

No. A-\_\_\_\_\_

**In the Supreme Court of the United States**

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JERYME MORGAN,

*Applicant,*

v.

MINH SCHOTT, TIM VEATH, AND HUDSON MAYNARD,

*Respondents.*

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**APPLICATION TO THE HON. BRETT M. KAVANAUGH  
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  
SEVENTH CIRCUIT**

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Pursuant to 28 U.S.C. §2101(c) and Supreme Court Rules 13.5, 22, and 30.2, applicant Jeryme Morgan respectfully requests an extension of time of sixty days within which to file a petition for a writ of certiorari in this matter, to and including July 5, 2019. The United States Court of Appeals for the Seventh Circuit issued its opinion and judgment on February 5, 2019. *See* App. 1. The time to file a petition for a writ of certiorari in this Court accordingly expires on May 6, 2019. This application is being filed 10 days before that date.

A copy of the opinion of the United States Court of Appeals for the Seventh Circuit is attached. The jurisdiction of this Court is based on 28 U.S.C. §1254(1).

1. This case presents a significant question of law that has divided the Circuits, as the Seventh Circuit acknowledged in this case. The split arises over the application of *Heck v. Humphrey*, 512 U.S. 477 (1994), to suits by inmates, like Morgan, who bring

42 U.S.C. §1983 claims arising from prison disciplinary sanctions that consist of both a loss of good-time credits and additional penalties. Even if *Heck* bars §1983 suits challenging the loss of good time, the question is whether that bar applies where, as here, the inmate expressly waives any challenge to the loss of good-time credit and advances his constitutional claims solely with respect to the other, non-good-time sanctions. The Seventh Circuit answers that question in the affirmative, holding that the *Heck* bar still applies. App. 1, at 2-3, 8-9 (relying on *Haywood v. Hathaway*, 842 F.3d 1026 (7th Cir. 2016)). As that court recognized, however, its holding breaks squarely with the Second Circuit’s contrary rule. App. 1, at 8; see *Peralta v. Vasquez*, 467 F.3d 98, 105 (2d Cir. 2006) (holding that by abandoning his challenge to loss of good time, the inmate/§1983 plaintiff ensures that “his success in the §1983 action would have *no* effect on the sanctions that relate to the length of time he served in prison, and the concern animating the *Heck* favorable termination rule would simply not be implicated”); see also *Haywood*, 842 F.3d at 1030 (“We decline to follow *Peralta*”). Moreover, the Ninth Circuit has sided with the Second. *Brownlee v. Murphy*, 231 Fed. App’x. 642, 644 (9th Cir. 2007). The split is ripe for this Court’s review.

3. Good cause exists for this application. On May 30, 2017, the Seventh Circuit appointed Mayer Brown LLP attorney Marcia Maack to represent petitioner on appeal in that court. On August 16, 2017, Mayer Brown attorney William Barrow was substituted as appointed counsel for applicant. Mr. Barrow briefed and argued that appeal, and the undersigned counsel is now serving as counsel of record for applicant in this Court. Since the Seventh Circuit issued its judgment in this case, counsel’s

attention has been required on a number of matters. Counsel has been heavily involved in several matters, including briefing for *Kelley v. BMO Harris Bank N.A.*, No. 12-ap-4288 (Bankr. D. Minn.), and *Hardwick v. 3M Co.*, No. 2:18-cv-1185 (S.D. Ohio), preparation of a comment letter to the Financial Stability Oversight Council, and appeal-related work in *Zino v. Whirlpool Corp.*, Nos. 17-3851/3860 (6th Cir.), and *Baker v. Saint-Gobain Performance Plastics Corp.*, No. 17-3942 (2d Cir.).

4. An extension of time will not prejudice respondents, and their counsel, Nadine Wichern, Chief of the Civil Appeals Division of the Illinois Attorney General's Office, indicates that she does not oppose the requested extension.

For the foregoing reasons, the applicant hereby requests an extension of time, to and including July 5, 2019, within which to file a petition for a writ of certiorari.

April 26, 2019

Respectfully submitted.

/s/ Joshua D. Yount  
JOSHUA D. YOUNT  
*Counsel of Record*  
*Mayer Brown LLP*  
*71 South Wacker Drive*  
*Chicago, IL 60606*  
*(312) 782-0600*  
*jyount@mayerbrown.com*