

## Certificate (New) 18-8668

Joseph Edwards Teague, III Petitioner v N.C. No. 18-8668

Specifically as required by Rule 44 for Motion to Rehear:

I, Joseph Edwards Teague, III *Joe Teague III* do hereby  
specifically Certify that the grounds for filing this Motion to Rehear are limited to  
intervening circumstances of substantial and controlling effect  
and  
and are limited to other substantial grounds not previously presented  
and  
that the motion to Rehear is presented in good faith and not for delay with my  
every expectation of prevailing  
and  
shall be served as required by Rule 29.

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I am proceeding *in forma pauperis* in original matter of *Petition for Writ of Certiorari* under Rule 39 of Rules of U.S. Supreme Court as previously approved by this court.

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Rule 44 quoted below as adopted 7/1/19....

US Supreme Court, Rule44. Rehearing, Adopted 7/1/2019

1. *Any petition for the rehearing of any judgment or decision of the Court on the merits shall be filed within 25 days after entry of the judgment or decision, unless the Court or a Justice shortens or extends the time. The petitioner shall file 40 copies of the rehearing petition and shall pay the filing fee prescribed by Rule 38(b), except that a petitioner proceeding in forma pauperis under Rule 39, including an inmate of an institution, shall file the number of copies required for a petition by such a person*

*under Rule 12.2. The petition shall state its grounds briefly and distinctly and shall be served as required by Rule 29. The petition shall be presented together with certification of counsel (or of a party unrepresented by counsel) that it is presented in good faith and not for delay; one copy of the certificate shall bear the signature of counsel (or of a party unrepresented by counsel). A copy of the certificate shall follow and be attached to each copy of the petition. A petition for rehearing is not subject to oral argument and will not be granted except by a majority of the Court, at the instance of a Justice who concurred in the judgment or decision.*

- 2. Any petition for the rehearing of an order denying a petition for a writ of certiorari or extraordinary writ shall be filed within 25 days after the date of the order of denial and shall comply with all the form and filing requirements of paragraph 1 of this Rule, including the payment of the filing fee if required, but its grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. The time for filing a petition for the rehearing of an order denying a petition for a writ of certiorari or extraordinary writ will not be extended. The petition shall be presented together with certification of counsel (or of a party unrepresented by counsel) that it is restricted to the grounds specified in this paragraph and that it is presented in good faith and not for delay; one copy of the certificate shall bear the signature of counsel (or of a party unrepresented by counsel). The certificate shall be bound with each copy of the petition. The Clerk will not file a petition without a certificate. The petition is not subject to oral argument.*
- 3. The Clerk will not file any response to a petition for rehearing unless the Court requests a response. In the absence of extraordinary circumstances, the Court will not grant a petition for rehearing without first requesting a response.*
- 4. The Clerk will not file consecutive petitions and petitions that are out of time under this Rule.*
- 5. The Clerk will not file any brief for an amicus curiae in support of, or in opposition to, a petition for rehearing.*
- 6. If the Clerk determines that a petition for rehearing submitted timely and in good faith is in a form that does not comply with this Rule or with Rule 33 or Rule 34, the Clerk will return it with a letter indicating the deficiency. A corrected petition for rehearing submitted in accordance with Rule 29.2 no more than 15 days after the date of the Clerk's letter will be deemed timely.*

QUESTION(S) as Originally PRESENTED supplemented and with additional context:

Was Motion to suppress evidence correctly denied by NCCOA Judge Tyson, Dietz, Berger Panel (PDR subsequently denied)?

Did NCCOA erroneously allow *Good Faith Exception principle* under color of law not allowed in NC to cover Detective Braswell collection of original evidence to establish probable cause making what followed false from that fraud. COA17-1134 State v Daye COA16-1119 presenting conflicting opinion violating Equal Justice provisions?

Were Speedy Trial principles violated like State v Washington mistaken identity case now current Washington v State of NC 192 N.C. App. 277 (2008) vacated, matter dismissed with prejudice COA07-1517.

Supplemental Questions:

Does NCGA GS15A and 7A provide due process when it cannot demonstrate with surety that NC Supreme Court has adequately reviewed a matter coming to it?

