

: copy No. 20-6239, (1:19 cv 249)

In The
Supreme Court of the United States

Travis L. Watson

✓

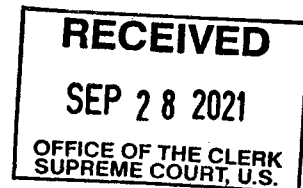
Dennis Daniels, et al.,

Motion To Stay 28 U.S.C. 2101(f).

This Motion To Stay is being presented to the
Chief Justice Roberts.

Constitutional Questions in support of this motion
are introduced on page 9 and presented on page 10.

Your Honor,



I am being prejudiced at every turn, preventing the
the issues in my case from being properly reviewed. On September
12, 2021 I submitted a Motion To Stay the Mandate of the U.S.
Court of Appeals July 8, 2021 Judgment. Today, September 20, 2021,
I recieved a September 16, 2021 Mandate from that court and a September
17, 2021 Order denying the Motion To Stay. The court made sure that they
effected the Mandate first, although the Motion To Stay had already been
submitted and recieved. I hope the order in which they filed those decisions,
does not affect the provision of 28 U.S.C. 2101(f). Motion to Stay (U.S. COA) at
(Ex. 12), Mandate at (Ex. 13), Order denu stay at (Ex. 14).

Under penalty of perjury, all the foregoing are true and correct.
September 20, 2021

Travis L. Watson

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No. 20-6239, (1:19 cv 249)

In The
Supreme Court of the United States

Travis L. Watson

v

Dennis Daniels, et al.,

Motion To Stay Mandate 28 U.S.C. 2101(f).
Affidavit, Opinion, Order, Judgment,
and Exhibits Attached.

The pro se Petitioner, Travis L. Watson, presents this application to stay the enforcement of the July 8, 2021 judgment issued by the Fourth Circuit Court of Appeals judges, to the Honorable Chief Justice Roberts. The purpose of this motion is to obtain stay on the July 8, 2021 judgment in order to receive a fair review of state court judgments, and ultimately relief from those judgments. Mr. Watson is a prisoner of the State of North Carolina, who sought a writ of habeas corpus pursuant to 28 U.S.C. 2254 in the U.S. District Court-M.D.N.C., under the miscarriage of justice doctrine after trial court final judgment. See *Granberry v Greer*, 481 U.S. 129, 135-36 (1987). For the reasons explained more fully below, a stay is justified by this court and the relief sought is unavailable from any other court. This stay is sought in pursuit of a Writ of Certiorari in this court.

I. Background

On September 7, 2005, Mr. Watson pled guilty to two counts of 2nd degree rape, conspiracy to commit 2nd degree rape, and 2nd degree Kidnapping in Guilford County Superior Courts. The trial court imposed a 96-125 month and 27-42 month sentence to be ran concurrently. Mr. Watson also received a 5 year post-release supervision (PRS) sentence, which he began to serve on April 16, 2015 in cases 04CRS 78728, 04CRS 78731. As a prelude to this case, after Mr. Watson's September 7, 2005 conviction, the state utilized a fraudulent and counterfeit copy of the original judgment, to imprison Mr. Watson for over a

decade before releasing him to PRS. (Ex. 2). This counterfeit document altered Mr. Watson's original concurrent sentence to a consecutive term, added a felony offense of stolen motor vehicle, and was delivered along with Mr. Watson to the Department of Correction (DOC), where the altered judgment was executed. A Certified, True, and Original copy of the 2005 judgment in its pertinent parts, is attached (Ex. 1). In comparison, while the filing dates top center page are the same, only the original (Ex. 1) maintains the September 8, 2005 filing date at the left side bar of the page. The counterfeit appears to have been recorded on September 21, 2005 (Ex. 2 - page 2 - top left side bar). At the bottom of page 1 of the counterfeit, an X has been marked in the last box; and right below it, information which signify and stipulate consecutive sentences. In lieu of these two particular changes, the original judgment demands a concurrent sentence by law,

North Carolina Gen. Stat. 15A-1354 states:

"If not specified or required by statute to run consecutively, sentences shall run concurrently."

