

20-5451

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

AUG 10 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

CASEY TYLER — PETITIONER

(Your Name)

VS.

NORTH CAROLINA — 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)

218 Cooper Hill Road

(Address)

WINDSOR / N.C. 27983

(City, State, Zip Code)

252-794-8600

(Phone Number)

(i)

QUESTION(S) PRESENTED

When Petitioning for Federal Habeas Relief a 2nd Time, is the Actual Innocence Requirement Satisfied Where "Conceding Guilt" Nevertheless Could Not Have Legally Authorized Prosecution in the First Place Anyway?

If a Court Adjudicates Imagined Claims Never Raised—Dismissing the Petition,
‡ Thus, the Real Claims, Thereby—Can This Fact be Pleaded to Authorize a 2nd Federal Habeas Petition "Without" a Show of Actual Innocence ‡ New Evidence?

How Do We Know if a Court "Considered the Ends of Justice" as Required by Supreme Court Precedent [When Dismissing Successive Habeas Claims] if the Court Never Mentioned it in any Order?

Do Prisoners Have the Right to Disobey Orders That They Perceive as Unlawful — or Must a Prisoner Bow Down to Every Order a Guard Issues Right Away ‡ Just Challenge the Lawfulness of it Later (in Court) if so Inclined?

Have North Carolina ‡ the 4th Circuit Given Church-State-Rule its First American Sanctuary—Through This Case—in Violation of the First Amendment Establishment Clause?

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. North Carolina, 5-19-HC-2268-Bo, United States District Court for the Eastern District of North Carolina (October 8, 2019).

Tyler v. North Carolina, 19-7725, United States Court of Appeals for the Fourth Circuit (April 16, 2020).

Tyler v. North Carolina, 5-15-HC-2191-FL, United States District Court for the Eastern District of North Carolina (March 2, ~~2020~~
2017).

Tyler v. North Carolina, 18-6195, United States Court of Appeals for the Fourth Circuit (July 12, 2018).

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

APPENDIX A	<i>Opinion of the 4th Circuit Court of Appeals (2pages)</i>
APPENDIX B	<i>Opinion of the U.S. District Court (E.D.N.C.) (1pg, both sides)</i>
APPENDIX C	<i>Order denying timely petition for rehearing (1 page)</i>
APPENDIX D	<i>Document proving Church-State rule signed by prison chaplain (1 page)</i>
APPENDIX E	<i>Statewide prison policy explicitly forbidding Church-State rule (11 pages)</i>
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Russell v. U.S., 82 S.Ct. 1038, 1055 (1962) (concurring opinion) . . .	3 6
Wolff v. McDonnell, 418 U.S. 539 (1974)	3
Bordenkircher v. Hayes, 434 U.S. 357, 363 (1978)	5
Kuhlmann v. Wilson, 477 U.S. 436, 452 (1986) (plurality opinion) . . .	3
Schlup v. Delo, 115 S.Ct. 851, 853 (1995)	3
Superintendent, Mass. Corr. <u>Inst.</u> v. Hill, 472 U.S. 445 (1985) . . .	3

STATUTES AND RULES

28 U.S.C. §§ 2244 ¹ / ₂ 2254	
(AEDPA) cited by reference via Schlup, ante	3

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 _____; 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 14, 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

Congress shall make no law respecting an establishment of religion, United States Constitution, 1st Amendment (Establishment Clause), or prohibiting the free exercise thereof, *id.* (Free Exercise Clause), or abridging the freedom... of the people peaceably to assemble, *id.* (Assembly Clause).

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, U.S. Const., 14th Am. (Supremacy Clause), nor shall any State deprive any person of life, liberty, or property, without due process of law, *id.* (Due Process Clause), nor deny to any person within its jurisdiction the equal protection of the laws, *id.* (Equal Protection Clause).

“[S]ince habeas corpus is, at its core, an equitable remedy, a court must adjudicate even successive claims when required to do so by the ends of justice” (quoting from *Schlup v. Delo*, 115 S.Ct. 851, 853 (1995)). “More importantly, the individual interest in avoiding injustice is most compelling in the context of actual innocence.” *Id.* “[T]here are ‘limited circumstances under which the interest 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.’” *id.* at 863 (quoting *Kuhlmann v. Wilson*, 477 U.S. 436 at 452 (1986) (plurality opinion)).

