No. 19-8794

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

CASEY RAFEAL TYLER — PETITIONER
(Your Name)

vs.

ERIK A. HOOKS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Casey Rafeal Tyler
(Your Name)

1001 Veazey Road
(Address)

Butner, N.C., 27509
(City, State, Zip Code)

919-575-3070
(Phone Number)

QUESTION(S) PRESENTED

HAVE NORTH CAROLINA COURTS REMOVED THE BURDEN OF PROOF ALTOGETHER IN CRIMINAL POSSESSION CASES ?

WHAT DECIDES A CRIMINAL COURT'S TERRITORIAL JURISDICTION : OBJECTIVE FACTS, OR ALLEGATIONS IN AN INDICTMENT ?

MAY A COURT ORDER A CRIMINAL DEFENDANT TO PAY RESTITUTION TO SOMEONE HE WAS NOT CONVICTED OF VICTIMIZING IF THAT SOMEONE NEVERTHELESS CLAIMS VICTIMHOOD STEMMING FROM CRIMES THE DEFENDANT ACTUALLY WAS CONVICTED OF AGAINST SOME OTHER PERSON ?

IF IT IS FAR WORSE TO CONVICT AN INNOCENT MAN THAN TO LET A GUILTY MAN GO FREE, WHAT COULD MOVE THE SUPREME COURT TO REVERSE FASTER THAN A STATE KNOWINGLY COMMITTING BOTH OF THESE WRONGS IN A SINGLE CASE ?

DOES THIS CASE MEET THE REQUIREMENTS FOR AUTHORIZING A SECOND FEDERAL HABEAS PETITION ?

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

Tyler v. Hooks, No. 5:19-HC-2183-Bo, U.S. District Court for the Eastern District of North Carolina. Judgment entered Nov. 18, 2019.

Tyler v. Hooks, No. 19-7779, U.S. Court of Appeals for the Fourth Circuit. Judgment entered April 17, 2020.

Tyler v. Cooper, No. 5:13-HC-2150-F, U.S. District Court for the Eastern District of North Carolina. Judgment entered July 28, 2014.

Tyler v. Cooper, No. 14-7145, U.S. Court of Appeals for the Fourth Circuit. Judgment entered between Oct. & Dec., 2014.

TABLE OF CONTENTS

INDEX TO APPENDICES

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 _____; 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[✓] is unpublished.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 _____; 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 April 17th, 2020.

[ ] 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: May 26, 2020, and a copy of the order denying rehearing appears at Appendix C.

[ ] 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

An offense occurs in a county if any act or omission constituting part of the offense occurs within the territorial limits of the county. **NC Gen. Stat. Art. 3. Venue § 15A-131(e).** A court cannot obtain jurisdiction over a criminal defendant charged with a felony without a valid bill of indictment. **State v. Snyder, 343 NC 61, 65, 468 S.E.2d 221 (1996).** Where guilt depends so crucially upon a specific identification of fact, an indictment must do more than simply repeat the language of the criminal statute. **Russell v. U.S., 369 U.S. 749, 764-65 (1962); Hamling v. U.S., 418 U.S. 87, 117 (1974).** Because territorial jurisdiction is an essential element of the offense, it must be proved beyond a reasonable doubt. **Liggins v. Burger, 422 F.3d 642, 649 (2005).** It is the careless or designed pronouncement of sentence on a foundation so extensively & materially false, which the prisoner had no opportunity to correct by the services which counsel would provide, that renders the proceedings lacking in due process. **Townsend v. Burke, 68 S.Ct. 1252, 1255 (1948).** This court has consistently held onto the equitable nature of habeas corpus to preclude application of strict rules of res judicata. **Schlup v. Delo, 115 S.Ct. 851, 863 (1995).** There are limited circumstances under which the interests of the prisoner in relitigating constitutional claims held meritless on a prior petition may outweigh the countervailing interests served by according finality to the prior judgment. *Ibid*; **see also, Kuhlmann v. Wilson, 477 U.S. 436, 452 (1986).** In appropriate cases, the principles of comity & finality must yield to the imperative of correcting a fundamentally unjust incarseration. **Murray v. Carrier, 477 U.S. 478, 495 (1986).** Sensitivity to the injustice of incarcerating **an** innocent person should not abate when the impediment is AEDPA's statute of limitations, **McQuiggin v. Perkins, 133 S.Ct. 1924, 1932 (2013),** given the fundamental value determination of our society that it is far worse to convict an innocent man than to let a guilty man go free. **In re Winship, 397 U.S. 358, 372 (1970).**

STATEMENT OF THE CASE

After a white man was found murdered in his home in Onslow County (NC), police found a weapon of mass destruction believed to be the murder weapon in the home of a white woman: 23 year-old Amanda Jacqueline Charlie LeRiche, living in Onslow County.

