

No. _____

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

CURTRINA MARTIN, ET AL.,

Applicants,

v.

UNITED STATES OF AMERICA, ET AL.,

Respondents.

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

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To the Honorable Clarence Thomas, as Circuit Justice for the United States Court of Appeals for the Eleventh 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, October 28, 2024. The Eleventh Circuit issued its opinion on April 22, 2024 (Exhibit B) and denied a petition for panel rehearing on May 30, 2024 (Exhibit A). Absent an extension of time, the petition would be due on August 28, 2024. The jurisdiction of this Court is based on 28 U.S.C. § 1254(1).

Judgment Sought to Be Reviewed

This case presents two important questions concerning the scope of the Federal Tort Claims Act: First, does the FTCA's discretionary function exception immunize the United States from liability for torts committed by its law enforcement officers in the routine performance of their duties? Second, can the United States invoke the Supremacy Clause of the Federal Constitution to defeat a claim under the FTCA—a federal statute?

Before dawn one morning in October 2017, Applicants Curtrina Martin, Hilliard Toi Cliatt, and Martin's minor son were jolted awake by the sounds of a battering ram at their front door and explosions in their living room. Body-armored FBI agents flooded the home and interrogated Applicants at gunpoint until one officer noticed that they had executed their search warrant at the wrong house. Upon realizing their

mistake, the officers left the home in shambles to find and arrest their suspect, leaving Applicants to deal with the physical, financial, and emotional fallout.

Martin and Cliatt, on behalf of themselves and Martin’s son, sued the individual FBI agents who mistakenly raided their home and the United States. In relevant part, Applicants brought tort claims for negligence, negligent and intentional infliction of emotional distress, trespass and interference with private property, false imprisonment, and assault and battery against the United States under the FTCA. The district court ultimately granted summary judgment to the United States.

The Eleventh Circuit affirmed. It broke Applicants’ FTCA claims into two groups: First, it held that the FTCA’s discretionary function exception immunized the United States from liability for negligence, trespass and interference with private property, and infliction of emotional distress. Ex. B. at 16. This was because, in the panel’s view, the agent leading the FBI raid “enjoyed discretion in how he prepared for the warrant execution[,]” and this discretion “is susceptible to policy analysis.” *Id.* (quotation omitted).

Second, the panel determined that Applicants’ remaining FTCA claims, false imprisonment and assault and battery, were foreclosed by the Supremacy Clause of the U.S. Constitution. Ex. B. at 16–17. To support the proposition that the Supremacy Clause can defeat claims brought under the FTCA—a federal statute that provides a federal cause of action—the panel relied on *Denson v. United States*, 574 F.3d 1318 (11th Cir. 2009), and *Kordash v. United States*, 51 F.4th 1289 (11th Cir. 2022). See Ex. B at 15–17. In these cases, the Eleventh Circuit reasoned that “the Supremacy

Clause bars state-law liability” if “a federal official’s acts ‘have some nexus with furthering federal policy and can reasonably be characterized as complying with the full range of federal law.’” *Kordash*, 51 F.4th at 1293 (quoting *Denson*, 574 F.3d at 1348). Applying this rule, the panel held that the United States could not be held liable for the wrong-house raid because the lead FBI agent “acted within the scope of his discretionary authority when he prepared for and executed the search warrant[,]” and his actions complied with the Fourth Amendment because he was entitled to qualified immunity. Ex. B at 17.

Applicants petitioned for panel 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. On July 15, 2024, Applicants retained the undersigned as new, pro bono representation to file a petition for certiorari. The undersigned were not previously involved in litigating this case, and they require additional time to familiarize themselves with the record and prepare the petition.

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;
- *Jimerson v. Lewis*, 5th Cir. No. 22-10441;

- *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.

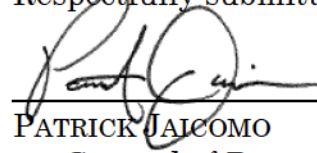
Applicants have not previously sought an extension of time from this Court.

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, October 28, 2024.

July 18, 2024

Respectfully submitted,



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