

No. 26A-_____

IN THE
SUPREME COURT OF THE UNITED STATES

KATRINA PARKER,

Applicant,

v.

B. SUE FULTON, IN HER OFFICIAL CAPACITY AS CHIEF ADMINISTRATOR OF THE NEW JERSEY
MOTOR VEHICLE COMMISSION; AND NEW JERSEY MOTOR VEHICLE COMMISSION,

Respondents.

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Third Circuit

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

Andrew Rozynski
David John Hommel
EISENBERG & BAUM, LLP
24 Union Square East,
PH
New York, NY 10003
(212) 353-8700

Adam W. Hansen
Counsel of Record
Colin Reeves
UNIVERSITY OF MINNESOTA
LAW SCHOOL
CIVIL RIGHTS APPELLATE CLINIC
229 19th Avenue South
Minneapolis, MN 55455
(612) 927-2969
adam@apollo-law.com

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

TO: Justice Samuel Alito, Jr., Circuit Justice for the United States Court of Appeals for the Third Circuit:

Under this Court’s Rules 13.5 and 22, Applicant Katrina Parker requests an extension of 60 days in which to file a petition for a writ of certiorari in this case.

1. The Third Circuit Court of Appeals issued its decision on October 24, 2025. *See Parker v. N.J. Motor Vehicle Comm’n*, 158 F.4th 470 (3d Cir. 2025); App. 1. The Court denied the Applicant’s petition for panel rehearing and for rehearing *en banc* on November 24, 2025. App. 26. Unless extended, the time to file a petition for certiorari will expire on February 23, 2026.¹ With the requested extension, the petition would be due on April 24, 2026. This application is being filed more than 10 days before the petition is due. *See* S. Ct. R. 13.5. This Court has jurisdiction to review the Third Circuit’s judgment under 28 U.S.C. § 1254(1).

2. This case is a serious candidate for review. Title II of the Americans with Disabilities Act (“ADA”) and the Rehabilitation Act of 1973 make it unlawful to discriminate against disabled people who are “qualified.” 42 U.S.C. § 12132; 29 U.S.C. § 794(a). This case involves interpreting the phrase “qualified individual with a disability” in those statutes. 42 U.S.C. §§ 12131(2), 12132; 29 U.S.C. § 794(a).

“The term ‘qualified individual with a disability’ means an individual with a disability who, with or without reasonable modifications to rules, policies, or

¹ Ninety days after November 24, 2025 is February 22, 2026—a Sunday. The default deadline is therefore the following day. Sup. Ct. R. 30.1.

practices,...meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” 42 U.S.C. § 12131(2). Not every eligibility requirement a public entity imposes is essential. When a public entity “impose[s] or appl[ies] eligibility criteria that screen out or tend to screen out an individual with a disability,” those eligibility criteria are not essential “unless such criteria can be shown to be necessary for the provision of the service, program, or activity being offered.” 28 C.F.R. § 35.130(8).

3. New Jersey directly screens out hearing-impaired people on the basis of disability from becoming bus drivers in the state. That’s because New Jersey makes all bus drivers pass a hearing test—something those with hearing impairments cannot do. App. 7-8.

4. Applicant Katrina Parker is one such person. Parker is deaf, and she wanted to become a bus driver in New Jersey. App. 3, 6. To do that, she first needed to obtain a Commercial Driver’s license (“CDL”). App. 6. New Jersey issued her a CDL in 2017 after she received an exemption from the hearing-test requirements that the Federal Motor Carrier Safety Administration (“FMCSA”) generally imposes on those who drive commercial motor vehicles. App. 5-6.

In addition to obtaining a CDL, those who wish to become bus drivers in New Jersey must also apply for and receive passenger (“P”) and school-bus (“S”) endorsements from the state. App. 6-7. That requires passing certain knowledge and skills tests. App. 7. And key here, it also requires passing a hearing test—“regardless of whether the applicant has [been exempted from taking or passing any such test

by] the FMCSA.” *Id.* Unlike the federal government, New Jersey will not waive this requirement. App. 7-8.

After Parker received her federal hearing exemption and her CDL, she applied for the P and S endorsements to become a bus driver in New Jersey. She took and passed the skills and knowledge tests for those endorsements, New Jersey issued her the endorsements, and Parker became a shuttle bus driver at Rutgers University. App. 8. But after eight months of incident-free driving, New Jersey rescinded Parker’s P and S endorsements when it determined that “her federal [hearing] exemption allowed her to have a CDL, but not a P or S endorsement.” App. 8. That meant Parker could no longer work as a bus driver in New Jersey. App. 9.

5. Parker brought suit in the United States District Court for the District of New Jersey, alleging that New Jersey² discriminated against her under Title II of the ADA, the Rehabilitation Act, and New Jersey state law, and that it violated her rights under the Fourteenth Amendment of the U.S. Constitution. App. 9-10. On cross-motions for summary judgment, the district court granted New Jersey summary judgment on all of Parker’s claims. App. 11.

6. The Third Circuit affirmed. The panel held that Parker is not qualified under the ADA or the Rehabilitation Act because she cannot meet the hearing requirement that New Jersey imposes on those who seek to become bus drivers in the state. App.

² The respondents in this case are the New Jersey Motor Vehicle Commission and B. Sue Felton, the chief administrator of the commission. Parker refers to the respondents as “New Jersey” for ease of exposition.

13-18. The panel deemed this requirement to be “an essential eligibility requirement,” 42 U.S.C. § 12131(2), without analyzing whether it is actually “necessary,” 28 C.F.R. § 35.130(8), even though the hearing requirement directly “screen[s] out” Parker based on her hearing disability, *id.* The panel reached this conclusion even though Parker passed all other tests and worked as a bus driver without incident for eight months, and even though other states permit people with hearing disabilities to work as bus drivers. *See* Vt. Code R. 14-050-018(a)(2) (Vermont). The court subsequently denied a petition for *en banc* and panel rehearing. App. 26.

7. This case raises an important question of law about what counts as an “essential eligibility requirement” under Title II of the ADA and the Rehabilitation Act—especially when, as here, the public entity imposes an eligibility requirement that disqualifies a person from a public program based on his or her disability. There is a reasonable prospect that this Court will grant the petition, such that it warrants additional time for this important question to be fully addressed.

This application for a 60-day extension seeks to accommodate Applicant’s legitimate needs. The application is not filed for the purpose of delay. Applicant recently retained counsel at the University of Minnesota Law School Civil Rights Appellate Clinic. The members of the clinic were not involved in the case in the district court or in the Third Circuit. The extension is needed for the clinic’s students and supervising attorneys to fully familiarize themselves with the record, the decisions below, and the relevant case law. In light of the Clinic’s and the supervising attorneys’ many other obligations—including submitting merits briefs in cases

currently pending in the Sixth, Eighth, and Eleventh Circuits—the Clinic would face difficulties completing those tasks by the current due date.

For these reasons, Parker requests that the due date for her petition for a writ of certiorari be extended to April 24, 2026.

Respectfully submitted,



Dated: February 10, 2026

Adam W. Hansen
Counsel of Record
Colin Reeves
UNIVERSITY OF MINNESOTA
LAW SCHOOL
CIVIL RIGHTS APPELLATE CLINIC
229 19th Avenue South
Minneapolis, MN 55455
adam@apollo-law.com

Andrew Rozynski
David John Hommel
EISENBERG & BAUM, LLP
24 Union Square East, PH
New York, NY 10003
(212) 353-8700