

In the Supreme Court of the United States

GWYNNE A. WILCOX,
Applicant,

v.

DONALD J. TRUMP, in his official capacity as President of the United States, AND MARVIN E. KAPLAN, in his official Capacity as Chairman of the National Labor Relations Board,
Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the D.C. Circuit

**APPLICATION FOR A 60-DAY EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI**

**TO: The Honorable John Roberts, Chief Justice of the United States Supreme Court
and Circuit Justice for the District of Columbia Circuit**

The applicant respectfully seeks a 60-day extension of time within which to file a petition for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the District of Columbia Circuit in this case, up to and including June 26, 2026. Absent an extension, the deadline for filing the petition will be April 28, 2026. This application is being filed on April 17, 2026—more than 10 days before the petition is due. *See* S. Ct. R. 13.5.

In support of this request, the applicant states as follows:

1. The D.C. Circuit entered judgment and issued its opinion on December 5, 2025, a copy of which is attached. App. 1-82. The D.C. Circuit denied rehearing en banc in a

per curiam order, also attached, on January 28, 2026. App. 83. This Court has jurisdiction under 28 U.S.C. § 1254(1).

2. This case concerns the President’s unlawful removal of plaintiff Gwynne Wilcox from her position as a duly confirmed member of the National Labor Relations Board.

3. Congress created the National Labor Relations Board as an independent and impartial adjudicative body shielded from political pressures. To ensure the NLRB could act as an independent agency, Congress created the body with key hallmarks: statutory removal protection, specified tenure, a multimember structure, and adjudication authority. Congress later divided the NLRB’s prosecutorial and adjudicative responsibilities between the General Counsel (who is removable at will by the President) and the Board (the members of which are not removable at will by the President).

4. Specifically, the National Labor Relations Act provides: “Any member of the [National Labor Relations Board] may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.” 29 U.S.C. § 153(a). In *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935), and *Wiener v. United States*, 357 U.S. 349 (1958), this Court upheld similar removal protections for multimember adjudicatory bodies.

5. The Senate confirmed the plaintiff in this case, Gwynne Wilcox, as a member of the Board in September 2023 for a term of five years. In open disregard of the for-cause removal protection, a letter sent by email to Ms. Wilcox on behalf of the President on January 27, 2025, informed her that she was removed from her position—without

identifying any neglect of duty or malfeasance, and without providing her with notice of hearing.

6. Ms. Wilcox brought this suit. On March 6, 2025, the district court granted Ms. Wilcox’s motion for summary judgment and awarded her both a declaratory judgment and injunctive relief. *Wilcox v. Trump*, 775 F. Supp. 3d 215 (D.D.C. 2025).

7. The government sought an emergency stay pending appeal. A divided special panel of the D.C. Circuit issued a stay of the injunctive relief. *Harris v. Bessent*, 2025 WL 980278 (D.C. Cir. Mar. 28, 2025). The en banc D.C. Circuit vacated the panel’s stay order. *Harris v. Bessent*, 2025 WL 1021435 (D.C. Cir. Apr. 7, 2025) (per curiam). This Court granted a stay, but left the merits for “resolution after full briefing and argument.” *Trump v. Wilcox*, 145 S. Ct. 1415, 1415 (2025).

8. On December 5, 2025, the D.C. Circuit reversed the district court’s ruling, finding that the NLRB “wield[s] substantial powers that are both executive in nature and different from the powers that *Humphrey’s Executor* deemed to be merely quasi-legislative or quasi-judicial.” App. 9. Ms. Wilcox filed a petition for rehearing en banc on January 6, 2026, which was denied on January 28, 2026. App. 83.

9. In the meantime, this Court granted certiorari in *Trump v. Slaughter*, No. 25-332, to answer (1) whether the statutory removal protections for members of the Federal Trade Commission violate the separation of powers and, if so, whether *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935), should be overruled; and (2) whether a federal court may prevent a person’s removal from public office, either through relief at

equity or at law. The Court heard argument on December 8, 2025, but has not yet issued a decision. The resolution of both questions will be relevant to the issues here.

