

NO \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

ARTHUR O. ARMSTRONG

- PETITIONER

VS.

NORTH CAROLINA and ROY COOPER

- RESPONDENTS

ON PETITION FOR A WRIT OF MANDAMUS TO:

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR A WRIT OF MANDAMUS

Arthur O. Armstrong  
8113 Pleasant Hill Road  
Elm City, NC 27822  
252-218-2007

**QUESTION(S) PRESENTED**

Whether Petitioner is entitled to relief, pursuant to Rule 60(b)(6) of the Federal Rules of Civil Procedure.

Whether Petitioner was deprived of liberty and property without due process of law in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States.

## **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:

THE SUPREME COURT OF THE UNITED STATES

ARTHUR O. ARMSTRONG, Petitioner

vs.

NORTH CAROLINA, et al, Respondents

DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER  
ENTITIES WITH DIRECT FINANCIAL INTEREST IN  
LITIGATION

**ARTHUR O. ARMSTRONG**, who is \_\_\_\_\_ **Appellant**  
(Name of party) \_\_\_\_\_ (Appellant/moving party or defendant)

makes the following disclosure:

1. Is party a public held corporation or other publicly held entity?

\_\_\_\_\_ ( ) Yes \_\_\_\_\_ (X) No

2. Does party have any parent corporation?

\_\_\_\_\_ ( ) \_\_\_\_\_ (X) No

If yes, identify all parent corporations, including grandparent and great-grandparent corporation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Is 10% or more of the stock of a party owned by a publicly held corporation or other publicly held entity?

\_\_\_\_\_ ( ) Yes \_\_\_\_\_ (X) No

If yes, identify all such owners: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation?

\_\_\_\_\_ ( ) Yes \_\_\_\_\_ (X) No

If yes, identify and nature of interest: \_\_\_\_\_  
\_\_\_\_\_

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C-1 of 1

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## INDEX TO APPENDICES

**APPENDIX A:** ON DECEMBER 12, 2018, THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT FILED PETITIONER'S PETITION FOR A WRIT OF MANDAMUS.

**APPENDIX B:** ON FEBRUARY 7, 2012, THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA RALEIGH (WESTERN) DIVISION DISMISSED PETITIONER'S COMPLAINT AND DENIED HIS MOTION. ON DECEMBER 7, 2018, DISTRICT COURT FILED PETITIONER'S COMPLAINT AND HIS RULE 60 (b)(6) MOTION FOR RELIEF.

**APPENDIX C.** THE CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED IN THE CASE, SET OUT VERBATIN WITH APPROPRIATE CITATION.

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

Petitioner respectfully prays that a writ of mandamus issue commanding the judge to perform its duty.

**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 DECEMBER 19, 2018

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**

### **CONSTITUTIONAL PROVISIONS**

**Fourth Amendment**

**Fourteenth Amendment**

### **STATUTORY PROVISIONS**

**28 U.S.C. 1254(1)**

**28 U.S.C. 1291**

**28 U.S.C. 1746**

**42 U.S.C. 1983**

**42 U.S.C. 1985**

**42 U.S.C. 1986**

**42 U.S.C. 1985(3)**

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE: ) PETITIONER'S PETITION FOR LEAVE TO FILE PETITION FOR A WRIT  
· ) OF MANDAMUS, PURSUANT TO RULE 20 OF THE RULES OF THE  
· ARTHUR O. ARMSTRONG, ) SUPREME COURT OF THE UNITED STATES PROCEDURE, WITH  
· ) SUPPORTING AFFIDAVIT AND DOCUMENTATION TO SEND A  
· PETITIONER. ) WRITTEN ORDER DIRECTING A U.S. DISTRICT COURT JUDGE TO  
· ) PERFORM HIS PERSONAL AND LEGAL OBLIGATION (BRIEF II).

**NOW COMES**, Arthur O. Armstrong, the petitioner named in this action and petitions this honorable Court, with supporting affidavit and documentation, for leave to file a petition for a writ of mandamus and prohibition, pursuant to Rule 20 of the Rules of the Supreme Court of the United States Procedure, on grounds to send a written order, commanding and directing Judge James C. Fox of the United States District Court for the Eastern District of North Carolina, Raleigh (Western) Division, 5:12-cv-00080-F to grant petitioner's motion for relief requested, pursuant to Rule 60 (b)(6) of the Federal Rules of Civil Procedure. That there is no genuine dispute as to any material fact and that Petitioner is entitled to judgment in his favor as a matter of law.