Does Lexis Nexis and WestLaw legal topic search provide adequate review of established case law for judges to depend on. Note HeadNotes which are part of legal search are not legal summaries so not suitable to construct judicial decisions.

Does bench decision satisfy procedural and substantive due process without jury?

Does Grand Jury satisfy indictment absent actual Probable Cause Hearing with all parties represented?

When is purposeful delay and overcharging by cops and by DA cause for dismissal with prejudice?

When is excessive bail actionable?

Is not *Mens Rea* still a necessary component of criminal act?

## Addendum to 18-8668

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**Extra Reasoning** provided with this 7/19/19 Motion to Rehear for accepting original Petition for Writ of Certiorari for matter docketed as Case no. 18-8668, Joseph Edwards Teague III v North Carolina 4/2/19. I affirm the Motion to Rehear with this additional information is presented in good faith and not for delay.

Respectfully, it is my sense that Petitions can be read by law clerks since 1886 assigned to the Justices of the U.S. Supreme Court and don't necessarily have to cross the path of a Justice. Procedural due process is at work. I have addressed my appeal to the highest court in the land from the non decision of the NC Supreme Court in denying the PDR in this case 211P18. It takes one Justice for that body to decide to hear the case being brought to it from the NCCOA opinion which comes from a 3 judge NC Court of Appeals panel. The NC Supreme Court has been in some flux with the Chief Justice at the time the PDR in my case was denied resigning to accept appointment to Dean of a Law School at Regent University. NC has a Governor of the opposite political party and rather than appoint the sr. Justice in that body to replace that Chief Justice, he appointed a jr. justice of a different political persuasion. That was not the norm. NC Courts have gone some political and there was noone to speak up for a controversial case which my case may have been, i.e. considering the case was decided at trial court by a then seated new Associate Justice. There was no Private Investigator assigned to this case. The Detective involved may have had a personal animus in my case. The anonymous tipster was never interviewed. The matter happened in 2014. The detective knew me if he ever existed. There were continuous traffic stops I was subjected to. The average case in Wake Co. that goes to trial takes 2+ years. The appellate Defender in my case presented plenty to make a winnable case showing the Chief Justice in the Daye case sided with the accused on stale evidence. NCCOA Tyson decision was in direct conflict with the Daye opinion. He reconstructed cured the defect for the affidavit for the original search warrant.

The U.S. Supreme Court just decided a case 7- 2 for a person on a student visa not being guilty of a weapons violation because the state did not prove he knew he had just flunked out of school and had lost his visa. The case was about *mens rea* vs

*mens actus* demonstrating the Court's current position that possession does not constitute intent.

So, the U.S. Supreme Court I submit missed the essence of my case: there was no intent. I am just released on bail on 18CRS205570-72, 88 after 13 months on a surprise package of suspected illegal marijuana intercepted never received on the very day the State response brief was due on the case at hand here being presented 14crs205326/7, COA17-1134, 211p18. It is the nature of prosecution I submit to test the limits of power. The Duke lacrosse case is not stale. Pottawatamie Co. vs McGhee 2010, this Court did not get to hear it because it was settled the day of oral arguments to avoid setting precedent. It was a clear case about prosecutorial misconduct. It would have helped here I submit.

NC courts were realigned 1966 by voter referendum to change NC state constitution. Voters were again presented a constitution change by our legislature on our state ballot in 1980 with reserved words not identified as such; "only those duly authorized to practice law are allowed to serve as judge." "Practice law" turned out to be reserved words voters were told afterwards were reserved to GS84 the NC Bar uses to govern the practice of law. So, NC State Board of Elections since declare only JDs can file to run for judge. It has gone further. What was the LLB domain of our universities became the JD property of the ABA. Respectfully, it is the essence of RICO with unilateral control by an unregulated monopoly. James Madison got it right about seeking to balance government to encourage our better nature. So, NC is about pleading rather than a trial. There is no Probable Cause Hearing in NC. The DA goes to a Grand Jury where only one side of a case is heard and when there is a bad cop or DA, the results are predetermined against the accused. That is why mediators with not just JD skills are so important. Matter has become matter of procedural interpretive law rather than natural rights. Chicago began issuing Certificates of Innocence in 2013 when law enforcement got overzealous. The presumption of innocence is lost in the process, I submit. The accused is just another revenue stream. Excessive Bail dominates. My case is the opposite of the Smollett case. In my case, the cop calls the step and he never loses because there is no defense until the trial. The system is fixed with only the JD in the prosecutor chair; only the JD representing the defense; only the JD on the prosecutor's bench. My birthdate was assumed 4/1/88 from 2006 when I mistakenly accepted an Alford Plea. My birthday is actually 9/2/88. When my rap

