

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

DEE FULCHER, GIULIANO SILVA,) )  
and TRANSGENDER AMERICAN ) )  
VETERANS ASSOCIATION, ) )  
 ) )  
Petitioners, ) )  
 ) ) 17-1460  
v. ) )  
 ) )  
SECRETARY OF VETERANS ) )  
AFFAIRS, ) )  
 ) )  
Respondent. ) )

RESPONDENT'S UNOPPOSED SECOND MOTION FOR AN  
EXTENSION OF TIME TO FILE THE CERTIFIED LIST

Pursuant to Rules 17 and 26 of the Rules of this Court, respondent, the Secretary of Veterans Affairs, respectfully requests an extension of time of 7 days to file the certified list. The certified list is currently due on March 14, 2017, and we request an extension to and including March 21, 2017. This is respondent's second request for an extension of time. This Court previously granted one extension of 21 days. Counsel for petitioners has stated that petitioners do not oppose the relief requested in this motion.

The Department of Veterans Affairs (VA) requires additional time to gather and review materials for inclusion in the certified list. The petition alleges that the VA denied petitioners' request for rulemaking to amend or repeal rules and regulations that exclude sex reassignment surgery as a covered medical benefit,

including 38 C.F.R. § 17.38(c)(4). Petition for Review, No. 17-1460, ECF No. 1-2, at 1 (Fed. Cir. Jan. 9, 2017). Since receiving this petition, VA has sought to assemble a complete set of materials it considered when reviewing petitioners' request for rulemaking, and requires an additional 7 days to do so.

For these reasons, respondent respectfully requests that the Court grant its unopposed motion for a 7-day extension of time to and including March 21, 2017, within which to file the certified list.

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.  
Director

/s/Allison Kidd-Miller  
ALLISON KIDD-MILLER  
Assistant Director

/s/Eric P. Bruskin  
ERIC P. BRUSKIN  
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March 14, 2017

Attorneys for Respondent

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17-1460

v. ) )

SECRETARY OF VETERANS ) )  
AFFAIRS, ) )

Respondent. ) )

ORDER

Upon consideration of Respondent's Unopposed Second Motion For An  
Extension Of Time To File The Certified List, it is

ORDERED that the motion be GRANTED; respondent shall file the certified  
list on or before March 21, 2017.

\_\_\_\_\_  
For the Court

Dated:\_\_\_\_\_

cc: Paul R. Wolfson  
Eric P. Bruskin

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DECLARATION OF ERIC P. BRUSKIN

In support of Respondent’s Unopposed Second Motion for an Extension of Time to File the Certified List, Eric. P Bruskin declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the primary attorney assigned to this petition for the respondent.
2. I am working with counsel from the Department of Veterans Affairs (VA) to gather and review materials for inclusion in the certified list.
3. Since receiving the petition, VA has sought to assemble a complete set of materials it considered when reviewing petitioners’ request for rulemaking.
4. VA requires an additional 7 days to determine the contents of the certified list.

DECLARATION

I certify that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Eric P. Bruskin  
Eric P. Bruskin

Executed: March 14, 2017

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on this 14th day of March, 2017, a copy of the foregoing Respondent's Unopposed Second Motion For An Extension Of Time To File The Certified List was filed electronically. This filing was served electronically to all parties by operation of the Court's electronic filing system.

/s/ Eric P. Bruskin