

No. _____

IN THE
Supreme Court of the United States

DERAY MCKESSON,

Petitioner,

— V. —

JOHN FORD,

Respondent.

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

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

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To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court and Circuit Justice for the Fifth Circuit:

Pursuant to this Court's Rules 13.5 and 30.2, Petitioner DeRay Mckesson respectfully requests an extension of time of 45 days in which to file a petition for a writ of certiorari to review the order of the U.S. Court of Appeals for the Fifth Circuit, from October 28, 2026, until December 14, 2026.

In support of this motion, Mr. Mckesson submits the following:

1. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1254(1).
2. On March 19, 2026, the U.S. Court of Appeals for the Fifth Circuit issued its decision reversing the district court's order granting summary judgment for Petitioner. That decision, along with the dissenting opinion, is reported at 171 F.4th 332, and a copy is attached hereto (Appendix A).
3. Mr. Mckesson filed a timely petition for rehearing en banc, which the court of appeals denied by a vote of 10 to 6 on July 30, 2026, per the attached order (Appendix B).
4. Pursuant to Supreme Court Rules 13.1 and 30.2, the petition for certiorari is currently due in this Court on October 28, 2026. This Application is timely filed under Rule 13.1. Mr. Mckesson respectfully requests a 45-day extension, through December 14, 2026.
5. This case presents a substantial question of federal law: Do the First Amendment and the Court's decisions, including *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982) and *Counterman v. Colorado*, 600 U.S. 66 (2023), bar liability

against a protester for the action of an unidentified third party at the same protest on the basis of mere negligence and in the absence of evidence that he intended the specific action?

6. The Court has already recognized that question’s “undeniabl[e]” importance. *McKesson v. Doe*, 592 U.S. 1, 4 (2020) (per curiam); see Appendix C. And it has given rise to five Fifth Circuit panel decisions (three divided 2-1); two denials of rehearing en banc that generated multiple concurring and dissenting opinions—including Judge Willett’s recent one, which concluded that “Supreme Court review [is] unusually appropriate” here, as well as a decision by the Louisiana Supreme Court on certification, and a summary judgment record.

7. The requested additional time would enable counsel to more effectively distill for the Court the facts and issues this important and complex case presents. The current October 28 due date coincides with deadlines in multiple cases for which the undersigned have substantial briefing and argument responsibilities, including matters pending in this Court: a brief in opposition to the petition for a writ of certiorari in *Brumley v. Roake*, No. 25-1360 (due October 19); a reply brief in support of the petition for a writ of certiorari in *Heidler v. Carr*, No. 26-5332 (filing November 4); a brief in opposition to the petition for a writ of certiorari in *Florida Board of Governors v. Pernell*, No. 26-475 (currently due November 9); a reply brief in support of the petition for a writ of certiorari in *Nathan v. Alamo Heights Independent School District*, No. 26-257 (filing November 16); a brief in opposition to the petition for a writ of certiorari in *Kentucky v. Environmental Protection Agency*, No. 26-777 (due

November 17); a brief in opposition to the petition for a writ of certiorari in *Trump v. Suri*, No. 26-380 (due November 20); a brief in opposition to the petition for a writ of certiorari in *Moylan v. Guam Society of Obstetrician and Gynecologists*, No. 26-22 (due November 24); and merits briefing in *Rhoney v. Barbosa da Cunha*, No. 25-3141 (certiorari granted October 1).

8. Counsel for the Respondent does not oppose this request for an extension of time.

For the foregoing reasons, Petitioner DeRay Mckesson respectfully requests an extension of the time to file a petition for a writ of certiorari in this case for 45 days, up to and including December 14, 2026.

Respectfully submitted,

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Dated: October 14, 2026