

No. _____

In the

Supreme Court of the United States

IN THE MATTER OF THE ESTATE OF JOEL PERKEL,

ROBERT PERKEL and JANE PERKEL,

Petitioners.

v.

JANE (CANELLA) PERKEL and FRANK L. CANELLA,

Respondents.

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

To the Honorable Justice Alito, as Circuit Justice for the United States Court of Appeals for the Third Circuit:

Petitioners Robert Perkel and Jane Perkel respectfully request that the time to file a Petition for Certiorari in this case be extended by 60 days, to and including December 17, 2023; or, alternatively, by 30 days, to and including November 17, 2023.

The Supreme Court of New Jersey, whose judgment is sought to be reviewed, issued its unreported decision on July 19, 2023. See Exhibit 1. By operation of Rule 13, the petition is currently due by October 17, 2023.

The reason for this application for extension is that the Respondents filed a post-judgment application with the New Jersey Supreme Court which renders the proceedings below “incomplete.” Petitioners believe that the matter pending before the Supreme Court of New Jersey will be resolved within this extension period. Because the judgment may, or may not, be altered or affected by the pending proceedings, out of an abundance of caution and in order to avoid duplication of efforts in preparing the petition, we seek this extension in good faith.

Rule 29.6 Disclosure

Inapplicable.

Background

This action, originally filed in the Chancery Court of New Jersey, Bergen County, arises from a Will dispute.

Petitioners Robert Perkel and Jane Perkel, as son and daughter, are direct descendants, of Joel Perkel who died January 31, 2019. Joel Perkel left an alleged Will which allegedly left his entire estate to his surviving second wife, also Jane Perkel, and the adult son of her first marriage, Frank L. Canella. Petitioners were repeatedly told by their father, before his passing, that he would leave a bequest for them in his Will. After he died, however, Petitioners were never formally served with the Will after it was surreptitiously probated by Respondents, who tendered an alleged “Will” that left Joel Perkel’s entire estate to them.

The issue in the case was whether the New Jersey courts’ application of the probate

rules were so unfair to Petitioners that they denied the due process, equal protection, and confrontation clauses of the United States Constitution.

Reasons for Granting an Extension of Time

Petitioners respectfully request that the time to file a Petition for Certiorari be extended for multiple reasons.

1. Petitioners have a right to seek this Court's review of the New Jersey courts' erroneous judgments. Under 28 U.S.C. § 1257(a), this Court is the final arbiter of "[f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had,"

The New Jersey courts upheld Respondents' probate of the disputed Will that allegedly dispossessed Petitioners completely, even after Petitioners had proved below that Petitioners had not been served with notice and opportunity to be heard in the probate court, as required by the probate rules governing service of process. This raises a substantial, federal due process issue similar to Ferguson v. Georgia, 365 U.S. 570, 81 S. Ct. 756 (1961).

3. There was no dispute below that Petitioners verified complaint was filed in good faith. Petitioners sought discovery and trial under the probate court's procedures, but the Supreme Court of New Jersey ultimately held that petitioners need not be provided with normal, full range of pretrial discovery, effectively, unless Petitioners were first able to demonstrate that they had a basis to prove their case at trial, in contravention of the civil discovery rules that provide all other litigants with a fair opportunity to develop their case

based upon the framing of the allegations the pleadings, in good faith. This raises substantial, federal equal protection and confrontation issues that were not resolved below. See Ferguson v. Georgia, 365 U.S. 570, 81 S. Ct. 756 (1961)

This Court is likely to grant certiorari because the case presents important questions regarding the constitutionality of the New Jersey probate process; in this case, applied in contravention of its own stated rules.

2. The New Jersey Supreme Court issued its “judgment” on July 19, 2023, but a post-judgment motion filed by Respondents is still pending, and the outcome of that motion may render the post-judgment order as the “final judgment.”

Granting the application for a further extension of time will not materially delay the final disposition of the case, as this matter, if granted, will not be heard until the next term.

Conclusion

For the foregoing reasons, petitioners respectfully request that the time to file a Petition for Certiorari in this matter be extended through December 17, 2023, or alternatively until November 17, 2023.

Dated: October 9, 2023

Respectfully submitted,



Michael S. Kimm

Certificate of Service

Michael S. Kimm certifies that the foregoing notice of motion and all supporting papers were served by mail and email on all counsel of record as follows:

John K. Walsh, Jr., Esq.
Walsh & Walsh, Esqs.
55 State Street
Hackensack, NJ 07601

Dated: October 9, 2023,



Michael S. Kimm

Exhibit 1

SUPREME COURT OF NEW JERSEY
C-815 September Term 2022
087780

In the Matter of the
Estate of Joel Perkel,
deceased.

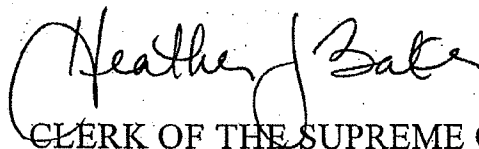
(Robert Perkel and Jane
Perkel - Petitioners)

ORDER

A petition for certification of the judgment in A-000283-20
having been submitted to this Court, and the Court having considered the
same;

It is ORDERED that the petition for certification is denied, with costs.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this
13th day of July, 2023.



CLERK OF THE SUPREME COURT