

Note: This
original
needs to
be restap-
led.

I was
unable to
do it my-
self. Saylor

No. _____

In the Supreme Court of the United States

James Saylor,

Petitioner,

v.

Rob Jeffreys,

Respondent.

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

Application for Extension of Time to File Petition for Writ
of Certiorari to the United States Court of Appeals for the
Eighth Circuit

To the Honorable Brent M. Kavanaugh, Associate

Justice of the Supreme Court of the United States

and Circuit Justice for the Eighth Circuit:¹

Pursuant to 28 U.S.C. § 2101(c) and
Supreme Court Rule 13.5, Petitioner James
Saylor, a state prisoner from Nebraska pro-
ceeding pro se, respectfully prays for a

¹ Petitioner apologizes for submitting a hand-written Application. However, there was no other option because prison officials in Nebraska deny access to typewriters, even for documents to be filed at a court. Even though Petitioner is not proceeding in forma pauperis, Petitioner respectfully requests that the relevant provisions of this Court's Rule 39.3 be applied here so that Petitioner's hand-written Application may be filed. Petitioner also respectfully points out that Supreme Court Rule 33.2 does not expressly require that documents be typewritten.

60-day extension of time, to and including December 19, 2025, to file his petition for certiorari in this Court. The Eighth Circuit entered judgment on March 19, 2025, App. 2, then denied rehearing on July 22, 2025, App. 10, and Petitioner's time to petition for certiorari expires on October 20, 2025. This Application is being filed more than 10 days before that date.

Judgment, Opinion, and Rehearing Order

Copies of the Eighth Circuit's judgment, opinion, and rehearing order are attached hereto at App. 2, App. 3, and App. 10, respectively.

Jurisdiction

The jurisdiction of this Court to review on certiorari the judgment in this case is invoked under 28 U.S.C. § 1254(1).

Nature of Case

This case involves a prisoner with mental illness, long-term solitary confinement, and res judicata.

In 2020, Petitioner brought suit alleging that, with only a couple exceptions, the Respondent had held him in solitary confinement since 2002 because he has post-traumatic stress disorder (PTSD),

thus violating the Americans with Disabilities Act (ADA)² and the Rehabilitation Act of 1973 (RA).³

However, the courts below held that such was res judicata because of a previous suit -- "Saylor I" -- and dismissed.

Whether the current suit is res judicata turns on whether new facts that did not develop until long after Saylor I had been dismissed give rise to a new claim.

² 42 U.S.C. §§ 12131-12132.

³ 29 U.S.C. § 794(a).

The new facts include the following:

the Respondent released Petitioner from solitary confinement; upon releasing Petitioner, Respondent accommodated Petitioner for his disability PTSD, thus making it possible for Petitioner to live outside solitary confinement; however, in 2018, 1½ years after releasing Petitioner, for no apparent reason Respondent rescinded Petitioner's accommodations and threw Petitioner back into solitary confinement.

Even though the 2018 "rescission facts" did not develop until approximately a year after Saylor I had been dismissed, the

Eighth Circuit held that such did not produce a new claim. App. 7.⁴

The following are a few of the reasons why this case is "cert-worthy":

a. Conflict between the circuits. Pursuant to Supreme Court Rule 10(a), the decision by

4 (a) A key aspect of the Eighth Circuit's decision is that the rescission facts do not produce a new claim because it's supposedly "lawful" to hold Petitioner in solitary confinement because he has PTSD. App. 7. Such needs to be explained in the petition for certiorari; (b) Please see App. 7 for the Eighth Circuit's findings concerning what the 2018 rescission facts are. The Eighth Circuit's findings regarding such are inaccurate and selective. The court failed to liberally construe Petitioner's pro se complaint.

the Eighth Circuit in this case conflicts with a "robust consensus of cases of persuasive authority" from the Third and Fourth Circuits on the lawfulness of solitary confinement. E.g., Williams v. Sec'y Pa. Dep't of Corr., 117 F.4th 503, 524 (also 517-24) (3rd Cir. 2024) (extending to death row inmates "clearly established right" of individuals with preexisting serious mental illness not to be subjected to prolonged solitary confinement without penological justification). Such is highly relevant to this case, and Petitioner looks forward to presenting such to this Court in his cert petition, if allowed to do so.

