eleventh Circuit entered judgment in favor of Respondents on September 7, 2018. *Kondrat'yev v. City of Pensacola*, No. 17-13025, 2018 U.S. App. LEXIS 25471 (11th Cir. Sep. 7, 2018). Counsel for Petitioner filed a Petition for Writ

of Certiorari and a Motion to Expedite Consideration of the Petition concurrently on September 17, 2018 (No. 18-351). On September 28, 2018, the City filed its Petition for Rehearing En Banc in the Eleventh Circuit. Counsel for Respondents must respond to the Petition for Rehearing En Banc by October 15, 2018.

5. The deadline for Respondents' Brief in Opposition in this Court is current set for October 18, 2018. (No. 18-351). Respondents' printing service, Cockle Legal Briefs, requires a final draft to be submitted by October 16, 2018.

6. Even if the City had not filed a Petition for Rehearing En Banc, Respondents would need more time to adequately respond to the Petition. For one, the Petition was filed 80 days before the deadline of December 6, 2018. During that time, counsel for Respondents would normally be preparing an outline in anticipation of the arguments in a Petition. In fact, when the Petition was filed, Respondents had not even finished reviewing and analyzing the Eleventh Circuit's 80-page opinion in its entirety.

7. Efforts to meet the current deadline will result in potentially unfocused, incomplete, and duplicative briefing resulting in more work for the Court. A 60-day extension would permit Respondents the ability to coordinate, eliminate overlapping arguments, and provide a more cohesive and meaningful response.

8. The City's Petition contains numerous citations not presented in the previous filings with the Eleventh Circuit. Also, at least one amicus brief¹ has been filed, and Respondents have been notified of others filing concurrent with counsel's

¹ Brief amici curiae of The Jewish Coalition for Religious Liberty, et al. filed. (Sept. 24, 2018)

efforts to respond adequately to the City's arguments in its Petition. Counsel for Respondents will need sufficient time to read and respond to those new charges present by amici parties.

9. More importantly, Respondents' lead counsel, Monica L. Miller,² has pre-existing scheduling conflicts that have already consumed a bulk of her time that she otherwise would have spent drafting the Opposition. Ms. Miller just returned from a scheduled work trip to New York City October 1-2 in connection with her habeas corpus litigation for the Nonhuman Rights Project.

10. Ms. Miller has another work trip to New York City from October 12 through October 14 for the Nonhuman Rights Project that cannot be rescheduled.

11. On October 15, Ms. Miller has a telephonic hearing on a Rule 60(b) Motion in the United States District Court for the Middle District of Florida in *Art Rojas, et al., v. City of Ocala, Florida, et al.* (Case No. 5:14cv561) (Doc. 94).

12. During the week the Petition was filed, Ms. Miller had to spend her time drafting a brief due in a Connecticut appellate court on September 24, 2018 (*Nonhuman Rights Project, Inc. v. R.W. Commerford & Sons, Inc., et al.*; A.C. 41464). Ms. Miller is currently drafting a motion to transfer to the Connecticut Supreme Court that is due mid-October. Ms. Miller also spent this time finalizing a new habeas corpus case that was filed in the New York Supreme Court, Orleans County, on October 2.

² Ms. Miller drafted the briefs in the present litigation and presented oral arguments to the Eleventh Circuit.

13. In addition to fulfilling her litigation obligations for both the American Humanist Association (where she serves as Senior Counsel) and the Nonhuman Rights Project (attorney contractor), Ms. Miller is permanently moving from the Washington, D.C., area (where she has resided for the past six years) to Northern California on October 26, and must make necessary arrangements for the move.

14. Counsel for FFRF, Rebecca S. Markert, in her role as legal director, has an extensive litigation calendar, which includes overseeing and supervising cases FFRF has pending in various courts around the country. During October alone, in addition to this case, FFRF is scheduled to argue a case before the D.C. Circuit Court of Appeals on October 18, 2018 (No. 17-5278), and another case before the Seventh Circuit Court of Appeals on October 24, 2018 (Nos. 18-1277 and 18-1280). Ms. Markert is integral in preparing her attorneys for those oral arguments.

15. In addition to her role supervising her staff of attorneys and advising on their litigation, Ms. Markert will be missing two days of work to recover from a medical procedure on October 11-12, 2018.

16. For the foregoing reasons, Respondents respectfully request that the Court grant their motion for a 60-day extension of time to file their Brief in Opposition, up to and including December 17, 2018.

October 4, 2018

Respectfully submitted,

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