

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

SHAN EDWARD CARTER — PETITIONER
(Your Name)

vs.

JOHN W. SHERRILL, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES FOURTH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

SHAN EDWARD CARTER #0486636
(Your Name)

4285 Mail Service Center
(Address)

Raleigh, North Carolina, 27699-4285
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

I. WHETHER THE PETITIONER IN THE UNITED STATES OF AMERICA HAS A FIFTH AMENDMENT CONSTITUTIONAL RIGHT TO DUE PROCESS OF BINDING UNITED STATES SUPREME COURT COMMON LAW PRECEDENT?

II. WHETHER THE FEDERAL DISTRICT COURT DEPRIVED THE PETITIONER OF HIS FIFTH AMENDMENT CONSTITUTIONAL RIGHT WHEN APPLYING THE PRISONERS LITIGATION REFORM ACT PROCEDURE TO NON-GOVERNMENT EMPLOYEES, DEFENDANTS?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

JOHN W. SHERRILL; BENJAMIN R. DAVID; JAY D. HOCKENBURY; KRISTIN D. PARKS;
MARGARET T. CLOUTIER; WILLIAM H. DURHAM; ROY A. COOPER III; PHYLLIS M.
GORHAM; D. JACK HOOKS, JR; SHERRI HORNER-LAWRENCE; GEORGE P. CORVIN;
N.C. STATE BAR; N.C. DEPARTMENT OF JUSTICE, (THE STATE OF NORTH CAROLINA).

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 3, 2017.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution Amendment V: "... nor be deprived of life, liberty, or Property, Without due Process of law..."

Title 28 U.S.C. § 1915. (e)(2)(B)

STATEMENT OF THE CASE

Petitioner was Wrongfully Convicted for murder, robbery, kidnapping, and burglary on June 15, 2000 and sentenced to life without Parole, Carter v. North Carolina, 125 S.Ct. 868 (2005). That Wrongful Conviction was used against the Petitioner in the innocent-guilt Phase and Sentencing Phase of a unrelated murder trial, in which the Petitioner had acted and Pled self-Defense/Justified homicide. Subsequently the Petitioner was again Wrongfully Convicted and this time sentenced to Death, Carter v. North Carolina, 124 S.Ct. 1670 (2004).

Petitioner on October 18, 2016 filed this civil Complaint in the Federal District Court of the Eastern District of North Carolina, in which the District Court dismissed the Complaint on June 13, 2017 SHAN EDWARD CARTER V. JOHN W. SHERILL, et al., Civil action No. : 5:16-ct-03272-D (June 13, 2017).

Petitioner on September 28, 2017 appealed the order to the United States Fourth Circuit Court of Appeals, in which that court affirmed the District Court's order on October 3, 2017, Shan Edward Carter v. John W. Sherrill, et. al., No. 17-6907 (4th cir. October 3, 2017).

REASONS FOR GRANTING THE PETITION

I. THE PETITIONER IS A UNITED STATES CITIZEN AND HAS A FIFTH AMENDMENT CONSTITUTIONAL RIGHT IN THE FEDERAL DEMOCRATIC JUDICIAL PROCESS TO DUE PROCESS OF BINDING UNITED STATES SUPREME COURT COMMON LAW PRECEDENT.

The Petitioner acknowledges that he has 0% (Percent) chance of this Petition for a Writ of Certiorari being heard by the United States (u.s.) Supreme Court, not only because the u.s. Supreme Court Conveys to potential Petitioners that the Court hears 1% of the cases filed in each term, but because its Common Knowledge that Pro se prisoners Petitions are looked at with a slight eye if any eye at all! So this Petition's Purpose is for the future generations Knowledge of the Past of the so called Democratic Judicial Process.

In foot note number 4, of this Courts ruling in Heck v. Humphrey, 512 U.S. 477, 484 (1994), it was conveyed that the only known exception to the [general] favorable termination rule (the Heck rule) was a showing that Probable Cause to indict was obtained by some type of fraud, in which the Heck Court cited, Crescent City Live Stock Co., v. Butchers' Union Slaughter - House Co., 120 U.S. 141 (1887). This exception to the [general] favorable termination rule coincides with the Heck Courts rationale that one element that must be alleged and Proved in a malicious prosecution action is termination of the Prior criminal Proceeding in favor of the accused, Prosser and Keeton on Law of Torts 874 (5th ed. 1984), Carpenter v. Nutter, 127 Cal. 61, 59 P. 301 (1899). This requirement "avoids parallel litigation over the issue of Probable Cause and guilt ... and it Precludes the Possibility of the claimant succeeding in the tort action after having been convicted in the underlying criminal prosecution in contravention of a strong judicial Policy against the creation of two conflicting resolutions

Arising out of the same identical transaction. 85. Speiser, C. Krause, and A. Gans, American Law of Torts § 28:5, p. 24 (1991), Heck v. Humphrey, id., at 484 and 494. The [general] favorable termination rule is derived from the presence of probable cause to indict and prosecute, however when probable cause is obtained by way of fraud, good cause is shown to bypass the [general] favorable termination rule also known as (AKA) the Heck rule,

