

No. _____

In the
Supreme Court of the United States

PATRICK REED
Petitioner

v.

SHANE RYAN, et al

Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITIONER'S EMERGENCY MOTION TO DIRECT CLERK OF
THE COURT TO FILE PETITION FOR WRIT OF CERTIORARI OUT
OF TIME AND MOTION FOR EXTENSION OF TIME

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Petitioner Patrick Reed (“Mr. Reed”) respectfully moves for an order directing the clerk of the Court to accept his Petition for a Writ of Certiorari concerning the appeal to the U.S. Court to the Eleventh Circuit (“Eleventh Circuit”) styled *Reed v. Ryan et al*, 24-10070 (11th Cir.) (the “*Ryan Matter*”) for filing. Pursuant to instruction from unit supervisor Ms. Susan Frimpong (“Ms. Frimpong”), an 8.5 x 11 copy of the Petition for Writ of Certiorari referring only to *Ryan Matter* is being attached to this instant Motion.

BACKGROUND FACTS

On December 9, 2025 Mr. Reed sent to this Court for filing via Federal Express Overnight Delivery a Petition for Writ of Certiorari concerning two related cases which were originally filed in the U.S. District Court for the Middle District of Florida, and which were subsequently appealed to the Eleventh Circuit. These two related cases were centered around defamatory statements made by the Respondents, and were styled *Reed v. Chamblee et al*, 3:22-cv-01059-TJC-PDB (M.D. Fla.) (“the *Chamblee Matter*”) and *Reed v. Ryan et al*, 3:22-cv-01181-TJC-PDB)(M.D. Fla.) (the “*Ryan Matter*”).

On September 27, 2023, the Honorable Timothy J. Corrigan (“Judge Corrigan”) of the U.S. District Court for the Middle District of Florida issued one (1) single omnibus order dismissing both the related *Chamblee Matter* and the *Ryan Matter*. This was timely appealed to

the Eleventh Circuit and the *Chamblee* Matter was assigned case number 24-10058 and the *Ryan* Matter was assigned case number 24-10070 by the Eleventh Circuit.

On July 8, 2025, the Eleventh Circuit issued one (1) single omnibus order affirming the dismissals in both the related *Chamblee* Matter and the *Ryan* Matter.

In response, on August 5, 2025, counsel for Mr. Reed filed nearly identical Petitions for Rehearing En Banc in both the related *Chamblee* Matter and the *Ryan* Matter. These Petitions contained the same legal arguments, given that the Eleventh Circuit had issued just one (1) single omnibus order affirming the dismissals in both the related *Chamblee* Matter and the *Ryan* Matter.

Counsel for Mr. Reed therefore had reason to believe that the Eleventh Circuit would issue a single omnibus order on the two substantially similar Petitions for Rehearing En Banc, just as they had done on August 5, 2025 in affirming Judge Corrigan's order and also what Judge Corrigan had done on September 27, 2023 in dismissing the related *Chamblee* Matter and the *Ryan* Matter.

However, for the first time throughout the course of these two related proceedings, two separate orders were issued on the Petitions for Rehearing En Banc. The Eleventh Circuit issued its order

concerning the *Ryan* Matter on September 9, 2025 and then issued its order concerning the related *Chamblee* Matter on September 10, 2025.

Months later, when preparing the one Petition for Writ of Certiorari on both the related *Chamblee* and *Ryan* Matters, counsel for Mr. Reed and the printing service that was retained inadvertently calendared only the December 9, 2025 date—ninety days from the September 10, 2025 order in the *Chamblee* Matter—as the deadline for both related cases. This resulted in the final Petition for Writ of Certiorari not being received by counsel for Mr. Reed until the morning of December 9, 2025, when it was given final approval and sent to printing. This inadvertent calendaring error resulted in the Petition for Writ of Certiorari being rejected by the clerk of this Court as untimely as set forth in a letter from the clerk of the Court of December 31, 2025.