Following Mr. Watson's release to PRS, on December 29, 2016, officers with the Greensboro Police Department arrested Mr. Watson on two new felony charges and detained him in the Guilford County Jail. On January 3, 2017, the Post Release Supervision and Parole Commission (PRSPC) served Mr. Watson with a post-release supervision (PRS) warrant, based on the new felony charges (Ex. 4 page 2). On January 13, 2017, while in the county jail, Mr. Watson met with a representative of the parole commission where-as he signed a waiver contract to postpone the PRS proceedings "until pending North Carolina criminal charges have been disposed of by the courts," as the waiver states (Ex. 4 page 2).

On May 22, 2017, Mr. Watson was committed to a state prison facility and processed into the Department of Public Safety (DPS), Division of Adult Correction (DAC) (Ex. 4 page 2 - bottom page). However, the pending charges had not been adjudicated and "disposed" of nor had there been any hearing or process regarding PRS, as the record reflects.

On November 16, 2017, Mr. Watson was a party in a state habeas hearing challenging his deprivation of freedom, the Honorable Judge John D. Craig III presiding in Superior Court. Finding he was without jurisdiction to address a related habeas issue involving PRS, Judge Craig declined to dismiss the criminal charges as requested by Mr. Watson. On November 27, 2017, Mr. Watson filed his initial Federal Habeas Petition under 28 U.S.C. 2241 attempting to address his loss of liberty (Ex. 11), but misstated his claim. On December 11, 2017, two weeks after Mr. Watson's initial petition as a pretrial detainee, the PRSPC issue an order for Mr. Watson's release from the DPS, DAC and termination of PRS (Ex. 4 page 4).

II A Stay Is Justified

A. As stated in the prelude on page 1 of this motion, the state has altered and changed the original 2005 judgment and caused Mr. Watson to serve a substantially lengthier sentence in prison before release to PRS; a consecutive sentence not prescribed in the original judgment (See Ex. 1 and Ex. 2). In this respect, the 2005 ^{judgment} is invalid.

B. The state has materially altered the process of releasing Mr. Watson from prison to PRS by deviating from the controlling laws of PRS. As discussed, Mr. Watson's PRS was a 5 year term (Ex. 4 page 2). Instead of releasing Mr. Watson from prison to PRS, five years prior to his maximum term (per statute law), the state continued his confinement until Mr. Watson had served 131 months.

C. On May 22, 2017, while awaiting disposal of the 2016 felony offenses, per due process and per contract, Mr. Watson was committed to the DPS, DAC (state prison) under the guise of a PRS revocation, in reference to the 2005 judgment. This guise and fraud has defrauded Mr. Watson of the rights of Due Process concerning concerning PRS. See *Morrissey v Brewer*, (U.S.) 408 U.S. at 482 (although parolee's liberty interest is conditioned on observance of parole conditions, termination of parole inflicts grievous loss and deserves due process protection). Mr. Watson was imprisoned without any process and his PRS terminated on December 11, 2017, once Mr. Watson began his litigation of the issue. PRS had not

been revoked, as the record reflects. This guise has also defrauded Mr. Watson of the rights protected under the 14th Amendment Due Process Clause on its own force, requiring adjudication of guilt in a criminal prosecution before an individual is deprived of his liberty and committed to a state prison. The 14th Amendment elicitedly states:

"Nor shall any state deprive any person of life, liberty, or property without due process of law."

This court has held that determining specific due process requirements in a given situation demands an examination of the precise nature of the government function as well as the private interest affected. See *Morrissey*, 408 U.S. at 481; see also *Matthews v Eldridge*, 424 U.S. 319, 335 (1976) (procedural due process must be evaluated using balancing test).

To support this fraud, the prosecutor committed fraud on trial court with this false claim at the November 16, 2017 habeas hearing:

"Your honor, the way I understand what happened is [Mr. Watson] was convicted of two rapes back in 2005 or so - maybe '06. He served a substantial lengthy sentence. At the end of that sentence he was given his nine months [PRS]; then one or more of his Guilford County - the new charges popped up. And the Dept. of Public Safety activated the nine months that they had suspended at the end of his sentence and sent him back to prison."

