

No. _____

In the
Supreme Court of the United States

MATTHEW REID HINSON

PETITIONER,

v.

OFFICER R.A. BIAS, ET AL.,

RESPONDENTS.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit**

**APPLICATION TO
ASSOCIATE JUSTICE CLARENCE THOMAS
FOR AN EXTENSION OF TIME TO FILE
A PETITION FOR WRIT OF CERTIORARI**

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Counsel for Petitioner Matthew R. Hinson

October 29, 2019

**TO: THE HONORABLE CLARENCE THOMAS
ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED
STATES AND CIRCUIT JUSTICE FOR THE ELEVENTH CIRCUIT**

Pursuant to Supreme Court Rule 13.5, petitioner Matthew R. Hinson respectfully seeks a 60-day extension of the time for filing a petition for a writ of certiorari to and including January 11, 2020. Unless an extension is granted, the current deadline for filing her petition for certiorari is November 12, 2019.

In support of this request, Mr. Hinson states as follows:

1. The U.S. Court of Appeals for the Eleventh Circuit rendered its decision on June 14, 2019, and denied a timely petition for rehearing and rehearing en banc on August 14, 2019. This Court has jurisdiction under 28 U.S.C. § 1254(1).

2. Mr. Hinson seeks vacatur of the Eleventh Circuit's judgment and dismissal of the interlocutory appeal, by Officers R.A. Bias, B.K. Kremler, S.T. Williams, Z.M. Anderson, and Rob Schoonover, of the district court's order denying the Officers summary judgment on the basis of qualified immunity.

3. A copy of the Eleventh Circuit's June 14, 2019 opinion, and a copy of its August 14, 2019 order denying rehearing and rehearing en banc, are attached to this Application as Exhibits A and B.

4. Proceeding *pro se*, Mr. Hinson brought a § 1983 excessive-force claim alleging that the Officers needlessly struck him six times while he was on the ground and not resisting arrest. The Officers moved for summary judgment on the basis of qualified immunity, claiming in their affidavits that Mr. Hinson was resisting arrest.

The district court carefully reviewed the record and denied summary judgment in a detailed order, concluding that the surveillance video, when viewed in the light most favorable to Mr. Hinson, would allow a reasonable juror to conclude that Mr. Hinson was not resisting arrest.

5. On appeal, neither the Officers nor the Eleventh Circuit panel opinion addressed the core qualified-immunity issues. Instead, the Eleventh Circuit panel reviewed and rejected the district court's conclusion that the video evidence presented genuine issues of material fact about Mr. Hinson's conduct during his arrest. That review exceeded the Eleventh Circuit's limited interlocutory jurisdiction.

6. This Court's decisions in *Johnson v. Jones*, 515 U.S. 304 (1995) and *Behrens v. Pelletier*, 516 U.S. 299 (1996), establish that the Eleventh Circuit lacked jurisdiction to consider an appeal that raised only the district court's nonfinal evidence-sufficiency ruling, when that ruling found genuine questions as to whether specific conduct—Mr. Hinson's supposed resistance—occurred.

7. On June 5, 2017, the Eleventh Circuit on its own motion appointed the undersigned Val Leppert to represent Mr. Hinson. Good cause, including the press of other work, exists to grant the requested extension. Counsel's obligations include the following:

- Preparing the appellant's brief in *R.J. Reynolds Tobacco Co. v. Deborah Neff*, Fla. 4th DCA 2019-2646 (due Oct. 29, 2019)

- Preparing the appellant's brief in *R.J. Reynolds Tobacco Co. v. Frances Bessent-Dixon*, Fla. 1st DCA 2019-1995 (due Nov. 8, 2019).
- Preparing the appellant's brief in *R.J. Reynolds Tobacco Co. v. Richard Mahfuz*, Fla. 4th DCA 2019-2236 (due Nov. 22, 2019).
- Providing legal issues support in the trial of *Gloger v. R.J. Reynolds Tobacco Co., et al.*, Fla. 11th Cir. 11-23377 CA 21, (Oct. 21–Nov. 8, 2019)
- Providing legal issues support during pretrial for *Dolby Labs, Inc. v. Adobe*, No. 18-cv-01553 (N.D. Cal.) (pretrial conference scheduled December 20, 2019)

8. On October 15, 2019, Craig D. Feiser, appellate counsel for the Officers, stated that he does not object to this extension.

WHEREFORE, Mr. Hinson respectfully requests that his application for an extension of time in which to file a petition for certiorari be granted.

Respectfully submitted,

/s/ Val Leppert
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DATED October 29, 2019