

In the Supreme Court of the United States

JOSHUA HOLLAMON,

Applicant,

v.

COUNTY OF WRIGHT AND DUSTIN MILLER

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

To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Eighth Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicant Joshua Hollamon respectfully requests a 60-day extension of time, to and including October 4, 2026, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Eighth Circuit issued its published opinion on March 17, 2026. A copy of the opinion is attached as Exhibit A. The Eighth Circuit denied Applicant's timely petition for rehearing en banc and for panel rehearing on May 7, 2026. A copy of the order denying rehearing is attached as Exhibit B. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on August 5, 2026. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case by Applicant.

3. This case presents an important and recurring question of Fourth Amendment law on which the courts of appeals are divided: whether a person’s mere passive noncompliance with a police officer’s commands—where the person is not suspected of a serious crime, is not threatening anyone, and is neither fleeing nor resisting arrest—permits the officer to use more-than-*de minimis* force against him.

4. Applicant Joshua Hollamon brought this action under 42 U.S.C. § 1983 for excessive force in violation of the Fourth Amendment. During a 2021 protest against pipeline construction in northern Minnesota, a county sheriff’s sergeant shot Applicant three times in the head with pepperballs, causing a brain injury, while Applicant—a misdemeanor trespasser who had disobeyed commands to leave—was not suspected of a serious crime, was not threatening anyone, and was neither fleeing nor resisting arrest. The district court granted summary judgment to the defendants, holding that no Fourth Amendment “seizure” occurred and that the officer was in any event entitled to qualified immunity. A divided panel of the Eighth Circuit affirmed in a published opinion. The panel assumed without deciding that Applicant was “seized” but held on the merits that the use of force was objectively reasonable on the ground that Applicant and his fellow protesters were not “compliant” because they disobeyed officers’ commands. Because the claim failed on the merits, the panel did not address qualified immunity.

5. The decision below squarely conflicts with the settled law of the Second, Third, Fourth, Fifth, Seventh, Ninth, and Tenth Circuits. Every court of appeals to address the question has held that a person’s mere passive noncompliance with police commands—without flight, threat, or active resistance—does not justify more than minimal force. *See*

El v. City of Pittsburgh, 975 F.3d 327, 340 (3d Cir. 2020) (recognizing a “consensus . . . of persuasive authority”); *McKinney v. City of Middletown*, 49 F.4th 730, 743 (2d Cir. 2022); *Estate of Armstrong v. Village of Pinehurst*, 810 F.3d 892, 901 (4th Cir. 2016); *Denville v. Marcantel*, 567 F.3d 156, 167-69 (5th Cir. 2009); *Becker v. Elfreich*, 821 F.3d 920, 930 (7th Cir. 2016); *Gravelet-Blondin v. Shelton*, 728 F.3d 1086, 1093 (9th Cir. 2013); *Epps v. Christian*, 173 F.4th 1236, 1242-43 (10th Cir. 2026). The decision below places the Eighth Circuit alone on the wrong side of that consensus.

6. The question is exceptionally important and recurs with striking frequency. Fourth Amendment excessive-force claims arising out of protests—from pipeline protests, to the George Floyd demonstrations, to curfew enforcement and mass-arrest scenarios—reach the courts repeatedly, and they involve a range of force, including chemical agents, impact projectiles, and physical takedowns. The panel majority’s rule does not operate at the margins; it governs a large and recurring category of encounters between law-enforcement officers and citizens engaged in expressive activity, and it will control a steady stream of future cases involving the use of force against nonthreatening protesters.

7. This case is an excellent vehicle for resolving the conflict. It reaches this Court on a published opinion, following full merits briefing (including *amicus* participation) and the denial of rehearing, and it presents the question cleanly and dispositively: the panel majority rested its decision squarely on the proposition that noncompliance alone justifies significant force. This Court’s review is warranted to restore uniformity to a recurring and important area of Fourth Amendment law.

8. Good cause exists for the requested 60-day extension. Counsel has significant competing obligations including in matters pending for this Court. Additional time would also allow counsel to review the summary-judgment record and the decisions below, research the conflict among the courts of appeals over the use of force against passively noncompliant individuals, evaluate the panel opinion and the concurrence, coordinate with co-counsel and potential *amici*, and prepare a petition that will be of assistance to the Court.

9. This request is made in good faith and not for purposes of delay.

Wherefore, Applicant respectfully requests that the time to file a petition for a writ of certiorari be extended to and including October 4, 2026.

Dated: July 22, 2026

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew T. Tutt", with a large, stylized flourish extending from the end of the signature.

Andrew T. Tutt
Counsel of Record
TRIAL LAWYERS FOR JUSTICE
421 W. Water Street
Decorah, IA 52101
(866) 854-5529
Andrew@TL4J.com

Counsel for Applicant
Joshua Hollamon