Before the petitioner filed his October 18, 2016 Civil Complaint in the Federal District Court, he used primitive tools to Shepardize U.S. Supreme Court cases to find if any U.S. Supreme Court authority since 1887 ever overruled the exception rule of the favorable termination rule conveyed in Crescent City Live Stock Co. v. Butchers' Union Slaughter-House Co., 120 U.S. 141 (1887). Not only did the petitioner find that there is no Supreme Court authority overruling Crescent City Live Stock Co. v. Butchers' Union Slaughter-House Co., id., authority that is binding, but the Federal District Courts June 13, 2017 evasive order confirms that finding. (Appendix, B)

The dissent in Payne v. Tennessee, 111 S.Ct. 2597 (1991) stated "This Court has repeatedly stressed that fidelity to precedent is fundamental to a society governed by the rule of law." "It is indisputable that stare decisis is a basic self-governing principle within the judicial branch, which is entrusted with the sensitive and difficult task of fashioning and preserving a jurisprudential system that is not based upon an arbitrary discretion. The Federalist, No. 78, p. 490 (H. Lodge ed. 1888) (A. Hamilton)"

The petitioner on October 18, 2016 Pled in his Civil Complaint Crescent City Live Stock Co., v. Butchers' Union Slaughter-House Co., id., and in Pertinent Part: "The Plaintiff also contends that not only can he prove that the probable cause, burden of proof beyond a reasonable doubt, and conviction was based on fraud, but was done through racketeering activity (Appendix, D). The Federal District Court's response to this pleading stated in Pertinent Part: "Carter recognizes that Heck poses a hurdle for the relief he seeks, and

has attempted to use Rico to Plead around Heck. See Compl. at 2-5. Unfortunately for Carter,¹¹⁶ "there is... case law establishing that Civil Rico cases are Heck-barred by their very nature." Adamski v. McGinnis, No. 13-cv-962-JPS, 2015 WL 1467818, at *4 (E.D. Wis. Mar. 30, 2015)... "Its just plain common sense that the Federal District Court defiled the doctrine of stare decisis and ignored the binding Case Law Precedent exception to the Heck rule, that was Pled by the Petitioner under Crescent city live stock Co., v. Butchers' Union slaughter-House Co., id., because the Petitioner had already showed indisputable proof that Probable Cause to obtain his indictment and his conviction was done by way of fraud See, brief in Shan Edward Carter v. Carlton Joyner, Warden, No. 5:16-HC-2107-D (E.D. N.C. May 16, 2016) and online documents @ Shan Carter, doodle.kit.com There by the defendants had no defense of their actions, which allowed the exception to the favorable termination rule, AKA Heck rule Pled by the Petitioner which is apparently the true reason the Federal District court deprived the Petitioner of his fifth Amendment right to Due Process of the common law exception to the Heck rule. The Federal District Court alleged the Petitioner was trying to Plead around the Heck rule with Rico, and the Court ignored the Petitioner's good cause Pleading to the general Heck rule is fundamentally unfair! The Petitioner deserves Due Process of the Common Law he Pled in his Complaint, that conveys a exception to the general Heck rule.

Therefore this case ought to be remanded back to the U.S. Fourth Circuit Court of Appeals for Consideration of the above foregoing facts (Appendix, A).

II. THE FEDERAL DISTRICT COURT DEPRIVED THE PETITIONER OF HIS FIFTH AMENDMENT CONSTITUTIONAL RIGHT WHEN APPLYING THE PRISONERS LITIGATION REFORM ACT PROCEDURE TO NON-GOVERNMENT EMPLOYEE DEFENDANTS.

The Prisoners Litigation Reform Act (PLRA) was designed in part to save the Federal

and state governments money by not processing frivolous lawsuits filed by prisoners and it can only be applied to prisoners filings against Federal and state governments, Mitchell v. FarCass, 112 F.3d 1483 (1997).

Defendants William H. Durham, Kristin D. Parks, and George P. Corvin are not employed by the state or Federal governments. They are private lawyers and a doctor, in which the state of North Carolina government pleaded this before this October 18, 2016 Federal Civil Complaint, to N.C. Industrial Commission Tribunal on September 14, 2015 See (Appendix, C, Page 4.). Defendant George P. Corvin is a private psychiatrist and is also exempt from the PLRA protection.

When the Federal District Court applied the Heck rule through the PLRA procedure, 28 U.S.C. § 1915. (e)(2)(B) to defendants, attorneys William H. Durham, Kristin D. Parks, and psychiatrist George P. Corvin, it indisputably deprived the petitioner of the Federal Civil Procedure, because these three defendants was suppose to be served summons to answer the petitioner's complaint, not be protected by PLRA.

Therefore this case ought to be remand back to the U.S. Fourth Circuit Court of Appeals for consideration of the above foregoing facts.

CONCLUSION

For the foregoing reasons this petition for a writ of certiorari should be granted and this case should be remanded back to the U.S. Fourth Circuit Court of Appeals. This petition for a writ of certiorari should be granted.

Respectfully submitted,

Shan E. Carter

SHAN E. CARTER

Date: December 19, 2017