b. This case raises important questions concerning this Court's res judicata holding in Whole Women's Health v. Hellerstedt (WWH), 579 U.S. 582, 598 (2016), including questions regarding the following: the "new material facts" holding, 579 U.S. at 599; the "even a slight change of circumstances" provision, *Id.*, at 600; the "contaminated water" analogy, *Id.*, at 600-601; and whether such remains good law, esp. post-Dobbs v. Jackson Women's Health Org., 597 U.S. 215 (2022). Petitioner got nowhere attempting to rely on WWH in the courts below.

c. An important question that Petitioner

wishes to ask this Court is: Can a prisoner with SMI who is being held in prolonged solitary confinement because he or she has SMI, and who is serving a life sentence, be held in solitary confinement for the rest of his or her life with no way to bring a new suit to challenge the conditions described simply because he or she lost a previous suit?

Reasons Why Extension of Time Is Justified

As an initial matter, on September 17, 2025, Petitioner mailed to counsel for the Respondent a letter requesting that he not oppose a request for an extension of time. App. 11. Petitioner received no response to his letter on anything indicating opposition to the grant of additional

time.

The specific reasons why an extension of time is justified include the following:

1. The main reason for requesting an extension of time is that Petitioner is experiencing great difficulty in attempting to arrange the preparation of his petition under Rule 33.1. Because Petitioner is in prison, it is extraordinarily difficult for him, as a pro se petitioner, to make the necessary arrangements to prepare a booklet petition.

Even though Petitioner is a pro se prisoner, his petition must be prepared under Rule 33.1,

because Petitioner is not proceeding in forma pauperis.

Petitioner has no computer or phone access to the firms that prepare booklet petitions.

Such firms typically require their clients to use software to typeset their petitions, then submit such electronically. Because Petitioner has no access to computers, he is unable to either typeset his petition or submit such electronically for preparation. Petitioner is limited to pen and paper.

Petitioner is forced to rely on intermediaries from the community in order to access

a firm that prepares booklet petitions. Petitioner is at the mercy of such intermediaries. And it's a slow process.

Accomplishing payment to the firm preparing the booklets is yet another moon landing, essentially.

In order to do business with such firms, one is expected to have a credit card. Because Petitioner does not have a credit card, in addition to ^{no} phone or computer access to the firm, everything gets slowed down, and more time is spent searching for mundane solutions that have nothing to do with legal work.

Petitioner is not complaining about Rule 33.1

on having to pay for booklets.

However, if the Court is going to require a prisoner with very little access to the outside ~~world~~ world to comply with such a demanding Rule as 33.1 in order to file a petition, then -- respectfully -- the Court should make it possible for that prisoner to comply with the demanding Rule by giving the prisoner the additional time he needs to comply with the Rule.

Petitioner needs an extension of 60 days to meet his responsibilities under 33.1.

2. Petitioner suffers from a serious form of PTSD. App. 4. Petitioner's PTSD interferes with his ability to perform intellectual tasks, including legal work, and causes Petitioner to work slowly. Such has interfered with Petitioner's efforts to get a petition prepared and filed in this case, and it has been a significant factor in Petitioner's inability to meet his current deadline of October 20, 2025, to petition for certiorari.

3. The complexity of facts and law in this case, including appellate issues, is such that an attorney of ~~every~~ average ability

Would find them difficult to understand and navigate. All the more so for a pro se prisoner.

4. Petitioner has very limited access to an inadequate law library and serious limitations on his phone access, his access to photocopies, and his access to the U.S. mail.

Pursuant to Supreme Court Rule 13.5, the foregoing specific reasons and facts constitute "good cause" and show that an extension of time is "justified."

WHEREFORE, for all the foregoing facts and reasons, Petitioner respectfully requests that an order be entered

extending his time to petition for certiorari
in the above-captioned case to and including
December 19, 2025.

Dated: October 2, 2025

Respectfully submitted,

James Saylor
Petitioner, pro se



James Saylor, #3650

P.O. Box 900

Tecumseh, NE 68450-0900

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**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-3414

James Saylor

Plaintiff - Appellant

v.

