

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

THOMAS ROYE WAHPEKECHE,

Applicant,

V.

DAVID ROGERS, WARDEN,

Respondent.

**APPLICATION FOR AN EXTENSION OF TIME TO
FILE A PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE TENTH CIRCUIT**

**Directed to the Honorable Neil M. Gorsuch,
Associate Justice, as Circuit Justice**

Jason B. Wesoky
Member of the Tenth Circuit's CJA Appellate Panel
Appointed pursuant to 18 U.S.C. § 3006A
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ATTORNEYS FOR APPLICANT

TO THE HONORABLE NEIL M. GORSUCH:

APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Thomas Roy Wahpekeche hereby requests a 60-day extension of time within which to file a petition for a writ of certiorari, up to and including October 5, 2026.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *Thomas Roy Wahpekeche v. Luke Pettigrew*¹, No. 23-6176 (10th Cir. 2026). The United States Court of Appeals for the Tenth Circuit entered its opinion and judgment on March 11, 2026.

¹ Applicant is housed at Joseph Harp Correctional Center. Luke Pettigrew served as Warden at the time the appeal was filed with the United States Court of Appeals for the Tenth Circuit. Warden Pettigrew is no longer in that position; David Rogers is now the Warden of Joseph Harp Correctional Center. Accordingly, Warden Rogers is the proper respondent. See Rule 2(a), Rules Governing Section 2254 Cases in the United States District Courts; Fed. R. App. P. 43(c)(2).

A timely filed petition for rehearing *en banc* was denied on May 8, 2026.

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254(1). Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for a writ of certiorari would be due to be filed on or before August 8, 2026. In accordance with Rule 13.5, this application is being filed more than 10 days in advance of the filing date for the petition for a writ of certiorari.

REASONS JUSTIFYING AN EXTENSION OF TIME

Applicant respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari seeking review of the decision of the United States Court of Appeal for the Tenth Circuit up to and including October 5, 2026.

Good cause exists for an extension to prepare a petition for a writ of certiorari in this case. Undersigned counsel is appointed pursuant the Criminal Justice Act, 18 U.S.C. § 3006A and requires additional time to draft the petition in this unique case involving complex Indian Law issues such as reservation disestablishment, Indian Allotments, and related matters. Undersigned counsel faces a significant press of business due to many upcoming deadlines and two weeks during which he is unavailable due to travel. Undersigned counsel is currently the President of the Colorado Trial Lawyers Association. As a result, he will be at annual conferences from July 24, 2026 through July 28, 2026 and August 3, 2026 through August 9, 2026. In addition, undersigned counsel is travelling from July 29, 2026 through August 2, 2026.

In addition to travel and regular business, undersigned counsel has mediation on July 17, appellate briefing due July

22, mediation on August 14, all-day depositions on August 20 and 25, mediation September 14, and mediation September 24.

The Applicant has not previously requested an extension.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari seeking a review of the decision of the United States Court of Appeal for the Tenth Circuit October 5, 2026.

Dated: July 15, 2026

Respectfully submitted,

OGBORN MIHM, LLP

Jason B. Wesoky
Member of the Tenth Circuit's CJA
Appellate Panel
Appointed pursuant to:
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