This inadvertent error was not discovered by counsel for Mr. Reed until January 12, 2026, upon checking the docket and discovering that the Petition for Writ of Certiorari had been rejected. Counsel for Mr. Reed immediately called the clerk of the Supreme Court, as the December 31, 2025 letter from the clerk had not been delivered in the mail and was later returned to the Court along with the booklets as undeliverable. The clerk of the Court emailed a copy of the letter to counsel for Mr. Reed and directed inquiries to Ms. Pipa Fisher (“Ms.

Fisher”), case analyst for the Court. After speaking with Ms. Fisher, the undersigned counsel attempted to file an Application for Extension of Time *Nunc Pro Tunc* (the “Application”) in order to resolve this issue. The Application was rejected by the Court and on or about February 2, 2026, the undersigned counsel was informed by Ms. Fisher that an Application could no longer be accepted and processed after receipt of a Petition for Writ of Certiorari and that the paper copies of the Petition had been returned to counsel for Petitioner.

Ms. Fisher then informed the undersigned counsel that the Application must instead be styled as a “Motion to Direct the Clerk”. On or about February 2, 2026, Ms. Fisher’s instructed Petitioner to include one (1) copy of the Petition, Appendix, and Supplemental Appendix at the time of filing. On or about February 19, 2026, the undersigned submitted for filing a “Motion to Direct the Clerk” by itself, as he had not yet received the rejected original Petition, Appendix, and Supplemental Appendix back in the mail yet. In the course of following up with Ms. Fisher and Ms. Frimpong on this issue, on March 17, 2026 Ms. Frimpong informed the undersigned that the February 19, 2026 “Motion to Direct the Clerk” could not be accepted because internal operating procedures required that such a motion must be accompanied by a Petition only referencing the out-of-time *Ryan* Matter. Ms. Frimpong then assured the undersigned counsel that

if and when this motion is granted, the original submitted Petition from December 9, 2025 would be accepted for filing, thereby obviating the need for reprinting. Ms. Frimpong also informed the undersigned that he would be given sixty (60) days from March 16, 2025 to fix the Petition otherwise. Accordingly, this Motion and accompanying Petition have been modified to comport with Ms. Frimpong's instructions.

LEGAL STANDARD

Supreme Court Rule 13 states that a petition for a writ of certiorari to review a judgment is timely when it is filed with the Clerk of this Court within 90 days after entry of the judgment. *See* U.S. Sup. Ct. R. 13(1). Where a petition for rehearing is timely filed, the time to file a petition for a writ of certiorari runs from the date of the denial of rehearing. *See* U.S. Sup. Ct. R. 13(3).

The Court has observed that the time limit in its Rules to file a petition for a writ of certiorari is not jurisdictional, and does not bar the Court's discretion to consider the case. *See Taglianetti v. United States*, 394 U.S. 316, 316–317 (1969) (*per curiam*) (citing *Heflin v. United States*, 358 U.S. 415, 418 n. 7 (1959)). The requirement can be waived by the Court. *See Schacht v. United States*, 398 U.S. 58, 63–64 (1970) (Court waived the defect of the petitioner's petition for a writ of certiorari being filed 101 days late where there was evidence of the

petitioner's good faith and circumstances largely beyond his control). "The procedural rules adopted by the Court for the orderly transaction of its business are not jurisdictional and can be relaxed by the Court in the exercise of its discretion when the ends of justice so require." *Id.* at 64. The Court has granted motions for leave to file petitions for a writ of certiorari in the past. *See Maxwell v. Bishop*, 385 U.S. 650, 650 (1967) (*per curiam*); *Fryer, ex parte*, 302 U.S. 745 (1937).

REASONS FOR GRANTING MOTION

The Petition for Writ of Certiorari regarding the *Ryan* Matter respectfully should be accepted for filing by the clerk for the following reasons:

1. As set forth above, the Petition for Writ of Certiorari concerning both the related *Ryan* and *Chamblee* Matters being sent for filing on December 9, 2025 were the result of a good-faith, inadvertent, and understandable inadvertent error by counsel and printer for Mr. Reed. This was the result of Judge Corrigan and the Eleventh Circuit having previously issued single, omnibus orders on both the related *Ryan* and *Chamblee* Matters throughout these proceedings, and the passage of time after the Eleventh Circuit had, for the first time, issued separate orders regarding the Petitions for Rehearing En Banc and furthermore issued them on consecutive days. This caused the deadline for the Petition for Writ of Certiorari

concerning both the related *Ryan* and *Chamblee* Matters to have been inadvertently calendared for December 9, 2025.