sheet was being created in 2006, I missed felony diversion opportunity and I had to take a plea to keep from missing high school class with 2 others to responsibility for a missing bicycle with whatever else the city cop could put in the charges. That was Braswell too I recall or his partner. There was never a bike. The bike reported stolen was reported last seen in a garage at night so it drew a B&E charge that will stay with me forever. I had Public Defender. I pled to an Alford Plea just to continue in school. I managed to violate my curfew not knowing the consequences of probation and went to a youth offender program just to get it over with, i.e. after first being assigned to a real jail for 19 year old offenders before my mom noted the problem with the age. The courts still have my age wrong. I did finish my GED there.

Until 3/22/18 I was at NCSU in Environmental Science since 1/1/15. I was at Wake Tech in the Welding program prior. I had just moved into this house at 621 Manchester dr in Raleigh, NC with a roommate when the anonymous tipster appeared and the no knock search warrant happened like 3/6/2014. There was no surveillance except a trash can pull they call it, never challenged. This 2014 matter was about some mystery MJ. A motion to suppress was denied before the case went to trial but the denial was left in place and not considered until after trial. It was a choice. It became the subject of the current appeal. COA17-1134. It takes 2 years to get to trial or Plea. It's like Lincoln Lawyer the movie. 6/5/18 came the appeal decision nccoa 17-1134 denying the motion to suppress. 10/24/18 the PDR was denied. So, procedural due process is working just fine in NC. Substantive due process is non existent. Reason is absent I submit. Judge Morgan now Assoc. Justice NC Supreme Court was the trial judge in my case 12/8/16. After Braswell was allowed to testify at trial I was coached to take Plea. Judge Morgan was elected to NC Supreme Court 2016 and my case was his last act at trial court. Really good person, but respectfully JD's are too often proceduralists. What if things weren't like Detective Braswell said they were. My lawyer was the best but we did not have a PI to show what a mess the cop was in my case or the defects in the warrant applications. Stale is not about timing so much as it is about evidence getting lost and leads not being followed and bad decisions resulting. In my case there was no PI. Perry Mason would have never won without a Private investigator Paul Drake. Bull, the TV serial has used the PI exclusively. In NC we are about the art of the "blind" deal...the Plea. Cops make charges and are rewarded for over charging so aDA can plead down. The accused is blind to what

is happening. Bail is not about flight risk. Now, I'm making it simple and it's probably not. This is my view from my experience. It appears far worse than in federal crimes even.

So, the additional information I'm providing has 3 fold purpose and is new to the case before you: the context of the case when it happened with the makeup of the court changing; the fact that there was no PI to challenge the detective; the fact there was no Probable Cause hearing where both sides could be heard to decide if the case deserved to go forward. The Grand Jury would indict a house fly for being in the wrong room. The only way I could lose that case was by the prosecution withholding evidence which they did. There was even a roommate that the cops used in my case but was never mentioned at trial. The illegal MJ was assigned to me. We had just moved into the house and thought the delivery was a pleasant surprise for the last renter. It was my sense we were about trying to find a use for it. There was no intent to do anything with the MJ that had been delivered to the house that me and my roommate had just moved into. It was like for the current case: a plant. We were living right next to my family's church. Then RPD Braswell shows up or someone he knows. I'm sure things cannot be this simple but he is just like the 2013 cop in Chicago where they had to issue large no. of Certificates of Innocence. They didn't provide remedy for anyone for their being held falsely convicted and records trashed. Dr. Jeffry McDonald is from NC most well known falsely convicted. Pottawatammie vs. McGhee 2010 was all about prosecution and cops and about false charges and convictions. It was settled out of court. My church has been approached by Mr. Braswell to ensure they know I'm charged. They don't know I'm not guilty and appealing. I've told my church I'm not guilty and I'm appealing, but it's not enough for them to hold off removing me from volunteer assignments. The accuser wins today. It's too much to expect many to hold up against the one-sided accusation by accepted authority. It costs money for legal representation, and the court thinks one is silly for representing oneself. It's why we have guilty pleas by people completely innocent locked up for decades before DNA evidence frees them. I've had a chance to be around some.

