

No. 18-

In The
Supreme Court of the United States

THOMAS E. FREEMAN, JR.,

PETITIONER,

v.

NORTH CAROLINA DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

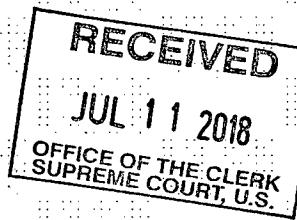
RESPONDENT.

ON PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF NORTH CAROLINA

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

May a court deny due process of Law and equal justice under the Law of a State employee, when it is suspected that a State agency may have: prejudiced a petitioner's rights; exceeded its authority; acted erroneously; failed to use proper procedures; acted arbitrarily or capriciously; and/or failed to act as required by law or rule?

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**TO THE HONORABLE SUPREME COURT OF
THE UNITED STATES:
JURISDICTION AND OPINIONS BELOW**

Thomas E. Freeman, Jr., Pro Se, respectfully petitions the Supreme Court of the United States to issue its writ of certiorari pursuant to Rule 46 of the Supreme Court of the United States to review the order of dismissal with prejudice of the Honorable Donald W. Overby, Administrative Hearings Law Judge, North Carolina Office of Administrative Hearings dated 14 December, 2016; the order of dismissal of the Honorable Judge McGee, Honorable Judge Dillon and Honorable Judge Stroud, North Carolina Court of Appeals dated 5 December, 2017; and the order dismissed Ex Mero Motu of the Honorable Justices, Supreme Court of North Carolina dated 11 April, 2018 and in support of this petition shows the following:

STATEMENT OF THE CASE

On 28 October 2015, the petitioner received a disciplinary action in the form of a written warning for unacceptable personal conduct. Specifically for 1) conduct for which no reasonable person should expect to receive prior warning; 2) conduct unbecoming a State employee that is detrimental to the State service, and 3) the willful violation of a known or written work rule (*i.e.* the Whitaker PRTF Time and Attendance Policy) for excessive absences that was signed by the residential supervisor and medical director.

The petitioner was not informed of the appeal rights. However, the petitioner was told that the petitioner may write a letter "To the File" stating the petitioner's point of view of the matter and if the petitioner chose to do so, forward the letter to the employee relations specialist within fifteen calendar days of receipt of the written warning and that the petitioner's letter will be placed in the petitioner's file along with the written warning.

** *NC DHHS Policies and Procedures: Section V (Human Resources) Title (Human Relations) Chapter (Disciplinary Action) 1/28/08.*

On 12 November 2015, the petitioner hand delivered the report of suspected violation of the 5th and 14th amendments of the U.S. Constitution in the matter of the written warning to the employee relations specialist and submitted the report to the receptionist in Human Resources to be placed in the personnel file.

*** U.S. Const. amend. V*

U.S. Const. amend. XIV, section 1

On 31 May 2016, the petitioner hand delivered a letter to the Chief Executive Officer of Central Regional Hospital.

On 21 June 2016, The CEO wrote a response.

On 27 June, the petitioner submitted a report of suspected failure of the residential supervisor and medical director to follow procedural and substantive due process. Also, the petitioner requested mediation.

***N.C. DHHS Directive Number III-8, Title: Employee Grievance Policy, July 01, 2012, Authority: G.S. 143B-10, Chapter 126.*

On 14 July 2016, The CEO wrote a response.

On 21 October 2016, the petitioner filed a petition for a contested case hearing before the North Carolina Office of Administrative Hearings. The petitioner subpoenaed six witnesses and requested oral arguments. Before the hearing could occur, the case was dismissed with prejudice.

*** N.C. Gen. Stat. 150B*

*** N.C. Gen. Stat. 7A-750*

On 13 January 2017, the petitioner filed a petition to present oral arguments with the North Carolina Court of Appeals.

On 5 December 2017, the case was dismissed.

On 12 January 2018, the petitioner filed an Appeal as a Matter of Right with the Supreme Court of North Carolina.

On 11 April 2018, the case was “Dismissed Ex Mero Motu”.

REASONS WHY WRIT SHOULD ISSUE

First and foremost, there is a suspected violation of the 5th and 14th amendments of the U.S. Constitution in regards to procedural and substantive due process by person(s) associated with the North Carolina Department of Health and Human Services in this matter.

According to the DHHS policy manual, the petitioner is subject to all North Carolina Office of State Personnel disciplinary and grievance policies and procedures and enjoys all appeal rights under state law and policy and DHHS policy, including appeal (although not necessarily direct appeal) to the NC Office of State Personnel.

This does not appear to have occurred in this case.

How this raises substantial Constitutional questions and raises issues of significant public interest is that State employees have an interest in ensuring that agencies follow the procedures by which laws are applied and must be even handed so that individuals are not subject to the arbitrary and capricious exercise of government power.

Is it to be determined whether or not Whitaker PRTF, Central Regional Hospital and the North Carolina Department of Health and Human Services violated the 5th and 14th amendments of the U. S. Constitution in regards to procedural due process and substantive due process?

Is it to be determined whether or not the North Carolina Office of Administrative Hearings ensured that the administrative actions taken by North Carolina Department of Health and Human Services were made in a just and correct manner in order to protect the due process rights of the petitioner who challenged those actions?

Is it to be determined whether or not the North Carolina Office of Administrative Hearings ERRED

in the admission or exclusion of evidence and witness testimony, to the prejudice of the petitioner?

Is it to be determined whether or not the North Carolina Office of Administrative Hearings ERRED in dismissing the contested case with prejudice?

Is it to be determined whether or not the North Carolina Court of Appeals ERRED in dismissing the case?

Is it to be determined whether or not the Supreme Court of North Carolina ERRED by having the petitioner's Appeal as a Matter of Right, "Dismissed Ex Mero Motu"?

CONCLUSION

The petitioner respectfully pleads to the Supreme Court of the United States to issue its writ of certiorari in an effort to support and defend the U.S. Constitution in this matter by permitting the petitioner's Appeal as a Matter of Right.

Respectfully Submitted,

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