

No. 18-139

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

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THOMAS E. FREEMAN, JR.,

PETITIONER,

v.

NORTH CAROLINA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,

RESPONDENT.

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

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**PETITION FOR REHEARING**

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## QUESTIONS PRESENTED

In the United States, constitutional rights are derived from the people themselves and are protected primarily by the enumerated amendments to the U.S. Constitution. Persons may also have constitutional rights protected by the constitution of a State. In this case, there appears to have been a deprivation of the petitioner's rights. The questions presented are:

May deciding officials of a State agency charge a permanent State employee with a disciplinary action, then deprive the citizen of "Due Process of Law" that is protected by the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution?

May an independent, quasi-judicial agency, such as the North Carolina Office of Administrative Hearings, deprive a citizen of "Due Process of Law" that is protected by the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution?

May subsequent Courts, such as the North Carolina Court of Appeals and the Supreme Court of North Carolina, deprive a citizen of "Due Process of Law" that is protected by the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution?

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**TO THE HONORABLE SUPREME COURT OF  
THE UNITED STATES:**

Thomas E. Freeman, Jr., Pro Se, respectfully petitions the Supreme Court of the United States to issue a rehearing of writ of certiorari pursuant to Rule 44 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:

**INTRODUCTION**

When I became a Boy Scout, I learned from the Official Boy Scout Handbook, scoutmasters, patrol leaders and family that it is important to America and myself that I become a citizen of fine character, physically strong, mentally awake and morally straight. As a scout. I learned the meaning of the Scout Oath or Promise and that I have a duty to my country (United States of America).

It is my understanding, unless I have been misinformed, that The United States Constitution embodies the fundamental laws and principles by which the United States is governed. I understand

that I have a duty to support and defend the U.S. Constitution and that the most fundamental doctrine of American Law is procedural “Due Process”.

It is my understanding, unless I has been misinformed, that due process of law is the just and correct treatment through the normal judicial system. Especially as a citizen’s entitlement.

It is my understanding, unless he has been misinformed, that any action denying the process that is “Due” would be unconstitutional.

This case is an ideal opportunity for this Court to resolve whether or not the North Carolina Department of Health and Human Services, the North Carolina Office of Administrative Hearings, the North Carolina Court of Appeals and the Supreme Court of North Carolina fulfilled the constitutional requirements of the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution. This Court should grant re-hearing of the petition and hold that it does.

#### **REASONS WHY THE RE-HEARING SHOULD OCCUR**

The petitioner has reason to believe that he was subject to the arbitrary and capricious exercise of government power, when the NC DHHS (Whitaker PRTF and Central Regional Hospital) deprived the petitioner of “Due Process” that is protected by the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution in this case.

## **Constitutional Provisions**

U.S. Const., Amend. V.  
U.S. Const., Amend. XIV.

With the intervening circumstances of the deciding officials suspected failure to follow "Due Process" in determining the disciplinary action and subsequent suspected failure to follow "Due Process" by denying an appeal proceeding to the petitioner, did fulfillment of 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution occur? Whitaker PRTF Policies and Procedures; The State Personnel Act (Chapter 126); The State of North Carolina Grievance Policy (Chapter 7); NC DHHS Disciplinary Policy G.S. 125-35; NC DHHS Directive Number III-8

The petitioner has reason to believe that the deciding officials of the North Carolina Office of Administrative Hearings failed to fulfill the constitutional requirements of the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution. Title 26, Chapter 3 of the North Carolina Administrative Code; NC Gen. Stat. 150 B; *Board of Regents v. Roth*, 408 U.S. 564 (1972); *Cleveland Boards v. Lauderhill*, 470 U.S., 532 (1985); *Goldberg v. Kelley*, 397 U.S. 254 (1970).

Did the intervening circumstances of the decision by the Administrative Law Judge to deprive the petitioner the right; to present evidence and argue orally; to confront and cross examine adverse witnesses, fulfill the constitutional requirements of

the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution in this case?

Did the intervening circumstances of the decision by the North Carolina Court of Appeals deprive the petitioner of the right; to present evidence and argue orally; to confront and cross examine adverse witnesses, fulfill the constitutional requirements of the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution in this case?

Did the intervening circumstances of the decision by the Supreme Court of North Carolina deprive the petitioner of the right; to present evidence and argue orally; to confront and cross examine adverse witnesses, fulfill the constitutional requirements of the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution in this case?

Since October 28, 2015, was the petitioner subject to harm as a result of the suspected arbitrary and capricious exercise of government power and deprivation of rights that are protected by the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the United States Constitution?

## **CONCLUSION**

Was the petitioner granted the right to a hearing proceeding at the administrative level and the right to argue orally at the judicial level?

Because this case has so far departed from the accepted and usual course of judicial proceedings in the lower courts, the petitioner calls for an exercise of this Court's supervisory power.

Respectfully submitted,

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**CERTIFICATION OF *PRO SE* PETITIONER  
UNDER U.S. SUPREME COURT RULE 44(2)**

As provided under 28 U.S.C. § 1746, the undersigned *Pro Se* Petitioner, certifies, under penalty of perjury, that the accompanying Petition for Rehearing is based upon "other substantial grounds not previously presented" in Petitioners' earlier Petition for Certiorari within the meaning of Rule 44(2); that such Petition for Rehearing is presented in good faith; and that such Petition has not been interposed for purposes of delay.

I certify that the foregoing is true under penalty of perjury.

/s/ \_\_\_\_\_  
THOMAS E. FREEMAN, JR.

Dated: October 23, 2018

**CERTIFICATION OF *PRO SE* PETITIONER UNDER  
U.S. SUP. CT. R. 44(2)**

As provided under 28 U.S.C. § 1746, the undersigned *Pro Se* Petitioner, certifies, under penalty of perjury, that the accompanying Petition for Rehearing is based upon "other substantial grounds not previously presented" in Petitioners' earlier Petition for Certiorari within the meaning of Rule 44(2); that such Petition for Rehearing is presented in good faith; and that such Petition has not been interposed for purposes of delay.

I certify that the foregoing is true under penalty of perjury.

  
Thomas E. Freeman, Jr. THOMAS  
E. FREEMAN, JR.

Dated: October 23, 2018