Rob Jeffreys, Director of the Nebraska Department of Correctional Services, in his official
capacity

Defendant - Appellee

Appeal from U.S. District Court for the District of Nebraska - Omaha
(8:20-cv-00264-JMG)

JUDGMENT

Before COLLOTON, Chief Judge, BENTON, and KELLY, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the
district court, briefs of the parties and was argued by counsel.

After consideration, it is hereby ordered and adjudged that the judgment of the district
court in this cause is affirmed in accordance with the opinion of this Court.

March 19, 2025

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

United States Court of Appeals
For the Eighth Circuit

No. 23-3414

James Saylor

Plaintiff - Appellant

v.

Rob Jeffreys, Director of the Nebraska Department of Correctional Services, in his
official capacity

Defendant - Appellee

Appeal from United States District Court
for the District of Nebraska - Omaha

Submitted: November 20, 2024

Filed: March 19, 2025

Before COLLOTON, Chief Judge, BENTON and KELLY, Circuit Judges.

BENTON, Circuit Judge.

James M. Saylor sued the Director of Nebraska's Department of Correctional Services, alleging deprivation of accommodations, unlawful placement in solitary confinement, and discrimination based on disability. The district court¹ dismissed

¹The Honorable John M. Gerrard, United States District Judge for the District of Nebraska.

the complaint. He appeals. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

In 1985, Saylor, convicted of second-degree murder, was sentenced to life in prison. Assaulted by other inmates in 2002, he was later diagnosed with post-traumatic stress disorder due to the attack. In 2010, he won a \$250,000 judgment against the Department for its failure to stop the attack and provide adequate care afterward.

In 2012, Saylor sued in federal court attacking the conditions of his confinement (*Saylor I*). *Saylor v. Kohl*, 2016 WL 8201925 (D. Neb. Nov. 28, 2016). In 2017, he brought two suits in state court, also attacking the conditions of his confinement (*Saylor II* and *Saylor III*). See *Saylor v. State*, 995 N.W.2d 192, 196 (Neb. 2023). All cases were dismissed.²

Saylor brought this fourth case under Title II of the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act. The district court dismissed, concluding his claims were barred by res judicata.

Saylor first argues that the district court erred in concluding the claims in this case are based on the same nucleus of operative facts as those alleged in *Saylor I*. He asserts that in January 2018, the Director “took away accommodations he had previously provided to Saylor, placed [him] in solitary confinement, excluded [him] from programs, activities, aids, and services, and did so discriminatorily based upon [his] disability, PTSD.” These facts, his argument goes, “were sufficient to comprise a transaction which may be made the basis of a second action not precluded by the first.”

This court reviews de novo the dismissal of a case on res judicata grounds. *Yankton Sioux Tribe v. U.S. Dep’t of Health & Hum. Servs.*, 533 F.3d 634, 639 (8th Cir. 2008). Res judicata is when “a final judgment on the merits of an action

²This court takes judicial notice of the records in these cases.

precludes the parties or their privies from relitigating issues that were or could have been raised in that action.” *Id.* The doctrine applies when: “(1) the first suit resulted in a final judgment on the merits; (2) the first suit was based on proper jurisdiction; (3) both suits involve the same parties (or those in privity with them); and (4) both suits are based upon the same claims or causes of action.” *Elbert v. Carter*, 903 F.3d 779, 782 (8th Cir. 2018). “Whether two claims are the same for res judicata purposes depends on whether the claims arise out of the same nucleus of operative fact or are based upon the same factual predicate.” *Id.*

On November 28, 2016, the district court dismissed Saylor’s § 1983 claims in *Saylor I*, 2016 WL 8201925. One month later, he moved to: (1) vacate the dismissal pursuant to Fed. R. Civ. P. 59(e), and (2) file a third amended complaint pursuant to Fed. R. Civ. P. 15(a)(2). The district court denied his motions. *Saylor v. Kohl*, 2017 WL 486921, at *1 (D. Neb. Feb. 6, 2017).

Saylor argues that in *Saylor I*, the district court “did not dismiss with prejudice or rule on the merits . . . but simply found that [he] had not met the standard for a Rule 59(e) motion . . .” and also refused to allow an amended complaint. He concludes that there was no “judgment on the merits” in *Saylor I*, and thus res judicata does not bar his claim in this case.

