

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DERRICK M. ALLEN PETITIONER
(Your Name)

vs.
ALICE NEECE NINE ET. AL RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

COURT OF APPEALS FOR THE 4TH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DERRICK M. ALLEN SR.
(Your Name)

P.O. Box 51368
(Address)

DURHAM, N.C. 27717-1368
(City, State, Zip Code)

(919) 450-7497
(Phone Number)

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

ASHCROFT V. IGBAL, 556 U.S. 662 (2009);
129 S. CT. 1937, 173 L. ED. 2D 868, 77
USLW 4387 (2009).

BELL ATLANTIC CORP. V. TWOMBLY, 550 U.S.
544
CONLEY V. GIBSON, 355 U.S. 41, 78 S. CT. 99, 2
L. ED. 80 (1957)

STATUTES AND RULES

42 U.S.C. 1983

42 U.S.C. 1331 (FEDERAL QUESTION)

FED RULE CIV. PROC. RULE - 8(A)(2)

FED. RULE CIV. PROC. RULE - 32.1 (A)

~~(A UNPUBLISHED OPINION IS OVERRULED
BY THE COURT ON BANC).~~

FED. RULE CIV. PROC. RULE 12(e)

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 A to the petition and is

☐ reported at 20-1104; 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☒ is unpublished.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 1:19CV750; 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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

6TH CLAUSE OF THE FIRST AMENDMENT;
THE 9TH CLAUSE OF THE 5TH AMENDMENT
OF U.S. CONSTITUTION; THE EQUAL PROTECTION
OF LAWS GUARANTEED BY SECTION ONE OF
THE 14TH AMENDMENT.

STATEMENT OF THE CASE

PETITIONER COMMENCED AN CIVIL SUIT IN RE 42 U.S.C. 1983 (DEPRIVATION OF CIVIL RIGHTS) AND TOO 28 USC 1331.

THE DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA DISMISSED THE ACTION FOR FAILURE TO STATE A CLAIM UNDER 28 USC 1915(e)(2)(B)(ii). THE COURT OF APPEALS FOR THE FOURTH CIRCUIT AFFIRMED THE DISTRICT COURT RULING - UNPUBLISHED OPINION.

IN ORDER TO SURVIVE A MOTION TO DISMISS, COMPLAINTS MUST CONTAIN SUFFICIENT FACTUAL MATTER, ACCEPTED AS TRUE, TO STATE A CLAIM... OF RELIEF THAT IS PLAUSIBLE ON ITS FACE. A CLAIM HAS FACTUAL PLAUSIBILITY WHEN PLAINTIFF PLEADS FACTUAL CONTENT THAT ALLOWS THE COURT TO DRAW REASONABLE INFERENCE THAT DEFENDANT IS LIABLE FOR MISCONDUCT. IN CONLEY V. GIBSON, 355 U.S. 41, 78, S. CT. 99, 2 L.ED. 2D 80 (1957); THE COURT SUGGEST THE REMEDY FOR AN ALLEGATION LACKING SPECIFICITY TO PROVIDE ADEQUATE NOTICE IS OF COURSE, A RULE 12(e) MOTION FOR A MORE DEFINITE STATEMENT.

MOREOVER, UNPUBLISHED OPINIONS ARE NOT BINDING IN THIS CIRCUIT.

REASONS FOR GRANTING THE PETITION

THE REASON FOR GRANTING THIS PETITION
/ THERE'S AN ALTERNATIVE TO DISMISSING
PETITIONER'S COMPLAINT DUE TO FAILURE
TO STATE A CLAIM. THE ~~ALTERNATIVE~~

ALTERNATIVE IS FOR THE COURTS TO
RECOMMEND OR FILE A MOTION FOR AN
MORE DEFINITE STATEMENT, RULE 12(e).

AND UNPUBLISHED OPINIONS ARE NOT
BINDING -- ARE NOT LEGAL ~~PREC~~ PRECE-
DENT.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Derrick M. Allen Jr.

Date: 4/20/2020