

No. \_\_\_\_\_

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IN THE SUPREME COURT OF THE UNITED STATES

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Charles Brooks, in their individual capacity;  
Cheryl Piepho, in their individual capacity,

Applicants,

vs.

Jeremy James Allen,

Respondent.

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**APPLICATION FOR EXTENSION OF TIME TO FILE  
A PETITION FOR A WRIT OF CERTIORARI**

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ATTORNEYS FOR APPLICANTS

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TO: THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE JUSTICE  
OF THE SUPREME COURT OF THE UNITED STATES, AND  
CIRCUIT JUSTICE FOR THE EIGHTH CIRCUIT:

1. Pursuant to Supreme Court Rules 13.5, 22 and 30, Applicants respectfully request a 30-day extension of time, up to and including September 19, 2025, to file a petition for a writ of certiorari to the United States Supreme Court to review the Eighth Circuit Court of Appeals' decision in *Allen v. Amsterdam*, No. 23-3658 (attached as Exhibit A).

2. This case arises out of a claim under 42 U.S.C. § 1983 by Respondent Jeremy Allen, alleging deficient medical care in violation of the Eighth Amendment. Mr. Allen began his lawsuit while still incarcerated and amended his complaint shortly after his release to include Applicants Cheryl Piepho and Charles Brooks, both employees of the Minnesota Department of Corrections. Mr. Allen argued that the exhaustion requirement of the Prison Litigation Reform Act did not apply to his claims against Applicants because he was no longer incarcerated at the time of the proposed amendment. The district court denied Applicants motion for summary judgment and certified the issue for interlocutory review under 28 U.S.C. §1292(b). A split panel of the Eighth Circuit affirmed, joining a minority of circuits that have considered the PLRA's exhaustion rule in this context. *Allen v. Amsterdam*, 132 F.4th 1065, 1069 (8th Cir. 2025). The dissenting member of the panel argued that the majority's reasoning disregarded the text of the PLRA and that the majority

“compound[ed] its first error by ruling that Allen’s amended complaint controls the timing issue *and* does not relate back under Rule 15(c), thereby depriving [Piepho and Brooks] of the PLRA exhaustion defense to which they were entitled when the initial complaint was filed.” *Id.* at 1072 (Loken, J., dissenting) (emphasis original). The Eighth Circuit denied Applicants’ petition for rehearing en banc, with four judges voting to grant rehearing. *See* attached Exhibit B.

3. The Eighth Circuit entered judgment on March 26, 2025. The court denied the Applicant’s petition for rehearing en banc on May 22, 2025. Without an extension, the time to file a petition for a writ of certiorari will expire on August 20, 2025. This application is timely because it is being filed more than 10 days before the petition is due. *See* Sup. Ct. R. 13.5. This Court’s jurisdiction would be invoked under 28 U.S.C. § 1254(1).

4. Good cause exists for a 30-day extension to file a petition for a writ of certiorari. Lead appellate counsel Michael Goodwin recently substituted as counsel and needs more time to fully review the file, research the applicable law, and prepare the petition. The Office of the Minnesota Attorney General also needs more time to consult with Minnesota Department of Corrections officials and other stakeholders regarding certiorari. The requested extension will ensure that counsel have time to fully assess and brief the important issues in this case, which are complex and have divided the circuits.

5. Additionally, counsel for Applicants have had and continue to have significant ongoing briefing, oral argument, and trial preparation responsibilities in a number of significant matters pending in trial and appellate courts in Minnesota, including, but not limited to, *Knife Rights, Inc. v. Ellison*, Court File 24-CV-03749 (PJS/DTS) (D. Minn.); *Larson v. Minnesota State College-Southeast*, Court File 23-CV-3664 (ECT/DJF) (D. Minn.); *Abraham v. Minnesota Department of Transportation*, Court File No. 62-CV-25-4168 (Minn. Dist. Ct.); *Berrier v. Minnesota State Patrol*, Court File 74-CV-19-2217 (Minn. Dist. Ct.); *Loso v. Minnesota Department of Natural Resources*, Court File (07-CV-25-428); *McDonough v. Minnesota Department of Corrections*, Court File 62-CV-22-2912 (Minn. Dist. Ct.); *Public Record Media v. Minnesota Department of Public Safety*, Court File 62-CV-24-5264 (Minn. Dist. Ct.); and *Staples v. Dakota County Community and Technical College*, Court File 19HA-CV-24-1308 (Minn. Dist. Ct.).

6. For all these reasons, Applicants respectfully request that an order be entered extending the time to file a petition for a writ of certiorari for 30 days, up to and including September 19, 2025.

Dated: August 7, 2025

Respectfully Submitted,

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/s/ Michael Goodwin

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