

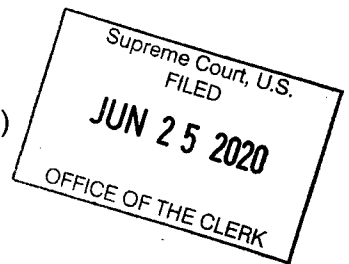
No. 20-5022

IN THE  
SUPREME COURT OF THE UNITED STATES

**ORIGINAL**

DERRICK ZU. ALLEN SR. — PETITIONER  
(Your Name)

vs.  
SARA GILINES 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 ZU. ALLEN SR.  
(Your Name)

P.O. Box 51368  
(Address)

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

(919) 450-7497  
(Phone Number)

QUESTION(S) PRESENTED

PETITIONER, DERRICK M. ALLEN SR., RESPECTFULLY SUBMIT THIS PETITION FOR WRIT OF CERTIORARI FOLLOWING THE UNPUBLISHED PER CURIAM OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT DISMISSING PETITIONERS APPEAL.

QUESTIONS PRESENTED ARE, WHETHER PETITIONER COMPLAINT CONTAINS SUFFICIENT FACTUAL MATTER TO SURVIVE A MOTION AND/OR DISMISSAL; AND WHETHER UNPUBLISHED OPINIONS ARE DEEMED AS BINDING PRECEDENT IN THIS CIRCUIT?

## 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:

JIM PURYEAR, ROBYN TOMLIN, JANE ELIZABETH, THE NEWS and OBSERVER and THE HEARLD-SUN.

## RELATED CASES

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## TABLE OF AUTHORITIES CITED

### CASES

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- (1) ~~ASHCROFT~~ V. Iqbal, 556 U.S. 662 (2009); 129 S. Ct. 1937, 173 L. Ed. 2d 868, 77 USLW 4387, 2009.  
(2) Bell Atlantic Corp. V. Twombly, 550 U.S. 544  
(3) Conley V. Gibson 335 U.S. 41 (1957)... 45-46  
(4) Hupman V. Cook, 640 F.2d 497, 501, n7. (4<sup>th</sup> Cir 1980); Reynolds v. Richtman, Supra.  
King V. Blankenship, 636 F.2d 70 at 72 (4<sup>th</sup> Circuit 1980).

### STATUTES AND RULES

42 U.S.C. 1983

28 U.S.C. 1331

### OTHER

FED. RULE OF CIV. PROCEDURE 8(A)(2).

RULES OF THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT 18(d)(i) -- AN UNPUBLISHED OPINION MAY BE CITED FOR WHAT PRECEDENTIAL VALUE IT MAY HAVE. Id. 18(d)(iii).

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 20-1131; 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 1:19-cv-00793; 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 06/23/2020 05/21/2020.

☐ 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: 06/23/2020, and a copy of the order denying rehearing appears at Appendix A.

☐ 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

THE EQUAL PROTECTION OF LAWS  
GUARANTEED BY SECTION ONE OF THE 14<sup>TH</sup>  
AMENDMENT.



### STATEMENT OF THE CASE

BOTH THE DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA, AND THE COURT OF APPEALS FOR THE FOURTH CIRCUIT DISMISSED PETITIONER'S COMPLAINT -- COURT OF APPEALS AFFIRMED... THE DISTRICT COURT RECOMMENDATION OR RATHER ACCEPTED.

IN ORDER TO SURVIVE A MOTION TO DISMISS, COMPLAINT MUST CONTAIN SUFFICIENT FACTUAL MATTER ACCEPTED AS TRUE TO STATE A CLAIM OF RELIEF THAT IS PLAUSIBLE ON ITS FACE; CLAIM HAS FACTUAL PLAUSIBILITY WHEN PLAINTIFF PLEADS FACTUAL CONTENT THAT ALLOWS THE COURT TO DRAW AN REASONABLE INFERENCE THAT DEFENDANT IS LIABLE FOR MISCONDUCT.

MOREOVER, UNPUBLISHED OPINIONS ARE NOT BINDING PRECEDENT AND ARE MERELY ACCEPTED WHEN THERE'S NO CASE CITATION THATS ON POINT.

## REASONS FOR GRANTING THE PETITION

THIS PETITION SHOULD BE GRANTED BECAUSE UNPUBLISHED OPINIONS ARE NOT BINDING PRECEDENT. NOR SHOULD UNPUBLISHED OPINIONS BE UTILIZED AS AN GUIDE AND/OR MECHANISM TO SIT ON THE RIGHTS OF ANY INDIVIDUAL DEEMED AN CITIZEN OF THE UNITED STATES.

IN SOOTH, PETITIONER COMPLAINT CONTAINS MERIT AND CONTAINS SUFFICIENT FACTUAL MATTER TO SURVIVE A MOTION TO DISMISS; THEREFORE, THIS COURT SHOULD GRANT PETITIONER PETITION.

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Derrick M. Allen Jr.

Date: 06/25/2020