(Habeas Transcript page 7 line 8-13 - To be exhibited). The prosecutor has just misrepresented material facts of the 2005 judgment in an attempt to justify Mr. Watson's deprivation of liberty and imprisonment in the DPS, DAC. As the record reflects, this claim is unfounded, unsupported, and in direct contradiction to the parole commission's Chief Administrator in this admission:

"The [PRSPC] did not revoke your [PRS] for your previously incarcerated [96 to 125] month sentence" (Ex. 4 page 5 - Top of page).

(This June 11, 2018 admission by Mary Stevens To be exhibited).

Two documents were entered into the record to sustain the fraud.

(i) The order denying habeas relief states:
"The Applicant is imprisoned for a parole violation on [PRS] with an expected release date of April 14, 2020."
(Ex. 3).

This information is false, unsupported by any hearing, notice to Mr. Watson, and again in contradiction to the parole commission's Chief Administrator (Ex. 4 Page 5 - Top of page). Mr. Watson was released from prison on April 16, 2015 for a 5 year PRS period (Ex. 4 page 2 - Top of page). The fact and the truth of the matter is Mr. Watson's "supervised period" was to end April 14, 2020, not his imprisonment for a supposed PRS violation. This false claim corroborated the prosecutor's false claim, tagging and misidentifying Mr. Watson's loss of liberty as a PRS issue, and obstructed Mr. Watson from relief and justice from the false imprisonment that he was being subjected to.

(ii) The December 11, 2017 order by the PRSPC states:
"Upon further review of this case, the [PRSPC] finds that Mr. Watson has completed service of his maximum term in his [96 to 125] month sentence, as required by N.C. Gen. Stat. 15A-1368.3 (c)(1)..."

(To be exhibited. Content of the order affirm at Ex. 4 page 4 - para. 2)

These documents are fabricated misrepresentations, contrary to the record, the Chief Administrator of the PRSPC, and the parole commission's database case records prior to the orders. Note: These orders have omitted any mention of the 27-42 month sentence (case 04CRS 78731) that the state imposed consecutive to the 96 to 125 month sentence (case 04CRS 78728), unlawfully (page 2 of this motion). These are the fraudulent documents that served to justify Mr. Watson's loss of liberty from May 2017 to December 2017, with misinformation and have defrauded Mr. Watson of the Due Process guarantees of the 14th Amendment.

The Chief Administrator's admission is not the only evidence that shows that the prosecutor's claims and the claims contained in the discussed documents are a fraud. PRS could not be revoked because Mr. Watson signed a waiver contract to postpone the PRS revocation proceedings, which state:

"I do hereby waive my right to a Preliminary Hearing and [PRSPC] Hearing until pending North Carolina criminal charges have been disposed of by the courts."

(To be exhibited. See Ex. 4 page 2 for affirming content). The PRS revocation process was on hold, per waiver contract. The State of N.C. has falsified an entire PRS revocation proceeding once Mr. Watson began challenging his loss of liberty on May 22, 2017. The Respondents in Mr. Watson's FHP have exhibited no evidence of a PRS violation determination or revocation. However, in response to Mr. Watson's claim of Due Process violation (Ground One, FHP), they did make several fraudulent assertions unsupported by any official record:

(iii) "Petitioner ... on 7 September 2005 ... pled guilty to ... possession of stolen motor vehicle and was sentenced to 123 to 167 months imprisonment;" (Brief - page 1 - To be Exhibited).
(Affirmed at Ex. 4 page 1).

While the original judgment does not support these contentions, this assertion does support a fraud by the state. Original judgment (Ex. 1). Counterfeit judgment (Ex. 2), supporting this assertion, false claim.

(iv) "... revocation proceedings for his [PRS] were conducted." (Brief page 1, 2 - To be Exhibited). This false claim is unreasonable, has no factual basis, and no evidentiary support.