To the contrary, it is “well settled that denial of leave to amend constitutes res judicata on the merits of the claims which were the subject of the proposed amended pleading.” *King v. Hoover Grp., Inc.*, 958 F.2d 219, 222–23 (8th Cir. 1992). Saylor tries to counter with *Lundquist v. Rice Memorial Hospital*, 238 F.3d 975 (8th Cir. 2001). While employed, Lundquist sued alleging discrimination under the ADA. 238 F.3d at 976. Later, she was fired. *Id.* The court denied her motion to add later “specific discriminatory events” resulting in alleged wrongful termination. *Id.* at 976–77. She then filed a second suit. This court held that her wrongful termination claims were not barred by res judicata because she “did not have a claim for wrongful termination at the time she filed her first Complaint,” so “the merits of Lundquist’s wrongful termination claim were never addressed by the district court.” *Id.* at 978.

Unlike Lundquist, Saylor had an ADA claim when he filed his *Saylor I* complaint. Saylor believes that his claims here arise from new facts that occurred years after *Saylor I*. He says that the new facts are the “Director’s rescission of accommodations, which had been provided to him *after* the facts in, and the filing of, *Saylor I*.” See *id.* at 977 (“it is well settled that claim preclusion does not apply to claims that did not arise until *after* the first suit was filed.”) (cleaned up).

In fact, Saylor’s proposed amended complaint in *Saylor I* would have added an ADA claim arising out of “the same nucleus of operative fact” as his original complaint there—so he could have brought the ADA claim then. See *Elbert*, 903 F.3d at 782. In this case, Saylor again complains of ADA discrimination by the Director but alleges no new specific discriminatory events. In *Saylor I*, Saylor alleged that he was “discriminated against” because “of his disease or disability, specifically PTSD.” Here, Saylor asserts he “has been, and continues to be, discriminated against because he has PTSD.” Although both complaints reference his time in prison from 2002 to 2013, the complaint here adds that he “continued to be housed in solitary confinement” from 2013 to 2016, and 2018 to 2021. Saylor’s complaint repeats facts from *Saylor I*, adding how they continued and reoccurred. Any “new facts” may be additional evidence, but are not specific discriminatory events. The nucleus of operative facts remains the same. See *Banks v. Int’l Union Elec., Elec., Tech., Salaried & Mach. Workers*, 390 F.3d 1049, 1052–53 (8th Cir. 2004) (“Where a plaintiff fashions a new theory of recovery or cites a new body of law that was arguably violated by a defendant’s conduct, res judicata will still bar the second claim if it is based on the same nucleus of operative facts as the prior claim.”). “The pertinent question is whether the second claim is based on subsequent legal or factual events that produce a different nucleus of operative facts, not whether those events inspire new legal theories of recovery or provide additional evidence supporting the previously rejected claim.” *United States v. Bala*, 948 F.3d 948, 951 (8th Cir. 2020). When the *Saylor I* court denied the motion to amend, it addressed the merits of his ADA claim and issued a final judgment.

Saylor emphasizes *Whole Woman's Health* to assert that claim preclusion does not apply to claims based on new facts. See *Whole Woman's Health v. Hellerstedt*, 579 U.S. 582, 599–600 (2016) (“Material operative facts occurring after the decision of an action with respect to the same subject matter may in themselves, or taken in conjunction with the antecedent facts, comprise a transaction which may be made the basis of a second action not precluded by the first.”).

Saylor’s “new facts” refer to the Director’s “rescission of accommodations which the Director had provided to Saylor from late 2017 until early 2018.” His complaint outlines the following facts:

- In 2016, Saylor experienced a mental breakdown.
- After a hospital stay, he was transferred to the Mental Health Unit, given a single cell, and provided other accommodations.
- He remained in the Mental Health Unit from July 25, 2016, to January 24, 2018.
- He was later ordered out of the Mental Health Unit but refused to comply, leading officials to place him in the LCC C Unit—solitary confinement.

