

SUPREME COURT OF THE UNITED STATES

KEVIN BELTOWSKI,

Petitioner,

USCA Sixth Cir No 17-2473

VS.,

SHAUN BREWER,

Respondent.

MOTION FOR LEAVE TO EXTEND PAGE LIMITATIONS

Petitioner hereby moves pursuant to S.Ct. R.'s 22, 33, 1(d), for leave to file a petition for writ of certiorari in excess of the 40-page limitations, and states:

1. Petitioner has filed a petition for writ of certiorari in this Court; that petition is clearly in excess of the 40-page limitations specified in Rule 33, 2(b).
2. On June 12, 2019, the Clerk returned the petition stating, in part, that the petition exceeds the limit of 40 pages and must be corrected within 60 days. This motion is timely filed, well within 15 days of new date set for filing the petition.
3. Petitioner is indigent, cannot afford counsel, and is proceeding in pro se. Since the petition was returned with notice of deficiency, Petitioner has attempted to find assistance in correcting this deficiency, however, could not avail himself.
4. Petitioner does not own his own typewriter. The petition was prepared by using the Housing Unit typewriter; it is now broken and out for repairs. Moreover, the institution's re-inking program is on hold until a new vendor is found.
5. Petitioner is being assisted by another inmate in typing this motion, however he cannot and will not assist Petitioner in preparing a new petition for writ of

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certiorari, because that inmate is busy preparing his own pleadings for filing in a Michigan Court. Also, Petitioner does not trust any other inmate to type up his legal pleadings, due to the nature of the crime for which he is convicted.

6. Under the circumstances, there is no way for Petitioner to prepare a new petition for writ of certiorari at this time, and be able to timely file within 60 days of the deficiency notice.

7. When Petitioner filed his pleadings in the lower federal courts he was represented by counsel who did not bring out a large portion of the facts supporting Petitioner's claim of self-defense claims, and therefore the federal district court and Sixth Circuit did not address all of the claims.

8. Petitioner was as concise as possible in the petition, and should not be penalized because he does not have the necessary skills to be more concise. See Haines v. Kerner, 404 US 519, 520 (1972) (reversing dismissal of pro se civil action challenging certain internal discipline).

9. Moreover, "[s]anctions such as filing limits, refusals to waive fees, dismissals, and award of costs may interfere with the right of access to the courts and with the ability to assert constitutional protected liberty interests." Therefore, they may not be imposed upon a pro se prisoner litigants without first affording them rudimentary due process. See Morrissey v. Brewer, 408 US 471, 481 (1972); Matthews v. Eldridge, 424 US 319, 334-35 (1976).

10. The fact-intensive character of the case calls for attentive review of the record, including an overall preliminary examination and trial transcript that runs over 1,800 pages, much of which is relevant to the self-defense claims and had to be included in the petition.

11. The Court has authority to grant leave to file a document in excess of the word

and page limits. See S.Ct. R. 33.1(d) ("For good cause, the Court or a Justice may grant leave to file a document in excess of the word limits, but application for leave is not favored."); S.Ct. R's 22, 33.1(d) (form of application for leave to file petition in excess of page limits; except in "most extraordinary circumstances," motion must be filed within 15 days before filing date for petition.).

12. In INS v. Ebrahimy, 518 US 1050 (1996), the Court granted leave to file petition in excess of 20 pages. In Central Jersey Industries, Inc. v. United States Ry. Assoc., 468 US 1222 (1984), the Court granted "[t]he application for leave to file a statement as to jurisdiction in excess of the page limitations," provided that "the statement does not exceed 40 pages." See United States v. Booker, 542 US 946 (2004) (application for leave to exceed page limit granted for reply brief); United States v. Fanfan, 542 US 956 (2004) (same.).

13. The claims in the petition have merit, and if the Court does not grant this motion, Petitioner will be precluded from filing and bring constitutional violations to the Court's attention.

14. The defective petition is a total of 57 pages, which makes it 17 pages over the limit.

For all the foregoing, Petitioner ask the Court to allow him to file the petition for writ of certiorari in excess of 40 pages, and set a new date for filing the petition.

Respectfully submitted,

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Petitioner, pro se
c/o Robert Cotton Correctional Facility
3500 N. Elm Street
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Dated: July 6th 2019