

IN THE SUPREME COURT OF THE UNITED STATES

No. 21-429

STATE OF OKLAHOMA, APPLICANT

v.

VICTOR MANUEL CASTRO-HUERTA, RESPONDENT.

OPPOSITION TO APPLICATION FOR LEAVE TO
FILE A REPLY BRIEF IN EXCESS OF THE WORD LIMIT

Pursuant to Rule 22 of the Rules of this Court, Respondent Victor Manuel Castro-Huerta opposes Oklahoma's application for leave to file a reply brief of 4,500 words. No expansion is warranted.

1. Oklahoma has sought an expansion to 4,500 words—or 50% above the limit this Court's Rules set—because, at bottom, several respondent's-side amici have filed in this case and others raising the same issue. That, however, is no ground for departing from this Court's Rules. The Rules specifically contemplate amici in support of both petitioners and respondents. And the Rules specify word limits that apply regardless of whether amici file. Many petitions, for example, attract several petitioner's-side amici. Respondents, however, still must comply with the word limits set in Rule 33(g), and almost invariably (including here), they do so without seeking or receiving an expansion.

2. Indeed, the several amici filings in this case, and others raising the same questions presented, only underscore why no expansion is warranted. The four amicus briefs filed in support of Oklahoma total 21,601 words. If Oklahoma files a 3,000-word reply brief, it will have filed 10,816 words. Respondent respectfully submits that this total—32,417 words on Oklahoma's side alone—is more than enough for this Court to decide whether to take up Oklahoma's petition. Oklahoma can make any additional points it believes important in an at-length reply.

3. Oklahoma suggests that an expansion is warranted because it has filed many other petitions raising the same questions presented and "ask[ed] the Court to hold those petitions pending the disposition of this petition and referring the Court to the briefing in this case." App. 2. That, however, only cuts against granting Oklahoma's application. Oklahoma made a tactical choice to pursue that approach, from which it hoped to obtain tactical benefits. On October 5, 2021, the respondent in Oklahoma v. Mize, No. 21-274—represented by the same counsel as Respondent here—filed a plenary opposition to Oklahoma's request for certiorari on the questions presented here. But instead of responding on the merits, Oklahoma filed a terse reply asking this Court to defer consideration pending its "forthcoming [reply] brief" in this case. Reply at 3, Mize. Via that maneuver, Oklahoma pursued three tactical advantages: (1) It avoided disclosing the substantive arguments it would make in reply, (2) it gained additional time to

develop its reply arguments, and (3) it obtained additional time for its own amici to file in this case. All that was fair enough. But now, Oklahoma must take the bitter with the sweet. Having angled to focus consideration on this petition, Oklahoma must make do with its 3,000-word reply brief in this case.

Respectfully submitted.

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