

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

**IN THE  
SUPREME COURT OF THE UNITED STATES**

ANGELICA CASTAÑON, et al.,  
*Applicants,*

v.

UNITED STATES OF AMERICA, et al.,  
*Respondents.*

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ON APPEAL FROM THE  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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**PLAINTIFFS' APPLICATION FOR AN EXTENSION OF TIME IN WHICH  
TO FILE A JURISDICTIONAL STATEMENT**

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CHRISTOPHER J. WRIGHT  
*Counsel of Record*  
TIMOTHY J. SIMEONE  
DEEPIKA H. RAVI  
**Harris, Wiltshire & Grannis LLP**  
1919 M Street NW, Floor 8  
Washington, D.C. 20036  
202-730-1300  
cwright@hwglaw.com  
tsimeone@hwglaw.com  
dravi@hwglaw.com

*Counsel for Applicants*

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## **CORPORATE DISCLOSURE STATEMENT**

The Applicants are all individuals and were Plaintiffs in the proceedings below. None of the Applicants is a corporation.

**TO THE HONORABLE JOHN G. ROBERTS, JR., CHIEF JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE DISTRICT OF COLUMBIA CIRCUIT:**

Pursuant to Supreme Court Rules 18.3, 21, 22, and 30, Applicants<sup>1</sup> respectfully seek an extension of time to and including Friday, March 12, 2021, in which to file a jurisdictional statement in the appeal from *Castañon v. United States*, 444 F. Supp. 3d 118 (D.D.C. 2020), *reconsideration denied*, No. 18-2545, 2020 WL 5569943 (D.D.C. Sept. 16, 2020). Applicants filed a notice of appeal as to their claims for representation in the United States House of Representatives on November 13, 2020, *see* Appendix D, and in the absence of an extension the jurisdictional statement would be due on January 12, 2021. *See* S. Ct. Rule 18.3. Given the diverse parties involved here and the upcoming change of administrations, the requested extension will permit all parties the opportunity to consult on their respective positions in advance of Applicants' filing deadline. Counsel for the Applicants contacted the Office of the United States Solicitor General in advance of making this motion to assess Respondents' position. As of the date of this filing, counsel for the Applicants have not received a response.

**BACKGROUND**

The Applicants all live in the District of Columbia and challenge the denial of voting representation in the House of Representatives to the residents of our Nation's capital as unconstitutional and contrary to the core principles on which the

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<sup>1</sup> The Applicants are the Plaintiffs in the proceedings below: Plaintiffs Angelica Castañon, Gabriela Mossi, Alan Alper, Deborah Shore, Laurie Davis, Silvia Martinez, Vanessa Francis, Abby Loeffler, Susannah Weaver, Manda Kelley, and Absalom Jordan are residents of the District of Columbia.

United States was founded. Applicants seek access to the fundamental right to vote on an equal footing with other similarly situated United States citizens.

Applicants argue that voting is a fundamental right and that the three-judge district court below erred by concluding that only residents of *states* are permitted voting representation in Congress. With respect to the first point, there is no dispute that voting is a fundamental right. With respect to the second point, Congress has previously extended voting rights to Americans living overseas, who are unquestionably not state residents. Uniformed and Overseas Absentee Voting Act of 1986, 18 U.S.C. §§ 608–09; 39 U.S.C. § 3406; 52 U.S.C. §§ 20301–10. In addition, under this Court’s precedents, residents of federal enclaves—who similarly were *not* recognized as residents by the states in question—are entitled to voting representation in the state where the enclave is located. *See Evans v. Cornman*, 398 U.S. 419, 423 (1970). Moreover, each House of Congress has passed legislation—albeit not at the same time—that would provide voting rights to the District’s nonvoting Delegate, premised on Congress’s authority to extend such rights under the District Clause. H.R. 1905, District of Columbia House Voting Rights Act, Roll Call Vote No. 231 (Apr. 19, 2007); S. 160, District of Columbia House Voting Rights Act, Roll Call Vote No. 73 (Feb. 26, 2009). Because voting is a fundamental right and Congress has conferred that right on thousands of individuals who are not state residents—Applicants argue that voting representation *must* be extended to District residents.