**IN SUPPORT HEREOF**, Petitioner shows unto the court that:

I. On December 7, 2018, trial court dismissed Petitioner's complaint and denied his motion for relief, pursuant to Rule 60 (b)(6) of the Federal Rules of Civil Procedure, without due process of law. Plaintiff's instant action cures all defects.

**NOW THEREFORE**, Petitioner files his Brief:

II. On July 4, 2011, the appellees failed to conform to the requirements of federal constitution and laws of the United States and acted with libelous and false statements (Affidavit, p. 2. ¶18). pray for judgment in the sum of \$35,000,000.00 (id., ¶12).

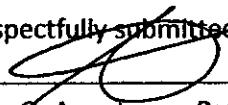
**SUMMARY:**

Because of the above conduct of the appellees, Petitioner respectfully requests that petition for leave

to file petition for a writ of mandamus, pursuant to Rule 20 of the Rules of the Supreme Court of the United States Procedure, be granted.

Respectfully submitted this the 10<sup>th</sup> day of December, 2018.

Respectfully submitted

  
Arthur O. Armstrong, Petitioner  
8113 Pleasant Hill Road  
Elm City, NC 27822

OF COUNSEL:

ARTHUR O. ARMSTRONG, PRO SE  
8113 PLEASANT HILL ROAD  
ELM CITY, NC 27822

**AFFIDAVIT OF ARTHUR O. ARMSTRONG**

I swear under penalty of perjury under United States laws that the within and foregoing statements are true and correct (28 U.S.C. 1746.)

December 10, 2018

  
Arthur O. Armstrong, Appellant

**CERTIFICATE OF SERVICE**

I certify that I cause a true and correct copy of a Rule 20 of the Rules of the Supreme Court of the United States Procedure to be served on all counsel of record by depositing copy of same in the United States mail in an envelope with adequate postage affixed thereon to ensure delivery at:

**REGULAR U.S. MAIL:**

Hal F. Askins, Esq,  
OFFICE OF THE ATTORNEY GENERAL  
Department of Justice  
9001 Mail Service Center  
Raleigh, NC 27699-0001

December 10, 2018

  
Arthur O. Armstrong, Petitioner  
8113 Pleasant Hill Road  
Elm City, NC 27822

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN OF NORTH CAROLINA  
RALEIGH (WESTERN) DIVISION  
5:12-CV-00080-F

ARTHUR O. ARMSTRONG, ) APPELLANT'S MOTION FOR RELIEF, PURSUANT TO  
vs. ) RULE 60 (b)(6) OF THE FEDERAL RULES OF CIVIL  
NORTH CAROLINA, et al ) PROCEDURE, WITH SUPPORTING AFFIDAVIT AND  
 ) DOCUMENTATION (BRIEF II).  
 )

**NOW COMES**, Arthur O. Armstrong, the appellant named in this action and moves this honorable court, with supporting affidavit and documentation, for relief, pursuant to Rule 60 (b)(6) of the Federal Rules of Civil Procedure, on grounds that there is no genuine dispute as to any material fact and that appellant is entitled to judgment in his favor as a matter of law.

**IN SUPPORT HEREOF**, Appellant shows unto the Court that:

- I. On December 7, 2018, trial court dismissed appellant's complaint and denied his Rule 60(b)(6) motion for relief. Appellant's instant action cures all defects.

**NOW THEREFORE**, appellant files his Brief:

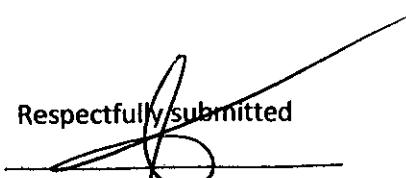
- II. On July 4, 2011, Appellees failed to conform to the requirements of the federal constitution and the laws of the United States and acted with libelous and false statements (Affidavit, p. 2, paragraph 8).  
I pray for judgment in the sum of \$35,000,000.000 (id., ¶12).

**SUMMARY:**

Because of the above conduct of the appellee, appellant respectfully requests that motion for relief, pursuant to Rule 60 (b)(6) of the Federal Rules of Civil Procedure, be granted.

Respectfully submitted this the 7<sup>th</sup> day of December, 2018.