Questions presented in this appeal were: was COA17-1134 rightly decided depending on Motion to Suppress not being properly denied or considered in trial. No final disposition of Motion to Suppress allowed all that evidence from Braswell in the court with him and no way to counter and just sit there...his word against mine. I was coached to accept directed verdict with plea and preserved chance to appeal Motion to Suppress. Then: the Good Faith Exception matter at COA. Respectfully, NCCOA Judge Tyson got that wrong. NC does not allow "good faith exception" in how cases are brought and made. And, RPD Detective Braswell's affidavit for Search Warrant was a mess. Dates and times all disjointed. His assertions were never challenged. It was 2 ½ years after Appellate Defender Katz called him out but to no avail. NCCOA Judge Tyson filled in all the blanks and sua sponte rewrote the justification for the search warrant and how it was conducted and when. I'm sure there was a reason. Good person well-intended. There were no narcotics. MJ only. My kitchen utensils were seized, phone, and rent deposit from my parents. Mystery package just like the latest case. In the case at hand the delivery was left on the front doorstep like a day after we moved in. The next week comes no knock warrant. The latest matter was about a packg never delivered by Fed Ex. In the matter at hand I had my deposit for the rent and a roommate lost in the shuffle never mentioned at trial. So Good Faith Exception is not allowed in NC except Judge Tyson did not find that a problem with search warrant and how served and NC Supreme Court did not bother to address or even the ready conflict of Judge Tyson's decision with Chief Justice Linda McGee in Daye. Law Clerks can be assigned to write an opinion using Lexis Nexis and WestLaw. The number of cases assigned to a Justice can create the pressure that can allow a case to not receive the proper oversight before being issued and then there is noone who wants to challenge the sr. judge. The Appellate Defender noted the conflict but the NC Supreme Court was in flux at the time with the Chief Justice leaving and not everyone may have been all there. There are law clerks at that level as well when the shuck comes around from Chief Justice.

Our courts are all about dealing with illegal stuff. In NC we have a legal hemp economy and there is not an immediately clear way to declare hemp vs. MJ. There are 2 state labs. County labs cannot test for THC levels. That presents no difficulty to some cops and the courts are not all about getting that right and they are about punishing folks in the meantime. It's just about the civil and criminal

procedure. Then there is a Sentencing Commission establishing guidelines for punishments for crimes. Court illegally use “charges” to determine bail.

And finally, speedy trial and discovery violations by Brady are rampant. Barclay is how we define speedy trial in NC. The case was Washington v State COA07-1517. The prosecuted in that case was falsely convicted with prosecutor delaying and denying lab and DNA results. His case was finally dismissed and charges vacated with prejudice but that case has slowed to a crawl trying to remedy what the state has done to Mr. Washington, his family, his reputation, his life. The Washington case is what Duke Lacrosse would have looked like if high powered outside lawyers from D.C. had not been secured in that case before the indictment process gained traction. The NC Attorney General chose a special prosecutor to review the case and decided there was not enough evidence to prosecute in the Duke Lacrosse case. That was about LabCorp withholding evidence as directed by DA. Washington has had issues getting with prejudice addressed. Duke Lacrosse had no trouble. Richard Jewell.

