

No. _____

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

ALABAMA-COUSHATTA TRIBE OF TEXAS,

Petitioner,

v.

STATE OF TEXAS,

Respondent.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit

**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT**

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PARTIES TO THE PROCEEDING

The parties to the proceedings are those listed on the cover.

APPLICATION FOR AN EXTENSION OF TIME

To the Honorable Samuel A. Alito, Jr., Associate Justice of the United States and Circuit Justice for the Fifth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30.3 of this Court, applicant respectfully requests a 30-day extension of time—to and including Monday, September 23, 2019—within which to file a petition for a writ of certiorari in this case to review the disposition of the United States Court of Appeals for the Fifth Circuit. The panel opinion, issued on March 14, 2019, may be found at 918 F.3d 440 (5th Cir. 2019), and is attached as Exhibit A. The Fifth Circuit denied the petition for panel rehearing and rehearing *en banc* on May 24, 2019. The order is unreported and a court-filed copy is attached as Exhibit B. The petition for a writ of certiorari is presently due August 22, 2019. This application is made 10 days before that date. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

1. This case presents important and recurring questions involving the interpretation of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701–21, in light of both this Court's direction in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), and subsequent guidance from the National Indian Gaming Commission (NIGC)—the federal agency responsible for administering IGRA.

2. At issue is a persistent confusion between IGRA and tribe-specific statutes that provide federal recognition while also contemplating a role for state gaming law. See, e.g., *Massachusetts v. Wampanoag Tribe of Gay Head (Aquinnah)*, 853 F.3d 618, 626–29 (1st Cir. 2017) (holding, contrary to the Fifth Circuit, that IGRA repealed prior legislation allowing state to regulate tribal gaming); see also Letter

from Solicitor for Indian Affairs, Department of the Interior (Sept. 10, 2015) (attached as Exhibit C) (noting that IGRA was meant to repeal gaming provisions that were repugnant to IGRA in order to facilitate tribal self-reliance).

3. The confusion is exacerbated—and the importance of this Court’s review underscored—by the fact that the NIGC recently determined, contrary to the Fifth Circuit, that the Alabama-Coushatta Tribe of Texas falls under its jurisdiction and that the gaming at issue here should not be regulated by the State of Texas. Letter from Jonodev O. Chaudhuri, Chairman, NIGC, to Nita Battise, Chairperson, Alabama-Coushatta Tribe of Tex. (Oct. 8, 2015) (attached as Exhibit D).

4. This case is an ideal vehicle for resolving the tension the Fifth Circuit’s decision creates among three sovereigns: the federal government, the State of Texas, and the Alabama-Coushatta Tribe. This case is also of critical importance to the Tribe and its ability to continue as a sovereign entity.

5. A 30-day extension to file a petition for a writ of certiorari is necessary because lead counsel was recently retained to file the petition and needs additional time to prepare the petition and appendix. This process is further complicated by counsel’s other, previously engaged matters, including briefing deadlines in: *Kahler v. Kansas*, No. 18-6135 (U.S.); *Morris v. West Hayden Estates First Addition Homeowners Ass’n, Inc.*, No. 19-35390 (9th Cir.); *Freedom from Religion Foundation, Inc. v. Mack*, No. 4:19-cv-01934 (S.D. Tex.); *New York v. HHS*, No. 1:19-cv-4676 (S.D.N.Y.); *Rad v. IAC*, No. 654151/2018 (N.Y. App. Div.); and *Weir v. Trinity Industries, Inc.*, No. 16-0826 (71st Dist. Ct., Harrison Cty., Tex.). In addition, counsel

will be presenting oral argument in *International Paper Co. v. Signature Industrial Services, LLC*, No. 13-18-00186-cv (Tex. App.—Corpus Christi).

Accordingly, good reason exists for this motion and the Alabama-Coushatta Tribe respectfully requests a 30-day extension of time within which to file a petition for a writ of certiorari, to and including Monday, September 23, 2019 (to account for the weekend date on which the 30-day extension would fall).

Respectfully submitted,

/s/ Allyson N. Ho

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