

No. 26A71

IN THE
Supreme Court of the United States

CALVIN JOHNSON, WARDENS,

Petitioner,

v.

LUIS CARDENAS-ORNELAS,

Respondent.

**SECOND APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH
TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEAL FOR THE NINTH CIRCUIT**

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

Pursuant to this Court's Rule 13.5, the Petitioner, Warden Calvin Johnson, respectfully request an additional 29-day extension of time, to and including September 18, 2026, within which to file a petition for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit. Unless extended, the time within which to file a petition for a writ of certiorari will expire on August 20, 2026. This application is being filed at least 10 days before this date. The jurisdiction of this Court is invoked under 29 U.S.C. § 1254(1).

Applicant states the following in support of this request:

1. The Ninth Circuit issued an opinion and a related memorandum addressing this case on January 29, 2026, and denied a petition for rehearing on April 22, 2026.

2. In the original application for extension of time, which Warden Johson submitted to this Court on July 9, 2026, he explained the following:

A. This case presents important questions of federal law involving Luis Cardenas-Ornelas's claim alleging a violation of his right to be free from cruel and unusual punishment under the Eighth Amendment based on yard-time restrictions time for inmates in the Nevada Department of Corrections during the height of the COVID-19 pandemic.¹

B. The Ninth Circuit's analysis conflicts with this Court's many decisions on qualified immunity, including the latest opinion in *Zorn v. Linton*, 146 S. Ct. 926 (2026). In particular, the Ninth Circuit inverted the order of the qualified immunity inquiry, leading the court to consider the clearly established law prong of qualified immunity at too high a level of generality. And to make matters worse, the Ninth Circuit has issued conflicting interpretations of the Eighth Amendment that put prisons that are still addressing challenges to their responses to COVID-19 in an impossible situation.

3. Counsel of record in this case has remained extremely busy since seeking the first extension of time in this matter and needs additional time to complete the petition. In addition to the day-to-day press of business that comes with Counsel's role of assisting with supervision of appeals in the Nevada Attorney General's Office, he has been busy working on a number of other important matters.

¹ Respondents submitted copies of the lower court opinions with the application, which includes the Ninth Circuit's opinion, a related memorandum decision resolving other claims, and the order denying rehearing.

Counsel filed the answering brief in *Lincoln County Water District v. Nevada Division of Water Resources*, No. 26-1323 (9th Cir.), on July 15, 2026. Counsel also continues to have ongoing professional obligations in *Mork v. Naughton*, 25-4612 (9th Cir.), which have been complicated by the death of one of the appellants that counsel represents in that case. Counsel is working with the deceased's family to get a special administrator appointed to substitute as the personal representative for that appeal, so he can proceed with filing the opening brief in that matter, but getting a special administrator in place has taken more work and time than counsel originally expected.

Counsel was also assigned to respond to a federal complaint filed against the Attorney General by a former elected county sheriff, after the Attorney General obtained a writ of quo warranto in state that removed the plaintiff from office. *Dondero v. Ford*, 2:26-cv-02160-JAD-BNW; *Nevada ex rel. Ford v. Fifth Jud. Dist. Ct.*, No. 88214, 2025 WL 1014413 (Nev. Apr. 1, 2025). The deadline to respond to that complaint was August 7, 2026. Counsel is also tasked with overseeing the State's compliance with a consent judgment in *Davis v. Nevada*, No. 17-OC-00227-1B (1st Jud. Dist. Ct. Nev.), a class action addressing indigent defense in Nevada's rural counties and has been busy working with clients in that case regarding an important impending compliance deadline on August 31, 2026. Counsel was assigned to reviewing two supplemental Ninth Circuit briefs in related capital habeas matters (*Lisle v. Bean*, No. 21-99009 (9th Cir.), and *Lisle v. Bean*, 22-99009 (9th Cir.)), which were both due on August 6, 2026. Finally, given the foregoing, counsel still has ongoing professional obligations in *Dzurenda v. Ybarra*, No. 92304 (Nev.), which is going to require an additional extension

of time to file the opening brief in that matter that is currently due August 17, 2026.

Adding to Counsel's already busy schedule, his counterpart that oversaw the complex litigation department of the Nevada Attorney General's Office left the office effective August 7, 2026, which has required Counsel to take on numerous other assignments, including drafting of the answering brief in in *Filutowski v. Nevada ex rel. Attorney General*, No. 91103 (Nev.), and assisting with oversight of (1) Nevada's ongoing matters involving prediction markets, and (2) an ongoing bench trial for claims alleging takings of water rights and seeking compensation of over \$1.5 billion in *Coyote Springs v. Nevada*, No. A-20-820384-B (8th Jud. Dist. Ct. Nev.), which is scheduled to last through at least the end of August and likely to continue into September. Counsel is also scheduled to be out of the office on pre-planned annual leave from Aug. 24-28, 2026.

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In light of the foregoing, Petitioners respectfully request the entry of an order extending the time to file a petition for writ of certiorari by 29 days to and including September 18, 2026.

Respectfully submitted,

/s/Jeffrey M. Conner
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CERTIFICATE OF SERVICE

I hereby certify that I am a member in good standing of the bar of this Court and that on this 10th day of August, 2026, I caused a copy of the foregoing Second Application for an Extension of Time Within Which to File a Petition for Writ of Certiorari to be served by first-class mail on counsel identified below, pursuant to Rule 29.5 of the Rules of this Court. All parties required to be served have been served.

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/s/ Jeffrey M. Conner
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