

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

ROBERT K. STEWART — PETITIONER
(Your Name)

vs.

STATE OF
NORTH CAROLINA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF NORTH CAROLINA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ROBERT K. STEWART
(Your Name)

444 COUNTY HOME ROAD
(Address)

BLANCH, N.C. 27212
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

(1) AS USED in an indictment, is the name of the defendant, the date of the offense, And the name of the County, where the ALLEGED offense was committed material Facts of AN OFFENSE AS opposed to essential elements of AN OFFENSE that may be proved AT TRIAL ?

(2) WAS A Plain error of A Constitutional Magnitude, committed when the grand jury of Moore County NORTH CAROLINA, returned A TRUE BILL of indictment, Without finding the material facts of The offense TO be TRUE ?

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:

ROBERT K. STEWART - PETITIONER
444 COUNTY HOME ROAD
BLANCH, N.C. 27212

N. C. DEPARTMENT OF JUSTICE - RESPONDENT
OFFICE OF THE ATTORNEY General
P.O. BOX, 629
RALEIGH, N.C. 27602

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SUPRE COURT OF NORTH CAROLINA

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

<u>U.S. V. McDONALD</u>	617 3d 248, 252 (1995)
<u>STATE V. Bennett</u>	271 N.C. 423, 156 S.E. 2d 725 (1967)
<u>STATE V. Simpson</u>	302 N.C. 613 (1981)
<u>STATE V. McCOLLUM</u>	181 N.C. 584, 107 S.E. 309 (1921)
<u>STATE V. Phelps</u>	65 N.C. 450 (1871)
<u>STATE V. EASON</u>	70 N.C. 88 (1874)

STATUTES AND RULES

N. C. G. S. § 15A-924. (a.), (1.)
N. C. G. S. § 15-144.

OTHER

1. chIT, Pl. 233 and 235
1. BISH, Sec. 48

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 _____ to the petition and is

- ☐ reported at N/A; 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☐ is unpublished.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 _____ to the petition and is

- ☐ reported at N/A; 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 C to the petition and is

- ☒ reported at LEXIS-NEXIS, WEST publishing; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the MOORE County Superior 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.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was N/A.

☐ 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: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. N/A N/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 12th June 2018.
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: 14, August, 2018, and a copy of the order denying rehearing appears at Appendix D.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTIONAL, 5.th and 14.th Amendment.

UNITED STATES CONSTITUTIONAL, 13.th, and 14.th Amendment.

UNITED STATES CONSTITUTIONAL, 14.th Amendment.

5.th, Amendment - Due Process and Equal Protection
OF THE LAW.

13.th, Amendment - SLAVERY.

14.th Amendment - Federal violation.

NORTH CAROLINA General STATUTES:

N.C. G. S. § 15A-924. (a.), (1.)

N.C. G. S. § 15-144.

STATEMENT OF THE CASE

ON 29, MARCH 2009, THE date of the ALLEGED Crime, THE PETITIONER WAS SHOT AND Arrested by LAW enforcement. TAKEN to A HOSPITAL, Where he was somewhat Treated, BLOOD TEST were Performed. HOSPITAL Records Prove, PETITIONER WAS Suffering from Medication Poisoning. Medications Pre Scribed by PETITIONER'S family doctor, Ambien, Lexapro, and Xanax.

THE PETITIONER, was represented by STATE appointed ATTORNEYS, Megerian and Wells. ON July 9, 2011, PETITIONER PLEAD NOT GUILTY. on 3rd September 2011, PETITIONER WAS convicted of the following. 8 COUNTS Second degree Murder, 1. COUNT of ASSAULT with A deadly Weapon, intent TO KILL, inflicting serious injury, ASSAULT on LAW enforcement.

1. COUNT of ASSAULT with deadly Weapon, intent TO KILL, inflicting serious injury, Discharge weapon into occupied property.