10. The applicant respectfully requests a 60-day extension of time to file a petition for a writ of certiorari seeking review of the D.C. Circuit's ruling in this case and submits that there is good cause for granting this request. The extension will allow all parties to take into account the Court's decision in *Slaughter* if issued before the petition for certiorari is due. And, regardless of the timing of that decision, applicant's counsel of record, Deepak Gupta, and his colleagues are heavily engaged with other matters, including: a reply brief filed in the Eighth Circuit in *MMIC v. OB/GYN*, No. 25-1758, on April 16, 2026; a response to a motion to modify due in the District of Columbia Circuit in *National Treasury Employees Union v. Vought*, No. 25-5091, on April 17, 2026; a reply brief due in this Court in *Ethridge v. Samsung*, No. 25-1106, on April 21, 2026; an oral argument in the Eleventh Circuit in *Bear Warriors v. FDEP*, No. 25-11612, on April 21, 2026; an opening brief due in this Court in *Anderson v. Intel*, No. 25-498, on April 23, 2026; an opening brief due in the Seventh Circuit in *Xu Lun v. Milwaukee Electrical Tool Corp.*, No. 25-3347, on April 24, 2026; a response brief due in the First Circuit in *Pizza Hazel v. American Express*, No. 25-2007, on April 27, 2026; a reply brief due in the Tenth Circuit in *Shaffer v. Toyota*, No. 25-6115, on April 27, 2026; an opposition to a motion to compel arbitration in the Southern District of Florida in *Akeo v. Palace Resorts*, No. 1:25-cv-23733-RKA, on April 27, 2026; a reply and cross-appellee brief due in the District of Columbia Circuit in *Montrois v. United States*, No. 25-5090, on May 6, 2026; an oral argument in the Fourth Circuit in *In re Boeing Co.*, No. 25-1492, on May 7, 2026; an opening brief due in the

Fourth Circuit in *Does v. Mindgeek*, No. 25-2411, on May 11, 2026; an opposition to a motion to compel arbitration in the Western District of Washington in *Seong v. Unlock*, No. 2:26-cv-01023, on May 18, 2026; a response brief due in the Montana Supreme Court in *S.W. v. Montana*, No. DA 25-0783, on May 20, 2026; a reply brief in support of certiorari due in this Court in *Operating Engineers Trust Fund of Washington, D.C. v. United States*, No. 25-1050, on May 20, 2026; a response brief due in the California Court of Appeal in *Doe v. Discord*, No. A175211, on May 27, 2026; an opening brief due in *Carefirst of Maryland v. Johnson and Johnson*, No. 26-1248, on May 28, 2026; a reply brief in the Ninth Circuit in *Lang v. Providence Health Services*, No. 25-7294, on June 3, 2026; an opening brief due in the Federal Circuit in *DHS Probationary Employees v. DHS*, No. 26-1315, on June 12, 2026; a reply brief due in the Seventh Circuit in *Xu Lun v. Milwaukee Tool Corp.*, No. 25-3347, on June 16, 2026; a response brief due in the Massachusetts Court of Appeals in *Perez-Trinidad v. R.J. Reynolds*, No. 2026-P-0482, on June 17, 2026; and a reply brief due in the New York Court of Appeals in *Salter v. Meta*, No. APL-2025-00170, on June 24, 2026.

11. Extending the deadline to file the petition in this case to June 26, 2026, will allow applicant's counsel to prepare the petition in this case.

CONCLUSION

For the foregoing reasons, the applicant respectfully requests that the Court extend the time within which to file a petition for a writ of certiorari in this matter to and including June 26, 2026.

Dated: April 17, 2026

Respectfully submitted,

/s/ Deepak Gupta

DEEPAK GUPTA
Counsel of Record
MATTHEW W. H. WESSLER
GREGORY A. BECK
ALISA C. PHILO
Gupta Wessler LLP
2001 K Street, NW
Suite 850 North
Washington, DC 20006
(202) 888-1741
deepak@guptawessler.com

Counsel for Applicant