

App. No. ____

IN THE SUPREME COURT OF THE UNITED STATES

LAWRENCE ALLEN,

Applicant,

v.

DUSTIN FAIT AND TOWN OF SMYRNA, TENNESSEE

Respondents

**On Application for an Extension of Time to File Petition for a Writ of
Certiorari to the United States Court of Appeals for the Sixth Circuit**

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Date: May 16, 2025

To the Honorable Brett Kavanaugh, as Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

Pursuant to Supreme Court Rules 13.5, 22, and 30.2, Applicant Lawrence Allen respectfully requests a 60-day extension of time, up to and including July 15, 2025, within which to file a petition for a writ of certiorari in this matter.

Background

- The United States Court of Appeals for the Sixth Circuit issued its opinion in this case on February 13, 2025.
- The court denied rehearing on February 25, 2025
- Absent an extension, the petition for writ of certiorari is due on May 26, 2025
- The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

Procedural History

Lawrence Allen was convicted in 2018 of domestic assault and aggravated rape in Tennessee, but the Tennessee Court of Criminal Appeals reversed his convictions in December 2020 due to a Brady violation involving withheld exculpatory evidence (a recantation email from the purported victim.) On April 8, 2021, Allen pleaded guilty to a lesser charge of aggravated assault, and the original charges were dismissed *nolle prosequi*. His records for the reversed convictions were expunged on February 8, 2022. Allen filed his § 1983 malicious prosecution and due process claims on February 7, 2023, alleging violations of his Fourth and Fourteenth Amendment rights. The district

court dismissed the case as time-barred, ruling that the statute of limitations began running on April 8, 2021 (the date of his guilty plea and dismissal of charges), not the expungement date or the Supreme Court’s April 4, 2022, decision in *Thompson v. Clark*, 596 U.S. 36 (2002).

Key Arguments from the Petition for Rehearing and Appellant Brief

1. Accrual Post-*Thompson v. Clark*:

Before *Thompson*, Sixth Circuit precedent (*Jones v. Clark County*, 959 F.3d 748, C.A.6, 2020) required plaintiffs to prove "affirmative indication of innocence" to establish favorable termination for § 1983 malicious prosecution claims. Under this standard, Allen’s claims were not actionable until *Thompson* eliminated the innocence requirement on April 4, 2022.

The panel erred in concluding Allen’s claims accrued in April 2021, as binding precedent at the time barred his claims. A cause of action cannot accrue until a plaintiff can “file suit **and obtain relief**” (*Bay Area Laundry v. Ferbar Corp*, 522 U.S. 192, 201 (1997) (emphasis added)).

2. Collateral Consequences and Expungement:

Tennessee law imposed ongoing disabilities (e.g., voting restrictions, jury service ineligibility) until expungement. These consequences rendered the constitutional violation “continuous” under the continuing violations doctrine, delaying accrual until February 8, 2022. The district court dismissed the expungement’s relevance, but Sixth Circuit precedent (*Gentry v. Deuth*) recognizes expungement as the “practical, logical,

and necessary” endpoint for nullifying unconstitutional convictions. 456 F.3d 687, 696 (C.A.6, 2006).

3. Panel’s Reliance on Inapposite Authority:

The panel cited Seventh Circuit cases (*Ortiz-Santiago v. Barr*, 924 F.3d 956 (C.A.7, 2019); *Towne v. Donnelly*, 44 F.4th 666 (C.A.7, 2022)) addressing waiver and forfeiture, not accrual. These cases conflated procedural default with the distinct question of when a claim becomes viable.

Reasons for Extension

The issues in this case are of exceptional importance, involving the accrual of § 1983 claims after reversal and expungement of a conviction, the impact of *Thompson v. Clark*, and the application of equitable tolling in light of changing law. Additional time is warranted to ensure these issues are fully and properly presented to the Court. No previous requests for extension of time to file the petition for writ of certiorari have been made in this matter. Granting this extension will not prejudice Respondents, and the request is made in good faith and not for purposes of delay.

Conclusion

For the foregoing reasons, Applicant respectfully requests that the time to file a petition for a writ of certiorari in this matter be extended 60 days, up to and including July 15, 2025.

Dated: May 16, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served in accordance with Supreme Court Rule 29 via US mail on May 16, 2025, to:

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