

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DARVIN CASTRO SANTOS,
Applicant,

v.

CRAIG WHITE, ET. AL.,
Respondents.

**APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI**

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March 23, 2022

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To the Honorable Samuel A. Alito, Jr., Associate Justice of the United States
and Circuit Justice for the Fifth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5 and 22, applicant Darwin Castro Santos respectfully requests a 30-day extension, to and including May 3, 2022, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit denied Mr. Santos's petition for rehearing en banc on January 3, 2022. Unless extended, the time to file a petition for a writ of certiorari will expire on April 3, 2022.

1. Mr. Santos alleged he was subjected to excessive force at the hands of prison officials while he was incarcerated at the Elayn Hunt Correctional Center in Louisiana, and brought suit under 42 U.S.C. § 1983. As relevant here, the district court granted summary judgment to the defendants, determining that Santos's claims were barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), because they could

not be accepted without contradicting the findings of the prison disciplinary board, which had found Santos guilty of counts of aggravated disobedience, defiance, and property destruction resulting in the loss of good-time credit. The Fifth Circuit remanded for further proceedings, in which the district court should consider whether the factual findings of the disciplinary board necessary to prove the elements of those violations are necessarily in conflict with the version of the facts alleged in Mr. Santos's § 1983 complaint.

2. This case presents an important question of federal law: Can the results of a prison disciplinary proceeding create a *Heck* bar for a § 1983 suit alleging excessive force by prison officials?

3. A number of the federal courts of appeals find § 1983 claims to be *Heck* barred in such situations, but those decisions are both dead-wrong based on this Court's *Heck* decision and its progeny, and reflect a hopeless disarray in terms of how to determine what types of claims are *Heck*-barred, and what happens once the bar applies.

4. Good cause exists for an extension of time to prepare a petition for a writ of certiorari in this case due to the press of business on numerous other matters, and because the undersigned is currently experiencing a loss of childcare due to a coronavirus quarantine. Substantial commitments of counsel of record during the relevant time period include:

- A reply brief in the United States Court of Appeals for the Sixth Circuit in *Williams v. Hall*, No. 21-5540, due April 1, 2022.
- An opening brief in the United States Court of Appeals for the Seventh Circuit in *Smallwood v. Williams*, No. 21-3-47, due April 6, 2022;

- An oral argument in the United States Court of Appeals for the Sixth Circuit in *Williams v. Hall*, No. 21-5540, on April 19, 2022;
- A petition for certiorari to the United States Court of Appeals for the Fifth Circuit in *Gray v. White*, due April 20, 2022.

5. In addition, counsel of record has a preplanned vacation the week of April 11, 2022.

6. An extension of time is further justified because it would permit undersigned counsel to provide the sort of comprehensive analysis that would aid this Court in determining whether to grant certiorari. Furthermore, undersigned counsel did not represent Mr. Santos below and, in light of the deadlines above, requires additional time to review the record in this case and conduct the analysis that would assist this Court in proper resolution of this case.

7. Mr. Santos has not previously sought an extension of time from this Court.

8. For the foregoing reasons, the application for a 30-day extension of time, to and including May 3, 2022, within which to file a petition for a writ of certiorari in this case should be granted.

Respectfully submitted,

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