LeRiche confessed to transporting the wmd in her own car from her black friend Anthony's trailor to her apartment for hiding from "the cops" so that Anthony would not get caught with it in his possession if police decided to search his home. After signing this confession (**Appendix D**) LeRiche was allowed to go free; never charged with any crime for her part in this case. Instead, two black males were charged with the "possession" of the wmd: Anthony (arrested for it) & 17 year-old Casey Rafeal Tyler (Petitioner) who was charged with it for the first time 5 months later in an indictment by a Grand Jury.

Prosecutors initially told the media that this wmd was the murder weapon "linking Tyler to the homicide," while the role of Amanda LeRiche was never reported to the media.

After testing the wmd, Forensic Biologist Ivy J. McMillan could not link it to either Tyler or the homicide as it "failed to reveal the presence of blood" despite its supposedly being fired at the deceased at "can't-miss" close range. Although McMillan reported these test results just 40 days before Sentencing, Tyler did not learn of it until many years post-conviction with the help of law students (Wake Forest University), because prosecutors failed to disclose this evidence & defense counsel — court appointed but ultimately disbarred for fraud — failed to seek such evidence independent of the State.

Tyler was bullied by counsel into signing an unconditional guilty plea for an aggravated sentence of 24-29 years in prison; a restitution debt to a man Tyler received no Notice of beforehand but who apparently claimed property damage resulting inadvertently from a fire Tyler was convicted of setting to the vehicle of the murder victim.

Tyler's guilty plea was necessary to ensure NC's cover up of LeRiche would remain covered up — particularly from judicial review, given the extreme difficulty in procuring habeas relief from a guilty plea. Indeed, the inherent prejudice against Tyler resulting from this scheme was an injury he has not been able to recover from, to date.

But this is true only due to the false sense of priority adhered to by the courts below:

> the State violates every applicable constitutional protection Tyler has, & gets a free pass to do so when Tyler stumbles over some procedural bar (AEDPA) while trying to report it all — a stumbling "violation" far more important to these courts than the evils which caused Tyler to stumble in the first place.

Or so they say (that this was always only a procedural default case). But the truth is a lot uglier, because they've dismissed Tyler's petitions *in spite* of the controlling S.Ct. decisions that raised Tyler's claims above procedural bars — decisions that obviously *bind* lower courts to decide the merits of such claims. **Schlup v. Delo, 115 S.Ct. 851, at 875 (Scalia, J., dissenting)** ("... the Court obliquely but unmistakably pronounces that a successive or abusive petition ***must*** be entertained & may ***not*** be dismissed so long as the petitioner makes a sufficiently persuasive showing that a 'fundamental miscarriage of justice' has occurred. Ante, at 861...").

Purporting to have "entertained" Tyler's first habeas petition, *that* judge said police taking a wmd from an admittedly guilty white woman, letting her go unprosecuted while helping to cover up her crimes even in the media, & then charging Tyler in her place some months later, is a "woefully" inadequate claim of Actual Innocence, & the 4th Circuit summarily concurred. Then the 4th Circuit, without explanation, refused to authorize a 2nd habeas petition *in spite* of DNA evidence newly discovered against Tyler's murder charge.

So — sadly — this case truly is about the corruption shared between NC & the 4th Circuit.

