

No. 25-826

IN THE
SUPREME COURT OF THE UNITED STATES

LESLY POMPY, M.D.,
Petitioner,

v.

MARC MOORE, LIEUTENANT, MANTIS, et al.,
Respondents.

On Petition for a Writ of Certiorari to the United States
Court of Appeals for the Sixth Circuit

**MOTION FOR LEAVE TO FILE AN
OUT-OF-TIME PETITION FOR REHEARING**

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To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

Petitioner, Lesly Pompy, M.D., proceeding pro se, respectfully moves this Court, pursuant to Supreme Court Rules 21 and 44, for leave to file the accompanying Petition for Rehearing out of time. In support of this motion, Petitioner states as follows:

I. PROCEDURAL BACKGROUND

On March 23, 2026, this Court entered an order denying Petitioner's petition for a writ of certiorari in the above-captioned case, No. 25-826. Under Supreme Court Rule 44.2, a petition for rehearing is due within 25 days of the entry of the order of denial — here, by April 17, 2026. Petitioner now seeks leave to file her petition, which was fully prepared and substantively complete by April 16, 2026, but which was not received by the Clerk within the prescribed 25-day period due to the circumstances set forth below.

II. GOOD-FAITH MISCALCULATION OF THE DEADLINE

Petitioner, an unrepresented pro se litigant, mistakenly understood the rehearing deadline to be 45 days from the order denying certiorari, rather than the 25 days prescribed by Rule 44.2. Working from that mistaken understanding, Petitioner completed and dated the Petition for Rehearing on April 16, 2026 — a date

Petitioner believed at the time to be comfortably within the applicable window. On April 26, 2026, Petitioner mailed to the Clerk an initial letter enclosing a paper copy of the booklet and the required \$200 filing fee, advising that forty amended tan-

colored booklet copies would follow under Rule 33.1. Those forty copies were thereafter mailed to the Clerk under cover letter dated May 4, 2026.

III. INTERVENING MEDICAL-LICENSURE RELATED TRAINING IN PUERTO RICO

On April 27, 2026 — the day after mailing the initial letter and filing fee to the Clerk — Petitioner departed for Puerto Rico to begin a previously scheduled three-month clinical training program required to facilitate the reinstatement of her medical license. This training was a mandatory prerequisite for Petitioner's return to clinical practice and had been scheduled months in advance, without regard to the timing of this Court's certiorari proceedings.

Before departing, Petitioner arranged for the completed forty-copy booklet set to be mailed to the Clerk on her behalf; that mailing is reflected in the cover letter dated May 4, 2026. While Petitioner was in Puerto Rico completing the training, her bank records showed that the Supreme Court had processed the \$200 check enclosed with the April 26, 2026 letter. Petitioner reasonably, if mistakenly, understood the processing of that payment to mean that the filing had been accepted and that the

matter was proceeding in the ordinary course. The Court's processing of her payment was the only communication Petitioner received regarding the status of her submission, and she had no reason to believe the filing was deficient.

IV. DISCOVERY OF THE CLERK'S NON-FILING NOTICE UPON RETURN

Petitioner returned to Michigan on August 7, 2026, upon completion of the training program, and only then discovered correspondence from the Clerk's office declining to file the Petition for Rehearing on the ground that it had been received outside the 25-day period prescribed by Rule 44.2. Petitioner had no earlier opportunity to learn of the non-filing, as she was engaged full-time in the clinical training program in Puerto Rico and had reasonably relied on the Court's processing of the filing fee as an indication that the submission was in order. Had Petitioner received any notice of the deficiency while still in Puerto Rico, she would have taken immediate steps to cure it.

V. THE DELAY WAS NEITHER WILLFUL NOR PREJUDICIAL

The delay at issue arose from a single, identifiable miscalculation of the filing deadline, compounded by Petitioner's unavailability while completing medically necessary clinical training in Puerto Rico and her reasonable reliance on the Court's apparent processing of her filing fee. Petitioner has prosecuted this matter continuously and in good faith, including:

- Timely filing the original petition for a writ of certiorari;

- Submitting her filing fee and an initial letter to the Clerk on April 26, 2026;
- Ensuring the required forty booklet copies were mailed on her behalf on May 4, 2026;
- Completing the Petition for Rehearing itself, which was substantively complete by April 16, 2026; and
- Filing this motion promptly upon discovering the Clerk's non-filing on August 7, 2026.

