

20-7025

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

JAN 13 2021

OFFICE OF THE CLERK

Derrick M. Allen SR. PETITIONER
(Your Name)

vs.

Orlando F. Hudson JR. RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Derrick M. Allen SR.
(Your Name)
Durham County Detention Facility
P.O. Box 771
(Address)

Durham, North Carolina 27701
(City, State, Zip Code)

919-450-7497
(Phone Number)

QUESTION(S) PRESENTED

3 WHETHER THE U.S. COURT OF APPEALS (4TH CIR.)
ERR IN AFFIRMING THE DISTRICT COURT
ORDER IN DISMISSING PETITIONER'S COMPLAINT
PURSUANT TO 28 U.S.C. 1915(e)(2) WITHOUT
DETERMINING... THE ACTION OR APPEAL...
(i) IS FRIVOLOUS OR MALICIOUS;
(ii) FAILS TO STATE A CLAIM ON WHICH RELIEF MAY
BE GRANTED; OR
(iii) SEEK MONETARY RELIEF AGAINST A DEFENDANT
WHO IS IMMUNE FROM SUCH RELIEF.

MOREOVER, IF STATE JUDGE(S) ARE IMMUNE
FROM INFRINGING THE CONSTITUTIONAL RIGHTS OF
DEFENDANTS IN CASES IN WHICH THEY PRESIDE
OVER?

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

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CASES

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STATUTES AND RULES

RULE TEN (A) OF THE SUPREME COURT RULE OF THE
UNITED STATES.

28 U.S.C. 1915(e)(2)

N.C.G.S. 150B-43

N.C.G.S. 150B-45

OTHER

THE FIRST, FIFTH AND FOURTEENTH AMENDMENTS OF
THE UNITED STATES CONSTITUTION.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FIRST AMENDMENT OF THE U.S. CONSTITUTION, THE
RIGHT TO PETITION THE GOVERNMENT FOR AN REDRESS
OF GRIEVANCE(S).

THE FIFTH AND FOURTEENTH AMENDMENT PROVIDES IN
RELEVANT PART: NOR SHALL ANY STATE DEPRIVE ANY
PERSON OF LIFE, LIBERTY OR PROPERTY WITHOUT DUE PROCESS
OF LAW.

THE FOURTEENTH AMENDMENT PROVIDES IN RELEVANT
PART: NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION
THE EQUAL PROTECTION OF THE LAWS.

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 20-7303; 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 1:20-cv-00693; 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 01/04/2021.

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).

STATEMENT OF THE CASE

- FEBRUARY 17, 2020 PETITIONER, DERRICK M. ALLEN SR., FILED AN PETITION FOR JUDICIAL REVIEW IN DURHAM, NORTH CAROLINA IN RE 98 CRS 5208, 98 CRS 7980 AND 98 CRS 7979, PURSUANT TO NCGS 150B-43; 150B-45.
- May 6, 2020 SENIOR RESIDENT SUPERIOR COURT JUDGE ORCANDO F. HUDSON JR. DENIED PETITIONERS PETITION FOR JUDICIAL REVIEW, STATING IT LACKED SUBJECT MATTER JURISDICTION.
- July 29, 2020 -- PETITIONER FILED AN CIVIL COMPLAINT FOR VIOLATION(S) OF CIVIL RIGHTS UNDER SECTION OF 1983 [CASE NO. 1:20-cv-00693] ALLEGING AN MISUSE OF POWER POSSESSED BY VIRTUE OF STATE LAW AND MADE POSSIBLE ONLY BECAUSE WRONGDOERS IS CLOTHED WITH AUTHORITY OF STATE LAW INSOFAR AS JUDGE HUDSON DENYING PETITIONER AN JUDICIAL REVIEW.
- AUGUST 21, 2020 UNITED STATES DISTRICT JUDGE THOMAS D. SCHROEDER DISMISSED PETITIONER'S COMPLAINT PURSUANT TO 28 U.S.C. 1915(e)(2)(B).
- JANUARY 4, 2021 -- THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT AFFIRMED THE DISTRICT COURT JUDGMENT.

REASONS FOR GRANTING THE PETITION

PURSUANT TO RULE TEN OF THE RULES OF THE SUPREME COURT OF THE UNITED STATES. REVIEW ON A WRIT OF CERTIORARI WILL BE GRANTED ONLY FOR COMPELLING REASONS.

RULE 10(A) CONVEYS IN PART.... OR HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, OR SANCTIONED SUCH A DEPARTURE BY A LOWER COURT, AS TO CALL FOR AN EXERCISE OF THE SUPREME COURT'S SUPERVISORY POWER.

HERE PETITIONER ESTABLISHES, THE U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT AFFIRMED THE DISTRICT COURT'S ORDER IN DISMISSING PETITIONER'S COMPLAINT PURSUANT TO 28 U.S.C. 1915(E)(2) WITHOUT DETERMINING THE ACTION OR APPEAL.... (I) IS FRIVOLOUS OR MALICIOUS.... (II) FAILS TO STATE A CLAIM ON WHICH RELIEF MAY BE GRANTED.... (III) SEEK MONETARY RELIEF AGAINST A DEFENDANT WHO IS IMMUNE FROM SUCH RELIEF. THIS ACT HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, OR SANCTIONED SUCH A DEPARTURE BY AN LOWER COURT, CALLS FOR AN EXERCISE OF THE SUPREME COURT'S SUPERVISORY POWER. MOREOVER, EVERY CITIZEN OF THE UNITED STATES

* * TURNOVER →

PURPOSE(S) : (1) IT OVERRIDE CERTAIN KINDS OF STATE LAWS; (2) IT PROVIDES REMEDY WHERE STATE LAW IS INADEQUATE; AND (3) IT PROVIDES FEDERAL REMEDY WHERE STATE REMEDY, THOUGH ADEQUATE IN THEORY IS NOT AVAILABLE IN PRACTICE. MONROE V. POPE (1961) 365 U.S. 167, 5 L Ed 2d 492, 81 S. CT. 473

HERE, PETITIONER ILLUSTRATES... THE EXERCISE OF ITS FIRST AMENDMENT TO PETITION THE GOVERNMENT FOR AN REDRESS OF GRIEVANCE(S) HAS BEEN INAPT WHICH REQUIRE S THE EXERCISE OF THE SUPREME COURTS SUPERVISORY POWER.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Derrick M. Allen Jr.

Date: January 8, 2021