

No. 22A-\_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

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JASCHA CHIAVERINI; CHIAVERINI, INC.,  
*Applicant,*

v.

CITY OF NAPOLEON, OHIO, ET AL.,  
*Respondent.*

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

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

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

TO: Justice Brett M. Kavanaugh, Circuit Justice for the United States  
Court of Appeals for the Sixth Circuit:

Under this Court's Rules 13.5 and 22, Applicant Jascha Chiaverini requests an extension of fifty-nine (59) days in which to file a petition for a writ of certiorari in this case. The U.S. Court of Appeals for the Sixth Circuit issued its decision on January 11, 2023. *See Chiaverini v. City of Napoleon, Ohio*, No. 21-3996, 2023 WL 152477 (6th Cir., Jan. 11, 2023); App. 1. The Court denied the petition for panel rehearing, or, in the alternative, for rehearing *en banc*, on February 15, 2023. App 15. Unless extended, the time to file a petition for certiorari will expire on May 16, 2023. With the requested extension, the petition would be due on July 14, 2023.

This application is being filed more than 10 days before the petition is due. *See* S. Ct. R. 13.5. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1). In support of this application, Applicant states:

1. Applicant Jascha Chiaverini managed a jewelry store. App. 2. He purchased a ring and an earring from their purported owner. *Id.* The jewelry turned out to be stolen. App. 2-4. Over the next several weeks, Applicant engaged in a series of conversations with respondent officers from the Napoleon Police Department about returning the jewelry. App. 2-4. Although a "hold letter" issued by the Napoleon Police Department had instructed

Applicant to retain possession of the jewelry, respondent police officers insisted he turn it over to them. App. 3-4.

When he did not, respondent police officers applied for an arrest warrant based on three charges: Money laundering, a licensure violation, and receiving stolen property. App. 5. To obtain the arrest warrant, respondent officers submitted affidavits containing falsehoods and a criminal complaint containing charges that lacked probable cause. App. 5-6. Applicant was arrested. App. 5. He was jailed for three days. *Id.* The prosecution declined to present the case to a grand jury, and charges were eventually dismissed. App. 6.

2. Applicant then filed suit against the police officers, raising, as relevant here, a claim under 42 U.S.C. 1983 for malicious prosecution in violation of the Fourth Amendment. App. 6. The district court granted summary judgment for defendants. *Id.*

On appeal, the Sixth Circuit affirmed the dismissal. It found that there was probable cause for two out of the three charges. App. 7-14. However, the Sixth Circuit declined to assess whether there was probable cause for the third charge (money laundering). App. 9 n.8. Under that Circuit's "any-crime" rule, probable cause as to even one of the charges defeats a malicious prosecution claim. *Id.*

3. This case is a serious candidate for review. It involves an acknowledged circuit split over whether the "any-crime" rule applies to

malicious prosecution cases. The Second, Third, and Eleventh circuits have held that the “any-crime” rule does not apply to malicious prosecution cases, reasoning that “[a]t common law, probable cause was specific to each accusation” and thus allow Section 1983 malicious prosecution claims to proceed if any of the charges lack probable cause. *Williams v. Aguirre*, 965 F.3d 1147, 1159 (2020); see *Johnson v. Knorr*, 477 F.3d 75, 83-84 (3d Cir. 2007); *Posr v. Doherty*, 944 F.2d 91, 100 (2d Cir. 1991). The Sixth Circuit, by contrast, applies the “any-crime” rule to malicious prosecution cases, finding that a Section 1983 malicious prosecution claim *cannot* proceed if any of the charges *are* supported by probable cause. See *Howse v. Hodous*, 953 F.3d 402, 409 (6th Cir. 2020). The split has been repeatedly acknowledged. See, e.g., *Williams*, 965 F.3d at 1159 (“Our sister circuits have split on the question.”); *Howse*, 953 F.3d at 409 (“The contrary conclusions of other circuits don’t persuade us otherwise.”).

The basis for the Sixth Circuit’s decision was the “any-crime” rule. It found that there was probable cause for two of the three charges and that a lack of probable cause as to the third would not suffice to establish malicious prosecution. App. 7-14. Due to the circuit split on this issue, there is a reasonable prospect that this Court will grant the petition.

4. This application is not filed for purposes of delay. Rather, undersigned counsel at the Stanford Law School Supreme Court Litigation Clinic needs additional time to prepare the petition for certiorari. Applicant recently

affiliated with the Clinic, and the extension is needed for the members of the Clinic to fully familiarize themselves with the record, the decisions below, and the relevant case law. In light of the Clinic’s many other obligations—including preparing three petitions for certiorari and two briefs in opposition during the current academic quarter—the Clinic would face difficulties completing the petition by the current due date.

For these reasons, Applicant requests that the due date for the petition for a writ of certiorari be extended to July 14, 2023.

Respectfully submitted,



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