

No. _____

19-8170

IN THE

SUPREME COURT OF THE UNITED STATES

Joe Robert Reynolds — PETITIONER
(Your Name)

vs.

STATE OF NORTH CAROLINA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FILED

AUG 21 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF NORTH CAROLINA

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

PETITION FOR WRIT OF CERTIORARI

Joe Robert Reynolds
(Your Name)

P.O. Box 310
(Address)

POLKTON NC 28135
(City, State, Zip Code)

(Phone Number)

RECEIVED

MAR 17 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Rule 14.

QUESTION(S) PRESENTED

- 1 ① After Sentence was vacated on 7-7-2015 How could Defendant be arrested without a warrant and none of Defendants Attorneys made it apart of his defense.
- ② After being recharged on 7-8-2015 District Court Judge Dismissed the charge on 8-18-2015, Mr Reynolds Leave's The Jail and go to Sheriff's office and register, How could Defendant be recharged and convicted, on 9-18-2015 Defendant was charged with Failure to report to the Sheriff and Failure to report change of address?
- ③ After being convicted on both charges, That was consolidated For Judgment one Sentence charged vacated in part because OF a Double Jeopardy violation and uphold a conviction to be remand for resentencing, on what conviction
- ④ Doing resentencing defendants Attorney did not object to The fact that Mr. Reynolds right to be free from double jeopardy was violated when he was resentenced,
- ⑤ Mr. Clark Fischer offered to represent defendant doing resentencing by filing a m.a.h. IF defendant would pay him \$5,000 Dollars made no argument doing resentencing. Said the Judge would not Allow him too
- ⑥ After Sentence was consolidated for Judgment to be one Sentence How can apart of one be vacated and There still be a conviction Less Than one is zero nothing...

over →

OTHER

After ms, Amanda Zimmer, Told Defendant She didn't
See anything the STATE did wrong doing resentencing, Defendant
Ask her to let him know what she's going to file before
she file anything, She told mr, Reynolds she didn't have time
to do that, After that defendant wrote The Court of Appeals
And Asked to withdraw his WRIT OF CERTIORARI from the
Appeals Court, After defendant received a letter allowing him
to withdraw, mr Reynolds then filed His WRIT OF CERTIORARI
IN THE SUPREME COURT OF NORTH CAROLINA on The 6th day of
July 2018 To review The order of the Superior Court of Surry
County, The following order was entered and is here by certified
To the Superior Court of That County, Dismissed by order of the
Court in conference this the 20th day of September 2018,
Sometime later I received Letter from The Appeals Court saying
my appeal is still pending, How can this be possible,
Here's the conflict, ms, Amanda Zimmer, Filed A Petition back
In the Superior court without my consent on her own opinion,
mr, Reynolds ask This Honorable Court to review The Petition
ms, Zimmer filed on my behalf and make Your Judgment,
Who is she working for?...

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:

RELATED CASES

NORTH CAROLINA COURT OF APPEALS # COA 14-1019 Filed: 16th June 2015
IN THE NORTH CAROLINA COURT OF APPEALS # COA 16-149 Filed: 2 May 2017
Surry County # 15CRS000692-94

SUPREME COURT OF NORTH CAROLINA Filed: 6th July 2018

From Surry County

From NC Court of Appeals

(13CRS050435-13CRS815) (14-1019 16-149 18-445)

From Surry
(15CRS692-694)

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	Dismissed Dismissed by order of court in conference 20th day of September 2018
APPENDIX B	Denied by order of court in conference 8-14-2019 PETITION FOR rehearing
APPENDIX C	Defendant have been convicted of a criminal offense Having given notice of an appeal APPEALS court did assign counsel,
APPENDIX D	North Carolina court of appeals Did allow Defendant To withdraw his petition This the 22 day of June 2018
APPENDIX E	Defendant will show this court, That he did not request For ms Zimmer to be removed as counsel Denied,
APPENDIX F	When ms, Zimmer was first appointed counsel She was working out of mr, Bruce Cunningham's private practice, After filing A Brief The appellate Defendant did offer ms, Zimmer To come work for Them, At that time she was Allowed, To withdraw as private counsel to work out of The Appellate Defender's office And that's who she's been working for since not for Defendant

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STATUTES AND RULES

Violation of Due process Double Jeopardy

1520, See, eg, U.S. v. Lagane-Estela, 394 F.3d 54, 56, (1st Cir, 2005)
government must prove by preponderance of evidence that
Indictments Charge Separate offenses) U.S. v. Basciano, 599 F.3d
184, 197 (2d Cir, 2010, U.S. v. Rigas, 605 F.3d 194, 204 (3d Cir, 2010, U.S.
v. Mackins, 315 F.3d 399, 410, -11 (4th Cir, 2003 U.S. v. El-Mezain, 664 F.3d
467, 546 (5th Cir, 2011) In re Grand Jury Proceedings, 797 F.2d 1377, 1380
(6th Cir, 1986) U.S. v. Doyle 121 F.3d 1078, 1089 (7th Cir 1998) U.S. v. Aguilera
179 F.3d 604, 607 8th Cir, 1999) U.S. v. Baptista-Rodriguez, 17F.3d 1354
1359 (11th Cir, 1994)

OTHER

Exhibit A

Will show this Honorable Court, on 8-18-2015
After Defendants Sentence was vacated and Dismissed
Mr. Reynolds did go to the Sheriff's office and register his address
Fatally Defective Indictment,

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 A to the petition and is

☒ reported at SUPREME COURT OF NORTH CAROLINA; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the NORTH CAROLINA APPEALS 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 _____.

