No.

IN THE

Supreme Court of the United States

SEAN A. KENDALL,
Petitioner,

v.

DOUGLAS A. COLLINS,
SECRETARY OF VETERANS AFFAIRS,
Respondent.

APPLICATION FOR A 30-DAY EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Application to the Honorable John G. Roberts, Jr.,
as Circuit Justice for the Federal Circuit

Pursuant to Supreme Court Rule 13.5, Applicant Sean A. Kendall hereby requests a 30-day extension of time, to and including January 27, 2027, within which to file a petition for a writ of certiorari.

1. The decision below is *Kendall v. Collins*, No. 24-1230 (Fed. Cir. 2026). The Federal Circuit issued its opinion on March 31, 2026. *See* App. A. The decision denying Applicant's petition for rehearing en banc issued on September 28, 2026. *See* App. B. Unless extended, Applicant's time to seek certiorari in this Court expires December 28, 2026. Applicant is filing this application at least ten days before that date. *See* S. Ct. R. 13.5. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1). Respondent does not object to this extension request.

2. This case presents an important question of judicial reviewability. The statute governing fees for representatives who assist veterans pursuing claims before the Department of Veterans Affairs establishes a statutory safe harbor for contingency fees of 20% or less. App. A. at 7. But VA's regulations apply the exact same reasonableness factors to assess challenged fee agreements, regardless of whether the fees fall within that safe harbor. Mr. Kendall challenged the validity of this regulation at the Veterans Court, which summarily dismissed his argument. *Id*. at 4, 6-8. On appeal to the Federal Circuit, the panel refused to review this holding. *Id.* at 6-8. The panel was bound to do so by the court's prior decision in *Carpenter v. Principi*, 327 F.3d 1371 (Fed. Cir. 2003), which held that 38 U.S.C. § 7263(d) eliminates appellate jurisdiction over *any* challenges—including purely legal ones—to Veterans Court decisions regarding fee agreements. App. A at 6-8. Judge Dyk concurred, agreeing that the panel was bound by *Carpenter* but explaining how *Carpenter* misapprehended the text, history, and purpose of § 7263(d) and—crucially—failed to consider the strong presumption favoring judicial review of administrative action. App. A at 17-18, 20-24. That longstanding rule sets a high bar for interpreting a statute like § 7263(d) to preclude review. *Id.* at 22. And this Court has applied the presumption to interpret similar jurisdiction-stripping statutes to nonetheless preserve Article III review of legal questions. *Id.* at 22-24. Nothing in the text, legislative history, or structure of § 7263(d) provides the clear and convincing evidence needed to overcome the presumption. *Id.* at 24. This Court's review is therefore warranted, particularly given the Federal Circuit's exclusive jurisdiction in this area.

3. Good cause exists for a 30-day extension. An extension is justified by the press of business on numerous other pending matters. Undersigned counsel of record is responsible for, among other things, a reply brief in *Apple Inc. v. Smith Interface Technologies, LLC*, No. 26-1535 (Fed. Cir.), due November 3, 2026; oral argument in *Frazier v. Collins*, Nos. 25-1068, -1070 (Fed. Cir.), on November 4, 2026; trial briefs in *Smith Interface Techs. v. Apple Inc.*, No. 3:23-cv-01187 (S.D. Cal.), due November 5, 2026; a response to post-trial motions in *Taction Technology, Inc. v. Apple Inc.*, No. 21-CV-812 TWR (JLB) (S.D. Cal.), due November 6, 2026; a reply in support of certiorari in *Kernz v. Collins*, No. 28-284 (S. Ct.), expected to be filed November 20, 2026; a reply brief in *Apple Inc. v. Smith Interface Techs.*, No. 26-1514 (Fed. Cir.), due November 20, 2026; participation as appellate counsel during trial in *Smith Interface Techs. v. Apple Inc.*, No. 3:23-cv-01187 (S.D. Cal.), beginning on December 1, 2026; and oral argument in *Broadcom Corp. v. Netflix, Inc.*, No. 25-1740 (Fed. Cir.), on December 7, 2026.

4. The requested 30-day extension would cause no prejudice to Respondent, who has advised that he has no objection to the extension.

5. For the foregoing reasons, Applicant hereby requests that an extension of time be granted, up to and including January 27, 2027, within which to file a petition for certiorari.

Respectfully submitted,

/s/ Melanie L. Bostwick

Melanie L. Bostwick
Counsel of Record
ORRICK, HERRINGTON & SUTCLIFFE LLP
2100 Pennsylvania Avenue, NW
Washington, DC 20037
(202) 339-8400
mbostwick@orrick.com

November 3, 2026