2. COUNTS of ASSAULT by Pointing A Weapon.. sentenced TO 250 years.

PETITIONER'S CONVICTIONS ARE based upon insufficient indictments. PETITIONER WAS NEVER NAMED IN THE BODY OF THE INDICTMENTS. THE STATE OF NORTH CAROLINA, IS USING THE CAPTION OF THE INDICTMENT TO SUPPLY THE NAME OF THE DEFENDANT. THE DATE OF THE OFFENSE; AND THE NAME OF THE COUNTY IN WHICH THE ALLEGED OFFENSE WAS COMMITTED; WITH OUT SAID FACTS BEING PRESENTED, TO THE GRAND JURY WHICH CIRCUMVENTS PETITIONER'S FIFTH, THIRTEENTH, AND FOURTEENTH, CONSTITUTIONAL AMENDMENTS. THE CAPTION OF AN INDICTMENT IS NOT PART OF THE GRAND JURY'S FINDINGS, THE INFORMATION CONTAINED IN THE CAPTION NEVER WENT BEFORE THE GRAND JURY. THE INDICTMENTS IN THE PRESENT CASE WERE FUNDAMENTALLY FLAWED WHEN ISSUED AS A TRUE BILL OF INDICTMENTS. SUBJECT - MATTER - JURISDICTION OF THE OFFENSES, WAS NEVER PROPERLY CONVEYED BY THE GRAND JURY TO THE MOORE COUNTY SUPERIOR COURT. THERE IS AN INSUFFICIENCY OF THE GRAND JURY'S INDICTMENT PROCESS.

PETITIONER alleges that a plain error of A Constitutional Magnitude has been committed. PETITIONER has taken this plain error and broken it down into its essential PARTS:

(A.) PETITIONER, clearly ASSERTS that THE defendant's Name, The date of the offense; And the Name of The County; Where the alleged offenses happened, ARE Material FACTS of And offenses.

(b.) PETITIONER has An inalienable STATE and Federal Constitutional Right To have ALL material FACTS of An offense be presented; To Prove beyond A reasonable doubt; And found To be TRUE by the grand jury, before subject-matter jurisdiction, of the offense Can be conveyed by the grand jury TO THE SUPERIOR COURT:

(C.) THE reason Why the CAPTION of A indictment Cannot be used to enlarge, enhance, or otherwise Support the body of the indictment's, is because the CAPTION is NOT A Part of the findings by the the grand jury:

(d.) Petitioner's name; the date of the offense;
And the Name of the County, where the alleged offense
was committed, was never Part of the grand jury's
findings. With out all Material facts of an offense,
being found to be TRUE by the grand jury, A
Plain error that is indisputable Was committed:

Neither, the NORTH CAROLINA COURT OF Appeals or the
SUPREME COURT OF NORTH CAROLINA, agreed to hear
the Present case or issue findings of EACI,
ON the Issues and simply issued orders of
denial:

IN reference to the first question, Presented by
The Petitioner; The defendant's name; The date
of the offense; And the name of the County
where the alleged offense happened, Form A
substantive part of the case Presented by the
Pleading, And which cannot be stricken from
the Pleading, Without Leaving it insufficient.

THE material FACTS of an issue of FACTS ARE
such as are necessary to determine the issue.
Material FACT is one upon which, the outcome of
litigation depends.

IN reference to the second question presented;
PETITIONER ASSERTS that the Plain error in the
Present CASE affects, A Substantial Constitutional
Right To due Process of and equal Protection of the
LAW and is so Fundamental, that it causes the
grand jury TO no longer be A grand jury or An
indictment TO no longer be.

UNITED STATES V. MCDONALD, 617 3d 248, 252 (4th Cir.
1995) .

THE LANGUAGE USED TO CREATE THESE STATUTES WAS NOT DISCRETIONARY NOR VAGUE.

