

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

LARCE SPIKES,
Applicant,

v.

LESLEY WHEAT, NURSE; PAULA STRINGER, NURSE; ROBIN BOWMAN, NURSE; CONRAD
MCVEA, III, ALSO KNOWN AS CHIP MCVEA; JANET MCVEA WILLIAMS; JACOB O. MCVEA,
IN THEIR INDIVIDUAL CAPACITIES,
Respondents.

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

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September 4, 2025

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To the Honorable Samuel A. Alito, Jr., Associate Justice of the United States
and Circuit Justice for the Fifth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5 and 22,
applicant Larce Spikes (“Applicant”) respectfully requests a 30-day extension, to and
including October 23, 2025, within which to file a petition for a writ of certiorari to
review the judgment of the United States Court of Appeals for the Fifth Circuit. A
panel of the Fifth Circuit issued its opinion on June, 24, 2025. Unless extended, the
time to file a petition for a writ of certiorari will expire on September 23, 2025.

1. This case presents an important question of federal law to resolve: in
order to overcome qualified immunity and proceed on a claim of deliberate inference
to a medical need, can a plaintiff present facts demonstrating that the care provided

was clearly inadequate, or is the provision of any treatment—no matter how inadequate—legally sufficient to preclude an Eighth Amendment violation.

2. Applicant Larce Spikes was a prisoner at Rayburn Correctional Center in Angie, Louisiana. Applicant broke his hip while walking in the prison yard. For 43 days, Defendants' only response to Applicant's inability to walk and pain from this fracture was ibuprofen, analgesic cream, and crutches. Mr. Spikes filed a lawsuit brought under 42 U.S.C. §1983, alleging that Defendants failed to provide him with adequate medical care. Defendants filed a motion for summary judgment raising qualified immunity. The District Court denied Defendants' motion finding multiple genuine issues of material fact requiring resolution including: Mr. Spikes' ability to walk at all following his injury when he requested treatment, whether Mr. Spikes ever had full range of motion in his leg following his injury, whether Defendant doctor knew of the severity of Mr. Spikes' symptoms, and whether Defendant nurses could have escalated Mr. Spikes' concerns so that he could have been seen by a medical doctor.

3. Defendants appealed the District Court's denial of summary judgment. A panel of the Fifth Circuit initially affirmed the District Court's denial of summary judgment, finding Defendants did not offer Mr. Spikes treatment responsive to the compelling evidence that he had suffered a fracture. Defendants petitioned for rehearing en banc. On rehearing, the panel vacated the judgment below and remanded to the District Court for an inquiry into qualified immunity based on the role of each participant.

4. The District Court entertained additional briefing and issued a second ruling, again engaging in an individualized analysis of whether each Defendant had subjective knowledge that Plaintiff faced a serious risk of medical harm and disregarded that risk by failing to take reasonable measures to abate it. The District Court again found factual disputes as to each Defendants' knowledge and the reasonableness of each Defendants' action that precluded summary judgment on qualified immunity. Defendants appealed this second ruling.

5. A separate panel of the Fifth Circuit took up the Court's second ruling, this time holding that no factual disputes were material to the qualified immunity analysis, concluding that the fact that Defendants provided *some* treatment to Mr. Spikes meant that they met the constitutional minimum under the Eighth Amendment.

6. This Court has held that deliberate indifference to serious medical needs is an unnecessary and wanton infliction of pain, "whether the indifference is manifested by the prison doctors in their response the prisoner's needs or by prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed." Estelle v. Gamble, 429 U.S. 97,104 (1976). This Court has also held that a defendant who "knows of and disregards an excessive risk to inmate health or safety" has violated that inmate's constitutional rights. Farmer v. Brennan, 511 US 825, 837 (1994). The Fifth Circuit second panel opinion's dismissal of factual questions as immaterial both undercuts this Court's pronouncements in Estelle and Farmer about the rights of sentenced prisoners not to

be subjected to cruel and unusual punishment and highlights a split among the lower courts. On the one hand, the Seventh and Eleventh Circuits look to the factual question of whether the treatment was adequately responsive to the condition. See e.g., Berry v. Peterman, 604 F. 3d 435 (7th Cir. 2010); Mandel v. Doe, 888 F. 2d 783 (11th Cir. 1989). In contrast, the Fifth Circuit’s second panel opinion holds that any treatment precludes an Eighth Amendment violation.

7. Mr. Spikes intends to file a petition for a writ of certiorari, seeking this Court’s review of the Fifth Circuit’s decision.

8. Good cause exists for an extension of time to prepare a petition for a writ of certiorari in this case due to competing obligations in other cases. Substantial commitments of counsel of record during the relevant time period include:

- Archer v. City of New Orleans, No. 21-1079 (E.D. La.):
 - settlement conference on September 2, 2025;
 - pretrial order due September 10, 2025;
 - pre-trial conference on September 17, 2025; and
 - seven-day federal jury trial scheduled to start September 29, 2025.
- Green v. LeBlanc, et al., No. 24-730 (M.D. La.): opposition to defendants’ motion to transfer venue due September 12.
- State of Louisiana v. Nathaniel Lambert, No. No. 525-362-D (Orleans Parish Criminal District Court): postconviction evidentiary hearing brief due September 11, 2025.

9. In addition, both undersigned counsel have an out of state work obligation from September 17-19, 2025.

10. An extension of time is further justified because it would permit undersigned counsel to provide the quality of comprehensive analysis that would aid this Court in determining whether to grant certiorari.

11. Applicant has not previously sought an extension of time from this Court.

12. For the foregoing reasons, the application for a 30-day extension of time, to and including October 23, 2025, within which to file a petition for a writ of certiorari in this case should be granted.

Respectfully Submitted,

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