No. 25A____

Supreme Court of the United States

HAL TAYLOR,
IN HIS OFFICIAL CAPACITY AS SECRETARY
OF THE ALABAMA LAW ENFORCEMENT AGENCY,
Petitioner,
v.
JONATHAN SINGLETON, ET AL.
Respondents.

UNOPPOSED APPLICATION FOR 30-DAY EXTENSION OF TIME TO FILE PETITION FOR A WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Application to the Honorable Clarence Thomas
as Circuit Justice for the Eleventh Circuit

Applicant Hal Taylor, in his official capacity as Secretary of the Alabama Law Enforcement Agency, respectfully requests a 30-day extension of the time in which to file a petition for a writ of certiorari. *See* S. Ct. R. 13.5.

1. The judgment sought to be reviewed is *Singleton v. Taylor*, No. 23-11163 (11th Cir.). The Eleventh Circuit issued its opinion on April 8, 2025 (Ex. A), and its order denying the petition for rehearing en banc on May 28, 2025 (Ex. B). Currently, the time to seek certiorari will expire on August 26, 2025; since that date is more than ten days away, this application is timely. S. Ct. R. 13.5, 32.2. Jurisdiction will rest upon 28 U.S.C §1254(1). Respondents do not object to this extension request.

2. The case addresses the question "whether begging is protected speech under the First Amendment." Ex. A at 2.

3. Alabama prohibits remaining in a public place for the purpose of begging. Ala. Code §13A-11-9(a)(1). Alabama also prohibits standing on a highway to solicit. Ala. Code §32-5A-216(b). But in the Eleventh Circuit, "begging is speech entitled to First Amendment protection." *Smith v. City of Fort Lauderdale*, 177 F.3d 954, 956 (11th Cir. 1999). As a result, the district court deemed Alabama's begging laws facially unconstitutional and permanently enjoined their enforcement against Jonathan Singleton and a class of all other people who will beg on an Alabama street. Following circuit precedent, the Eleventh Circuit affirmed.

4. The forthcoming certiorari petition will argue that "the scope of the First Amendment" is defined by "history and tradition." *Vidal v. Ester*, 602 U.S. 286, 301 (2024). The historical pedigree of begging laws is unparalleled. At the time of the founding, *every single State* had vagrancy statutes, many of which specifically banned begging. President Madison signed legislation empowering Washington, D.C., to penalize all persons "found begging." 2 U.S. Statutes at Large 725-26 (1812). The roots of these laws run even deeper than the colonial era—they "have been a fixture of Anglo–American law at least since the time of the Norman Conquest." *City of Chicago v. Morales*, 527 U.S. 41, 103 (1999) (Thomas, J., dissenting) (citing *Papachristou v. Jacksonville*, 405 U.S. 156, 161-62) (1972)). Alabama's enjoined statutes have not just historical analogues but many historical twins. For instance, one of Alabama's first acts incorporated Mobile and conferred specific powers to protect public order and decency, including the power to regulate and punish begging. *See* Act of Dec. 17, 1819 §7, 1819 ALA. ACTS 125, 129 (Boardman, ed. 1820).

5. The only question, then, is whether history matters when interpreting the scope of the Free Speech Clause. The answer must be *yes*. Time and again, the Court has asked whether the First Amendment was "commonly understood to upend" an established practice at the founding. *Houston Cmty. Coll. Sys. v. Wilson*, 595 U.S. 468, 475 (2022); *accord Elster*, 602 U.S. at 295, 299, 301; *City of Austin v. Reagan Nat'l Advert. of Austin, LLC*, 596 U.S. 61, 75-76 (2022); *cf. N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17 (2022) (discussing the government's burden to show that expression "falls outside the category of protected speech" through "*historical* evidence about the reach of the First Amendment[]"). Although much free speech doctrine does not focus on constitutional text, history, and tradition, what counts as protected speech does.

6. Some categories of expression remain unprotected today because they have always been unprotected. *See, e.g.*, *Roth v. United States*, 354 U.S. 476, 483 (1957) (obscenity was "outside the protection intended" at "the time of the adoption of the First Amendment"); *Beauharnais v. People of State of Ill.*, 343 U.S. 250, 263 (1952) (defamation was sanctionable per "centuries of Anglo-American law"); *United States v. Stevens*, 559 U.S. 460, 471 (2010) (child pornography is integral to a crime, a "long-established category of unprotected speech") (characterizing *New York v. Ferber*, 458 U.S. 747 (1982)).

7. Conversely, some categories of expression are protected today because they have never been restricted. *See, e.g.*, *Stevens*, 559 U.S. at 469 (depictions of animal cruelty are protected for want of a "long history" of restriction); *Brown v.*

Entertainment Merchants Ass'n, 564 U.S. 786, 795 n.3 (2011) (violent video games are protected due to the "absence of any historical warrant" for restriction); *Republican Party of Minnesota v. White*, 536 U.S. 765, 785 (2002) (judicial campaign speech is protected because the "practice of prohibiti[on]" was "neither long nor universal"); *Near v. State of Minnesota ex rel. Olson*, 283 U.S. 697, 718 (1931) (reporting on official malfeasance is protected based on "one hundred and fifty years" without "restraints").

8. The only difference between begging and other categories of "historically unprotected" expression is that begging has "not yet been specifically identified or discussed as such in [the] case law." *See Stevens*, 599 U.S. at 472. But it should be. Begging laws not only "existed alongside the First Amendment from the beginning," *Elster*, 602 U.S. at 295, but "went virtually unchallenged" for centuries, *Morales*, 527 U.S. at 53 n.20 (plurality opinion). The power to regulate begging was "more or less assumed" at the founding, and there is "no evidence suggesting prior generations thought" otherwise. *Houston Cmty. Coll. Sys.*, 595 U.S. at 475, 477.

9. The issue is exceptionally important. Invoking the freedom of speech, federal courts across the country have interfered with a State's basic "duty and … power to maintain the public peace" and good order. *See Morales*, 527 U.S. at 102 (Thomas, J., dissenting); *Bartkus v. Illinois,* 359 U.S. 121, 137 (1959). But grappling with the "health and safety crisis" on America's streets demands "the full panoply of tools in the policy toolbox." *City of Grants Pass v. Johnson*, 603 U.S. 520, 528, 533 (2024). Those tools must comply with "a number of limits" set by the Constitution, *id.* at 541, but as far as begging is concerned, the Free Speech Clause is not one of them.

10. There is good cause for an extension of 30 days. Counsel for Applicant represent the State of Alabama and its officers in cases with upcoming deadlines, including stay-of-execution briefing in *Boyd v. Hamm*, 2:25-cv-529 (M.D. Ala.) due August 8; a brief in opposition in *Acklin v. Hamm*, 25-5145 (U.S.) due August 18; merits brief in *Ex parte Grimes*, SC-2025-0172 (Ala.) due August 20; a merits brief in *Stallworth v. Commissioner*, 25-10417 (11th Cir.) due August 22; a merits brief in *Washington v. Commissioner*, 24-13905 (11th Cir.) due September 2; an evidentiary hearing in *Boyd*, *supra*, on September 2; a jurisdictional statement in *Allen v. Milligan* (U.S.) due September 4; and oral argument in *NAACP v. Marshall*, 24-13111 (11th Cir.) on September 16.

Respectfully submitted,

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