THE NORTH CAROLINA SUPREME COURT HAS ADDRESSED THIS VERY ISSUE IN THE PAST, STATE V. FINCH, 218 N.C. 511, 115 E. 2d 547 (1940) CLEARLY STATES: "Defendant argued that the indictment was defective because it failed to state his name.... the COURT found that the failure to state defendants name, fatally compromised the indictment, and the defect was not cured by the fact that the envelope in which the indictment was placed bore defendants name. That the defendants name was placed on the trial court's docket, and that defendant was fully apprised of the pending charges. Moreover the COURT found that the error was not waived by defendant's failure to raise the issue in the trial court, noting that a fundamental and fatal defect was reviewable de novo on appeal..." THE NORTH CAROLINA SUPREME COURT REVERSED THE JUDGEMENT. (APPENDIX, E.)

Reason FOR GRANTING THE PETITION

THE STATE OF NORTH CAROLINA is circumventing CONSTITUTIONAL safeguards, by failing to present material facts of an offense before the grand jury. THE grand jury's are simply following the district attorney's instruction and returning true bills of indictments without ever finding the material facts of THE alleged offense to be TRUE. This is NOT AN isolated incident, but A systemic Corruption of A judicial process that pervades more than ninety of the one Hundred counties of North Carolina. This corrupt practice has become common place and violates, Petitioner's Fifth Amendment Protection to due Process of the LAW; because the STATE has subverted the grand jury indictment Process, essentially turning it into A rubber stamp mill" TO grant district attorney's unmitigated Power. Petitioner's Fourteenth Amendment was violated because Petitioner has been deprived of his liberty without due Process of And Equal Protection of THE LAWS When the Moore County Superior Court proceeded without jurisdiction.

Petitioner's THirteenth Amendment Protection was violated AS Well. When said Superior Court deprived Petitioner of his Liberty by imprisonment, Petitioner has been illegally enslaved.

THE NORTH CAROLINA judicial system is fatally corrupted and Refuse's TO Address A plain Error, that Affects A SubSTANTIAL Right. Even though the NORTH CAROLINA Legislature, has created STATUTES detailing EXactly, What must be contained in the Body of the indictment; THE COURT's refuses TO Address the jurisdictional challenge Properly raised by Petitioner.

THE STATE OF NORTH CAROLINA has committed FRAUD, by failing TO follow the Letter of LAW, failing TO name The Petitioner as the person Accused of committing a Chargeable offense; failing TO obtain A Valid indictment And thereby denying the TRIAL COURT subject-matter - jurisdiction of the offense. There WAS AN insufficiency of the grand jury indictment Process, which violates Petitioner's Fifth And

and Fourteenth Amendment, Protection's of due Process of and Equal Protection of the LAWS. THE STATES, ACTION, have called into question the integrity of And the Respectability Due To the COURTS. There Are many other prisoner's in North Carolina, Who have been ILLEGALLY ENSLAVED, because of the grand jury indictment Process violation.

THE NORTH CAROLINA Legislature, Created A Liberty interest with STATUTES That govern the offense, PETITIONER has been convicted of specifically; NORTH CAROLINA General STATUTES § 15A-924. (a), (1), Clearly STATES:

(a), A Criminal Pleading must contain:

(1), The name or identification of the defendant... (Appendix, F.)

PETITIONER ASSERTS that subsection "(a.)", "... Contains mandatory Wording "must contain". Which then Alludes to subsection "(1.)", "... Which specifically STATES what must be supplied. The Language is clear, unambiguous and MANDATORY. The legislative intent of this STATUTE, is ALSO clear and MANDATORY: The criminal pleading must contain the Name or identification of the defendant, A Caption is not a part of the criminal Pleading:

For even more explicit Legislative intent; Petitioner ASSERTS that the STATUTES which govern the Short form indictment for Murder removes all doubt about what is to be included in the body of the indictment. NORTH Carolina General STATUTE, § 15-144, clearly STATES:

"but in the body of the indictment after Naming the Person accused, the date of offense, the County in which the alleged offense was committed." (Appendix, G.)

