

IN THE
UNITED STATES SUPREME COURT

BRETT KIMBERLIN
Petitioner,

v.

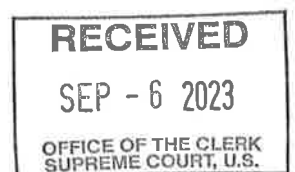
UNITED STATES DEPARTMENT OF JUSTICE, et al,
Respondents.

**MOTION FOR EXTENSION OF TIME IN WHICH TO FILE FOR A WRIT OF
CERTIORARI**

Now comes Petitioner, Brett Kimberlin, *pro se*, and moves this Court to grant him to and including November 1, 2023 to file his Petition for a Writ of Certiorari from a decision of the Seventh Circuit Court of Appeals, which denied rehearing on June 23, 2023. Attached.

1. Petitioner was out of the country for much of the summer. He is proceeding *pro se* as a paid petitioner because he cannot afford an attorney. However, he is actively seeking out *pro bono* counsel.

2. The issues in this case revolve around the application of *Heck v. Humphrey*, where the government engaged in a broad coverup to deprive Petitioner of his right to redress until the time had run out to overturn his conviction. *Heck* generally holds that a criminal defendant cannot sue for civil rights violations until his wrongful conviction is set aside. In the instant case, after the time for direct appeal and post-conviction remedies had passed, the Government admitted that it engaged in wholesale corruption of the criminal process before, during and after trial that would have resulted in the vacation of Petitioner's conviction if known during the



appeal and post-conviction process. It admitted that it lost or destroyed biological evidence that would prove Petitioner's innocence and that the hypnotist lied during trial, and corruptly and secretly placed his relative on the jury with the knowledge and assistance of ATF agents and federal prosecutors. When Petitioner sued those involved with the corruption, the Government cynically argued, and the lower courts agreed, that *Heck* barred the suit because Petitioner's conviction had not been overturned even though it was the Government's own decades-long corruption and coverup that precluded the vacation of Petitioner's conviction.

3. After the Seventh Circuit affirmed the lower court, this Court, in *Reed v. Goertz*, reversed a lower court decision denying relief to an incarcerated criminal defendant who filed suit under 1983 challenging procedures used to deny him DNA testing which could prove his innocence. In *Reed*, this Court allowed the defendant's civil action to proceed despite the fact that his conviction had *not yet* been vacated. The Court noted that Reed's request for DNA testing was based on his claim of innocence and "Reed contended that DNA testing would help identify the true perpetrator." In other words, that it could *but not necessarily* undermine the validity of his conviction. In Petitioner's case, the Seventh Circuit held that *Heck* precluded Appellant's civil action because a successful outcome would undermine the validity of his conviction. Yet Petitioner's civil suit, like Reed's, challenged DNA procedures, and sought declaratory relief. In short, applying *Reed* to the instant case would likely result in a remand.

4. With this short background, Petitioner needs additional time in which to file his Petition for a Writ of Certiorari. He asks the Court to grant to and including November 1, 2023.

Respectfully submitted,

Brett Kimberlin



Certificate of Service

I certify that I served a copy of this motion on the United States Solicitor General this 29th day of August, 2023 by First Class mail.

Brett Kimberlin
8100 Beech Tree Road
Bethesda, MD 20817
(301) 325 2895

