

No. \_\_\_\_\_

**21 - 6438**

IN THE  
SUPREME COURT OF THE UNITED STATES

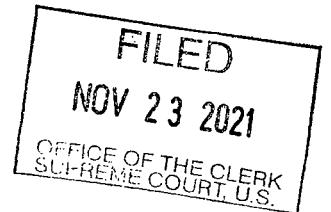
DAVID L. SMITH — PETITIONER  
(Your Name)

vs.  
STATE OF NORTH CAROLINA  
AND ET. AL — RESPONDENT(S)

**ORIGINAL**

ON PETITION FOR A WRIT OF CERTIORARI TO

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



PETITION FOR WRIT OF CERTIORARI

DAVID L. SMITH  
(Your Name)

P.O. BOX 1058  
(Address)

BEIRSVILLE, N.C. 28425  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

### QUESTION(S) PRESENTED

IS A CLASS OF CONVICTED HABITUAL FELONS, THAT HAVE COMPLETED THEIR LAWFUL MAXIMUM SENTENCES, ENTITLED TO IMMEDIATE UNCONDITIONAL RELEASES, IN ORDER TO AVOID SERVING THE UNLAWFULLY ENHANCED PORTION OF THEIR SENTENCES, IN THE MIST OF THE DEADLY CORONA VIRUS PANDEMIC AND EVEN DEADLIER (4TH) WAVE DELTA VARIANT?

IF A GOVERNOR DECLARES STATE OF EMERGENCY DUE TO RAPID SPREADING DEADLY CORONA VIRUS AND ISSUES ORDERS FOR SOCIAL DISTANCING AND REDUCED CAPACITY, ARE ALL HABITUAL FELONS CONVICTS THAT COMPLETED THEIR MAXIMUM LAWFUL SENTENCES, ENTITLED TO UNCONDITIONAL RELEASES, IF THEIR CUSTODIAN 19-MONTHS LATER REFUSES TO COMPLY WITH GOVERNOR'S EXECUTIVE ORDERS, RESULTING IN (6) DEATHS AND OVER 218 LUNG INFECTIONS, IN A (7) MONTH PERIOD OF YEAR 2020?

IS A GROUP OF PENNER CORRECTIONAL CONVICTED HABITUAL FELONS, THAT COMPLETED THEIR LAWFUL MAXIMUM PRISON SENTENCES, ENTITLED TO AN EMERGENCY U.S. SUPREME COURT INJUNCTION, TERMINATING THEIR SENTENCES, BECAUSE THEIR CUSTODIAN REFUSED TO COMPLY WITH GOVERNOR'S EXECUTIVE ORDERS FOR SOCIAL DISTANCING AND REDUCED CAPACITY, THAT RESULTED IN (6) DEATHS AND OVER 218 LUNG INFECTIONS, IN A (7) MONTH PERIOD OF 2020?

IS N.C. GOVERNOR COOPER OBLIGATED TO ISSUE AN EMERGENCY EXECUTIVE ORDER TO CONSOLIDATE ALL N.C. HABITUAL FELON CONVICTS' CONSECUTIVE SENTENCES, AFTER HIS FAILURE TO TAKE THIS ACTION IN 2020, HAS CAUSED ALMOST A THOUSAND HABITUAL FELON CONVICT DEATHS?

## 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:

N.C. GOVERNOR ROY A. COOPER III 4294 N.S.C. RALEIGH  
N.C. 27699-4294

N.C. ATTORNEY GEN. JOSHUA STEINT P.O. BOX 629 RALEIGH  
N.C. 27602

ATTORNEY NANCY S. NASH P.O. BOX 7587 CHARLOTTESVILLE  
VA. 23216

## RELATED CASES

C-14-0005

CODY V. HENDERSON 936 F.2d 715 720-21 (2d Cir. 1991)

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	
STATEMENT OF THE CASE .....	
REASONS FOR GRANTING THE WRIT .....	
CONCLUSION.....	

## INDEX TO APPENDICES

APPENDIX A	N. C. SUPREME COURT OPINION
APPENDIX B	N. C. COURT OF APPEALS OPINION
APPENDIX C	
APPENDIX D	
APPENDIX E	
APPENDIX F	

# TABLE OF AUTHORITIES CITED

## CASES

CODY V. HENDERSON (2D CIR, 1991)

PAGE NUMBER

## STATUTES AND RULES

N.C.B.S. 14-7.1

. . . . . 4

28 U.S.C. § 2243

. . . . . 4

8TH AMD. U.S.C.

. . . . . 5

## OTHER

EXECUTIVE ORDERS FOR SOCIAL DISTANCING AND REDUCED CAPACITY (4)

DEADLY CORONA VIRUS STATE OF EMERGENCY . . . . (4)

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 \_\_\_\_\_ 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 \_\_\_\_\_ 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 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 N.C. COURT OF APPEALS 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.

## JURISDICTION

☐ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ 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 OCT. 27, 2021.  
A copy of that decision appears at Appendix A.

☐ 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

N.C.G.S. 14-7.1

8TH AMD. U.S.C. EQUAL PROTECTION AND DUE PROCESS CLAUSE

N.C. HABITUAL FELON DECLARATION IS DEFINED AS (1) WHO HAS ON (3) SEPERATE OCCASSION BEEN CONVICTED OF (3) FELONIES AFTER JULY 6, 1969.