ALSO in STATE V. Bennett, 271 N.C. 423, 156 S.E. 2d 725 (1967). THE NORTH CAROLINA SUPREME COURT Clearly STATED: "THE CAPTION of an indictment, Whether on the front or the back thereof, is NOT Part of it, And the designation therein of the offense Sought to be Charged Can neither enlarge nor diminish the offense Charged in the body of the indictment:'. . . . (Appendix, H.)

THE STATUTES governing the charges Petitioner has been convicted of Are clearly written, unambiguous, and mandatory. These statutes do not contain Provisions within them Allowing material facts of an offense to be incorporated by reference from the Caption into the body of the indictment. THE above cited cases Were Ruled upon by the NORTH CAROLINA SUPREME COURT; Thereby Setting Legal Precedence for the Lower Courts to Follow.

THE Lower Courts of North Carolina refuse to Acknowledge the Legal precedence clearly established; And THE NORTH CAROLINA SUPREME COURT has declined to Address this Issue:

THE STATES failure to name defendant within the body of the indictment, is FATAL and incurable defect. STATE V. SIMPSON, 302 N.C. 613 (1981)
STATE V. MCCOLLUM, 181 N.C. 584, 107 S.E. 309 (1921)
STATE V. PHELPS, 65 N.C. 450 (1871)

"AN indictment to be good, must set forth with plainness and certainty ALL the essential facts constituting the offense; the charges must be explicit enough to support itself, for if all the facts alleged in the indictment may be true, and yet constitute no offense, the indictment is INSUFFICIENT. 1 CHIT. PI. 233 and 235; 1 BISH, SEC. 48" STATE V. EASON, 70 N.C. 88 (1874)

PETITIONER is A LAYMAN AT LAW, SELF TAUGHT, WITH NO ACCESS TO LAW REFERENCE BOOKS OR MATERIALS, OTHER THAN HAND-ME-DOWNS; HAS BEEN CONTINUOUSLY DENIED LEGAL ASSISTANCE. PETITIONER IS DENIED ACCESS TO A PHOTO COPIER, TYPE WRITER, COMPUTER'S.

THE PETITIONER RESPECTFULLY REQUEST LENIENCY, ON ANY IMPERFECTIONS CONTAINED WITHIN THIS PETITION; BOTH IN FORM AND CONTENT. IN THE EVENT THIS HONORABLE COURT GRANTS ITS WRIT OF CERTIORARI, PETITIONER RESPECTFULLY REQUEST TO BE APPOINTED LEGAL COUNSEL TO ADVISE AND TO ASSIST HIM IN FURTHER PROCEEDINGS WITH THIS COURT AS REQUIRED.

ON 11-5-2018 Petitioner Received final Order
Sec; APPENDIX-D-2 .

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Robert K. Stewart

Date: 5th, October, 2018

*I Swear under the Penaltie of Perjury the
Foregoing is TRue and Correct.*

SUPREME COURT OF THE UNITED STATES

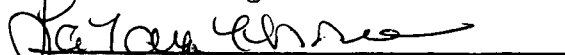
STATE OF NORTH CAROLINA
COUNTY OF MOORE

CERTIFICATE OF
VERIFICATION
And PROOF OF SERVICE

I, Robert K. Stewart Pro se, the Petitioner have read
the foregoing and swear under the Penalty of Perjury
it is TRUE and correct.

Sworn and subscribed before me,

This 5th day of October, 2018.


NOTARY Public

LATOYA THORNTON
NOTARY PUBLIC
Caswell County
North Carolina

My Commission Expires August 5, 2023

MY COMMISSION EXPIRES: August 5, 2023

This is to certify that the foregoing Petition has been
duly served, by Placing a copy of the same, in the
UNITED STATES MAIL, Postage Prepaid and Properly addressed.

Respectfully submitted on: 5th October, 2018.

Attorney General's office
N.C. DEPT. OF JUSTICE
P.O. BOX,
Raleigh, N.C. 27602


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Blanch, N.C. 27212