REASONS FOR GRANTING THE PETITION

It used to be that police had to at least "find" the thing a person gets convicted for possessing unlawfully. Used to be that only law enforcement (& not a civilian) had the right, & duty, to so find, & also to determine who, if anyone, has "possession" of it. All of this used to be clearly established federal law — see **Rehaif v. U.S.**, 139 S.Ct. 2191, 2202 (2019) (Alito, J., dissenting); **Bousley v. U.S.**, 523 U.S. 614, 616 (1998); **Leary v. U.S.**, 395 U.S. 6, 10 (1969); **U.S. v. Romano**, 382 U.S. 136, 137 (1965); **U.S. v. Lewter**, 402 F.3d 319, 321 (2d Cir. 2005); **U.S. v. Wardrick**, 350 F.3d 446, 448-50 (4th Cir. 2003); **U.S. v. Garner**, 338 F.3d 78, 81 (1st Cir. 2003); **U.S. v. Suarez**, 313 F.3d 1287, 1293 (11th Cir. 2002); **U.S. v. Hill**, 142 F.3d 305, 311 (6th Cir. 1998); **U.S. v. Veners**, 53 F.3d 291, 294 (10th Cir. 1995); **U.S. v. Morris**, 977 F.2d 617, 619-20 (D.C. Cir. 1992); **U.S. v. Stewart**, 779 F.2d 538, 540 (9th Cir. 1985); **U.S. v. Williams**, 623 F.2d 535 (8th Cir. 1980) — until North Carolina became fed up with it just before Tyler was convicted, that is. Now all it takes to establish **possession** of a real-live shoot-em-dead "firearm" is laywitness testimony that the suspect "**had a gun in his hand.**" **State v. Hussey, 194 N.C. App. 516, at 521 (2008).** Hussey was not arrested in possession of a firearm nor was "a gun" (real or fake) produced in court against him. Who knew civilian say-so could render these facts irrelevant? Just 6 days after Hussey was convicted by a jury, Tyler was indicted for possessing a wmd. The wmd police found in LeRiche's possession.

NC's new evidentiary standard in possession cases (1) nullifies actual innocence, (2) preordains sufficient evidence to convict every time & (3) discriminates against black males prejudicially. This radical departure from the longlived, national legal standard calls for Supreme Court intervention pursuant to **S.Ct. Rule 10.** Otherwise the burden of production no longer exists in NC, & the burden of proof is no burden at all, but a racist game of "NC's Believe it or Not." And what follows this unprecedented precedent except Believe-it-or-Not "he had a bag of cocaine in his hand" drug charges? ~~Precedents~~ **NC precedents** make it ~~probable~~ **inevitable**.

Onslow County Superior Court had territorial jurisdiction to try Amanda LeRiche for possessing a wmd, because police "collected" one from her "residence" in that county (**Appendix E**), but when they dismissed LeRiche altogether, the wmd crime went with her. So went the territorial jurisdiction as well, for a wmd by itself is no "act or omission constituting part of the offense" of possessing one, ⅛ the territorial jurisdiction triggered by LeRiche's acts of transporting ⅛ storing the wmd in her home, where found, cannot be transferred over to Tyler's case in which LeRiche herself was never a defendant. Poetically, Tyler's wmd indictment fails to charge possession anyway, Actual or Constructive.

S.Ct. supervision is due here, because whether a court has power to hear a case, ⅛ whether a defendant was properly notified of the true nature of knowingly falsified charges are no small matters, ⅛ to use procedural bars as mere makeweights to suppress them is the highest injustice. It's flagrantly unjust.

The S.Ct. should also decide if Tyler's restitution debt is even possible here: Tyler's guilty plea included a car fire: supposedly that fire caused some minor heat damage to a nearby church: but with no indictment ⅛ no conviction for damaging that church, Tyler must, nevertheless, pay its owner at least $1,000 for the alleged damage.

Tyler's 1st federal habeas petition sufficed against a need for "new" evidence for a 2nd — but once presented, that DNA evidence sufficed as no less than "reasonable doubt" against the worst of Tyler's charges, ⅛ the 4th Circuit's refusal to respect it as such simply defies belief. Frankly, the judges below have defrauded Tyler in a truly evil way impossible to respect: it's clearly corrupt ⅛ it reeks of racism, ⅛ the very existence of this S.Ct. cannot be justified if a pro se prisoner cannot rely on it to condemn this sort of scandal.

A true government cover up of racism occurred here. It required, & caused, a total denial of due process to Tyler, from fraudulent defense counsel to covered up DNA evidence. Legion are the Constitutional violations in this case, to be sure, & the fraud judges below — & the crooked men & women they've protected all this time — are all banking on the S.Ct. to deny this petition. There could not be a better time than now for the S.Ct. to show strong opposition to racial injustice while our country is literally burning because of it. But truly, at all times, the Ends of Justice demand it. And this Court should grant a separate Writ (of Habeas Corpus) here, too.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

C. R. Tyler

Date: June 3rd, 2020