THE ESSENTIAL ELEMENTS OF N.C.G.S. 14-7.1.

1. ALL FELONIES ON INDICTMENT MUST BE FROM SAME STATE.
2. ALL FELONIES ON INDICTMENT MUST BE IN 10-YEAR PERIOD.
3. DEFENDANT MUST HAVE BEEN WARNED IN COURT BY JUDGE.
4. DEFENDANT MUST HAVE BEEN CONVICTED OF ALL FELONIES ON INDICTMENT.

28 U.S.C. § 2243 - UNCONDITIONAL RELEASE



### STATEMENT OF THE CASE

PENIDER CORRECTIONAL WARDEN BRYAN K. KIELLS REFUSED TO COMPLY WITH N.C. GOVERNOR ROY A. COOPER'S SOCIAL DISTANCING AND REDUCED CAPACITY ORDERS, RESULTING IN (6) DEATHS AND OVER 218 DEADLY CORONA VIRUS LUNG INFECTIONS, IN A (7) MONTH PERIOD OF YEAR 2020.

CUSTODIAN RETIRED YEAR 2021, BUT 19-MONTHS LATER GROUP OF HABITUAL FELONS, THAT HAVE COMPLETED THEIR LAWFUL MAXIMUM SENTENCES, ARE CONTINUED TO BE HOUSED IN DORMS, WITH (2) MAN BUNK BEDS (4) FEET APART, DURING DEADLY CORONA VIRUS PANDEMIC AND THE EVEN DEADLIER 4TH WAVE DELTA VARIANT.

N.C. GOVERNOR ROY A. COOPER HAS FAILED TO TAKE ADEQUATE ACTION, AFTER HE DISCOVERED N.C. JUDICIAL BRANCH AND LEGAL AUTHOR LEXIS PUBLISHINGS IN CONSPIRACY, DISTRIBUTED INCORRECT STATEMENTS OF N.C.G.S. 14-7.1, RESULTING IN NUMEROUS HABITUAL FELONS THAT COMPLETED THEIR LAWFUL MAXIMUM SENTENCES, BEING UNLAWFULLY HELD, DURING DEADLY CORONA VIRUS PANDEMIC AND DEADLIER 4TH WAVE DELTA VARIANT AND HOUSED IN DORM WITH (2) MAN BUNK BEDS (4) FEET APART.

N.C. GOVERNOR ROY A. COOPER HAS CAUSED HUNDREDS OF N.C. HABITUAL FELON CONVICT LIVES, BY HIS FAILURE TO ISSUE MARCH 27, 2020 EXECUTIVE ORDER CONSOLIDATING ALL HABITUAL FELON CONVICT SENTENCES, AFTER IT BECAME CLEAR TO HIM GROUP IS BEING UNLAWFULLY HELD, BY THEIR PRISON SENTENCES BEING UNLAWFULLY ENHANCED.

### REASONS FOR GRANTING THE PETITION

GROUPS CUSTODIAN HAS REFUSED TO COMPLY WITH N.C. GOVERNOR'S SOCIAL DISTANCING AND REDUCED CAPACITY ORDERS, THAT CAUSED (6) DEATH AND OVER 218 LUNG INFECTIONS, IN (7) MONTH PERIOD OF 2020. 19-MONTHS LATER GROUP IS STILL HOUSED IN DORM WITH (2) MAN BUNK BEDS (4) FEET APART.

GROUP HAS COMPLETED THEIR LAWFUL MAXIMUM PRISON SENTENCES, AND ARE BEING UNLAWFULLY HELD.

N.C. STATE COURTS VIOLATED GROUPS 8TH AND U.S.C. EQUAL PROTECTION AND DUE PROCESS CLAUSE RIGHTS, BY ENHANCING PRISON SENTENCES FOR VIOLATING THE N.C. HABITUAL FELON DECLARATION.

ALL N.C. CONVICTED HABITUAL FELONS ARE SERVING UNLAWFULLY ENHANCED SENTENCES, DURING A DEADLY CORONA VIRUS PANDEMIC AND EVEN DEADLIER 4TH WAVE DELTA VARIANT.

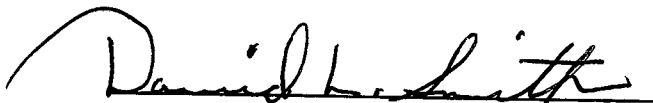
IN A CONSPIRACY N.C. STATE, FEDERAL AND CIRCUIT COURT PANEL HAVE DISTRIBUTED INCORRECT STATEMENTS OF N.C.G.S. 14-7.1, RESULTING IN HABITUAL FELON CONVICTS BEING UNLAWFULLY HELD, AFTER COMPLETING THEIR LAWFUL MAXIMUM SENTENCES.

AFTER NUMEROUS COMPLAINTS WERE FILED, AFTER MARCH 27, 2020, N.C. EXECUTIVE BRANCH HAS FAILED TO TAKE ADEQUATE ACTION, BY ISSUING EXECUTIVE ORDER, THAT CAUSED N.C. DEPARTMENT OF PUBLIC SAFETY SECRETARY TO CONSOLIDATED ALL HABITUAL FELON CONVICTS' CONSECUTIVE SENTENCES.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Daniel H. Smith", written over a horizontal line.

Date: NOVEMBER 10, 2021