Applicants’ suit thus challenged their denial of access to this fundamental right as a violation of their equal protection, due process, and first amendment rights under the U.S. Constitution. Eight amicus briefs were filed in the district court, including a brief from the United States House of Representatives, which the three-judge district court panel below characterized as “in support of Plaintiffs’ cause.” *Castañon*, 444 F. Supp. 3d at 123.

### OPINIONS BELOW

The three-judge district court panel below issued its judgment on March 12, 2020, *see* Appendix A, and issued its Memorandum Opinion the same day, *see* Appendix B. The court rejected Applicants’ arguments on the ground that “what precedent there is on the issue supports our reading of Article I as limiting House representation to the people of the States.” *Castañon*, 444 F. Supp. 3d at 148. The court thus disagreed with Congress’s conclusion that it has authority under the District Clause to extend voting representation to District residents. *Castañon*, 444 F. Supp. 3d at 149. The court stated that it was “cognizant of the gravity of Plaintiffs’ asserted injury,” adding that “[n]o right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.” *Castañon*, 444 F. Supp. 3d at 149 (alteration in original) (quoting *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964)).

The Applicants sought reconsideration, focusing on the disparate treatment of Americans living overseas and Americans living in the District, which the

three-judge court had addressed only in a footnote in its initial opinion. *Castañon*, 444 F. Supp. 3d at 136 n.5. Applicants argued that the court did not and could not explain why one group of *non-state residents* is entitled to voting representation and the other is not. In addition, Applicants responded to the court’s statement that it was unclear whether, in addition to seeking representation “*qua* state residents,” Applicants sought voting representation for District residents who had *previously* lived in states in the state in which they lived before moving to the District. Applicants made clear that their primary request for relief is that District residents should have voting representation *qua* District residents, but that they would welcome alternative relief. The court rejected such relief on the ground that Congress’s treatment of Americans living overseas “merely supports the premise that Congress *might* treat residents of the District of Columbia as residents in the State in which they resided before moving to the District”—but without responding to Applicants’ argument that *failing* to treat District residents like other similarly situated citizens violates Equal Protection. Appendix C (*Castañon v. United States*, No. 18-2545, 2020 WL 5569943, at \*4 (D.D.C. Sept. 16, 2020) (emphasis in original)).

Applicants filed a notice of appeal as to their claims for representation in the United States House of Representatives on November 13, 2020. *See* Appendix D.

### **JURISDICTION**

This Court has jurisdiction under 28 U.S.C. § 1253.

## REASONS EXTENSION IS JUSTIFIED

Under the Supreme Court's rules, the jurisdictional statement would be due on January 12, 2021, sixty days following Applicants' notice of appeal. *See* S. Ct. Rule 18.3. This application is filed more than ten days prior to that date. S. Ct. Rule 30.2.

Applicants intend to draft the jurisdictional statement after further consultation with all parties. An extension is appropriate in light of the forthcoming change in administration on January 20, 2021 which is likely to affect individuals with whom Applicants expect to coordinate regarding their jurisdictional statement. Those individuals include counsel for the United States House of Representatives, which submitted an amicus brief before the three-judge district court arguing that Congress has the power to extend voting representation to District residents *qua* District residents. Those individuals also include counsel for the Respondents,<sup>2</sup> as each of the individual Defendants in the proceedings below were named in their official capacity and the forthcoming change in administration will affect the identity of at least some of those public officers. The requested extension will permit all parties the opportunity to consult on their respective positions in advance of Applicants' filing deadline.

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<sup>2</sup> The Respondents are the Defendants in the proceedings below: the United States; the President Pro Tempore; the Secretary, and the Sergeant at Arms and Doorkeeper of the U.S. Senate; the Vice President of the United States in his capacity as President of the Senate; the Secretary of Commerce of the United State; and the President of the United States.

## CONCLUSION

For the foregoing reasons and good cause shown, Applicants respectfully request that this Court grant this application for an extension of time to file a jurisdictional statement by fifty-nine days to and including Friday, March 12, 2021.

December 22, 2020

**Respectfully submitted,**

/s/ Christopher J. Wright

Christopher J. Wright

*Counsel of Record*

Timothy J. Simeone

Deepika H. Ravi

**Harris, Wiltshire & Grannis LLP**

1919 M Street NW, Floor 8

Washington, D.C. 20036

202-730-1300

cwright@hwglaw.com

tsimeone@hwglaw.com

dravi@hwglaw.com

*Counsel for Applicants*