

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

MICHAEL JOHNSON,
Applicant,

v.

SUSAN PRENTICE, ET. AL.,
Respondents.

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

David M. Shapiro
Counsel of Record
RODERICK & SOLANGE
MACARTHUR JUSTICE CENTER
NORTHWESTERN PRITZKER SCHOOL OF LAW
375 East Chicago Avenue
Chicago, IL 60611
(312) 503-0711
david.shapiro@law.northwestern.edu

Counsel for Applicant Michael Johnson

November 7, 2022

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

MICHAEL JOHNSON,
Applicant,

v.

SUSAN PRENTICE, ET. AL.,
Respondents.

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

To the Honorable Amy Coney Barrett Associate Justice of the United States and Circuit Justice for the Seventh Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5 and 22, applicant Michael Johnson respectfully requests a 30-day extension, to and including December 23, 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 Seventh Circuit. The Seventh Circuit denied Mr. Johnson’s petition for rehearing en banc on August 25, 2022. Unless extended, the time to file a petition for a writ of certiorari will expire on November 23, 2022. This request is unopposed.

1. Michael Johnson is afflicted with numerous mental illnesses, including bipolar disorder, severe depression, anxiety, and excoriation disorder.¹ Even though

¹ Excoriation disorder—also known as dermatillomania—is the compulsive picking of one’s own skin, often to the point of injury and disfiguration. Dermatillomania,

it is widely accepted that solitary confinement exacerbates and can even precipitate mental illness, prison officials held Mr. Johnson in solitary confinement at various facilities for more than nine years. While incarcerated at Pontiac Correctional Center, Michael Johnson endured more than three years of solitary confinement. He was “held in isolation day and night, in a windowless cell, with a cell light that remained on 24/7, and behind a door that for most or all of his cell placements was a solid one.” Op.18 (Rovner, J., dissenting). Permitted to leave his cell in shackles “once per week for a ten minute shower” and to exercise in a single-person cage on a “weekly basis,” the “rest of his time was spent in his cell in the segregation unit and therefore alone and isolated from others.” Op.18 (Rovner, J., dissenting); App.555.

2. In isolation at Pontiac, Mr. Johnson’s body and mind deteriorated, and he “engaged in the types of behavior, including the smearing of feces in his cell and on himself, that tragically [courts] see all too often among inmates kept in such conditions for long periods of time.” Op.17-19 & n.1 (Rovner, J., dissenting). Prison officials punished Mr. Johnson severely for this and other misconduct, Op.17-19, 30-34 (Rovner, J., dissenting), even while conceding that mental illness was the genesis of some of his infractions, Op.33 (Rovner, J., dissenting).²

Cleveland Clinic, <https://my.clevelandclinic.org/health/diseases/22706-dermatillomania-skinpicking>.

² In addition to covering himself with excrement, Mr. Johnson’s infractions, included “spitting at or in the direction of other inmates and the throwing of feces, urine, or other liquid”; “covering his door window with feces”; “refusing to clean” smeared feces; “impairment of surveillance, disobeying an order, insolence, property damage, and giving false information to an employee.” Op.31-32 (Rovner, J., dissenting).

3. One punishment included regular extensions to solitary confinement. Op.33 (Rovner, J., dissenting). Another punishment (the subject of Mr. Johnson’s appeal), known by the euphemism “yard restriction,” was the deprivation of “virtually all access to exercise” for “more than three years,” the bulk of that period continuous.³ Op.17-18 (Rovner, J., dissenting). While on yard restriction, Mr. Johnson was permitted “only one hour per *month* of yard time, and even that time was routinely eliminated, thus essentially resulting in ‘24/7’ solitary confinement.”⁴ Op.18 (Rovner, J., dissenting). Mr. Johnson’s cell, moreover, was too cramped to afford him any opportunity to exercise within it. Op.18 (Rovner, J., dissenting); App.471; App.556.

4. This case presents an important question of federal constitutional law on which the federal courts of appeals are sharply divided.

5. The Seventh Circuit held that prison officials could withhold Mr. Johnson’s access to exercise for more than three years, solely for “disciplinary infractions that on their face do not involve any apparent security risk to yard access.” Op.32-34 (Rovner, J., dissenting). This splits the Seventh Circuit with several other circuits which have held that the long-term deprivation of out-of-cell exercise without a relevant security justification is unconstitutional.

6. 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.

³ Each individual denial of exercise ranged from 30-90 days. Op.5. Because they were imposed consecutively, however, Mr. Johnson was “almost continuously under yard restrictions” for nearly three years. Op.18 (Rovner, J., dissenting).

⁴ Indeed, from June 2015 through June 2016, Mr. Johnson was not permitted *any* exercise. Op.5.

Substantial commitments of counsel of record during the relevant time period include:

- An opening brief in the United States Court of Appeals for the Seventh Circuit in *Emad v. Dodge Cnty.*, No. 22-1876, due November 7, 2022;
- An opening brief in the United States Court of Appeals for the Sixth Circuit in *Coopwood v. Wayne Cnty.*, No. 22-1485, due November 10, 2022;
- A reply brief in the Illinois Supreme Court in *People v. Washington*, No. 127952, due November 21, 2022;
- An opening brief in the United States Court of Appeals for the Fourth Circuit in *Clark v. Smith*, No. 22-6958, due December 5, 2022; and
- A reply brief in the United States Court of Appeals for the Ninth Circuit in *Perez v. City of Fresno*, No. 22-15546, due December 12, 2022.

7. 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.

8. Mr. Johnson has not previously sought an extension of time from this Court.

9. Respondents do not oppose the requested extension of time.

10. For the foregoing reasons, the application for a 30-day extension of time, to and including December 23, 2022, within which to file a petition for a writ of certiorari in this case should be granted.

Respectfully submitted,

David M. Shapiro

Counsel of Record

RODERICK & SOLANGE

MACARTHUR JUSTICE CENTER

NORTHWESTERN PRITZKER SCHOOL OF LAW

375 East Chicago Avenue

Chicago, IL 60611

(312) 503-0711

david.shapiro@law.northwestern.edu

Counsel for Applicant Michael Johnson

November 7, 2022