

No.

IN THE
Supreme Court of the United States

JENNIFER KILNAPP,
Petitioner,
v.

BAILEY GANNON, in his official and personal capacity,
Respondent.

**APPLICATION FOR A 30-DAY EXTENSION OF TIME WITHIN WHICH TO
FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Application to the Honorable Brett M. Kavanaugh,
as Circuit Justice for the Sixth Circuit

Pursuant to Supreme Court Rule 13.5, Applicant Jennifer Kilnapp, hereby requests a 30-day extension of time, to and including July 9, 2026, within which to file a petition for a writ of certiorari.

1. The decision below is *Jennifer Kilnapp v. City of Cleveland, Bailey Gannon*, No. 25-3149 (6th Cir. 2026). The Sixth Circuit issued its opinion on February 18, 2026, *see* App. A. The decision denying Petition for Rehearing issued on March 9, 2026, *see* App. B. Unless extended, Applicant's time to seek certiorari in this Court expires June 9, 2026. Applicant is filing this application at least ten days before that date. *See* S. Ct. R. 13.5. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Good cause exists for a 30-day extension. Applicant has recently retained the undersigned as new counsel and therefore seeks a 30-day extension so that counsel can review the record, study the relevant case law, and prepare a petition. An extension is further justified by the press of business in counsel's other pending matters. Counsel is responsible for the following engagements, which have intervening deadlines between now and when the petition for certiorari in this case is due:

- A reply brief in *Netlist, Inc. v. Micron Technology Texas, LLC*, No. 25-1936 (Fed. Cir.), due April 16, 2026.
- An opening brief in *Propel Fuels v. Phillips 66 Co.*, No. A-175015 (Cal. Ct. App.), due May 11, 2026, and a reply brief due June 30, 2026.
- A reply brief in *Synopsys, Inc. v. Real Intent, Inc.*, No. 25-2137 (Fed. Cir.), due May 26, 2026.
- A reply brief in support of certiorari in *Grand v. City of University Heights*, No. 25-965 (U.S.), due May 26, 2026.

3. In addition, an extension is warranted because this case presents a substantial question of law—specifically, qualified immunity—on which the federal courts of appeals are divided. In *Hernandez v. Mesa*, 582 U.S. 548, 554 (2017), this Court reaffirmed that qualified-immunity analysis is “limited to the facts that were knowable to [Defendants] at the time they engaged in the conduct in question.” Accordingly, it was irrelevant that the law enforcement officer in that case did not

know, at the time he acted, certain facts about the person he shot that bore on whether that person had a legally cognizable Fourth or Fifth Amendment claim.

However, in the decision below, the Sixth Circuit granted qualified immunity to a police officer who shot his partner because it was unclear, at the time the officer acted, whether an officer effects a seizure under the Fourth Amendment when he intentionally fires his weapon but strikes an unintended victim. According to the Sixth Circuit, that was not clearly established to be a seizure until later, when this Court decided *Torres v. Madrid*, 592 U.S. 306 (2021).

That ruling is not just contrary to *Hernandez*, but also squarely at odds with the decision of at least one federal court of appeals: the Tenth Circuit's decision on remand in *Torres* itself. Relying on *Hernandez*, the Tenth Circuit *rejected* the argument that a police officer was entitled to qualified immunity merely because it was not clearly established until this Court's decision in *Torres* that the Fourth Amendment applied to the officer's conduct—there, intentionally shooting a person who subsequently fled. *Torres v. Madrid*, 60 F.4th 596, 603 (10th Cir. 2023). An extension of time will help to ensure that the petition clearly and thoroughly presents this vitally important issue.

4. The requested 30-day extension would cause no prejudice to Respondent, who has advised that they have no objection to the extension.

5. For the foregoing reasons, Applicant hereby requests that an extension of time be granted, up to and including July 9, 2026, within which to file a petition for certiorari.

Respectfully submitted,

/s/E. Joshua Rosenkranz

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