

In the Supreme Court of the United States

LISA AFOLAYAN, WIDOW OF NATHANIEL AFOLAYAN, ON BEHALF OF HERSELF AND HER
MINOR DAUGHTER; NATALEE AFOLAYAN, DAUGHTER OF NATHANIEL AFOLAYAN,

Applicants,

v.

DEPARTMENT OF JUSTICE

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

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and
Circuit Justice for the United States Court of Appeals for the Federal Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicants Lisa Afolayan and Natalee Afolayan respectfully request a 30-day extension of time, to October 30, 2026, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Federal Circuit issued an opinion on April 17, 2026. A copy of that opinion is attached as Exhibit A. The Federal Circuit then denied Applicants' timely petition for rehearing en banc in an order issued on July 2, 2026. A copy of that order is attached as Exhibit B. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on September 30, 2026. This application is being filed more than ten days in advance of that date, and no prior application has been made in this case.

3. This case presents an important question about the interpretation of the Public Safety Officers' Benefits Act (PSOB Act). The PSOB Act states that when a public safety officer dies "as the direct and proximate result of a personal injury sustained in the line of duty," the Bureau of Justice Assistance (BJA) shall pay a benefit to the surviving family of the officer. 34 U.S.C. § 10281(a). Congress did not limit the universe of qualifying injuries, but instead provided this benefit to the surviving family of any officer who dies as the result of a personal injury sustained in the line of duty.

4. BJA's regulations, however, define "injury" to mean "a traumatic physical wound (or a traumatized physical condition of the body) directly and proximately caused by external force (such as bullets, explosives, sharp instruments, blunt objects, or physical blows), chemicals, electricity, climatic conditions, infectious disease, radiation, virus, or bacteria..." 28 C.F.R. § 32.3. And the Federal Circuit has further limited the universe of qualifying injuries by determining that the use of "climatic conditions" in the regulation refers only to unusually adverse climatic conditions.

5. The Federal Circuit has exclusive jurisdiction over cases challenging agency determinations made under the PSOB Act.

6. Applicants are the surviving family of Nathaniel Afolayan, a physically fit 29-year-old father of two who passed away after a timed training exercise at the Border Patrol Academy in Artesia, New Mexico, in April 2009. Agent Afolayan's death certificate listed "heat illness" as his cause of death. But when his family applied for a PSOB Act death benefit, they were denied twice. Applicants filed their most recent appeal of that denial mere months after this Court decided *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369

(2024), and confirmed that the Administrative Procedure Act requires a reviewing court to independently examine the statutory text to determine whether agency actions are consistent with the best reading of the statutory text. Before the Federal Circuit, Applicants argued that, under *Loper Bright*, the Bureau of Justice Assistance’s regulations were inconsistent with the PSOB Act’s text because they unduly limited the number of injuries that qualified for benefits.

7. Despite Applicants’ challenge to the validity of the applicable regulations, the Federal Circuit found that Agent Afolayan’s family was not entitled to a death benefit because he “did not sustain a compensable injury due to unusual, nonroutine, or unusually adverse climatic conditions,” Ex. A at 5—or, in other words, that he did not suffer an injury that qualified under the regulations. The Federal Circuit declined to decide any other issue raised in Applicants’ petition for review.

8. This case thus presents an ideal vehicle to resolve an exceptionally important question: whether the Public Safety Officers’ Benefits Act’s requirement that the Bureau of Justice Assistance pay a death benefit when an officer “has died as the direct and proximate result of a personal injury sustained in the line of duty” reaches deaths caused by all personal injuries sustained in the line of duty, or whether it reaches only personal injuries inflicted by specific causes. Because the Federal Circuit has exclusive jurisdiction over this question, only this Court can resolve the uncertainty sown by the decision below.

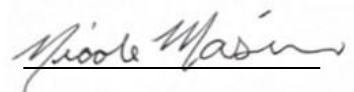
9. Applicants respectfully request an extension of time to file a petition for a writ of certiorari. A 30-day extension would allow counsel sufficient time to fully examine the decision below’s consequences, research and analyze the issues presented, and prepare

the petition for filing. Additionally, undersigned counsel has a number of other pending matters that will interfere with counsel's ability to file the petition on or before its current due date.

Wherefore, Applicants respectfully request that an order be entered extending the time to file a petition for a writ of certiorari to and including October 30, 2026.

Dated: September 10, 2026

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Nicole Masiello", written over a horizontal line.

Nicole L. Masiello

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