IN THE SUPREME COURT OF THE UNITED STATES

No. 26A___

DOUGLAS A. COLLINS, SECRETARY OF VETERANS AFFAIRS, AND TIMOTHY GRAHAM, MEDICAL CENTER DIRECTOR, VA GREATER LOS ANGELES HEALTHCARE SYSTEM, APPLICANTS

v.

JEFFREY POWERS, ET AL.

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 NINTH CIRCUIT

Pursuant to Rules 13.5 and 30.2 of the Rules of this Court, the Solicitor General respectfully requests a 60-day extension of time, to and including February 8, 2027, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.* The opinion of the court of appeals (App., infra, 1a-64a) is

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* Applicants (defendants-appellants below) are Douglas A. Collins, Secretary of Veterans Affairs, and Timothy Graham, Medical Center Director, VA Greater Los Angeles Healthcare System. Secretary Collins and Director Graham have been automatically substituted for their predecessors under Rule 35.3 of the Rules of this Court. The Secretary of Housing and Urban Development (HUD) was also a defendant-appellant below, but is not an applicant in this Court because the court of appeals vacated the judgment against HUD. See App., infra, 64a. The Senior Executive Homelessness Agent for Greater Los Angeles was also a defendant-appellant below, but nobody is currently serving in that position.

reported at 163 F.4th 1162. The court entered its judgment on December 23, 2025, and denied rehearing on September 11, 2026 (App., infra, 65a-121a). Therefore, unless extended, the time within which to file a petition for a writ of certiorari will expire on December 10, 2026. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1).

1. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., provides in relevant part that "[n]o otherwise qualified individual with a disability * * * shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination * * * under any program or activity conducted by any Executive agency." 29 U.S.C. 794(a).

Respondents -- a group of disabled veterans and the National Veterans Foundation -- allege that Section 504 requires the Department of Veterans Affairs (VA) to construct additional units of housing on its West Los Angeles Campus. In 2022, they filed a complaint in the United States District Court for the Central District of California on behalf of a putative class of all homeless veterans with serious mental illness or traumatic brain injury who reside in Los Angeles County, alleging three claims under Section 504. See App., infra, 26a. First, respondents claimed that without on-Campus housing, they will be deprived of meaningful access to VA healthcare in violation of Section 504.

Second, they claimed that the lack of such access places them at risk of not receiving services "in the most integrated setting appropriate to [their] needs," Olmstead v. L.C. ex rel. Zimring, 527 U.S. 581, 592 (1999) (citation omitted). Third, they claimed that the VA violates Section 504 by leasing land to developers who impose income-eligibility restrictions that count veterans' benefits as income. App., infra, 26a-27a. Their complaint also alleged other counts concerning agreements that allow outside entities to use portions of the campus.

2. The district court denied the government's motion to dismiss, rejecting the government's argument that respondents could not pursue their Rehabilitation Act claims against the VA in federal district court. See App., infra, 27a. The court also certified the proposed class. See ibid. It then granted partial summary judgment to respondents on their claim that contracting with developers who count veterans' benefits as income violates the Rehabilitation Act. See ibid. After a bench trial, the court further concluded that by not providing sufficient Campus housing, the VA denies plaintiffs meaningful access to their healthcare benefits and places them "at risk of institutionalization" because they may be hospitalized or jailed if homeless. See id. at 28a.

As a remedy, the district court ordered the VA to construct "1,800 additional permanent supportive housing units" beyond the units that the VA was at that time planning for the campus, "as

well as 750 temporary" units. App., infra, 28a. And based on its prior ruling that income restrictions on housing are discriminatory if veterans' benefits are counted as income, the court ordered the VA to ensure that "a sufficient number of housing units at the [Campus] are free from" such restrictions, including by building them itself, rather than through developers, if necessary. Ibid. (brackets in original).

3. a. After a motions panel granted a stay pending appeal, the court of appeals affirmed. App., infra, 1a-64a. The court rejected the government's argument that the class could not pursue their Rehabilitation Act claims against the VA in federal district court. Id. at 36a. The court also concluded that the certified class satisfied Federal Rule of Civil Procedure 23(a)'s commonality requirement. App., infra, 39a. The court then affirmed the district court's determinations that the VA violated the Rehabilitation Act by depriving respondents of meaningful access to VA healthcare, creating a "serious risk of institutionalization," and contracting with developers who impose income limitations and count veteran's benefits as income. Id. at 39a-45a.

The court of appeals also affirmed the scope of the injunction that the district court had granted to remedy the alleged Rehabilitation Act violations. App., infra, 57a-60a. The court of appeals determined that the "order to build additional housing

units simply expands -- not alters -- the program," id. at 58a, and it concluded that "complying with the district court's order" would not "fundamentally alter" the VA's programs, id. at 59a. The court also reversed certain other rulings not relevant to the Rehabilitation Act. See id. at 45a-57a, 60a-64a.

b. The court of appeals denied the government's petition for rehearing en banc over two separate dissenting opinions. See App., infra, 68a. Judge Bumatay, joined by Judges VanDyke and Tung, wrote that the Ninth Circuit is "on the wrong side of" a "lopsided circuit split" regarding whether Section 504 implies a private right of action against federal programs, id. at 106a, and that the panel erred in its class-certification analysis, id. at 109a-120a. Judge Collins, joined by Judges Bress, Bumatay, and Tung, wrote that "the panel's decision contravenes the limitations the Supreme Court has established concerning claims under" Section 504, id. at 73a; ignores the plain-text requirements of Section 504, id. at 87a-89a; misunderstands this Court's decision in Olmstead, id. at 84a-87a; and disregards limits on class certification, id. at 89a-91a.

c. On October 1, 2026, the court of appeals granted the government's motion to stay the mandate in order "to allow the Solicitor General to decide whether to file a petition for writ of certiorari." App., infra, 123a. The court's order explains that if an extension of time within which to file such a petition is

granted, the mandate will be stayed until a petition is filed and then disposed of. Ibid.

4. The government intends to file a petition for a writ of certiorari in this case. The additional time sought in this application is necessary to permit the preparation and printing of the petition, and because the attorneys with principal responsibility for drafting the petition have been and will be heavily engaged with the press of other matters before this Court prior to the current December 10 deadline. The proposed extension would not materially affect the timing of the resolution of this case if the Court grants certiorari, as the case would not be decided until next Term regardless.

Respectfully submitted.

D. JOHN SAUER
Solicitor General

NOVEMBER 2026