No party will be prejudiced by the delay, and the Petition for Rehearing was fully prepared and substantively complete well before the copies were mailed to the Clerk.

VI. THE UNDERLYING PETITION PRESENTS SUBSTANTIAL GROUNDS

The accompanying Petition for Rehearing is not a routine request to relitigate settled issues. It identifies intervening circumstances of a substantial and controlling character under Rule 44.2, including:

1. A deepened circuit split on the RICO enterprise element following the Eighth Circuit's decision in *Geivett v. AMC Management, LLC*;
2. A widened *Bivens* split between the Second and Seventh Circuits;
3. A March 2026 Executive Order institutionalizing the public-private task force model at issue in this case;

4. This Court's intervening decision in *Galette v. New Jersey Transit Corp.*, bearing directly on Respondent's immunity defense; and
5. This Court's grant of certiorari in *Nielsen v. Watanabe*, No. 25-417, confirming that the scope of *Bivens* liability remains unsettled and is actively before this Court.

These developments occurred after the denial of certiorari and could not have been raised earlier. The interests of justice favor permitting the Court to consider them notwithstanding the delay in filing.

VII. DILIGENCE UPON DISCOVERING THE NON-FILING

Immediately upon discovering, on August 7, 2026, that the Petition for Rehearing had not been filed, Petitioner promptly prepared and now submits this motion without unreasonable delay. This motion is presented in good faith and not for the purpose of delay.

VIII. THE STANDARD FOR RELIEF FROM AN UNTIMELY FILING IS SATISFIED

This Court has recognized, in the context of federal filing deadlines, that a litigant may be excused from an untimely filing upon a showing of diligence and extraordinary circumstances beyond the litigant's control. *See Holland v. Florida*, 560 U.S. 631, 649 (2010) (equitable tolling available where the petitioner shows "(1) that he has been pursuing his rights diligently, and (2) that some extraordinary

circumstance stood in his way" of a timely filing). Although *Holland* arose under the federal habeas statute rather than this Court's own rules, its articulation of the diligence-and-extraordinary-circumstance standard illustrates the type of showing Petitioner makes here: a good-faith miscalculation of a filing deadline, an intervening and unavoidable professional obligation that limited her access to her mail during the relevant period, and prompt corrective action taken within days of learning of the problem.

IX. ACCOMPANYING SUBMISSION

Concurrently with this motion, Petitioner relies upon the previously transmitted Petition for Rehearing, together with its accompanying Certificate of Good Faith and Certificate of Word Count, and respectfully refers the Court to her letters to the Clerk dated April 26, 2026 and May 4, 2026, copies of which remain on file.

X. DECLARATION UNDER PENALTY OF PERJURY

Pursuant to 28 U.S.C. § 1746, Petitioner declares under penalty of perjury under the laws of the United States that the factual statements set forth above are true and correct to the best of her knowledge, information, and belief. Executed on August 13, 2026, at Monroe, Michigan.

WHEREFORE, Petitioner respectfully requests that this Court:

1. Grant leave to file the accompanying Petition for Rehearing out of time;
2. Deem the Petition for Rehearing filed as of the date of this order; and

3. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: August 17, 2026

/s/ Lesly Pompy, M.D.

LESLY POMPY, M.D.

Petitioner, Pro Se

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Monroe, Michigan 48162

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CERTIFICATE OF SERVICE

I, Lesly Pompy, M.D., being duly sworn, hereby certify that on August 17, 2026, true and correct copies of the foregoing Motion for Leave to File an Out-of-Time Petition for Rehearing were served by U.S. Mail, postage prepaid (or by commercial carrier for delivery within 3 calendar days), and by electronic mail, upon:

Clerk of the Supreme Court of the United States, 1 First Street, N.E., Washington, D.C. 20543; and

D. John Sauer, Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, DC 20530-0001.

I further certify that copies were sent by electronic mail to the counsel of record for Respondents:

Michigan Dept. of Attorney General, Post Office Box 30212, Lansing, MI 48909

K. Scott Hamilton, Dickinson Wright PLLC, 500 Woodward Ave., Suite 4000, Detroit, MI 48226

/s/ Lesly Pompy, M.D.
LESLY POMPY, M.D.
Petitioner, Pro Se