Respectfully submitted

  
Arthur O. Armstrong, Appellant  
8113 Pleasant Hill Road

Elm City, NC 27822

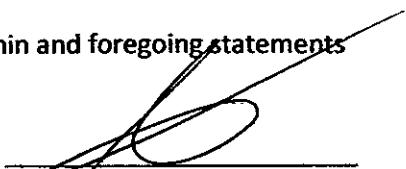
OF COUNSEL:

ARTHUR O. ARMSTRONG, PRO SE  
8113 PLEASANT HILL ROAD  
ELM CITY, NC 27822

AFFIDAVIT OF ARTHUR O. ARMSTRONG

I swear under penalty of perjury under United States laws that the within and foregoing statements are true and correct (28 U.S.C. 1746.)

December 7, 2018



Arthur O. Armstrong, Appellant

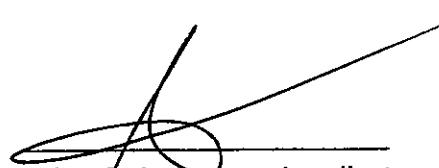
CERTIFICATE OF SERVICE

I certify that I cause a true and correct copy of a Rule 60 (b)(6) motion to be served on all counsel of record by depositing copy of same in the United States mail in an envelope with adequate postage affixed thereon to ensure delivery at:

REGULAR U.S. MAIL:

Hal F. Askins, Esq.  
Office of the Attorney General  
Department of Justice  
9001 Mail Service Center  
Raleigh NC 27699-0001

December 7, 2018



Arthur O. Armstrong, Appellant  
8113 Pleasant Hill Road  
Elm City, NC 27822

7

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH (WESTERN) DIVISION  
5:12-CV-00080-F

ARTHUR O. ARMSTRONG,	)	DEFAMATION OF CHARACTER
	)	
	)	
PLAINTIFF,	)	
	)	42 §1983
	)	
VS.	)	
	)	COMPLAINT
NORTH CAROLINA,	)	
ROY COOPER,	)	
	)	
DEFENDANTS.	)	

1. Plaintiff resides in the City of Elm City, North Carolina 27822. Defendant acted with racial profiling (Fourth and Fourteenth Amendments violations). Stopped plaintiff (Fourth and Fourteenth Amendments violations). detained plaintiff (Fourth and Fourteenth Amendments violations). Assaulted plaintiff (Fourth and Fourteenth Amendments violations). made an entry (Fourth and Fourteenth Amendments violations). made some falsities (Fourth and Fourteenth Amendments violations). Seatched and seized his property (Fourth and Fourteenth Amendments violations). invaded his privacy (Fourth and Fourteenth Amendments violations). Seized and Impounded plaintiff's car (Fourth and Fourteenth Amendments violations).

2. Defendant North Carolina is duly organized, existing and operating under the federal constitution and laws of the United States and is liable for a damages judgment entered against defendant Roy Cooper "in his personal capacity" as a result of an action brought against him under 42 U.S.C. §1983 by plaintiff who had been violated by defendant State Trooper for transgression of the Fourth and Fourteenth Amendments to the Constitution of the United States and libelous and false statements .

3. In an action brought under 42 U.S.C. §1983, a judgment entered against defendant Roy Cooper "in his individual capacity," imposes liability on the State of North Carolina, provided the State

received notice and an opportunity to respond. Brandon v. Holt (1985 US) 83 L Ed 878, 105 S Ct 873, 40 FR Serv 2d 861.

4. Defendant Ahmad Rasul El-Amin is defendant who acted with the Fourth and Fourteenth Amendment violations and libelous and false statements.

5. The Fifth and Fourteenth Amendments to the Constitution of the United States contain a due process clause. Due process deal with the administration of justice and thus the due process clause acts as a safeguard from arbitrarily denial of life, liberty or property by the Government outside the sanction of law. The Supreme Court of the United States interprets the clause more broadly however because the clause provides four protections: procedural due process (in civil and criminal proceedings), substantive due process, a prohibition against vague laws and the vehicle for the incorporation of the Bill of Rights.

6. The Equal Protection Clause provides that no State shall deny any people within its jurisdiction the equal protection of the law.

7. The conduct complained of was engaged in under color of state law and that such conduct subjected the plaintiff of the deprivation of rights, privileges amenities secured by the federal constitution and laws of the United State while engaged in the conduct complained of.

