

No. _____

**In The
Supreme Court of the United States**

KAREN JIMERSON, ET AL.,

Applicants,

v.

MIKE LEWIS,

Respondent.

**Application for an Extension of Time to File Petition for a Writ of
Certiorari to the United States Court of Appeals for the Fifth Circuit**

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To the Honorable Samuel Alito, as Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

In accordance with this Court's Rules 13.5, 22, 30.2, and 30.3, Applicants respectfully request that the time to file their petition for a writ of certiorari be extended for 60 days, which would have the petition due Monday, November 25, 2024. The Fifth Circuit issued its opinion on February 15, 2024 (Exhibit B) and denied a petition for en banc rehearing on June 26, 2024 (Exhibit A). Absent an extension of time, the petition would be due on September 24, 2024. The jurisdiction of this Court is based on 28 U.S.C. § 1254(1). Respondent does not consent to the requested extension.

Judgment Sought to Be Reviewed

This case presents an important question for this Court's review: Does an officer violate clearly established law when he executes a search warrant at the wrong house without ascertaining the address or conspicuous features of the house to be searched?

One evening in March 2019, as Applicants Karen Jimerson, James Parks, and Ms. Jimerson's two minor children were preparing for bed, a SWAT team from the Waxahachie, Texas Police Department executed a search warrant at their home. At the command of Respondent Lieutenant Mike Lewis, officers detonated a flashbang grenade, broke down Applicants' front door, shattered their windows, and held Applicants at gunpoint. But the officers had the wrong house.

Lewis, who led the SWAT raid, should have known that Applicants' home was not his target. Applicants' address—which was clearly displayed next to their front

door—did not match the address on the search warrant, and there were other obvious physical differences between the target house and Applicants’ home. The target house, for instance, had a front porch, was surrounded by a chain-link fence, and sat in front of a detached garage that three officers planned to search. Applicants’ house lacked these features. Instead, it had an impossible-to-miss wheelchair ramp leading to its front door. Despite the mismatched address and clear differences between the houses, Lewis hastily ordered the SWAT team to raid Applicants’ home.

Applicants sued Lewis and the other officers involved in the search under 42 U.S.C. § 1983, alleging that the warrantless, no-knock raid violated their Fourth Amendment rights. At summary judgment, a magistrate judge recommended that the district court grant qualified immunity to all officers involved, and the district court agreed—except as to Lewis. In denying Lewis qualified immunity, the district court relied on this Court’s holding in *Maryland v. Garrison*, 480 U.S. 79 (1987), that, to comply with the Fourth Amendment, an officer must make “a reasonable effort to ascertain and identify the place intended to be searched[.]” *Id.* at 88. It also relied on persuasive authority from the Fifth and Eleventh Circuits interpreting *Garrison*.

In a 2-1 decision, a panel of the Fifth Circuit reversed. Even though Lewis conceded that the raid violated Applicants’ Fourth Amendment rights, see Ex. B at 6, the panel majority found that he was entitled to qualified immunity because the law he violated was not clearly established, see *id.* at 10–11. Characterizing this Court’s holding in *Garrison* as a statement of “general principle” rather than a clear establishment of law, the majority rejected the district court’s reliance on that case and

the persuasive authority interpreting it. *Id.* at 8. In the majority’s view, Lewis lacked “fair warning” that ordering the wrong-house raid violated Applicants’ Fourth Amendment rights because “he made significant efforts to identify the correct residence” before attempting to execute the warrant. *Id.* at 10. These efforts—which largely took place before Lewis was on the scene—included reviewing the warrant, browsing the internet, discussing the case with fellow law enforcement officers, and observing Applicants’ home just before ordering the search. *Id.*

Judge Dennis dissented. He would have held that Lewis violated Applicants’ clearly established rights because he failed to employ any of the knowledge he learned about the target house upon executing the search warrant. Ex. B at 12–13 (Dennis, J., dissenting). Lewis, for instance, “did not even check the number of [Applicants’] house before instructing the SWAT team to” raid it. *Id.* at 12. Nor did he account for “the notable physical distinctions between the two houses” that were “evident from the photographs of the target house” Lewis reviewed when preparing to execute the warrant. *Id.* at 13. Such scant efforts to ascertain the place to be searched, Judge Dennis concluded, violate the Fourth Amendment as clearly established by *Garrison* and its progeny. *Id.* at 17.

Applicants filed a petition for en banc rehearing, but the petition was denied. See Ex. A.

Reasons Why an Extension of Time Is Warranted

Good cause exists for an extension of time to prepare a petition for a writ of certiorari in this case. In addition to this case, undersigned counsel at the Institute for Justice have pressing obligations that are pending in this Court and others, including litigation in:

- *Murphy v. Schmitt*, S. Ct. No. 23-1228;
- *Gonzalez v. Trevino*, 5th Cir. No. 21-50276;
- *Martin v. United States*, 11th Cir. No. 23-10062;
- *Martinez v. High*, 9th Cir. No. 22-16335;
- *Taylor v. LeBlanc*, 5th Cir. No. 21-30625;
- *Mohamud v. Weyker*, 8th Cir. No. 24-1875;
- *Thomas v. County of Humboldt*, 9th Cir. No. 23-15847;
- *Sun Valley Orchards LLC v. DOL*, 3d Cir. No. 23-2608;
- *ProCraft Masonry LLC v. DOJ*, N.D. Okla. No. 4:23-CV-00393;
- *Herbel v. City of Marion*, D. Kan. No. 2:24-CV-02224;
- *Fisher v. City of Ocean Springs*, S.D. Miss. No. 1:23-CV-00265;
- *Benoir v. Town of Parksley*, E.D. Va. No. 2:24-CV-00064;
- *Hadley v. City of South Bend*, N.D. Ind. No. 3:24-CV-00029;
- *Petersen v. City of Newton*, S.D. Iowa No. 4:23-CV-00408;
- *King v. United States*, W.D. Mich. No. 1:16-CV-00343;
- *Rosales v. Lewis*, W.D. La. No. 1:22-CV-05838;
- *Quiñonez v. United States*, N.D. Cal. No. 3:22-CV-03195;

- *Katergaris v. City of New York*, S.D.N.Y. No. 1:22-CV-07400;
- *C.S. Lawn & Landscape, Inc. v. DOL*, D.D.C. No. 1:23-CV-01533.

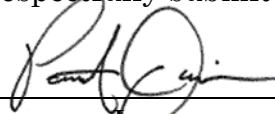
Applicants have not previously sought an extension of time from this Court.

Conclusion

Applicants request that the time to file a petition for writ of certiorari in the above-captioned case be extended 60 days to and including Monday, November 25, 2024.

July 15, 2024

Respectfully submitted,



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