

No. 19-6579

IN THE
SUPREME COURT OF THE UNITED STATES

DAVID L. SMITH — PETITIONER
(Your Name)

vs.

NORTH CAROLINA ET. AL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. SUPREME COURT

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

RULE 44 PETITION TO RE-HEAR
PETITION FOR WRIT OF CERTIORARI

DAVID L. SMITH
(Your Name)

P.O. BOX 1058
(Address)

BIRGAU N.C. 28425
(City, State, Zip Code)

(Phone Number)

ELUREKA

QUESTION(S) PRESENTED

IS PRO-SE APPELLANT ENTITLED TO THIS COURT'S ISSUANCE OF AN EXTRA-ORDINARY WRIT, CAUSING THE APPELLEE(S) TO ELECTRONICALLY TRANSFER \$1,000,000 COMPENSATORY DAMAGES TO HIS TRIST ACCOUNT NUMBER 0375340 AND TO RECALL ALL OF LEXIS PUBLISHING'S N.C. CRIMINAL PROCEEDURE LEGAL MANUALS, PRINTED FROM YEARS 1996 THROUGH 2019, AFTER APPELLANT COLORABLY PRESENTED INTERVENING CIRCUMSTANCES OF A SUBSTANTIAL OR CONTROLLING EFFECT ON PAGE 4-5 OF THIS DOCUMENT?

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:

N.C. ATT. GEN. JOSH STEIN P.O. BOX 629 RALEIGH N.C.
27602

ATT. NANCY S. NASH P.O. BOX 7587 CHARLOTTESVILLE, VA.
23216

~~US~~ JUDGE ELIZABETH K. DILLON 210 FRANKLIN RD. RM 540
ROANOKE, VA. 24011

RELATED CASES

1:15-CV-02123-LNA

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APPENDIX D	CERTIFICATE OF COUNSEL OR PARTY UNREPRESENTED BY COUNSEL R. 44(c)
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STATUTES AND RULES

N.C. RULES OF ASSEMBLY OF STATUTES - 4, 5.

N.C.G.S. 14-7.1 AND N.C. HABITUAL FELONY DECLARATION-4,
28 U.S.C. § 351 3.

OTHER

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 _____; 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☐ is unpublished.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 _____; 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☐ is unpublished.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 _____.

☐ 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

N.C.G.S. 14-7.1 ESSENTIAL ELEMENTS

- 1). ALL FELONIES ON INDICTMENT MUST BE FROM SAME STATE.
- 2). ALL FELONIES ON INDICTMENT MUST BE IN 10-YEAR PERIOD.
- 3). DEFENDANT MUST HAVE BEEN WARNED IN COURT BY JUDGE.
- 4). DEFENDANT MUST HAVE BEEN CONVICTED OF ALL FELONIES ON THE INDICTMENT.

N.C. RULES OF ASSEMBLY OF STATUTES.

REQUIRE ALL STATUTES TO BE ASSEMBLED FROM EXISTING STATUTES.

28 U.S.C. § 351 JUDICIAL COMPLAINT AGAINST U.S. JUDGES
TERRENCE M. BOYLE LOUISE M. FLANAGAN AND JAMES C. DE-
VER III DECIDED § 2254 HABEAS IN FAVOR OF STATE GOVER-
NMENT, WHEN REVIEWING APPEAL OF HABITUAL FELON CON-
VICTIONS 1996 THROUGH 2019 IN U.S. DISTRICT COURT.

ELUREKA

STATEMENT OF THE CASE

FORMER N.C. GOVERNOR JIM MARTIN DECLARED REPEAT OFFENDER STATE OF EMERGENCY IN 1980 DECADE

N.C. LEGISLATURE TOOK UNLAWFUL EMERGENCY ACTION BY ASSEMBLING (4) CRIMINAL STATUTES INTO N.C.G.S. 14-7.1 TO ENHANCE REPEAT OFFENDER SENTENCES.

OVER 40,000 N.C. PRISONER SENTENCES WERE UNLAWFULLY ENHANCED IN 1996 THROUGH 2019 IN N.C. COURTS IN ALL 100 COUNTIES.