8. On July 4, 2011, defendant failed to conform to the requirements of the federal constitution and laws of the United States when defendant acted with reckless indifference and wanton disregards for the truth or falsity and the rights of plaintiff and others when defendant without probable cause, acted with including but not limited to: arbitrariness, obstruction of justice, capriciousness, fraud, trickery, RICO, gross negligence, deceit, misrepresentation, highway robbery, racketeering, breach of contractual agreement, computer fraud, defamation, extortion, falsity, and conspiracy and maliciously prepared and composed of and concerning the plaintiff the following false and defamatory matter: DWLR, DWI, Habitual felony DWI, Three prior convictions. Such writing contained the following false and defamatory statements: DWLR, DWI, Habitual felony DWI, Three prior convictions. The defamatory

matter was sent by defendant via computer to county and state officials to be read by such person and diverse other persons.

9. The defamatory matter was meant to mean that the plaintiff is a career criminal, duly convicted by a confident jurisdiction which has personal jurisdiction over the plaintiff and over the subject matter.

10. The defamatory matter was calculated to cause and did cause great injury to the plaintiff and plaintiff's reputation in that plaintiff was arrested and placed under a \$15,000.00 bond and the Government seized his 2010 KIA Forte vehicle and sold it without procedural and substantive due process in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States.

11. Plaintiff has always enjoyed a good reputation for honesty, uprightness of character and truthfulness.

12. As a direct and proximate result of defendant's action, plaintiff suffered continuing Injuries, including but not limited to: mental distress, psychic injury, injury to his reputation, humiliation, and mental anguish. I pray for judgment in the sum in the sum of \$35,000,000.00.

**WHEREFORE**, plaintiff prays for judgment as follow:

1. Punitive damages in the sum of \$35,000,000.00 under 42 U.S.C. §1983 - Civil Rights Act.
2. Intangible harm.
3. Attorney Fees under 42 U.S.C. §1988 - Attorney's Awards Act, or as a component of punitive damages.
4. Costs and expense of this action and such other and further relief as the court deems just and proper.

Respectfully submitted this the 7<sup>th</sup> day of December, 2018.

December 7, 2018

Respectfully submitted,

Arthur O. Armstrong, Plaintiff

8113 Pleasant Hill Road  
Elm City, NC 27822

Plaintiff demands jury trial on all issues raise by the pleading in this action.

**DEMAND JURY TRIAL**

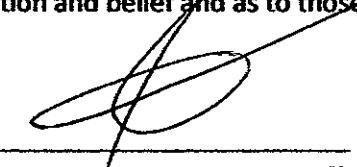
December 7, 2018

  
Arthur O. Armstrong, Plaintiff

**VERIFICATION**

I, Arthur O. Armstrong, being first duly sworn, deposes and says that he is the Plaintiff in the foregoing matter and that the allegations set forth in the Complaint are true and correct to the best of his knowledge and belief except for those allegations set forth of information and belief and as to those allegations he believes them to be true.

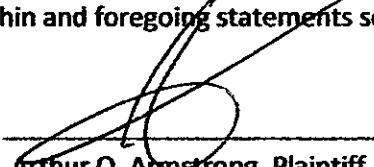
December 7, 2018

  
Arthur O. Armstrong, Plaintiff  
8113 Pleasant Hill Road  
Elm City, NC 27822

**AFFIDAVIT OF ARTHUR O. ARMSTRONG**

I swear under penalty of perjury under United States law that the within and foregoing statements set forth in the verification are true and correct (28 U.S.C. 1746.)

December 7, 2018

  
Arthur O. Armstrong, Plaintiff

## STATEMENT OF THE CASE

1. Appellees failed to conform to the requirements of the federal constitution and laws of the United States (Fourth and Fourteenth Amendments violations). Acted with racial profiling (Fourth and Fourteenth Amendments violations). Tailed and followed plaintiff on US 264 for five miles (Fourth and Fourteenth Amendments violations). Stopped the plaintiff (Fourth and Fourteenth Amendments violations). Made an entry without a warrant (Fourth and Fourteenth Amendments violations). Made some falsities (Fourth and Fourteenth Amendments violations). Detained plaintiff (Fourth and Fourteenth Amendments violations). Assaulted the plaintiff (Fourth and Fourteenth Amendments violations). Harassed the plaintiff (Fourth and Fourteenth Amendments violations). Kidnapped him (Fourth and Fourteenth Amendments violations). Searched and seized his property (Fourth and Fourteenth Amendments violations). Invaded his privacy (Fourth and Fourteenth Amendments violations). Handcuffed him (Fourth and Fourteenth Amendments violations). Arrested him (Fourth and Fourteenth Amendments violations). Placed plaintiff in his cruiser (Fourth and Fourteenth Amendments violations). Seized and impounded his car (Fourth and Fourteenth Amendments violations). Hauled him down to the magistrate office (Fourth and Fourteenth Amendments violations). Issued a warrant for plaintiff's blood (Fourth and Fourteenth Amendments violations). Seized plaintiff's blood (Fourth and Fourteenth Amendments violations). Jailed the plaintiff (Fourth and Fourteenth Amendments violations). Place him under a \$15,000.00 bond (Fourth and Fourteenth Amendments violations).