(v) "On May 22, 2017, his [PRS] was revoked by the parole commission..." (Brief - page 2)
Upon proper investigation, attorneys and Respondents would know the invalidity and illegitimacy of these claims. The Respondents have knowingly and willingly presented false claims to federal courts for the improper purpose of

preventing justice to Mr. Watson. The lower courts have misapprehended the veracity of Mr. Watson's claims in his FHP and have been improperly influenced in adjudicating the matter because of this fraud initiated in the trial court and continued in the federal proceedings.

D. On January 13, 2017, Mr. Watson entered into an agreement with the state which obligated the state court to dispose of the pending charges (Ex. 4 page 2) (waiver to be exhibited). The state, in disregard to Mr. Watson's due process and liberty interests, committed Mr. Watson to a state prison prior to adjudication and disposal and without any hearing for PRS, in an unauthorized, unjustified, and arbitrary deprivation of Mr. Watson's freedom.

E. During Mr. Watson's false imprisonment from May 2017 to December 2017 as a pretrial detainee, Mr. Watson was forced to work although he had not been found guilty of a crime, in contravention to the Prohibition of Slavery of the 13th Amendment-U.S. Constitution.

F. 6th Amendment Violation has pervaded the entire proceeding for the 2016 charges. Mr. Watson's right to meet with counsel interrupted by the May 2017 transfer and commitment to prison. Mr. Watson's right to counsel also violated when he was allowed to proceed pro se at the November 16, 2017 habeas hearing without a waiver of counsel. N.C. Gen. Stat. 7A-451(a)(2) affords counsel at a state habeas hearing.

G. The U.S. District Court abused discretion. In Ground One of Mr. Watson's FHP, the court attributed Mr. Watson's deprivation of liberty during a criminal process to a parole warrant, although this is not a legal action prescribed by law. The Respondents also have not asserted this notion but have claimed specifically that,

"On May 22, 2017, Mr. Watson's [PRS] was revoked by the parole commission."
(Brief page 2-to be exhibited).

H. The U.S. District Court abuse of discretion regarding Right to Counsel in Ground Two and Three of FHP No. 1:17 cv 249. Under the 6th Amendment, a criminal defendant is entitled to meet with counsel. The May 22, 2017 transfer interrupted that right and the Lewis v Casey actual injury requirement is inapplicable. (Ground Two). The court abused discretion in Ground Three by asserting a claim not offered by the Respondents:

"... N.C. Rules of Professional Conduct limited the scope of arguments

1 that Petitioner's trial counsel could have made to the trial court. See N.C.R. Prof. Cond. 3.1 ("A lawyer shall not bring or defend a proceeding, or assert or contravert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law.")

(Ex. 6 page 5).

The court has asserted a claim and argument on behalf of the Respondents that is not supported by the record or any opinion or judgment. Judge O. Craig III's findings at the November 16, 2017 hearing, do not support this suggestion of frivolity to Mr. Watson's claims in his state habeas application. In fact, Mr. Watson's state habeas transcript will show contrary in the words of Judge O. Craig III himself:

"Well, you may have a point there. I will concede that you may have a legitimate argument to make there; however, the argument, as I see it, would have to be made before the Dept. of Public Safety and the [PRSPC] and they would be the ones that would be subject to a habeas corpus motion because this [PRSPC] violation is something that is outside the jurisdiction of the superior court."

(Habeas Transcript - page 14)

The U.S. District Court has abused discretion. And as this motion shows, Judge O. Craig III's ability to adjudicate the matter was improperly influenced by the prosecutor's fraud on the court. (Habeas transcript - page 7).

I. Mr. Watson did not receive a fair review that comports with due process in the U.S. Court of Appeals. On August 1, 2021, Mr. Watson submitted a Motion To Amend Pleading for Requested Relief, addressing the fraud in this case. On August 8, 2021, Mr. Watson informed the court that documents to support his claims of fraud had been requested from the U.S. District Court and would be promptly sent once received. He also sent a copy of the document request. On August 26, 2021, Mr. Watson informed the court that intentional intervening actions of delay were stalling the delivery of the documents. He also spoke to a court's case manager in his case, A. Brownlee, and informed her of the same. On September 6, 2021, Mr. Watson mailed the documents attached to the motion (amended)