The movement into and out of the Mental Health Unit does not give rise to a new claim. Saylor acknowledges that he was placed “back into solitary confinement”—the same conditions this Court found lawful in *Saylor I*. See *Saylor I*, 2016 WL 8201925 at *1. While Saylor’s transfer to the Mental Health Unit was a subsequent event, it did not produce a different nucleus of operative facts. The essence of his complaint is unchanged: he seeks a cell of his own. The movement is only one “transaction” in a “series of connected transactions” alleging discrimination against Saylor. See *Lane v. Peterson*, 899 F.2d 737, 742 (8th Cir. 1990) (quoting Restatement (Second) of Judgments § 24 (1980)). Saylor’s reliance on the prisoners-drinking-contaminated-water analogy in *Whole Woman's Health* is inapplicable. 579 U.S. at 600 (“If at first their suit is dismissed because a court does not believe that the harm would be severe enough to be unconstitutional, it would make no sense

to prevent the same prisoners from bringing a later suit if time and experience eventually showed that prisoners were dying from contaminated water.”). Here, there is no time and experience effect.³ Saylor’s ADA claim was neither “remote” nor “speculative” when it was rejected in *Saylor I*. See *id.* at 601. An eighteen-month stay in the Mental Health Unit, and subsequent return to conditions this court held constitutional, is not the kind of “concrete factual development” contemplated by the Supreme Court. See *id.* at 602.

The district court properly applied res judicata in this case.

Second, Saylor argues the district court should have granted his motion for “consideration of issue and directions.” Construing this as a motion for extension of time to amend the complaint, the court denied the motion. This court reviews the denial of an extension for abuse of discretion. *Soliman v. Johanns*, 412 F.3d 920, 921 (8th Cir. 2005). Saylor’s motion does not explicitly request leave to amend. Nor does the motion explain the substance of the proposed amendment. “A district court does not abuse its discretion in failing to invite an amended complaint when plaintiff has not moved to amend and submitted a proposed amended pleading.” *Drobnak v. Andersen Corp.*, 561 F.3d 778, 787 (8th Cir. 2009). The district court did not abuse its discretion by denying the motion.

Third, Saylor challenges the district court’s rejection of his Rule 59(e) motion to alter or amend the judgment. This, too, is reviewed for abuse of discretion. See *Wagstaff & Cartmell, LLP v. Lewis*, 40 F.4th 830, 842 (8th Cir. 2022). “A district court has broad discretion in determining whether to grant a Fed. R. Civ. P. 59(e) motion to alter or amend judgment, and this court will not reverse absent a clear abuse of discretion.” *Innovative Home Health Care, Inc. v. P.T.-O.T. Assocs. of*

³This does not suggest that an extended period in solitary confinement can never produce a new claim. This case does not provide the opportunity to address whether indefinite solitary confinement might give rise to a new conditions-of-confinement claim if, for example, the conditions caused significant deterioration of mental or physical health over time. See *Whole Women’s Health*, 579 U.S. at 600.

the Black Hills, 141 F.3d 1284, 1286 (8th Cir. 1998) (cleaned up). Saylor’s rule 59(e) motion repeated arguments that the district court rejected in dismissing his complaint. There is no ground for reversal. *See Voss v. Hous. Auth. of the City of Magnolia*, 917 F.3d 618, 626 n.6 (8th Cir. 2019) (concluding “the district court did not abuse its discretion in denying [appellant’s] Rule 59(e) motion, which largely repeated the same arguments advanced at the summary judgment stage.”).

Fourth, Saylor argues that the district court erred in denying his motion for leave to file his third amended complaint. As discussed, Saylor’s claims—which repeated in the third amended complaint—are barred. The third amended complaint is thus futile. *See Popoalii v. Corr. Med. Servs.*, 512 F.3d 488, 497 (8th Cir. 2008) (motion to amend complaint properly denied if amendment would be futile).

* * * * *

The judgment is affirmed.

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-3414

James Saylor

Appellant

v.

Rob Jeffreys, Director of the Nebraska Department of Correctional Services, in his official
capacity

Appellee

Appeal from U.S. District Court for the District of Nebraska - Omaha
(8:20-cv-00264-JMG)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is
also denied.

July 22, 2025

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

P.O. Box 900

Tecumseh, NE

September 17, 2025

Zachary B. Pohlman

Assistant Solicitor General

Nebraska Department of Justice

2115 State Capitol

Lincoln, NE 68509

Re: Petition for Certiorari Concerning Decision by
Eighth Circuit Court of Appeals in Case 23-3414

Dear Assistant Solicitor General Pohlman:

I anticipate asking the Supreme Court of the United States for a 60-day extension of time to petition for certiorari in the above matter. I will likely file my Application for an Extension of Time within the next two weeks.

