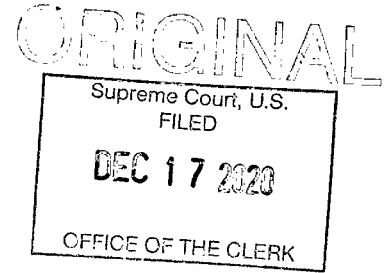


20-6849

No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

CASEY RAFAEL TYLER — PETITIONER
(Your Name)

vs.

SCOTLAND CORR. Inst. — 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 Rafael 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

DOES LAWFUL IMPRISONMENT IMPOSE A LEGAL DUTY ON THE PRISONER TO TRY SURVIVING IN THE GENERAL POPULATION, SO THAT HE CAN BE LAWFULLY ORDERED TO GO INTO THAT POPULATION, AND ~~BE~~ LAWFULLY PUNISHED FOR REFUSING TO GO INTO IT ?

ARE THE LOWER COURTS EXPOSING PRISONERS TO CONTRACTING COVID-19 AND OTHER CONTAGION BY UPHOLDING A PRISON DINING HALL POLICY THAT FORCES HEALTHY PRISONERS TO SIT BESIDE VISIBLY SICK PRISONERS ON PAIN OF FORFEITING THE RIGHT TO EAT AT ALL ?

ARE NORTH CAROLINA PRISONERS INNATELY PREJUDICED IN THEIR ABILITY TO LITIGATE BY NC'S FAILURE TO COMPLY WITH SUPREME DIRECTION TO PROVIDE LEGAL AID TO THEM, AND BY NC COURTS' REFUSAL TO APPOINT COUNSEL SYSTEMATICALLY ?

DID RESPONDENTS UNLAWFULLY RETALIATE AGAINST PETITIONER IN ANY WAY FOR ANY LAWFULLY PROTECTED CONDUCT AT ISSUE HEREIN ?

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:

Katy Poole

Lachelle Bullard

Casey Rafeal Tyler

RELATED CASES

Tyler v. Poole, No. 1:17-cv-1104, U.S. District Court for the Middle District of North Carolina.

Judgment entered March 31st, 2020.

Tyler v. Poole, No. 20-6518, U.S. Court of Appeals for the Fourth Circuit.

Judgment entered October 23rd, 2020.

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	8
CONCLUSION.....	13

INDEX TO APPENDICES

APPENDIX A	Decision of the U.S. Court of Appeals
APPENDIX B	Decision of the U.S. District Court
APPENDIX C	Recommendation of the U.S. Magistrate Judge
APPENDIX D	U.S. Magistrate Judge's Recommendation about — —injunctive relief
APPENDIX E	North Carolina Prisoner Legal Services, Inc., flyer
APPENDIX F	North Carolina Protective Control policy
APPENDIX G	Protective Housing Investigator's Report
APPENDIX H	Inmate Declaration of Protective Needs Form signed by Casey Tyler* 1124017

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Bounds v. Smith, 430 U.S. 817 (1977)	5, 7
Hewitt v. Helms, 459 U.S. 460 (1983)	10
Johnson v. Cal., 543 U.S. 499 (2005)	10
Turner v. Safley, 482 U.S. 78 (1987)	6, 9
U.S. Bancorp Mortgage Co. v. Bonner Mall Partner- ship, 513 U.S. 18 (1994)	12
Wilkins v. Gaddy, 559 U.S. 34 (2010)	9

STATUTES AND RULES

42 U.S.C. § 1983	3, 4
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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 23 October 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: _____, 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 _____.
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

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 U.S.C. § 1983.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof (Free Exercise Clause); or abridging the...right of the people peaceably to assemble (Assembly Clause). U.S. Const., 1st Ammt.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

U.S. Const., 8th Ammt (Cruel & Unusual punishment Clause).

