

No: _____

IN THE SUPREME COURT OF THE UNITED STATES

January Term, 2019

ALEXANDER L. BAXTER,

Petitioner,

v.

BRAD BRACEY and SPENCER R. HARRIS,

Respondents.

APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT

Ezekiel R. Edwards
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street
New York, NY 10004
(212) 549-2500
eedwards@aclu.org

David D. Cole
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
915 15th Street, NW
Washington, DC 20005
(202) 675-2330
dcole@aclu.org

COUNSEL FOR PETITIONER

No: _____

IN THE SUPREME COURT OF THE UNITED STATES

January Term, 2019

ALEXANDER L. BAXTER,

Petitioner,

v.

BRAD BRACEY and SPENCER R. HARRIS,

Respondents.

APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT

TO THE HONORABLE SONIA SOTOMAYOR, Associate Justice of the United States, and Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rule 13.5 of the Rules of this Court, Petitioner Alexander L. Baxter respectfully applies for a 60-day extension of time to file his petition for certiorari in this Court to and including April 8, 2019 (this is the first business day after the 60th day, which falls on a Sunday). The final judgment of the Sixth Circuit was entered on November 8, 2018. Petitioner's time to petition for certiorari in this Court expires on February 6, 2019. This application is being filed more than 10 days before that date.

A copy of the opinion below is attached hereto. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

In support of his request, Petitioner shows the following as good cause:

This case involves Fourth Amendment excessive force allegations brought against two police officers pursuant to 42 U.S.C § 1983. One of the officers ordered his police dog to attack Petitioner who was unarmed and sitting with his hands in the air at the time, plainly indicating his intention to surrender. The second officer stood by and watched.

The Sixth Circuit initially denied the officers' motion to dismiss on qualified immunity grounds, concluding that the complaint pleaded sufficient facts to establish that both officers violated Petitioner's clearly established constitutional rights. *Baxter v. Harris*, No. 15-6412, 2016 WL 11517046, at *2 (6th Cir. Aug. 30, 2016). Later, the Sixth Circuit granted qualified immunity upon the officers' motion for summary judgment, even though, as the district court found, Petitioner's "testimony entirely corroborates all of the material facts alleged in his verified complaint, which the Sixth Circuit has already found could support a finding of excessive force." Order Denying Motion for Summary Judgment at 3, *Baxter v. Harris*, No. 3:15-CV-00019, (M.D. Tenn. Jan. 19, 2018).

Petitioner is indigent and currently incarcerated. He requested the appointment of counsel below but none was provided. Petitioner retained the undersigned counsel on December 19, 2018, and now seeks an extension of time to

file a petition for writ of certiorari to accommodate counsel's recent retention for this purpose.

Petitioner respectfully requests than an order be entered extending his time to petition for certiorari in the above-captioned case to and including April 8, 2019.

Respectfully submitted,



David D. Cole
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
915 15th Street, NW
Washington, DC 20005
(202) 675-2330
dcole@aclu.org

Ezekiel R. Edwards
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street
New York, NY 10004
(212) 549-2500
eedwards@aclu.org

COUNSEL FOR PETITIONER

Dated: January 17, 2019.