

No. A-_____

IN THE
Supreme Court of the United States

ST. DAVID'S HEALTHCARE PARTNERSHIP, L.P., L.L.P.,
Applicant,

v.

MELISSA HICKSON, *Individually and as the Independent
Administrator of THE ESTATE OF MICHAEL HICKSON, deceased and
as next friend of M.H., M.H., and M.H. (all minors);*
MARQUES HICKSON,
Respondents.

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

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TO THE HONORABLE SAMUEL A. ALITO, ASSOCIATE JUSTICE OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE FIFTH CIRCUIT:

Pursuant to this Court’s Rules 13.5 and 30.2, Applicant St. David’s Healthcare Partnership, L.P., L.L.P., respectfully applies for a 30-day extension of time, to and including October 23, 2026, within which to file any petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case.¹ The court of appeals denied rehearing en banc on June 25, 2026. App. 17a-18a. Unless extended, the time within which to file a petition for a writ of certiorari will expire on September 23, 2026. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1). This Application is timely because it has been filed more than ten days before the date on which the time for filing is due to expire.²

1. This case presents an important question of federal law: whether Section 504 of the Rehabilitation Act of 1973 and Section 1557 of the Patient Protection and Affordable Care Act permit disability-discrimination claims premised on a physician’s medical-treatment decisions when the patient’s disability is related to the conditions being treated. Until the panel decision below, courts of appeals had uniformly answered that question in the negative, recognizing that a contrary result conflicts with the statutory text and federalizes medical malpractice.

¹ St. David’s Healthcare Partnership, L.P., L.L.P. is a Texas limited partnership and has no corporate parent, but its partnership interests are held by indirect subsidiaries of HCA Healthcare, Inc., St. David’s Foundation, and Georgetown Health Foundation. HCA Healthcare, Inc. is publicly traded on the NYSE (symbol “HCA”), but no publicly held company owns 10% or more of its stock. St. David’s Foundation and Georgetown Health Foundation are non-profit entities that have no corporate parents.

² Dr. Devry Anderson, Hospital Internists of Texas, Carlye Mabry Cantu, and Viet Vo were appellees before the Fifth Circuit but do not join this application.

2. Those disability-discrimination statutes protect an “otherwise qualified individual” from discrimination based “solely” on “her or his disability.” 29 U.S.C. § 794(a); see 42 U.S.C. § 18116(a). As many courts have correctly reasoned, a patient is not “otherwise qualified” for treatment when the disability is what makes the treatment necessary in the first place, meaning it “will rarely, if ever, be possible to say” that treatment was withheld solely by reason of disability. *Fitzgerald v. Corr. Corp. of Am.*, 403 F.3d 1134, 1144 (10th Cir. 2005). Before the decision in this case, every court of appeals to have addressed the question thus held that these disability-discrimination laws do not govern medical-treatment decisions and confined such claims to the narrow circumstance in which the patient’s disability is “unrelated to, and thus improper to consideration of, the services in question.” *United States v. Univ. Hosp., State Univ. of N.Y. at Stony Brook*, 729 F.2d 144, 156 (2d Cir. 1984); accord *Lesley v. Hee Man Chie*, 250 F.3d 47, 52-58 (1st Cir. 2001); *Grzan v. Charter Hosp. of Nw. Ind.*, 104 F.3d 116, 120-23 (7th Cir. 1997); *Burger v. Bloomberg*, 418 F.3d 882, 883 (8th Cir. 2005); *Simmons v. Navajo County*, 609 F.3d 1011, 1022 (9th Cir. 2010); *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1289, 1294 (11th Cir. 2005).

3. The Fifth Circuit’s decision in this case departed from that consensus. Michael Hickson suffered cardiac arrest in 2017. App. 2a. The spinal-cord injury he sustained during resuscitation and resulting anoxic brain injury left him a quadriplegic and chronically susceptible to infection. App. 2a-3a. Over the next three years, he was hospitalized repeatedly for urinary tract infections, sepsis, and pneumonia. App. 3a. In June 2020, he was admitted to St. David’s for those same conditions—

pneumonia, urinary tract infection, sepsis—and suspected COVID-19. App. 3a. Several days later, and with the consent of his court-appointed guardian, his physicians concluded that further curative treatment would be futile and that hospice care was appropriate. App. 3a-5a. He passed away soon thereafter.

4. Respondents sued St. David’s and several physicians, alleging disability discrimination under the Rehabilitation Act and the ACA together with claims under 42 U.S.C. § 1983 and Texas law. The district court properly dismissed the discrimination claims, holding that they related to medical-treatment decisions and therefore fell outside the reach of those statutes.

5. The Fifth Circuit vacated in relevant part. In doing so, the panel became the first court of appeals to hold that disability-discrimination claims can arise from medical-treatment decisions when the disability is related to the conditions being treated. That split with other courts of appeals warrants this Court’s review.

6. Good cause exists for the requested extension. Counsel of record has significant professional obligations before the current deadline, including briefing in *In re Barras*, No. 26-0786 (Tex.) (response to petition for writ of mandamus due September 8, 2026), *Ziegenfuss v. Martin*, No. 26-10302 (CA5) (appointed amicus brief filed August 14, 2026), and *In re Simon Prop. Grp.*, No. 26-0023 (Tex.) (amicus brief filed July 24, 2026); oral argument in *Bozorgi v. Cassava Scis.*, No. 25-50855 (CA5) (argued August 3, 2026); and matters in various trial courts. Additional time is also necessary to permit counsel—who was first retained only after the Fifth Circuit panel decision issued for the purpose of seeking en banc rehearing and this Court’s review—

to review the record, to research and address the important and recurring questions of federal law presented, and to prepare a petition that would be of assistance to the Court. This extension is not sought for purposes of delay or to prejudice any party, and St. David's is not aware of any party that would be prejudiced by a 30-day extension.

Accordingly, St. David's respectfully requests that the time to file a petition for a writ of certiorari be extended by 30 days, to and including October 23, 2026.

Respectfully submitted,

/s/ Gregg Costa

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September 1, 2026