

No. _____

In the Supreme Court of the United States

ST. DOMINIC ACADEMY, D/B/A ROMAN CATHOLIC BISHOP OF PORTLAND, A CORPORATION
SOLE; ROMAN CATHOLIC BISHOP OF PORTLAND,

Applicants,

v.

A. PENDER MAKIN IN THEIR PERSONAL CAPACITY AND OFFICIAL CAPACITY AS THE
COMMISSIONER OF THE MAINE DEPARTMENT OF EDUCATION; EDWARD DAVID, IN THEIR
PERSONAL CAPACITY AND OFFICIAL CAPACITY AS THE COMMISSIONER OF THE MAINE
HUMAN RIGHTS COMMISSION; JULIE ANN O'BRIEN, IN THEIR PERSONAL CAPACITY AND
OFFICIAL CAPACITY AS THE COMMISSIONER OF THE MAINE HUMAN RIGHTS COMMISSION;

MARK WALKER, IN THEIR PERSONAL CAPACITY AND OFFICIAL CAPACITY AS THE
COMMISSIONER OF THE MAINE HUMAN RIGHTS COMMISSION; THOMAS L. DOUGLAS,
IN THEIR PERSONAL CAPACITY AND OFFICIAL CAPACITY AS THE COMMISSIONER OF
THE MAINE HUMAN RIGHTS COMMISSION; MEGAN SANDERS IN THEIR OFFICIAL
CAPACITY AS THE COMMISSIONER OF THE MAINE HUMAN RIGHTS COMMISSION;
JEFFERSON ASHBY, IN THEIR PERSONAL CAPACITY,

Respondents.

**APPLICATION TO THE HONORABLE KETANJI BROWN JACKSON
FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF
CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6, the undersigned counsel of record certifies that Applicants do not have a parent corporation and do not issue stock.

APPLICATION

To the Honorable Ketanji Brown Jackson, Associate Justice of the Supreme Court of the United States and Circuit Justice for the First Circuit:

Pursuant to Supreme Court Rule 13(5), Applicants St. Dominic Academy, d/b/a Roman Catholic Bishop of Portland, a corporation sole, and Roman Catholic Bishop of Portland¹ move for a sixty-day extension of time, to and including November 29, 2026, for filing a petition for writ of certiorari in this matter. The First Circuit issued its opinion on July 2, 2026. Absent an extension, Applicants' deadline for the filing of the petition would be September 30, 2026. This application is submitted more than ten days prior to the filing deadline.²

BACKGROUND

Maine law has long required towns without a public school serving particular grades to pay tuition for unserved students to attend private school through the state's tuition assistance program. *Carson v. Makin*, 596 U.S. 767, 774 (2022). For years, religious schools participated in the program. *Id.* "In 1981, however, Maine imposed a new requirement that any school receiving tuition assistance payments must be 'a nonsectarian school.'" *Id.* After a challenge to that restriction reached this Court decades later in *Carson*, the Court held that, "[r]egardless of how the benefit and restriction are described, the program operates to identify and exclude otherwise eligible schools on the basis of their religious exercise," thus violating the Free Exercise Clause. *Id.* at 789.

¹ Plaintiffs Keith and Valori Radonis, and their minor children, initially filed a claim for injunctive relief. However, during the pendency of the appeal, their claim for injunctive relief became moot, and the First Circuit remanded that claim for dismissal without prejudice. App.22-23. They are therefore not petitioning this Court for review.

² Per Rule 35.3 of the Rules of this Court, Respondent Megan Sanders has been automatically substituted for Respondent Jefferson Ashby. Sanders, a current Commissioner of the Maine Human Rights Commission, is a defendant in her official capacity. Ashby, a former Commissioner of the Maine Human Rights Commission and a defendant below in his personal capacity and official capacity, remains a defendant in his personal capacity.

While *Carson* was pending before this Court in 2021, Maine enacted three new restrictions on the program through amendments to its nondiscrimination law. App.15-18.

First, Maine’s Religious Nondiscrimination Rule “bars subject schools from discriminating on the basis of religion in admissions, financial aid, academics, extracurriculars, athletics, and the like.” App.43 (citing Me. Stat. tit. 5, § 4602(1)). To participate in the tuition-assistance program, Catholic schools like St. Dominic Academy may no longer “giv[e] preference to Catholic students in admissions and financial aid.” App.79.