Zachary B. Pohlman
September 17, 2025
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I would respectfully request that you
consent to the extension of time or, alternatively,
that you agree not to oppose my request for
additional time.

If you oppose my request, I would
respectfully ask that you please explain how
you will be prejudiced if an extension is granted.

A major reason why I need additional
time is that I will be required to file my
petition for a writ of certiorari pursuant to
Supreme Court Rule 33.1-- booklets-- which saddles me

Zachary B. Pohlman

September 17, 2025

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with numerous demanding responsibilities.

As a pro se prisoner with no computer access and very little access to the outside world, it's extraordinarily challenging to accomplish preparation of a booklet petition from a commercial printer pursuant to Rule 33.1.

Such will take a lot of time.

I look forward to hearing from you.

Many thanks for your time, courtesy, and consideration concerning this matter.

Zachary B. Pohlman
September 17, 2025
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Respectfully,

James M. Saylor

James M. Saylor #36500

No. _____

In The Supreme Court of the United States

James Saylor,

Petitioner,

v.

Rob Jeffreys,

Respondent.

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

Prison Mailbox Rule Declaration

James Saylor Declares:

1. That on October 2, 2025, I deposited
in my institution's internal mail system a mailpiece

addressed to the Office Of The Clerk of The Supreme Court of the United States containing the following :

Application for an Extension of Time to file a Petition for a Writ of Certiorari addressed to the Honorable Brent M. Kavanaugh, Associate Justice of The Supreme Court of the United States and Circuit Justice for the Eighth Circuit.

2. That first-class postage has been prepaid. Such is the case based on the following : three (3) "Forever" stamps were already affixed to the mailpiece that I deposited in my institution's internal mail system on October 2, 2025 ; because it was obvious that additional postage would be necessary ; and because there was no other way to

Obtain additional postage. I followed the established procedure at my prison and attached to the mailpiece a written request asking that prison staff provide "additional first-class postage that is prepaid." The procedure described reliably results in additional first-class postage that is prepaid being provided before a mailpiece is deposited in the U.S. mail. Accordingly, first-class postage has been prepaid.

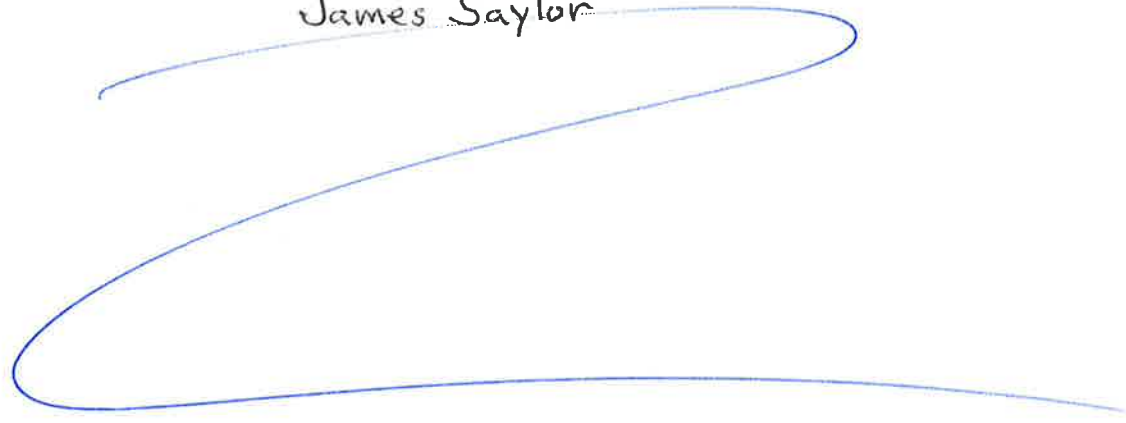
3. That a written request to prison staff asking that the above-described mailpiece be deposited in the U.S. mail without delay was attached to the mailpiece.

Pursuant to 28 U.S.C. § 1746, I, James Saylor, the Petitioner in the above-captioned case, declare under the penalty of perjury that the foregoing is true and correct.

