



Supreme Court of North Carolina

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From N.C. Court of Appeals
(16-707)
From Pitt
(14CRS3584 14CRS51431 14CRS51433)

6 February 2019

Mr. Anthony Lee McNair
Pro Se
#0629143
Pender Correctional Institution
P.O. Box 1058
Burgaw, NC 28425

RE: State v Anthony Lee McNair - 230P17-4

Dear Mr. McNair:

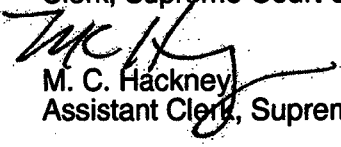
The following order has been entered on the motion filed on the 27th of December 2018 by Defendant for All Writs Act:

"Motion Dismissed by order of the Court in conference, this the 30th of January 2019."

s/ Earls, J.
For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 6th day of February 2019.

Amy L. Funderburk
Clerk, Supreme Court of North Carolina


M. C. Hackney
Assistant Clerk, Supreme Court Of North Carolina

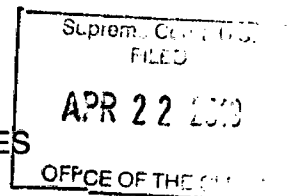
Copy to:

North Carolina Court of Appeals
Ms. Kimberly P. Hoppin, Attorney at Law, For McNair, Anthony Lee - (By Email)
Mr. Michael T. Wood, Special Deputy Attorney General, For State of North Carolina - (By Email)
Mr. Anthony Lee McNair, For McNair, Anthony Lee
Mr. Kimberly S. Robb, District Attorney
Hon. Sarah Beth Rhodes, Clerk
West Publishing - (By Email)
Lexis-Nexis - (By Email)

19-6765
No.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Anthony LEE McNair 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

Anthony LEE McNair
(Your Name)

PO Box 1058
(Address)

BURGAW, NC 28425
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Did the State deprive Mr. McNair of due process of a fair trial by denying equal protection of the 14th Amendment United States Constitution?

2. Did the State deprive Mr. McNair of due process to a new trial by denying equal protection of the 14th Amendment United States Constitution?

3. Did the State deprive Mr. McNair of due process to suppress the evidence by denying equal protection of the 14th Amendment United States Constitution?

4. Did the State deprive Mr. McNair of due process of the evidence by denying equal protection of the 14th Amendment United States Constitution?

And therefore, can a state court set aside a verdict to vacate a principle judgment of felony breaking or entering of a place of religious worship under N.C.G.S. 8-14-54.1 to enter a judgment of a lesser-included offense of felony breaking or entering a building under N.C.G.S. 8-14-54(a) to sentence a defendant twice as an habitual felon under N.C.G.S. 8-14-7.1 without due process of law of a new trial, when the 14th amendment of section 1 under the United States Constitution guaranteed equal protection to the 5th amendment that sets out rules for indictments by the grand jury and eminent domain, protects the right to due process and prohibits self-incrimination and double jeopardy?

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:

BRANDON L. RUTH, DCSC
Pitt County Criminal Division

CHRIS JOHNSON, D.A.
Pitt County Office of the D.A.

J. TAPLIE COILE
Pitt County Public Def. Office

JAMES R. SAUNDERS, A.D.A.
Pitt County Office of the D.A.

M. C. HACKNEY
Assistant Clerk, Supreme Court of North Carolina

KIMBERLY P. HOPPIN FOR DEFENDANT-APPELLANT.

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984)

ASHE V. SWENSON, U.S.

UNITED STATES V. DIXON, 509 U.S. 668 (1993)

BURK'S V. UNITED STATES, 437 U.S. 1 (1978)

TIMBS V. INDIANA, 17-9091

STATUTES AND RULES

N.C. G.S. & 15A-305(b)(1)

N.C. G.S. & 15A-152(A) & (C)

N.C. G.S. & 15A-1447(A)

N.C. G.S. & 15A-972

N.C. G.S. & 15A-943(A)(B) & (C)

N.C. G.S. & 14-221

N.C. G.S. & 14-7.1

N.C. G.S. & 14-54.1

N.C. G.S. & 14-54(a)

OTHER

SEE Writ of Right

SEE Writ of Restitution

SEE Writ of Execution

SEE Writ of Error Coram Nobis (or Vobis)

SEE Writ of Error

SEE Writ of Entry

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 _____
☐ 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 D to the petition and is

- ☒ reported at STATE V. MCNAIR COA16-707; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the North Carolina Appeal court appears at Appendix D to the petition and is

- ☐ reported at STATE V. MCNAIR COA16-707; 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 Aug. 25, 2017.
A copy of that decision appears at Appendix C.

