

No.

IN THE
Supreme Court of the United States

JAMES M. KERNZ,
Petitioner,
v.

DOUGLAS A. COLLINS, SECRETARY OF VETERANS AFFAIRS,
Respondent.

**APPLICATION FOR A 60-DAY EXTENSION OF TIME WITHIN WHICH TO
FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Application to the Honorable John G. Roberts, Jr.,
as Circuit Justice for the Federal Circuit

Pursuant to Supreme Court Rule 13.5, Applicant James M. Kernz hereby requests a 60-day extension of time, to and including August 31, 2026, within which to file a petition for a writ of certiorari.

1. The decision below is *Kernz v. Collins*, No. 24-1171 (Fed. Cir. 2026). The Federal Circuit issued its opinion on April 3, 2026. *See* App. A. Unless extended, Applicant's time to seek certiorari in this Court expires July 2, 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). Respondent consents to this extension request.

This case concerns an important question regarding a veteran's standing to challenge the ability of the Board of Veterans' Appeals to alter a final judgment

after the Board has already been divested of jurisdiction. Mr. Kernz filed claims for compensation and service connection for several conditions, including an aneurysm, depression, kidney failure, and residuals of a stroke. App. A at 3. Mr. Kernz timely appealed the denial of his claims to the Board. *Id.* at 4-5. Despite Mr. Kernz's timely appeal, the Board dismissed Mr. Kernz's appeal as untimely. *Id.* at 4. Mr. Kernz appealed that "obviously incorrect" dismissal to the Court of Appeals for Veterans Claims (the "Veterans Court"). *Id.* While his appeal before the Veterans Court was pending, the Board *sua sponte* restored Mr. Kernz's case to its active docket and addressed his claims on the merits. *Id.* at 4-5. Thereafter, in a split 6-3 decision, the en banc Veterans Court dismissed Mr. Kernz's appeal as moot. *Id.* at 5.

Mr. Kernz appealed to the Federal Circuit. He argued that his notice of appeal to the Veterans Court immediately divested the Board of jurisdiction. Therefore, the Board acted without authority when it reopened his case, rendering its subsequent actions during the pendency of the appeal void. As a result, the Veterans Court erred in dismissing his appeal as moot. The Federal Circuit dismissed the appeal, concluding that Mr. Kernz lacked standing. Although it recognized "the general rule [that] the Board does not have authority to alter a judgment while that judgment is pending appeal before the Veterans Court," *id.* at 17, the Federal Circuit held that Mr. Kernz had "received all the substantive relief he requested" simply because the Board had resumed acting on his case, notwithstanding the harm caused by its jurisdictional errors. *Id.* at 11.

The issues presented are of exceptional importance to veterans and the Veterans Court system. They also implicate broader principles of administrative law and judicial review, including an agency's obligation to comply with jurisdictional restrictions and the ability of courts to correct the effects of an agency's deviation from those restrictions. And only this Court can review the Federal Circuit's application of the standing doctrine in this context, because of the Federal Circuit's exclusive subject matter jurisdiction in this area.

2. A 60-day extension within which to file a certiorari petition is reasonable and necessary.

a. Undersigned counsel and her firm have only recently been retained to represent the Applicant in this matter. Additional time is necessary for counsel to become fully familiar with the issues, the decision below, the record, and relevant case law, and to best present the issues for this Court's review.

b. The request is further justified by undersigned counsel's press of business on other pending matters. Among other things, counsel has a cert-stage reply brief to be filed May 21, 2026, in *Siples v. Collins*, No. 25-609 (S. Ct.); a reply brief due June 1, 2026, in *Nite Glow Industries Inc. v. Central Garden & Pet Co.*, No. 26-1200 (Fed. Cir.); a response brief due June 3, 2026, in *Carbyne Biometrics, LLC v. Apple Inc.*, No. 26-1417 (Fed. Cir.); a response brief due June 3, 2026, in *Carbyne Biometrics, LLC v. Apple Inc.*, Nos. 25-2161, -2163 (Fed. Cir.); a merits-stage amicus brief due June 8, 2026, in *Johnson v. U.S. Congress*, No. 25-735 (S. Ct.); a petition for rehearing due June 15, 2026, in *Kendall v. Collins*, No. 24-1230 (Fed. Cir.); an

opening brief due June 22, 2026, in *Apple Inc. v. Smith Interface Technologies, LLC*, No. 26-1514 (Fed. Cir.); an opening brief due July 15, 2026, in *Apple Inc. v. Smith Interface Technologies, LLC*, No. 26-1493 (Fed. Cir.); and an opening brief due July 22, 2026, in *Apple Inc. v. Smith Interface Technologies, LLC*, No. 26-1494 (Fed. Cir.).

3. The requested 60-day extension would cause no prejudice to Respondent, who advised that he consents to the extension.

4. For the foregoing reasons, Applicant hereby requests that an extension of time be granted, up to and including August 31, 2026, within which to file a petition for certiorari.

Respectfully submitted,

/s/ Melanie L. Bostwick

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