No State shall deprive any person of life, liberty, or property, without due process of law. U.S. Const., 14th Ammt. (Due Process Clause)

STATEMENT OF THE CASE

I filed this 42 U.S.C. § 1983 action because the guards at Scotland Correctional Institution ("SCI") forced me to sit at 4-seat tables with inmates the guards choose for me in the dining hall during meal times, as if the choice of seat were theirs; not mine by rights; common sense: as a Muslim, they force me to sit with inmates eating swine or who's company my Faith otherwise commands me to avoid: as one aware of stigma, they force me to sit with gangsters; troublemakers: as one concerned for my own health; safety, they force me to sit with "visibly" sick people, in seats most vulnerable to blindside attacks.

If I decline the guards' seating desires, they order me to throw my food away; forfeit my right to eat at all: if I dare to choose my own seat AND still try to eat anyway, SCI guards will fight me with violence to forcibly remove me from the dining hall, drag me to segregation; ultimately run me through the disciplinary process so I can potentially lose Good Time Credits after I'm convicted of disobeying "lawful" orders; "assault on staff" charges (if I dare to fight back).

In my original Complaint I threatend to "stab the shit out of" the dining hall staff if they persisted: to avoid having to carry out this threat, to avoid dining hall staff, to give the district court time to intervene via injunction, I filed for protective custody ("PC"), packed my own property up; went to administrative seg — without incident or charges — pending a PC assignment. I made this move to have mercy on my dental cavities at the time also, which caused

5.

me to eat slower than dining hall staff could tolerate without harassing me about it.

Immediately upon receiving this lawsuit Respondents "ordered" me to leave seg - to suffer the dining hall staff in regular population ("r-pop") - $\frac{1}{2}$ ran me through two disciplinary processes when I "refused."

Twenty-Four hours after I lost Good Time Credits for disobeying the "lawful order" to return to r-pop, Respondents sent other officers to drug-test me: before this, I'd been at SCI for exactly $3\frac{1}{2}$ years without ever being drug-tested:

Respondents accused me of both Failing, $\frac{1}{2}$ Refusing, this one - $\frac{1}{2}$ - only drug test, then manufactured "evidence" that failed, even so, to convict me at my disciplinary hearing this time.

Such were the infractions of Respondents.

But the courts would add to the issues:

Every time I have ever asked for counsel as a pro se indigent prisoner, NC courts refused to appoint any, as they refused to here. NC never did comply with *Bounds v. Smith*, 430 U.S. 817, 828 (1977) (requiring "adequate law libraries or adequate assistance from persons trained in the law."), so there was no law library accessible to me during, or leading up to, this litigation (nor is there any now), $\frac{1}{2}$ the purported alternative compliance with *Bounds* - namely, NC Prisoner Legal Services, Inc. - admits to being choosy with its resources, providing no caselaw to prisoners whatsoever (see Appendix E) $\frac{1}{2}$ declined to assist me personally in other litigation.

6.

Turner v. Safley, 482 U.S. 78 (1987), governs this case : when the Magistrate judge's Turner analysis disfavored Respondents (" Most notably, Defendant Poole has arguably failed to demonstrate a nexus between the seating policy & a legitimate government interest." Appendix C, page 10, ft nt 5), the District Court repealed Turner & used a 4th Circuit case from 1963 to uphold the dining hall seating policy, making prison dining halls entirely off limits to federal courts per se, thus precluding the need to apply Turner to it at all (see Appendix B, pg 12, ft nt 5). Neither court applied Turner to the policy of punishing inmate refusal of r-pop.

In his 8th Amendment analysis of my dining hall claims, the Magistrate used ellipses to hide my spread-of-contagions argument (compare App. C, pgs 2 & 13, with actual Original Complaint) & the District Court failed to mention this analysis at all (nor did it conduct its own), though it was required to review my claims " de novo " (App. B, pg 1). These failings come only after the advent of Covid-19, which made it impossible for these judges to both quote my " sick people " concerns AND still deem the claim meritless. Before Covid-19, the Magistrate cited my " sick people " concerns verbatim (see App. D, pg 1).

