
In the
Supreme Court of the United States

J.W.; LORI WASHINGTON, /A/N/F J.W.,
Petitioners,

v.

ELVIN PALEY,
Respondent.

**APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO RESPOND
TO A PETITION FOR WRIT OF CERTIORARI**

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

Pursuant to Rules 13.5, 30.2 and 30.4 of this Court, Respondent Elvin Paley
respectfully requests that the time to respond to the pending Petition for Writ of
Certiorari in this matter be extended for 14 days to, and including, May 8, 2024.

I.

1. The Fifth Circuit issued its opinion in this matter on August 28, 2023.
J.W. timely filed a Petition for Rehearing *En Banc*, which the Fifth Circuit denied on
October 10, 2023.

2. Petitioners' Petition for Writ of Certiorari was originally due on January
8, 2024. They sought and obtained two extensions to file the Petition, first until
February 7, 2024, and then until February 21, 2024. The Petition was filed on

February 21, 2024.

3. Respondent waived his right to file a Response to the Petition for Writ of Certiorari on March 15, 2024.

4. On March 25, 2024, this Court requested a Response to the Petition for Writ of Certiorari, to be filed by April 24, 2024.

5. Respondent agrees with Petitioners that jurisdiction of this Court is proper under 28 U.S.C. § 1254(1). Copies of the Fifth Circuit Court of Appeals' majority and concurring opinions, and the order denying panel rehearing and rehearing en banc, have been filed with this Court.

II.
REASONS FOR GRANTING AN EXTENSION OF TIME

6. In order to accommodate scheduling difficulties and the press of other cases, Respondent respectfully requests, under Rule 30.4 of this Court, a 14-day extension to and including May 8, 2024, within which to file the Response to the Petition for Writ of Certiorari. Mr. Gilbert has had a number of unexpected client matters arise on short notice, including a new federal lawsuit (Staci Barber v. Katy ISD, C.A. No. 4:24-cv-01004, In the United States District Court for the Southern District of Texas, Houston Division) that involves a request for temporary injunctive relief involving an interpretation of *Kennedy v. Bremerton School District*, 597 U.S. 507, 142 S. Ct. 2407 (2022). Counsel has also been asked to assist a school district recently taken over by the State of Texas with their public information act requests, which have been numerous and involved very short, non-extendable deadlines.

7. Additionally, the issues raised by the Petitioners in their Petition for Writ of Certiorari, which challenges the underlying validity of the doctrine first adopted in 1976 by the Fifth Circuit in *Ingraham v. Wright*, 525 F.2d 909 (5th Cir. 1976), *aff'd*, 430 U.S. 651 (1977), and later affirmed and applied in *Fee v. Herndon*, 900 F.2d 804 (5th Cir. 1990), that as long as the state provide an adequate remedy, a public school student cannot state a claim for denial of substantive due process through excessive corporal punishment, are different at this stage, since the validity of the *Ingraham/ Fee doctrine* was basically assumed at the trial court and appellate levels in this case. Petitioners also raise a proposed conflict between the circuits that does not involve the Fifth Circuit, which follows the rule from *Ingraham* and *Fee*, and therefore involves caselaw and issues that were not briefed below. Counsel for the Respondent believes that the Response will benefit from a short period of additional time for counsel to familiarize himself with how this issue has been approached in other circuits.

8. **CERTIFICATE OF CONFERENCE**: Counsel for the Respondent conferred by email with counsel for the Petitioners on April 17, 2024, and Petitioners are not opposed to this extension.

III. CONCLUSION

For the foregoing reasons, Respondent's application for a 14-day extension to and including May 8, 2024, within which to file the Response to the Petition for Writ of Certiorari in this case, should be granted.

Respectfully submitted,



CHRISTOPHER B. GILBERT

Counsel of Record

THOMPSON & HORTON LLP

3200 Southwest Freeway, Suite 2000

Houston, Texas 77027

(713) 554-6744

cgilbert@thompsonhorton.com

Counsel for Respondent Elvin Paley

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