Second, Maine’s Sexual Orientation and Gender Identity Nondiscrimination Rule “prohibits any in-state primary or secondary school receiving public funding from discriminating against students and applicants on the basis of sexual orientation or gender identity.” App.90 (citing Me. Stat. tit. 5, § 4602(1)). Pursuant to this rule, Maine “require[s] that a school receiving public funding use a transgender student’s preferred name and pronouns,” “mandate that employees and other students do the same,” and “allow the student to dress in accord with their gender identity”—all regardless of a school’s respect for contrary parental wishes. App.94, 96. Maine’s 2021 amendments repealed a longstanding provision exempting all religious schools from this rule; the law “now exempts from the Sexual Orientation and Gender Identity Nondiscrimination Rule only those religious schools that do not receive public funding.” App.18.

Third, Maine’s Religious Expression Rule “provides that ‘to the extent that an educational institution permits religious expression, it cannot discriminate between religions in so doing.’” App.15 (quoting Me. Stat. tit. 5, § 4602(5)(D)).

Each rule applies only to primary and secondary schools located in Maine that receive state funding. App.10. Maine funds private, out-of-state primary and secondary schools under the program, but it exempts them from its nondiscrimination rules.

App.10, 70. Maine also provides grants for attendance at private, in-state postsecondary institutions, but it exempts those institutions from its nondiscrimination rules as well. App.10.

St. Dominic Academy is a private Catholic school operated by the Roman Catholic Diocese of Portland. App.19. It currently offers education from pre-kindergarten through eighth grade. *Ibid.* The Roman Catholic Bishop of Portland is the head of the Diocese and oversees Catholic education within the Diocese. App.4. Unable to comply with Maine's new restrictions for religious reasons but eager and otherwise eligible to participate in the tuition-assistance program, Applicants challenged the application of Maine's new rules to St. Dominic and other Diocesan schools. App.20-21. Applicants filed a motion for preliminary injunction arguing that Maine's amended laws violated their rights under the Free Exercise Clause, the Free Speech Clause, and the Church Autonomy Doctrine. App.30, 51, 96-97.

The First Circuit held that Applicants had demonstrated a likelihood of success only regarding one of the three challenged rules. The court held that "the Religious Expression Rule would inevitably interfere with a religious school's ability to foster an expressive environment consistent with its religious mission," "lacks facial neutrality" because it "singl[es] out religious expression as opposed to other forms of expression," and fails strict scrutiny. App.38-43.

But the First Circuit held that the Religious Nondiscrimination Rule and the Sexual Orientation and Gender Identity Nondiscrimination Rule were permissible under the Free Exercise Clause. The court held that *Carson* was irrelevant because it applies only in cases where a rule "effectively target[s] religious schools as such," whereas giving preference to students that adhere to one's own religion "is not a uniquely religious practice." App.54; see also App.97-98 (applying the same reasoning to the Sexual Orientation and Gender Identity Nondiscrimination Rule). The court then held that the laws were both neutral and generally applicable despite the state's

across-the-board exemptions for out-of-state schools and in-state private postsecondary schools. App.71-76; see also App.98. The court further held that Maine's laws did not infringe on Applicants' church autonomy rights or their rights under the Free Speech Clause. App.80-84, 101-102.

REASONS FOR GRANTING AN EXTENSION OF TIME

In support of this request, Applicants state as follows:

1. This case presents important issues under the First Amendment that warrant a carefully prepared certiorari petition.

2. Applicants' counsel requires additional time to prepare a petition that fully addresses the important and far-reaching issues raised by the First Circuit's ruling in a manner that will be helpful to the Court.

3. Counsel also have substantial upcoming obligations in other matters, including a merits-stage reply brief, due on September 16, and oral argument, scheduled for November 3, in *St. Mary Catholic Parish v. Roy*, No. 25-581 (U.S.); certiorari-stage briefing in *Brumley v. Roake*, No. 25-1360 (U.S.) (reply brief due October 12), and *Dier v. Landry*, No. 26-256 (U.S.) (response due September 28); preliminary injunction briefing in *Fellowship of Christian Athletes v. Board of Education of the Hopewell Valley Regional School District* (D.N.J.) (September 14); preliminary injunction briefing in *InterVarsity Christian Fellowship v. SUNY Broome Community College* (N.D.N.Y.) (September 30); preliminary injunction and motion to dismiss briefing in *Carmelite Sisters for the Aged and Infirm v. Letitia James* (N.D.N.Y.) (October 6); a summary judgment hearing in *Burke v. Mahaniah* (D. Mass.) (October 15); and summary judgment briefing in *Indiana Civil Liberties Union v. Braun* (S.D. Ind.) (October 19). Counsel are also awaiting a briefing schedule in the recently filed case *Carmelite Sisters for the Aged and Infirm v. Prince* (N.D. Ill.).

4. This Court has jurisdiction under 28 U.S.C. 1254(1).

5. For these reasons, Applicants respectfully request a sixty-day extension of time, to and including November 29, 2026, for filing their petition for writ of certiorari.

Respectfully submitted.

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SEPTEMBER 2026