Since these judges denied my motion for injunctive relief, the violence i went out of my way to avoid - the guards' violence against me - ultimately came to pass : i suffered full body contusions, a broken nose, & such cutting blows from weapon strikes of more than ten guards at one

7.

time while my hands were cuffed behind my back that I had to get 8 stitches in my face $\frac{1}{2}$ 5 staples in my scalp to close the gaping wounds — a bit of brutality the lower courts dismissed (see App. C, pg 5, ft nt 3).

Only after this abuse was I finally transferred away from SCI — a move the courts say rendered my entire case "moot."

And since I have never read a case that discussed mootness, I was "unable to rebut the State's argument" that my case had become moot — just as Bounds predicted I would be. See *id.*, 430 U.S. at 826.

And with qualified immunity in the mix, Respondents neither have to pay me for their crimes against me nor do they have to stop practicing any of them (because mootness barred declaratory relief).

And in a half-page per curiam "opinion," the 4th Circuit dismissed my appeal "for the reasons stated by the District Court" (App. A, pg 2 of 2).

So for the 7th time as a pro se prisoner — $\frac{1}{2}$ for the 4th time in 2020 alone — I am compelled by necessity to petition this S.Ct. to review the work of NC $\frac{1}{2}$ the 4th Circuit.

REASONS FOR GRANTING THE PETITION

The courts below lie, cheat, cover up claims they acknowledged until Coronavirus inconveniently enlarged the merits of them, supersede S.Ct. direction $\frac{1}{2}$ make every excuse for the outlandish abuse perpetrated by the prison guards herein.

When they said "Plaintiff does not allege that Defendants departed from state procedures regarding protective control" (App.C, pg. 17) — that was a lie. In fact, I devoted at least 3 pages of my Brief [against summary judgment] to showing just how Defendant-Respondents departed from the PC policy (App. F) based in large part on a plainly fraudulent PC investigation report (App. G). If the S.Ct. grants certiorari, I will point out other lies from these courts.

When they put ellipses in place of my allegations, which they know plainly state an 8th Amendment claim (App.C, pg. 2), $\frac{1}{2}$ took what I called "sick people visibly $\frac{1}{2}$ audibly sneazing $\frac{1}{2}$ coughing at the table" (App.D, pg 1) $\frac{1}{2}$ called them "people he finds repugnant or dangerous" (App. C, pg 13), they covered up, omitted from due analysis, $\frac{1}{2}$ unjustly belittled my sage claims.

Call it what you like: this is fraud from the bench, $\frac{1}{2}$ they know it just like I know it, $\frac{1}{2}$ I know fraud when I see fraud. But it must be asked: if I refuse to eat beside "gangmembers" $\frac{1}{2}$ "sick people" — so what? How is that a problem to the guards?

It's unbelievable! Avoiding "dangerous" is unlawful now? How?

9.

When they rejected *Turner v. Safley*, 482 U.S. 78 (1987), after seeing *Turner* favor me $\frac{1}{2}$ fail Respondents unequivocally, the courts below repealed $\frac{1}{2}$ superseded clear, longstanding S.Ct. direction in order to defraud me $\frac{1}{2}$ to keep the abuse of prisoners a sure thing. The S.Ct. has reversed for similar "error." See *Wilkins v. Gaddy*, 559 U.S. 34 (2010): "... the Fourth Circuit has strayed from the clear holding of this court...." *id.* at 36. Ten years later the same 4th Circuit has not stopped going astray but has strayed even further here instead: in *Wilkins*, they cited the governing law but "strained" the "reading" of it. See *id.* 559 U.S. at 39. But here, the same 4th Circuit did not merely strain the reading of *Turner v. Safley*, *supra*: they abandoned it altogether, preferring 4th Circuit precedent instead. See App. B, pgs 4-5. I definitely can't win like that.

