

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

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RAYMOND N. BAILEY, JR.,  
*Applicant,*

*v.*

STATE OF ARKANSAS

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

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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 Raymond N. Bailey, Jr. respectfully requests a 60-day extension of time, to and including October 13, 2024, within which to file a petition for a writ of certiorari. A divided Supreme Court of Arkansas issued an opinion on May 16, 2024. A copy of that opinion is attached. This Court's jurisdiction would be invoked under 28 U.S.C. § 1257(a).

2. Absent an extension, a petition for a writ of certiorari would be due on August 14, 2024. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case.

3. The question presented in this case is whether a warrantless search violates the Fourth Amendment where, although a person has consented to warrantless searches of

her residence, the government lacks probable cause to believe that the place to be searched is actually her residence.

4. Applicant Raymond N. Bailey, Jr. signed a search waiver as a condition of his probation. Pursuant to the waiver, Mr. Bailey could be subject to a “warrantless search of his[] person, place of residence, or motor vehicle at any time” per Arkansas Code Ann. § 16-93-106.

5. In June 2020, North Little Rock Police Officers detained Mr. Bailey during their surveillance of a local motel. After they detained Mr. Bailey, the officers determined that he had a key to room 106, the same room that they had previously witnessed him entering. The officers also determined that the room was registered in Mr. Bailey’s name, that he was on probation, and that he had executed a search waiver. The officers then searched room 106 and found illicit substances and drug paraphernalia. Mr. Bailey was charged with multiple drug charges.

6. Mr. Bailey filed a motion to suppress the evidence obtained during the search, and the circuit court granted his motion. Relying on *United States v. Thabit*, 56 F.4th 1145, 1151 (8th Cir. 2023) which holds that “[a]n officer must have probable cause to believe a dwelling is a residence of a parolee” to execute a warrantless search on the dwelling, the trial court found that the search waiver was not a valid basis for a warrantless search of the motel room because the officers did not have probable cause to believe that the motel room was Mr. Bailey’s residence. The State did not contest the fact that the officers did not have probable cause to believe that the motel room was Mr. Bailey’s residence. Instead, the State

filed an interlocutory appeal, claiming that the circuit court improperly imposed the Eighth Circuit’s “probable cause” standard.

7. On appeal, the Supreme Court of Arkansas rejected the Eighth Circuit’s position and reversed the circuit court’s decision. *State v. Bailey*, 2024 Ark. 87, 687 S.W.3d 819, 823 (2024) (holding that reliance on *Thabit* was misplaced and declining to adopt the probable cause standard). Over a powerful dissent by Justice Hudson, the court held that officers need only “reasonable suspicion” that a place is the residence of a person who has executed a search waiver, not probable cause, and found that under that more lenient standard the warrantless search was valid. *Id.* at 824.

8. This case presents a question of national importance. The Bureau of Justice Statistics reports that more than 3.5 million people in the United States were on probation or parole in 2022. That includes nearly 3% of Arkansas’ population, the second-highest proportion of probationers and parolees in any state and twice the national rate. Consenting to warrantless searches of one’s residence is a standard condition of probation or parole in many jurisdictions, so the question presented has far-reaching implications. The privacy interests of probationers, parolees, and countless third-parties are at stake.

9. As the decision below demonstrates, wherein the Arkansas Supreme Court reached a different conclusion than that of the Eighth Circuit, the federal courts of appeals and state courts of last resort have reached incompatible holdings on the question presented. *Compare Thabit*, 56 F.4th at 1151 *with Bailey*, 687 S.W.3d at 823–24. *See also, e.g., United States v. Mayer*, 560 F.3d 948, 957 (9th Cir. 2009) (holding that “[b]efore law enforcement officers may conduct a warrantless probation search ... they must also have


probable cause to believe that the probationer actually lives at the residence searched”); *State v. Winterstein*, 167 Wash. 2d 620, 630 (2009) (en banc) (holding “that probation officers are required to have probable cause to believe that their probationers live at the residences they seek to search.”). *But see, e.g., United States v. Sharp*, 40 F.4th 749, 753 (6th Cir. 2022) (allowing a warrantless search that was “supported by reasonable suspicion” that the place to be searched was the probationer’s residence).

10. Applicant respectfully requests an extension of time to file a petition for a writ of certiorari. The undersigned counsel was very recently retained on this matter. A 60-day extension would allow counsel sufficient time to fully examine the decision’s consequences, research and analyze the issues presented, and prepare the petition for filing.

*Wherefore*, Applicant respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to and including October 13, 2023.

Dated: July 18, 2024

Respectfully submitted,



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