Thank you for considering this supplemental information in my case. My current case 18CRS205570 et al from 3/22/19 seems brought by the same people triggered to prevent my appeal on 14CRS205326/7 from being successful. I submit having our courts be led by only one vocation creates a problem that cannot be solved by the one size fits all system we have. It's equal in the sense procedure is equal but it's not justice in the sense all rights preserved and presumption of innocence. This is procedural due process but not substantive due process. When the court gets it wrong it cannot correct itself. I submit NC courts haven't gotten it right in a long time. 2016 marked 50 year anniversary it just celebrated in its current form. We need your help. Justice Robert H Jackson is the last non JD who has sat on the US Supreme Court.

We've created administrative law 1975 NC APA on top of that and they are all JDs dealing with Administrative Code with decisions for that system to defend. Like asylum cases on border with Mexico. I must concentrate on my case, but there is no end to it and it is the pattern like would be a class action case for harm our courts do in NC for the last 50 years. Nothing personal, but the system can choose

its person of interest and they typically plea after the courts run them out of money. It takes maybe 10 years but some break sooner. It's all but impossible to survive as a felon. School is a big deal. FAFSA. Virtually everyone has a blip on their background or not without the right JD talking to the right JD. The blip is cause for the continual interest by law enforcement. ...Any disruption causes it even someone whispering "look at him. Let's see what he's up to." The blip affects where you can live and who you can work for and where you can go to school.

Hopefully this is enough context to deserve another look at accepting the Petition for Writ of Certiorari 18-8668. I see it requires a majority vote of the court to approve this petition for Motion to Rehear the Writ of Certiorari matter in this case. Reading about court history since 1886 where law clerks come to work for US Supreme Court justices doesn't seem to provide me any hope my Petition will be successful if only procedure matters. Substantive due process might lead one to want to know more about Detective Braswell and the process of the Grand Jury in NC and who can run for Judge. I'm hoping this additional information for Motion to Rehear makes it to the desk of a Justice. It will take 5 justices to approve now it appears for the Rehearing motion. There are some 4000 cases a year never heard by U.S. Supreme Court.

In NC, we wave off appeals to NC Supreme Court procedurally. In Civil matters, when there is no dissension in 3 judge NCCOA panel, the path to NC Supreme Court review is via PDR Petition for Discretionary Review. NC Supreme Court have option to say nothing and matter is procedurally denied. Newest Justice writes denial form letter. It's like a deemer clause where accused loses when no justice requests the case be heard. Did the case ever get to the Justice? What was in the shuck? The Chief Justice makes that call or not.

I'm aware of a case 281P06 Teague v NCDOT where exonerating evidence properly submitted was never distributed to Justices NC Supreme Court where that court then Denied the PDR in that case and refused to ever hear the evidence. In the federal arena 10-1385, 10-5462, 12-5677 were all procedurally dismissed. Fed Dist. Court Judge Fox ignored court scanning errors in Dismissing an early case and newly seated 4<sup>th</sup> Circuit Justice Wynn found no reversible error even after all

briefs filed at 4<sup>th</sup> circuit. Dr. Jeffrey McDonald is more well known recipient of procedural due process injustices. Eastern District Fed Courts in NC don't allow electronic submissions by Pro Se litigants. There are egregious scanning errors but procedure rules over substance. We only have Innocence Commission in NC but for now it only hears criminal matters. Civil matters languish like in the case of the FISA courts where evidence was withheld but that court has no mechanism to correct itself either or punish those deceiving the court not to mention the injustice it works. In NC 281P06, the matter was a criminal matter administratively changed to move forward as a civil matter. A state board in that case was told to stand down after their tie vote which trial court and appeals courts accepted and NC Supreme Court summarily denied the PDR. That inaction per the court actuated a deemer provision even while case waiting 18 months to be calendared by operation of law meant it accepted an administrative law judge recommended decision when the board did not act. Administrative law, civil and criminal law has no Post Conviction Review type avenue to correct substantive injustices like this. In a land where only JDs make, administer, judge, dole out punishment, represent all parties it's not easy to survive. Advisory Opinion was properly requested in 2008 from NC Attorney General on who can run for judge, but quickly shut down internally.