When they refused to appoint counsel to assist me, then claimed how I failed to say the one or two magic words that (I guess) would've changed the outcome of this case in my favor; $\frac{1}{2}$ when they claimed my claims did "not rise to the level of a constitutional violation" (App. B, pg 5, ft nt 4) whenever they were uncontested claims that survived frivolity review as a matter of law — the courts below cheated me most shamefully. They cheated me out of meaningful access to the court $\frac{1}{2}$ a fair trial before a fair $\frac{1}{2}$ impartial adjudicator.

The sins of the courts aside, the S.Ct. has looked to other prisons for guidance in ruling for or against a prison rule. See *Johnson v. Cali.*, 543 U.S. 499, 519 (2005) ("... California's policy is an outlier when compared to nationwide practice. ").

Neither the dining hall policy, nor the punishing of prisoners' refusal to be in r-pop, has ever been tried before in the USA — until now, that is. Thus, these policies defy nationwide practice.

Because I believe my PC claims implicate a "Safety interest" rather than a "liberty interest," I feel that *Hewitt v. Helms*, 459 U.S. 460 (1983), is inapplicable here (see App. C, pg 17). But even if they do implicate a liberty interest, one was created by the State (I violated by her agents) here, where PC is warranted if I am "unable or unwilling to adjust" to r-pop (I was punished for refusing r-pop, which I was obviously "unwilling to adjust" to). See App. F, pg 1.

Ironically, this policy is clearly based on the premise that prisoners have a legal duty to "try surviving" in r-pop — a premise I contend is legally untenable.

I do not find, in S.Ct. precedent, a legal duty to brave the dangers of r-pop, so that I can be "lawfully ordered" to go there & lawfully punished if I "refuse." I cannot be "ordered" into the most dangerous part of the

prison — this is clear from the PC request form I signed (App. H): if I sign the lower half of this form,

"I request" r-pop "where I assume all risk involved" with being there; "will not hold" the guards "responsible" if I get hurt, because "[t]his is my decision."

I did not sign up for that.

This is how it's supposed to work: the guards can "offer" me r-pop, at which time it "is my decision" to accept or reject this offer without needing to justify it one way or the other. This ain't The Hunger Games: I'm not obligated to enter the Arena [of r-pop] on the feel-like-it say-so of some sadist [SCI guards].

Respondents moved against me maliciously because I refused to bow down to their insane dining hall tyranny. The lower courts then further abused me. I now have scars on my face because of it.

I'm tired of being oppressed. I've lost 15 straight lawsuits in NC courts in a 7-year span. That's impossible. The 4th Circuit has dismissed 9 of my appeals (out of ten appeals) with a one-page say-nothing per curiam "opinion" like the half-page version at issue here. That's dereliction of duty, it's collusion; abuse of discretion,; it's very unjust on so many levels,; I'm tired of it.

See also *U.S. Bancorp Mortgage Co. v. Bonner Mall Partnership*, 513 U.S. 18, 24 (1994) (noting "our customary skepticism toward per curiam dispositions that lack the reasoned consideration of a full opinion").

As this case illustrates, 4th Circuit prisoners don't stand a chance in court, though a fair chance in court is arguably the most important principle in our system of justice.

One wonders what can be done about the awful waywardness of the 4th Circuit,
 but to see what can be done about NC's defiance of *Bounds v. Smith*, supra,
 $\frac{1}{2}$ to determine whether these courts wrongfully exposed me to bodily harm $\frac{1}{2}$ approved an unduly perilous environment for NC prisoners,
 $\frac{1}{2}$ to decide the legality of punishing prisoners who refuse to go into regular population ($\frac{1}{2}$ whether Respondents illegally retaliated against me at all)
 $\frac{1}{2}$ to decide issues of qualified immunity $\frac{1}{2}$ mootness
 — this court should grant Certiorari here.

For the record, some of the cases cited herein were given to me courtesy of interns at Community Legal Information Center in Chico, California.

If they can help prisoners all the way in NC with legal research, why can't NC help NC prisoners with legal research?

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Casey Rafeal Tyler

Date: December 17, 2020