Dated: October 2, 2025

James Saylor

James Saylor



No. _____

In The Supreme Court of the United States

James Saylor,

Petitioner,

v.

Rob Jeffreys,

Respondent.

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

Proof of Service

James Saylor Declares:

I. That on October 2, 2025, I served

by mail on each party to this proceeding  a

Copy of the following document: Application for an
Extension of Time to File a Petition for a Writ of Certi-
orari addressed to the Honorable Brent M. Kavanaugh, Associ-
~~ate~~ Justice of The Supreme Court of the United States
and Circuit Justice for the Eighth Circuit.

2. That all parties required to be served have been
served,

3. That the following is a list of names, addresses,
and telephone numbers of counsel indicating the
name of the party or parties that each counsel
represents:

Zachary B. Pohlman
Assistant Solicitor General
Nebraska Department of Justice
2115 State Capitol

Lincoln, Nebraska 68509

Telephone: (402) 471-2863

Counsel for Rob Jeffreys, the Respondent

Scott R. Straus

Assistant Attorney General

Office of the Attorney General

2115 State Capitol

P.O. Box 98920

Lincoln, NE 68509-8920

Telephone: (402) 471-2682

Counsel for Rob Jeffreys, the Respondent

4. That, because I do not meet the criteria set out in Supreme Court Rule 29.5(c), pursuant to Rule 29.5(c) I now recite the "facts and circumstances of service in accordance with the appropriate paragraph or paragraphs of this Rule":

a. The document described in paragraph 1 above was prepared as required by Supreme Court Rule 33.2.

b. Pursuant to Supreme Court Rule 29.3, on October 2, 2025, I perfected service of the document described in paragraph 1 above by mailing one copy of such to each of the Respondent's counsel of record, at their proper addresses, as set forth in Paragraph 3 above.

c. A fact and circumstance of service is that, as a prisoner, I have no direct access to the U.S. mail,  i.e., "the United States Postal Service," I am forced to rely on prison officials in order to access the U.S. mail, incoming and outgoing. In order for me to deposit outgoing mail into the U.S. mail, the established procedure at my

prison is for me to deposit my outgoing mail into the prison's internal mail system. Prison officials are then supposed to deposit my outgoing mail in the U.S. mail. I have no control over whether or not my outgoing mail actually gets deposited in the U.S. mail.

d. Pursuant to Rule 29.3, on October 2, 2025, I deposited in the U.S. mail the mailpieces described in paragraph 4(b) above by depositing the mailpieces into my prison's internal mail system.

e. A fact and circumstance of service concerns my access to first-class postage that is prepaid. I am required to purchase envelopes and postage

from the canteen. All envelopes come with a pre-determined amount of postage. There is no way to purchase an envelope with a different amount of postage, and postage cannot be purchased without an envelope. Importantly, however, all postage on envelopes from the canteen is "first-class" and "prepaid."

f. If outgoing mail requires additional postage, the established procedure at my prison is to attach to the mailpiece a request for additional postage before depositing the mailpiece in the prison's internal mail system. Prison staff are supposed to respond by providing postage that is first-class and prepaid before depositing the mailpiece in

the U.S. mail.

g. The mailpieces described in Paragraph 4(d) above bore postage that, per Rule 29.3, was both "first-class" and "prepaid." However, because it was obvious that additional postage was necessary, before depositing the mailpieces into my prison's internal mail system on October 2, 2025, I attached a request asking prison staff to provide "additional ~~postage~~ first-class postage that is prepaid." I am confident that prison staff will provide additional first-class prepaid postage. I have done everything in my power to comply with Rule 29.3, including its postage requirements.

5. That I am unable to comply with Supreme Court Rule 29.3's requirement that, in addition to serving the other party or parties, I must also transmit to them an electronic version of the document being served. I am serving a life sentence in prison in Nebraska and, as a result of my incarceration, have no computer access. There's no way for me to comply with the requirement described. I am proceeding pro se, although not in forma pauperis. I am advising the Office Of The Clerk of my inability to comply with the requirement described in a separate letter.

Pursuant to 28 U.S.C. § 1746, I, James Saylor, the Petitioner in the above-captioned case, declare under penalty of perjury that the foregoing is true and correct.

Dated: October 2, 2025

James Saylor
James Saylor