

No. _____

In the Supreme Court of the United States

DIJON SHARPE,

Applicant,

v.

WINTERVILLE POLICE DEPARTMENT; WILLIAM BLAKE ELLIS, IN HIS OFFICIAL CAPACITY ONLY; MYERS PARKER HELMS, IV, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY.

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

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and Circuit Justice for the United States Court of Appeals for the Fourth Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicant Dijon Sharpe respectfully requests a 60-day extension of time, to and including Monday, September 18, 2023, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Fourth Circuit issued its opinion on February 7, 2023. A copy of the opinion is attached (Exhibit A). The Fourth Circuit denied Applicant's timely rehearing petition on April 21, 2023. A copy of the order is attached (Exhibit B). This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on Thursday, July 20, 2023. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case.

3. This case concerns an important issue: whether it was clearly established in October 2018 that filming police officers is First Amendment protected activity.

4. As relevant here, Applicant Dijon Sharpe brought a claim against Officer Myers Parker Helms, IV, under 42 U.S.C. § 1983, alleging that Officer Helms retaliated against Mr. Sharpe for livestreaming him during a routine traffic stop. The panel below concluded that, at the time of the traffic stop at issue in this case, a passenger in a vehicle did not have a clearly established “right to livestream their own traffic stop.” *Sharpe v. Winterville Police Dep’t*, 59 F.4th 674, 683-84 (4th Cir. 2023).

5. The decision below entered a circuit conflict with six other circuits over whether citizens have a clearly established First Amendment right to record police in the discharge of their duties. At the time of the events in this case, every circuit to address this issue—the First, Third, Fifth, Seventh, Ninth, and Eleventh—“ha[d] held that there is a First Amendment right to record police activity in public.” *Fields v. City of Philadelphia*, 862 F.3d 353, 355-56 (3d Cir. 2017); *see Glik v. Cunniffe*, 655 F.3d 78, 82-85 (1st Cir. 2011); *Turner v. Lieutenant Driver*, 848 F.3d 678, 687 (5th Cir. 2017); *ACLU of Illinois v. Alvarez*, 679 F.3d 583, 608 (7th Cir. 2012); *Askins v. U.S. Dep’t of Homeland Sec.*, 899 F.3d 1035, 1044 (9th Cir. 2018); *Smith v. City of Cumming*, 212 F.3d 1332, 1333 (11th Cir. 2000). The Tenth Circuit held that, in light of these cases, it was clearly established that individuals have the right to record police officers as of May 2019. *Irizarry v. Yehia*, 38 F.4th 1282, 1285-86 (10th Cir. 2022). The panel nevertheless dismissed the consensus of these circuits on the basis that their precedents “generally are about video recordings, not livestreams.” *Sharpe*, 59 F.4th at 683.

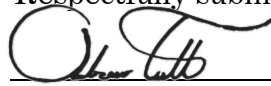
6. This case is exceptionally important. As six circuits have held, citizens have a clearly-established First Amendment right to film and broadcast police carrying out their duties in public, subject only to reasonable time, place, and manner restrictions. This right includes the right to disseminate those recordings in real time (*i.e.*, live broadcast), and it extends to passengers in stopped vehicles. The distinctions drawn by the panel below—between recording for later dissemination and immediate dissemination, and between recordings by bystanders and recordings by the subjects of a traffic stop—do not make it any less clear that filming police officers is nonetheless protected by the First Amendment as the panel itself recognized in its opinion. Additionally, resolution of the qualified-immunity issues in this case will have critical real-life consequences for countless stakeholders nationwide who seek to film police each year.

7. Applicant respectfully requests an extension of time to file a petition for a writ of certiorari. A 60-day extension would allow counsel sufficient time to fully examine the decision's consequences, research and analyze the issues presented, and prepare the petition for filing. Additionally, the undersigned counsel have a number of other pending matters that will interfere with counsel's ability to file the petition on or before Thursday, July 20, 2023.

Wherefore, Applicant respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to Monday, September 18, 2023.

Dated: June 8, 2023

Respectfully submitted,



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