No. ___

In the Supreme Court of the United States

NICOLAS A. MANZINI, Applicant,

v.

TALBERT CYPRESS and LUCAS K. OSCEOLA, Respondents.

APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

To the Honorable Clarence Thomas, Associate Justice and Circuit Justice for the Eleventh Circuit:

Applicant Nicolas A. Manzini in propria persona respectfully request that the time for him to file a petition for a writ of certiorari in this case be extended for 60 days, to and including October 24, 2026.

A panel of the Eleventh Circuit comprised of Judges Jill A. Pryor, Kevin C. Newsom, and Elizabeth L. Branch issued its opinion on May 1, 2026 and then issued an order denying Applicant's petition for panel rehearing on May 26, 2026. True copies of the opinion and order are attached o this application.

Without an extension of time, the petition would be due on August 25, 2026. Applicant files this pro se application more than 10 days before that date. S. Ct. R. 13.5.

This Court will have jurisdiction pursuant to 28 U.S.C. § 1254(1). The text of that statute is also attached.

Background

This was an action for prospective equitable relief which was filed by Appellant, a 75-year old disabled former lawyer and past member of the Bar of this Court,1 in the United States District Court for the Southern District of Florida based upon federal question jurisdiction against Respondents Talbert Cypress and Lucas K. Osceola as Chairman and Vice-Chairman, respectively, of the Miccosukee Tribe of Indians of Florida, for actions that exceed the scope of their authority as tribal officials and violate the letter and spirit of the Indian Gaming Regulatory Act of 1988, 29 U.S.C. §§ 2701, et seq. (IGRA).

In his District Court complaint, Applicant alleged that Respondents' operation of the Tribe's sole casino located in Miami-Dade County, Florida, and certain gaming practices detailed therein are contrary to the precepts of IGRA, specifically the Act's section 2702(b) which assures the public that Indian gaming will be conducted "fairly and honestly" by its operators.

Before Applicant complained to Respondents, the ubiquitous kiosks inside their casino deceitfully short-changed patrons of coin currency due to abject lack of notice. After Applicant's pre-suit complaint, Respondents permanently barred him from their casino and threatened to have him arrested for trespass. They also modified the signage on their kiosks' monitors to inform patrons that the kiosks do not dispense coins, but only *after* the patron has already inserted his casino cashout voucher into the

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1 In the interest of disclosure, Applicant knew Justice Alito when both were undergraduates at Princeton during 1969-1972 and participated together in intercollegiate debating activities. Applicant has had no contact with the Justice since exchanging congratulatory correspondence with him upon his appointment to the Court in 2006.

kiosk to avoid a trip to and long lines at the cashier. It remains a subterfuge for larceny by Respondents.

In sum, Applicant's District Court action sought to prospectively enjoin Respondents' continuing their violation of the Act.

The District Court dismissed Applicant's complaint with prejudice finding that Applicant has no right of action exists against Respondents under IGRA and that permitting Applicant to amend would be futile.

Applicant then sought post-dismissal relief pursuant to Fed R. Civ. Proc. 59 based expressly upon an intervening order from a sister District Court (released after briefing had concluded in the District Court below) which found that even if IGRA does not provide a right of action per se, Congress has not intended to foreclose courts from granting equitable relief to halt a continuing violation of the Act.2 That order cited and was expressly based upon precedents from this Court. The District Court denied Applicant's post-dismissal motion.

On what was supposed to be de novo review, a panel of the United States Court of Appeals affirmed both orders, agreeing with the District Court that no right of action exists under IGRA and that the case decided by the sister District Court was inapposite to Applicant's case, with nary a word being said about this Court's precedents that supported and furthered the sister District Court's rationale.

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2 Cayuga Nation v. New York State Gaming Commission, 5:24-cv 537-BKS/TWD (N.D.N.Y., March 31, 2025) [ECF. No. 61] reaffirmed [ECF No. 83] (Congress did not intend to foreclose equitable relief ***"even absent a private right of action in IGRA itself"***)(our emphasis).