☐ 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 20th Sept 2018
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: 8-14 2019, and a copy of the order denying rehearing appears at Appendix B.

☐ 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

- ① Defense counsels Failure to File Motion to dismiss on grounds of Fatally Defective INDICTMENT,
- ② Defendants right to be free from Double Jeopardy was Violated when the STATE OF NORTH CAROLINA was Allowed To bring back A vacated Sentence, Punished Twice for Same conduct,
- ③ Mr. Reynolds was arrested without a warrant after Sentence, was vacated. Held for Six weeks without bond before District Court Judge dismissed the charge on 8-18-2015 Defendant did leave the Jail and go to the Sheriff's office And register his Address, Violation of Due process Fatally Defective Indictment,
- ④ The Trial Court his lack of Subject matter Jurisdiction To Try Defendant on a Fatally defective Indictment,
INEFFECTIVE ASSISTANCE COUNSEL

STATEMENT OF THE CASE

- ① After Defendant filed a Writ of Certiorari In The SUPREME COURT OF NORTH CAROLINA, THE 6th day of July 2018, To review the order OF The Superior Court of Surry County, The Following order was entered, And Certified to the Superior Court of that County:
Dismissed by order of the court in Conference 20th of September 2018,
- ② After being held for five months and not released, Defendant filed A Discretionary review, for rehearing on the 14th of February 2019,
- ③ After resentencing on 11-2-2017 Defendant was given 7 to 9 years, How could The appeals court of North Carolina vacate one conviction, That was consolidated for judgment making one sentence, Because of Double Jeopardy and still uphold a conviction and remand For Resentencing on a vacated sentence, The two was made **one** less Than one is Zero Nothing...
- ④ After Defendant Appealed resentencing, The North Carolina Court of appeals ~~reassigned~~ ms, Amanda Zimmer to defendants case, Mr. Reynolds wrote the court of appeals and ask that ms, Zimmer Be removed because she fail to make arguments for defense, Request Denied,

Back ground of Case

On 11-18-2013 Defendant was convicted of Failure to register as a Sex Offender, and for being a habitual felon Sentenced 7 to 9 years Mr. Reynolds appealed Judgment Opinion of Appeals court, we find The State's Contentions to be without merit, Before defendants Trial even began, He discussed with the trial court that he felt his case should be dismissed because he had two certified letters stating that I am registered for the past year Thereafter defendants Attorney made a motion To dismiss at the close of the State's evidence because The State had not proved the elements Both in and out of context, It is obvious → over

To this Court, That the defendant had previously registered, as a sex offender and thus believe he should not have to keep registering upon release's from incarceration due to parole violations, This argument is quite specific, vacate judgment, Insufficient evidence, After Defendants sentence was vacated on 7-7-2015, Mr. Reynolds was picked up by Surry Co, Sheriff from Columbus Correctional without a warrant, Transported across the STATE unwillingly and unlawfully in full restraints, when Defendant gets to Surry County Jail there's no warrant in the computer, Mr. Reynolds is told were going across the street to the magistrate's office, If you run you will be shot, defendant states what am I going to run for my sentence just got vacated, Mr. Reynolds show his release papers to the magistrate he says those don't mean anything you're going to be recharged, Defendant is held for six weeks without bond before District Court Judge dismissed the charge on 8-18-2015, Mr. Reynolds leaves the jail go to the Sheriff's office and register his address 3337 Shoals road Pinnacle, NC 27043, on 9-18-2015 Defendant is arrested again and charged with Failure to report to the Sheriff and Failure to report change of address, Fatally Defective Indictment, on 11-5-2015 Mr. Reynolds is convicted on both charges and for being a habitual felon, This Time Sentenced 9 to 12 years defendant appeals judgment, on 5-2-2017 The North Carolina court of Appeals opinion ruled, There is simply no legal or practical difference between the two subsections as Applied here, Therefore we vacate one of defendants convictions under North Carolina General Statute 14-208,11 and remand for resentencing on other conviction, Conclusion

We vacate one of defendant's Two convictions under north carolina Statute 14-208,11 on the basis that his right, To be free from Double Jeopardy was violated

Chief Judge McGee and Judge CALABRIA, Concur...

REASONS FOR GRANTING THE PETITION

- ① INEFFECTIVE ASSISTANCE COUNSEL
- ② Fatally Defective Indictment
- ③ Double Jeopardy Punished Twice for Same Conduct,
- ④ Defendant had Two Certified Letters Stating He had been registered for the past Year,
- ⑤ Violation of Due Process
- ⑥ Defendant only had to maintain registry every six months
- ⑦ MS, Zimmer After resentencing Told defendant She didn't see anything The State did wrong doing resentencing, And then Says She didn't think she could do anything to give me the outcome I was looking for, Then Files a petition back in Superior Court on her own opinion without my consent,

That: I be compensated for unlawful Imprisonment,
Cruel and unusual Punishment
mental anguish Pain and Suffering,
\$1.5 Million Dollars

CONCLUSION

The petition for writ of Certiorari should
be granted,

Respectfully Submitted,

Yor Robert Reynolds
Date 2-18-20

MOTIVE

The STATE OF NORTH CAROLINA, has for keeping
Defendant in prison unlawful, is pending in a Lawsuit
In The EASTERN DISTRICT FEDERAL COURT OF NORTH
CAROLINA, Filing fee was paid off 9-18-2015 The same
Day Mr. Reynolds was recharged again, After Sentence
was Expired vacated and Dismissed,

Docket # 5:15-CV-3073-F