☐ 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 Aug. 25, 2017 (date) on MAY 10, 2018 (date) in Application No. COA16-707.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

(Tp 181) At the close of all the evidence, Mr. McNair's trial counsel made the following argument concerning his motion to dismiss:

MAY it please the Court, your Honor? At the close of all of the evidence the Defense renews its motion to dismiss. Your Honor, I would simply reincorporate my arguments I made before as to the lack or insufficiency of the evidence, as well as the lack or insufficiency of the indictment and the variance in the indictments as to - especially as they pertain to the element of a place of worship and as they pertain to the ownership of the trailer in the Mt. Calvary charge, as well as the - frankly, likely duplicity of the Sutton Amusement charge. I would ask the Court to dismiss all the charges on the grounds that I have previously argued to the Court, in particular on those grounds and in particular as to the variance which would be to allow the case to go to the jury at this point would be violative (sic) of Mr. McNair's rights under both the State and Federal Constitutions.

STATEMENT OF THE CASE

The Fifth and Fourteenth Amendments prohibit the government

from depriving a person of life, liberty, or property

without due process of law. Analysis of procedural due

process question involves a two-part inquiry: (1) whether

the state has interfered with a person's protected liberty

or property interest, and (2) whether procedural safeguards

are constitutionally sufficient to protect against unjustified

deprivation, like in the Counterclaim lawsuit from Pitt County

13CR 71478 filed Feb. 18, 2014. Protected liberty interest can be

created by (1) the Due Process Clause of its own force, (2) a

court order, (3) treaty, or (4) states through statutes or

regulation, like in the state plea offer presented 11/25/2014

File No. 14 CR 51431, 51432, 51433, were evidence derived from

information obtained through an illegal search or other

illegal investigative technique. Such evidence is generally

subject to the exclusionary rule to the same extent as the

illegally obtained information that led to it. The kind

and degree of objectivity and fair procedure in a legal

proceeding necessary to satisfy the requirement of due

process.

The term fundamental fairness is used as an expression both

of what results when due process is followed and of what is

necessary to constitute due process. It is an expression of

the concept of due process that captures what specific

rule alone cannot; a subjective sense that courts and other

legal institutions are treating people in a fundamentally

civilized and just manner. As right expressly guaranteed by

the constitution, or deemed by the supreme court to be so

basic to the concept of liberty as protected from govern-

ment restriction (except to the extent necessary to serve

(Page 1 Attached)

Page 1

Date: April 11, 2019

A compelling interest) by the DUE PROCESS CLAUSE OF THE FOURTH AMENDMENT.

AREA NOW DEEMED FUNDAMENTAL include voting and running for office, access to the courts, freedom of travel, freedom of association, and decision making in matters of marriage and procreation. SEE ALSO RIGHT OF PRIVACY, SUBSTANTIVE DUE PROCESS (UNDER DUE PROCESS; STRICT SCRUTINY); like in McNAIR V. ROCKY MOUNT POLICE DEPT, No. 5:06-CT-3015-FL (E.D.N.C. filed Feb. 21, 2006) "summary judgment granted to defendant", where it's noted, too, that the statutory prohibition against filing a false report to law enforcement is found in the chapter of our state which is a law that describes activities that constitute the obstruction of justice. SEE N.C. GEN. STAT. §§ 14-221 ET SEQ. These statutes, including prohibition against jury tampering, witness intimidation, and failure to comply with a court order, are designed to ensure that our citizens do not interfere with the administration of justice in our society.

Attorney

Anthony Lee McNair
ANTHONY LEE MCNAIR

REASONS FOR GRANTING THE PETITION

Is so I, ANTHONY LEE MCNAIR CAN RECEIVE
EQUAL PROTECTION OF LAW AND RIGHTS AS A
CITIZEN, AS WELL AS A BELIEVER AND CHILD
OF GOD, to be completely without FEAR
AND FREE to live in life, liberty AND
HAPPINESS, PEACE AND LOVE EQUALLY.

~~From the AND FOREGOING REASONS, MR. MCNAIR'S PRAY, THAT~~
~~THE HONORABLE UNITED STATE~~ A.L.M.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Anthony L. McNair

Date: April 71, 2019