Reasons for Granting an Extension of Time

The time to file a petition for a writ of certiorari should be extended for 60 days for the following reasons:

1. The pro se Applicant is scheduled for a second round of eight (8) weeks of chemotherapy for the recurrence of his bladder cancer starting this month and the concomitant chemo brain fog that will follow.

2. The pro se Applicant is also scheduled for the insertion of an AV-fistula for imminent commencement of first-time dialysis during three 4-hour sessions per week to treat his stage 5 renal failure.

3. The pro se Applicant has recently undergone amputation of his two great toes as a result of his diabetes-related osteomyelitis.

4. Under these dire circumstances, preparation of a petition for a writ of certiorari will be difficult if not impossible, at least not in an orderly fashion, thereby necessitating an extension of 60 days to do so.

5. No prejudice would arise from the requested extension. If the petition were granted, the Court could hear oral argument in this case in the October 2026 Term even if an extension is allowed.

6. Applicant believes there is a reasonable prospect that this Court will grant the petition because A) it appears this may be a case of first impression, and B) the Court of Appeals' panel failed to consider or address the following persuasive precedents from this Court:

- Verizon Md. Inc. v. Pub. Serv. Comm'n of Md., 535 U.S. 635, 645 (2002) (quoting Idaho v. Coeur d'Alene Tribe of Idaho, 521 U.S. 261, 296 (1997) (O'Connor, J., concurring in part and concurring in the judgment)(requiring a district court faced with an alleged on-going violation of a federal statute to make a "straightforward inquiry into whether [the] complaint alleges an on-going violation of federal law and seeks relief properly characterized as prospective"). The District Court below made no such inquiry.

- Armstrong v. Exceptional Child Center, Inc., 575 U.S. 320 (2015) where the Court made clear that although the Supremacy Clause of the Constitution did not confer a "private right of action" (in that case, to enjoin implementation of the Medicaid statute): *"[t]he ability to sue to enjoin [unlawful] actions by [officers cloaked with sovereign immunity] is the creation of courts of equity, and reflects a long history of judicial review of illegal executive action ..."* (our emphasis) Id at 327.

- Va. Office for Protection & Advocacy v. Stewart, 563 U.S. 247, 254-55 (2011), aff'd sub nom., Unkechaug Indian Nation v. Seggos, 126 F. 4th 822 (The Court held that an exception to Eleventh Circuit immunity is where a suit is against an official for *prospective relief*, otherwise known as the Ex parte Young doctrine)(our emphasis).

- Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996) (The Court held that Ex parte Young may not be used to bring an action under IGRA to enforce a violation of that Act or in any other instances *"where Congress has prescribed a*

detailed remedial scheme for the enforcement … of a statutorily created right")(our emphasis) 517 U.S. at 74. IGRA does *not* prescribe a detailed remedial scheme for the enforcement of the statutorily created right at issue in this case.

- Carpenter v. Wabash Railway Co., 308 U.S. 23 (1940)(The Court has long held that, if subsequent to the trial court's judgment but before the decision of the appellate court, a law intervenes and positively changes the rule that governs, the law must be obeyed).

- Harper v. Virginia Department of Taxation, 509 U.S. 86 (1993)(In civil cases, judicial decisions bearing upon the issue in question are given full retroactive effect).

- Dupree v. Younger, 598 U.S. 759 (2023)(The Court unanimously held that the preservation requirement yields when the question for the appellate court is a "purely legal issue" as it is in this case). Thus, even if Applicant's post-dismissal motion were deemed flawed, no post-judgment motion for rehearing or reconsideration was necessary to guarantee review of the District Court's dismissal order.

Conclusion

For these reasons, the time to file a petition for a writ of certiorari should be extended 60 days to and including October 24, 2026.

Respectfully submitted,

Nicolas A. Manzini
6426 S.W. 9th Street
West Miami, Florida 33144
Telephone: (305) 335-3854
Email: manzini404@aol.com

Pro Se Applicant