

No. ____

IN THE
SUPREME COURT OF THE UNITED STATES

OBERIST LEE SAUNDERS,

Petitioner,

v.

SHERIFF OF BREVARD COUNTY,
in his official capacity,

SUSAN JETER,
in her individual capacity,

JOHN C. WRIGHT,
in his individual capacity, and

PATRICIA TILLEY,
in her individual capacity,

Respondents.

**APPLICATION TO THE HON. CLARENCE THOMAS
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 ELEVENTH CIRCUIT**

Pursuant to Supreme Court Rules 13(5), 22, and 30(3), Oberist Lee Saunders (“Petitioner”) hereby moves for an extension of time of 60 days, to and including December 14, 2018, for the filing of a petition for a writ of certiorari.

1. The Eleventh Circuit rendered its decision on May 17, 2018 (Exhibit 1).

The court denied Petitioner’s timely Petition for Rehearing En Banc on July 16, 2018 (Exhibit 2).

2. Unless an extension is granted, the deadline for filing the petition for

certiorari will be October 15, 2018.

3. Petitioner is filing this application at least ten days before that date.

See Sup. Ct. R. 13(5).

4. This Court has jurisdiction under 28 U.S.C. § 1254(1).

5. This case involves two critically important questions concerning prisoner rights. The first is whether a pretrial detainee alleging that his conditions of confinement violate the Fourteenth Amendment must make a showing of subjective—as opposed to objective—deliberate indifference. The second is whether it is clearly established that officers may not confine prisoners in conditions that deprive them of basic human necessities.

6. Petitioner Oberist Lee Saunders filed a § 1983 action, alleging that the horrific conditions in the jail where he was housed pending trial violated the Fourteenth Amendment. The district court granted in part and denied in part the Respondents' motion for summary judgment, and Respondents appealed. On appeal, the Eleventh Circuit reversed, relying fully on standards governing Eighth Amendment conditions-of-confinement claims. Specifically, the court concluded that some of Petitioner's claims failed because he had not demonstrated Respondents' *subjective* deliberate indifference to the jailhouse conditions. That decision implicates a circuit split over the appropriate standard for Fourteenth Amendment conditions-of-confinement claims brought by pretrial detainees. This Court should grant certiorari to resolve the split.

7. This Court should also grant review to consider whether Supreme Court and Eleventh Circuit precedent clearly establish that officers may not house

prisoners in conditions that deprive them of basic sanitation. Petitioner and his fellow inmates were crowded into cells covered with virtually every type of bodily waste and fluid. The cells were rarely cleaned, and the cleanings that did occur were wholly inadequate to resolve the conditions, unless visitors to the prison were expected. Prisoners were often deprived of soap, toilet paper, and eating utensils, and the prison's cooling system often failed. On one occasion, the conditions caused Petitioner to have a panic attack and repeatedly slam his head against a metal doorframe. One of the Respondents reacted to Petitioner's actions by watching and laughing. This Court's precedents make clear that Respondents' actions are plainly unconstitutional. The Eleventh Circuit's erroneous conclusion to the contrary warrants this Court's attention.

8. Good cause exists for this application. Undersigned counsel has significant professional commitments that will make it extremely difficult to complete the petition without an extension. Undersigned counsel Sarah G. Boyce has a case scheduled to go to trial on October 1, 2018, and must file three briefs in the federal courts of appeals between now and October 18, 2018.

9. Respondents do not oppose this request.

For the foregoing reasons, Petitioner requests that an extension of time to and including December 14, 2018 be granted, within which time Petitioner may file a petition for a writ of certiorari.

Respectfully submitted,

/s/ Sarah G. Boyce
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