By way of analogy, Federal Rule of Civil Procedure 60(b)(1) permits courts to “relieve a party from a final judgment for “mistake, inadvertence, surprise, or excusable neglect. This Court has held that the determination for whether an error constitutes “excusable neglect” is equitable. *Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 395 (1993). The factors include, “the danger of prejudice to the [other party], the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith.”

Here, all of these factors weigh strongly in favor of Mr. Reed. There is no prejudice to Respondents if this brief one-day extension of time, *nunc pro tunc*, is granted. They have already been served with the Petition for Writ of Certiorari on December 9, 2025. The length of delay—one (1) day—is the shortest length possible. There is thus no impact on judicial proceedings, as the Petition for Writ of Certiorari has already been received by the Court on December 10, 2025 and is ready to proceed. Finally, counsel for Mr. Reed acted in good faith, as this was an inadvertent error which was in no way a “deliberate attempt to gain a tactical or strategic advantage in litigation by

intentionally violating procedural rules.” *Axelrod v. Zeltiq Aesthetics, Inc.*, 2025 U.S. Dist. LEXIS 127401, at *5 (C.D. Cal. June 30, 2025).

Thus, given the extremely minimal effect that this inadvertent, good faith error had on the Court and the Respondents in contrast to the highly prejudicial effect of Mr. Reed losing his right to seek redress in the *Ryan* Matter, the “equities” weigh heavily in favor of granting relief.

2. This Petition for Writ of Certiorari involves issues which Justice Thomas and the Honorable Neil Gorsuch (“Justice Gorsuch”) have expressly called for review of—namely the constitutional foundations and continued viability of the *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964) (“*Sullivan*”) framework. These related cases present a clean and opportune vehicle to address the question of whether this Court should reconsider the constitutional foundations and pleading requirements of *Sullivan* for public figure defamation claims, as urged by Justice Thomas in *McKee v. Cosby*, 586 U.S. 1172 (2019) and Justice Gorsuch in *Berisha v. Lawson*, 141 S. Ct. 2424 (2021) in light of the deepening circuit conflict over which allegations may appropriately plead actual malice at the pleading stage.

Thus, this impact, scope, and scale of these two related cases extends beyond just the parties involved but could potentially reshape defamation jurisprudence as a whole moving forward.

3. The instruction of the clerk of the Court in its December 31, 2025 letter stating “[t]o the extent you wish to seek review of the decision from the United States Court of Appeals for the Eleventh Circuit in case no. 24-10058, please correct your petition to reflect only that case” is cost-prohibitive, given that Mr. Reed has already spent upwards of \$20,000.00 in preparing this Petition for Writ of Certiorari. To have the Petition for Writ of Certiorari redone with only the *Chamblee* Matter would be another enormous and also unnecessary cost, in addition to depriving the Court of the opportunity to fully address the *Sullivan* actual malice framework as urged by Justice Thomas and Justice Gorsuch in the related cases.

4. Respondents and this Court would suffer no prejudice as a result of the relief sought herein.

CONCLUSION

Based on the foregoing, Mr. Reed respectfully requests that clerk of the Court be directed to accept the Petition with regard to the *Ryan* Case for filing one day out of time. The Petition with regard to the *Chamblee* Case has already been determined to be timely, and as such, the practical result of this Motion would be that the Petition which was sent to the Court on December 9, 2025 proceed as to both the related *Ryan* Case and the *Chamblee* cases.

Dated: April 1, 2026

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Larry Klayman, hereby certify that on the 30th day of March, 2026, I caused to be served one copy the Motion in the above referenced case by email upon the counsel for Respondents as listed below:

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Holdings

I further certify that all parties required to be served have been served.

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