

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIK PLLC

December 4, 2023

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

Re: Petitioners' Response in Opposition to Respondent State of Washington's Request for Sixty-Day Extension in No. 23-484, *Trevino v. Soto Palmer et al.*

Dear Mr. Harris:

Petitioners Alex Ybarra, Jose Trevino, and Ismael Campos oppose the request on a limited but crucial basis: the proceedings in the related appeal in No. 23-467, *Garcia v. Hobbs et al.* Petitioners filed their petition for a writ of certiorari before judgment in *Trevino et al. v. Soto Palmer et al.*, No. 23-484, on November 3, 2023. The Petition asked the Court to grant the petition and hold the entirety of this case in abeyance pending this Court's decision whether to summarily reverse in *Garcia*. Meanwhile, Benancio Garcia III had filed his Jurisdictional Statement in case No. 23-467, *Garcia v. Hobbs et al.*, on October 31, 2023. Both filings explained how the two cases are inextricably entwined in their implications for Washington State's Legislative District 15 and its legality. The State of Washington requested a 60-day extension in *Garcia*, but this Court only granted a 21-day extension until December 27, 2023. Shortly after, both sets of Respondents in the present litigation waived their right to respond. Subsequently, the Petition was distributed for the December 8, 2023 conference, and this Court has now requested a response from Respondents, notwithstanding their decisions to waive their right to respond. Respondent State of Washington filed its motion for an extension of time on December 1, 2023. Respondent State of Washington now asks that, despite giving up its rights to file, it be given an extension to respond. This should not be granted for three reasons.

First, and most simply, both sets of Respondents waived filing responses, even though this is an important redistricting case interdependent with a serious mandatory appeal, *Garcia*. This was a strategic litigation choice by both sets of Respondents. They should not now be permitted to evade the readily foreseeable consequences of their election by being given two full months extra.

Second—and most importantly—*Trevino* and *Garcia* are indisputably and inextricably entwined. As the district court below recognized and as Proposed Intervenors in *Garcia* flatly concede, the *Garcia* appeal's disposition directly controls what happens in *Soto Palmer / Trevino*. It makes good sense, then, to keep the two cases more-or-less on the same briefing and decision schedule at this Court. And that is the current situation—the brief in opposition in *Trevino* is due December 29, while the motion to dismiss or affirm in *Garcia* is due two days earlier. That is a good and sensible schedule that would permit this Court to consider both related cases together at its January 19 conference.

Finally, on that note, there's no doubt that counsel for Respondent are busy. As the undersigned Counsel recognized in its opposition to the motion to extend time in *Garcia*, counsel for Respondent State of Washington are public servants with multiple time-consuming matters pending before this Court. However, a busy caseload—even during the winter holidays—is not sufficient to overcome the unique nature of these twin interrelated cases. Whatever burdens Respondents might experience are directly attributable to their tactical decisions to waive responses while knowing how those decisions would affect timing in the eminently foreseeable event that this Court called for responses (as it did). Even so, Petitioners would not oppose this request for extension over the holidays but for these unique circumstances where an extension would deny this Court the ability to consider the related cases together at its January 19 conference. These important factors outweigh the caseload and holiday considerations.

Accordingly, Petitioners respectfully request that the deadline for briefs in opposition not be extended past December 29, 2023 (a date 56 days after Petitioners filed their petition).

Respectfully submitted,

/s/ Jason B. Torchinsky

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CERTIFICATE OF SERVICE

I, Jason B. Torchinsky, certify that I filed Petitioners' December 4, 2023 letter electronically with the Court and that I emailed the foregoing on this 4th day of December 2023, to the following counsel of record:

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