2. Appellee State of North Carolina is duly organized, existing and operating under the federal constitution and laws of the United States and is liable for a damages judgment entered against appellee Roy Cooper "in his personal capacity" as a result of an action brought against him under 42 U.S.C.S. 1983 Civil Rights Act by appellant who had been violated by a North Carolina State trooper for the transgression of the Fourth and Fourteenth Amendments to the Constitution of the United States and libelous and false statements.

3. Appellee Roy Cooper is North Carolina Attorney General. In an action brought under 42

U.S.C.S. 1983 Civil Rights Act, a judgment entered against appellee "in his individual capacity" imposes liability on the State of North Carolina, provided the State received notice and an opportunity to respond.

4. Appellee Ahmad Rasul El-Amid is trooper who acted with the transgression of the Fourth and Fourteenth Amendments to the Constitution of the United States and libelous and false statements.

5. The conduct complained of was engaged in under color of state law and that such conduct subjected the plaintiff of the deprivation of rights, privileges and immunities secured by the federal constitution and laws of the United States while engaged in the conduct complained of.

6. On July 4, 2011 in Wake County, North Carolina, appellee Roy Cooper "in his personal capacity" failed to conform to the requirements of the federal constitution and laws of the United States when appellee, without probable cause, acted with reckless indifference and wanton disregard for the truth or falsity and the rights of plaintiff and others when appellee followed plaintiff on US 264 and stopped him, detained him, made an entry, without a warrant, onto private areas of personal premise of plaintiff, searched and seized his property and invaded his privacy in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States. Then acted with including but not limited to: arbitrariness, capriciousness, malice, RICO, trickery, extortion, deceit, kidnapping, falsity, misrepresentation, fraud, pattern of racketeering activities, defamation, racketeering, gross negligence, highway robbery and conspiracy, when appellee acted with active connivance in the making of the five yellow line crossing, three DWI's, two in Nash County and one in Wake County and felony DWI false reports and other conduct amounting to official discrimination clearly sufficient to constitute denial of rights protected by the Equal Protection Clause to deprive the plaintiff of liberty and property without due process of law when appellee seized and impounded plaintiff's car, handcuffed the plaintiff and hauled him down to the magistrate office, withdrew is blood, jailed him and placed him under a \$15,000.00 bond in violation of the Fourth and Fourteenth Amendments to the Constitution of the

United States.

7. On February 17, 2012, trial court dismissed plaintiff's complaint and denied his motion for relief pursuant to Rule 60 (b)(6) of the Federal Rules of Civil Procedure without due process of law in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States. On December 7, 2018, appellant filed a Rule 60 (b)(6) motion for relief of the Federal Rules of Civil Procedure which provides that on motion and just term, a party may move for relief from a final order, judgment or proceeding pursuant to Rule 60 (b)(6) of the Federal Rules of Civil Procedure, which is the only provision available. Since that is the only provision available it may be invoked only in extraordinary circumstances when the reason for relief from a final judgment order or proceeding does not fall between the list of enumerated reasons giving in Rule 60(b)(1)-(5).

#### VERIFICATION

I, Arthur O. Armstrong, being first duly sworn, deposes and says that he is the Plaintiff in the foregoing matter and that the allegations set forth in the Complaint are true and correct to the best of his knowledge and belief except for those allegations set forth on information and belief and as to those allegations he believes them to be true.

December 7, 2018

  
Arthur O. Armstrong, Petitioner  
8113 Pleasant Hill Road  
Elm City, NC 27822

#### AFFIDAVIT OF ARTHUR O. ARMSTRONG

I swear under penalty of perjury under United States laws that the within and foregoing statements set forth in the verification are true and correct (28 U.S.C.S.1746.).