FORMER N.C. GOVERNORS JIM MARTIN, JIM HUNT, BEVERLY PERDUE, PAT MCCRORY AND PRESENT GOVERNOR ROY A. COOPER KNEW OR SHOULD HAVE KNOWN OF ABOVE PATENTLY UNCONSTITUTIONAL ASSEMBLED STATUTE, BUT TOOK NO CORRECTIVE ACTION.

N.C. LEGAL AUTHOR LEXIS PUBLISHING(S) PRINTED N.C. CRIMINAL PROCEDURE LEGAL MANUALS FROM 1996 THROUGH 2019, IN WHICH THE ESSENTIAL ELEMENTS OF N.C. HABITUAL FELON STATUTE WERE SUBSTITUTED WITH ELEMENTS OF N.C. HABITUAL FELON DECLARATION MAKING ALL HABITUAL FELON SENTENCE ENHANCEMENTS UNCONSTITUTIONAL.

ALL HABITUAL FELON ARREST WARRANT APPLICATIONS ARE UNCONSTITUTIONAL, ISSUED FROM 1996 THROUGH 2019 IN N.C. 100 COUNTIES.

ALL HABITUAL FELON ARREST WARRANTS ARE UNCONSTITUTIONAL, ISSUED IN N.C. 100 COUNTIES FROM 1996 THROUGH 2019.

ALL HABITUAL FELON INDICTMENTS 1996 THROUGH 2019 ARE UNCONSTITUTIONAL ISSUED BY GRAND JURIES.

ALL HABITUAL FELON GUILTY PLEAS ARE UNCONSTITUTIONAL FROM 1996 THROUGH 2019, IN ALL 100 N.C. COUNTIES.

ALL HABITUAL FELON CONVICTIONS BY JURY ARE UNCONSTITUTIONAL, FROM 1996 THROUGH 2019 IN N.C. STATE.

APPELLEES IN ABOVE CONSPIRACY ALSO ALTERED N.C. CONSTITUTION BY SUBSTITUTING N.C.G.S. 14-7.1 E.E. WITH DECLARATION ELEMENTS.

REASONS FOR GRANTING THE PETITION

APPELLEES RECEIVED NOTICE OF VIOLATION OF CLASS OF N.C. DECLARED HABITUAL FELONS DUE PROCESS RIGHTS CITED BY U.S. JUDGE BYRELL A. HOWELL IN CASE NUMBER CV-02123-LNA FEBRUARY 17, 2015, BUT FRAUDULENT LEGAL MANUALS WERE PRINTED BY LEXIS PUBLISHING THROUGH YEAR 2019, ALLOWING CIVIL RIGHTS VIOLATION OF GROUP TO CONTINUE.

N.C. LEGISLATURE WAS BARRED BY N.C. RULES OF THE ASSEMBLY OF STATUTES, WHICH PROHIBITS ASSEMBLY OF STATUTES INTO A STATUTE.

GROUNDS BY PRO-SE APPELLANT THAT ITAS PRESENTED SHOWED INTERVENING CIRCUMSTANCES OF A SUBSTANTIAL AND CONTROLLING EFFECT.

APPELLANT'S CUSTODIAN FAILED TO PROVIDE A LAW LIBRARY OR PARA-LEGAL TO ASSIST HIM IN PREPARING THIS R.44 PETITION.

TO DETER STATE PROSECUTORS FROM INDICTING DEFENDANTS AS HABITUAL FELONS, WHEN THEY HAVE ONLY (2) FELONY CONVICTIONS, SO ONE MISDEMEANOR IS USED ON INDICTMENT.

TO AWARD APPELLANT WITH \$1,100,000 COMPENSATORY DAMAGES FOR 11-YEARS HE SERVED IN PRISON FOR ENHANCEMENT DEPRIVING HIM OF \$100,000 YEARLY FROM HIS JOB IN CONSTRUCTION.

APPELLANT HAS BEEN CHALLENGING THIS UNCONSTITUTIONAL N.C. HABITUAL FELON STATUTE FROM JAN. 2004. THROUGH DATE OF THIS COMPLAINT.

U.S. JUDGE BYRELL A. HOWELL FOUND APPELLEE(S) VIOLATED CLASSES DUE PROCESS RIGHTS IN CASE 1:15-CV-02123-LNA. ON FEBRUARY 17, 2016.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Daniel L. Smith

Date: JAN 17, 2020