My case is no different. While 14CRS205326/7 was being appealed, a mystery package appeared at Fed Ex. It was never delivered but the saga continued. That matter started 3/21/18 the very day the State Response Brief was due in that appeal. I was falsely detained for 13 months from that date with no trial and discovery slow rolled and withheld. Had to drop classes at NCSU. Speedy trial is an imaginary right in NC Courts. Our courts were reorganized in 1966 by voter referendum. Only JDs can serve as judge in NC since 1980 by the same voter referendum mechanism. APA and the Chevron deference principle are at work here. I think Administrative Law was always an oxymoron and may be so again. Our Constitution never envisioned it. It never envisioned a Congress with executive oversight. It never envisioned administrative rules that supplanted common law rights and American jurisprudence that makes no allowance for substantive due process. I hope you want to hear my case and about how NC courts have and continue to work an injustice on this great state and harm our citizens.

Final item I think may make a different: I'm showing the state of NC as the one I'm appealing against as it is they. Actually, the NC Supreme Court denied my PDR by choosing not to hear it. The trial judge was then sitting on the NC Supreme Court and may not have recused himself but even if he did his presence had its effect. I did not mention the Clerk of the NC Supreme Court by name as I'm not serving him directly. The current Chief Justice of NC Supreme Court is 1) Cheri Beasley Esq. The Sr. Superior Court Judge in Wake Co. is 2) Paul Ridgeway Esq. And the NCCOA Justice 3) John Tyson Esq. and Chief Justice NCCOA 4) Linda McGee Esq.

As all these are under NC Supreme Court, I'm asking that the Clerk of NC Supreme Court, copy each so they are mentioned in their official and individual capacity like a 42USC1983 case just as formality to solve that perceived problem where the state can't be sued. It's the process that allows it to function as it does. I'm making the case personal to avoid a sovereign state defense issue if that contributed to 6/3/19 certiorari denial.

Last the Smollett case was successful in Petitioning the court for a special prosecutor to investigate the handling of that case....essentially a PI. And IG. The Duke lacrosse case had the NC AG choose a special review prosecutor to redirect that matter based on Lab Corp abridged lab report finding the accused absolutely innocent. As part of this case if it would help to have U.S. Supreme Court consider this petition in the alternative for a special prosecutor to review how our courts seem to find guilt too easily and thus encourage pleas to matters for where there is no guilt, pls. do. A felony conviction is something I'm attempting to avoid to keep it from misdefining me so truth matters and is worth pursuing. I just share context as it appears in my life so you have the best chance of making things right. I don't claim I'm perfect. I'm just not guilty NG and I struggle to prove it. I may have practice of law in my future.

Thankyou, Respectfully, Joe E. Teague, III, 6104 Ivy Ridge Road, Raleigh, NC

27612, c/o joeteague1@gmail.com, 9198478372



IN THE  
SUPREME COURT OF THE UNITED STATES

Joe E. Teague, III

PETITIONER

VS.

State of NC \*persons below in official & individual capacity--RESPONDENT(S)

PROOF OF SERVICE

I, Joe E. Teague, III, do swear or declare that on this date, July 20, 2019, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days or by email.

The names and addresses of those served are as follows: Clerk, NCCOA, 1 West Morgan Street, Raleigh, NC 27601: \* Clerk, NC Supreme Court 2 E. Morgan Street, Raleigh, NC 27601; Mr. GlennGerdng, Appellanat Defender, Durham, NC [glenngerdng@nccourts.org](mailto:glenngerdng@nccourts.org), Kevin Mahoney, State of NC, Asheville, NC, [kmahoney@ncdoj.gov](mailto:kmahoney@ncdoj.gov), assist. Appellate defender, Jillian Katz, [jillian.c.katz@nccourts.org](mailto:jillian.c.katz@nccourts.org)

\*Clerk, NC Supreme Court by email [amy.funderburk@sc.nccourts.org](mailto:amy.funderburk@sc.nccourts.org): Pls. share directly with: 1) NCSC Chief Justice Beasley; Sr. Wake Co. Superior Court Judge Ridgeway; 3) NCCOA Judge Tyson; and NCCOA Chief Judge McGee; Clerk, NCCOA. Others by me.

I declare under penalty of perjury that the foregoing is true and correct.



Reexecuted on July 19, 2019