December 7, 2018

  
Arthur O. Armstrong, Plaintiff

## REASONS FOR GRANTING THE PETITION

1. Issuance by the Court of an extraordinary writ authorized by 28 U.S.C.S 1651(a) is not a matter of right, but of discretion sparingly exercised. To justify granting of any such writ, the petition must show that the writ will be in aid of the Court's appellate jurisdiction that exceptional circumstances warrant the Court's discretionary power and that adequate relief cannot be obtained in any other form or from any other court:

(a) A United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;

(b) A state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;

(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decision of this Court.

On February 17, 2012, trial court dismissed Petitioner's complaint and denied his motion. On motion and just terms a party may move for relief from a final judgment, order or proceeding, pursuant to Rule 60 (b)(6) of the Federal Rules of Civil Procedure because that is the only provision available and may be invoked only in extraordinary circumstances when the reason for relief from a final judgment-order does not fall between the list of enumerated reasons given in Rule 60(b)(1)-(5)

On December 7, 2018, petitioner filed a Rule 60 (b)(6) motion in the United States District Court now pending at 5:12-cv-00080-F.

A petition for a writ of mandamus is an order from a competent jurisdiction commanding the performance of a specified official duty imposed by law Sutton v. Figgatt 220 NC 98, 93, 285 S.E. 2d 97

(1971). The petition is a remedy for the inaction of an official and is a personal action based on the allegations and proof that the respondent has neglected or refused to perform a personal duty which the petitioner has a clear legal right to have her perform (id). A person seeking a writ must have a clear legal right to demand it and the party to be coerced must be under a positive legal obligation to perform the act sought to be requested – St. George v. Hanson 239 NC, 263,78 S.E. 2D 885, 888 (1954).

Petitioner has no plain, speedy and adequate remedy in the ordinary course of law other than the issuance of the petition.

Respondent has a duty of public nature and the duty to decide in Petitioner's favor; is imperative not discretionary.

Failure to act would forever frustrate the Petitioner performance to have his valid case heard and forever frustrate the ability of this Court to exercise its appellate jurisdiction.

Petitioner aggrieves from the respondent's denial of his legal rights by the courts who had the legal duty and obligation to grant relief but instead acted with abstaining from doing them.

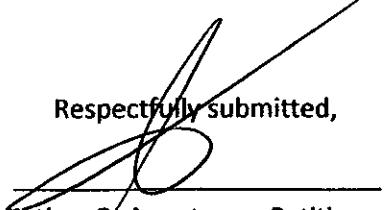
Appellees violated the Fourth and Fourteenth Amendments to the Constitution of the United States to deprive Petitioner of property and liberty without due process of law.

**WHEREFORE**, Petitioner prays that this Court:

1. Issue a writ of mandamus to the United States District Court for the Eastern District of North Carolina, Raleigh (Western ) Division at 5:12-cv-00080-F.
2. That it grant petitioner's motion for requested relief, pursuant to Rule 60 (b)(6) of the Federal Rule of Civil Procedure.
3. And such other and further relief as the court deems just and proper.

Respectfully submitted this the 10<sup>th</sup> day of December, 2018.

Respectfully submitted,

  
Arthur O. Armstrong, Petitioner  
8113 Pleasant Hill Road  
Elm City, NC27822

December 10, 2018

.

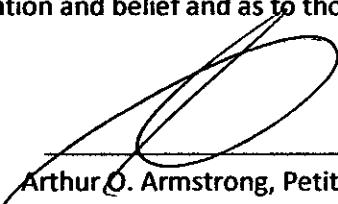
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**VERIFICATION**

I, Arthur O. Armstrong being first duly sworn, deposes and says that he is the Petitioner in the foregoing matter and that the allegations set forth in the Petition are true and correct to the best of his knowledge and belief except for those allegations set forth on information and belief and as to those allegations he believe them to be true.

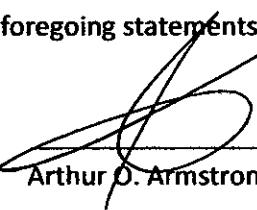
June 1, 2018

  
\_\_\_\_\_  
Arthur O. Armstrong, Petitioner  
8113 Pleasant Hill Road  
Elm City, NC 27822

**AFFIDAVIT OF ARTHUR O. ARMSTRONG**

I swear under penalty of perjury under US laws that the within and foregoing statements set forth in the verification are true and correct (28 U.S.C. 1746.)

June 1, 2018

  
\_\_\_\_\_  
Arthur O. Armstrong, Petitioner

## **CONCLUSION**

The petition for a writ of mandamus should be granted.

Respectfully submitted,

Arthur O. Armstrong

Date December 26, 2018