Wolff v. McDonnell, 418 U.S. 539 (1974) (establishing due process procedures for prison disciplinary hearings); *Superintendent, Mass. Corr.*

Inst. v. Hill, 472 U.S. 445 (1985) (requiring “some evidence” to support prison disciplinary guilty verdict)

STATEMENT OF THE CASE

Applicable to all state prisons in North Carolina, a policy states :

“ Race, color, creed or national origin shall not be a basis for

excluding an inmate from attending any religious service.” (Appendix E, page 5).

Nevertheless, Scotland Correctional Institution (“SCI”), in Laurinburg, NC, spoke its own law into existence subsequently : ⁽¹⁾ inmates “affiliated with Judaism” are excluded from every religious service not Passover; ⁽²⁾ church ; Bible study are exclusively “Christian Services” which “only Christian ; Hebrew Israelite practitioners are approved to attend ” (Appendix D, quoting SCI chaplain).

Petitioner, Casey Tyler, attempted to hear a religious sermon in the chapel at SCI on January 16, 2015. Guards told him to stay away due to his supposed affiliation with Judaism. Thinking the guards could not be serious, Tyler continued to walk to the chapel door until six or more guards wrestled him to the floor ; handcuffed him in order to stop him from entering the chapel. Tyler was ultimately run through the prison disciplinary process whereby he lost Good Time credits towards his active prison sentence after being found guilty of disobeying “lawful” orders [to not attend that religious service]. Actual courts of law in NC would uphold Tyler’s punishment ; the 4th Circuit Federal Appeals Court affirmed in a one-page say-nothing per curiam dismissal which Tyler did not receive in time to petition for S.Ct. review. For this reason Tyler filed a 2nd Federal Habeas petition which the 4th Circuit refused to authorize.

Tyler now contends that ⁽¹⁾ not one of his actual claims was adjudicated by either court below ⁽²⁾ his 2nd habeas petition should’ve been authorized ; his actual claims — evaded by the District Court *ab initio* — decided on the merits by a different, impartial adjudicator.

REASONS FOR GRANTING THE PETITION

"To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort." *Bordenkircher v. Hayes*, 434 U.S. 357, 363 (1978).

So when Tyler was punished for trying to attend a religious service as a regular population inmate at SCI, he was punished for doing what the law of the State plainly allowed him to do ("Regular population inmates are allowed to attend any corporate worship service held at the facility." Appendix E, page 5), never mind what federal law plainly allows.

A vague violation this Court may overlook, but "the most basic sort" of violation compels S.Ct. attention: this sort of violation is not the result of a careless error in practising the law — no no: this sort of violation is the result of abject defiance of the law. Most people go to prison for that sort of thing: the least the S.Ct. could do is hear the case in which the State & the Bench are the ones accused of doing it.

This case is in halves: habeas corpus (here) & 42 U.S.C. § 1983, which is pending in the 4th Circuit as yet another District Court in NC has upheld there the Church-State totalitarianism at issue here. Tyler genuinely fears the 4th Circuit will defraud him once again if the S.Ct. doesn't grant this petition, which Tyler hopes will safeguard the other half of this case. It will not do for this Court to fail to hear either half of this case as each involves novel & other questions of national importance exclusive to one half or the other (e.g., successive petitions ~ vs ~ qualified immunity). Even so, one question arises herein universally:

who has the greater onus to avoid violence between guards & inmates? — the latter, who must NEVER disobey no matter how objectively unlawful the order; or the former, who are ALWAYS responsible for the legitimacy of the orders they expect to be obeyed? — Somehow, S.Ct. clarity is needed here.

Lastly, "Congress has no power to legislate... on 'religion'...." Russell v. U.S., 82 S.Ct. 1038, 1055 (1962) (Mr. J. Douglas concurring). Yet a mere state prison, no less, passes religious legislation — inexplicably $\frac{1}{2}$, to be sure, unjustifiably assaulting Judaism per se, $\frac{1}{2}$ making other religious moves that simply defy belief — $\frac{1}{2}$ when Tyler stands his ground against it, not only do they criminally assault $\frac{1}{2}$ further 'discipline' him, but then, worse — yeah, far worse — the judiciary upholds it all! as if such abuse were within even a lightyear of constitutional possibility! as if they honestly don't know better. Truly, this is corruption on the Bench: too much does it defy belief to warrant a contrary hope. They would cement this unamerican treachery via the rules against 2nd habeas petitions. Thus, the S.Ct. is hereby invoked under S.Ct. Rule 10(c) — $\frac{1}{2}$ that's at a minimum. The writ of habeas corpus would do also. **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

C. R. Tyler

Date: August 9th, 2020