and in a separate envelope, an Affidavit regarding its arrival. The motion and documents were delayed from delivery by the mailroom at the prison, overcharging Mr. Watson a fee of \$8.25 (14 stamps) to mail the package (brown envelope) of 80 pages, although Mr. Watson is indigent and entitled to free postage by law. Despite, Mr. Watson paid the postage and mailed the motion and documents the morning of August 8, 2021. The same day, he received an order from the court denying the motion. The court denied Mr. Watson's Petition for Rehearing, Rehearing En Banc, and Motion To Amend Pleading for Requested Relief addressing the fraud before supporting documents were received, although Mr. Watson kept the court informed and abreast regarding his efforts to retrieve the requested documents. After becoming aware of the fraud's influence on the court, Mr. Watson submitted Interrogatories and Requests for Production of Documents, to be served on the Respondents, in support of his petitions and motion. Mr. Watson made clear their purpose to the court. Interrogatories and Discovery Requests were submitted on August 12, 2021, August 14, 2021, and August 18, 2021 but were not addressed in the September 8, 2021 order (Ex. 7) and Mr. Watson's petitions and motion denied without discovery being disclosed by the Respondents, prejudicing Mr. Watson.

J. The Respondent's initial attorney appearing, Mr. Clarence J. Delforge III, inserted false claims in a Motion for Summary Judgment, and in violation of the U.S. District Court's own local rule, was substituted by Attorney Phillip Anthony Rubin without an order from the court granting leave or Motion to withdraw. Mr. Delforge III is the attorney who entered a counterfeit judgment and commitment (Ex. 2) into the record of these federal habeas corpus proceedings instead of requesting an original from the trial court. And this fraudulent document is prejudicial to Mr. Watson. Attorney Delforge III should not have been allowed to jump off the case outside of the accepted and usual course of judicial proceedings, including notice to Mr. Watson, who is pro se in this case. This calls for an exercise of this court's supervisory power because the substitution was sanctioned by the U.S. Court of Appeals. See U.S. District Court - M.D.N.C. LR 83.1(e)(1).

K. This motion presents substantial and constitutional questions of public interest that are relevant to the outcome of this case:

1. Is a parole warrant sufficient to commit an individual who has been accused of a crime while on post-release supervision (PRS) (Defendant-Supervisee), to a state prison?
2. What does due process require before a Defendant-Supervisee can be sent to prison and PRS terminated?
3. Do the due process protections under the U.S. Constitution, protect a prisoner from being incarcerated past the maximum sentence allowed by law?
4. Does the U.S. Constitution afford protection against fraud, obstructions to justice, and criminal intervening actions by the state, during court and/or court related processes?
5. Does the U.S. Constitution afford procedural protection before a Defendant-Supervisee can be committed to prison and forced to work?
6. Does the U.S. Constitution afford procedural protection regarding a waiver contract obligating the state to a specific performance?
7. Does the U.S. Constitution afford a Federal Habeas Petitioner protection from the abuse of discretion by lower courts?
8. Is a state habeas Petitioner entitled to counsel's obligations when right to counsel afforded by state statute?
9. Does a state habeas court have discretion to allow a Petitioner to proceed pro se without a waiver of counsel?
10. Are procedural protections due, during a Federal Habeas proceeding, before initial appearing counsel can be substituted?
11. What constitutional safeguards are required in order to "show" that an individual's parole / post-release supervision has been revoked?

In Mr. Watson's case, the Respondents have disputed with Mr. Watson's Ground One claim (unlawful deprivation of liberty) but have

not proved or showed their response of PRS revocation, to justify Mr. Watson's loss of liberty as a pretrial detainee. The answering of the foregoing questions will ensure and preserve the public interest of due process of law, fairness, and equal protection under the law, in the courts and for court related processes. These questions, if answered, would be good precedent for future cases and benefit society in general, in keeping in line with an individual's due process rights. When an individual on PRS ~~is~~ is charged with a new crime, it is his right to have his day in court on the new charges. And so when that Defendant-Supervisee chooses to postpone the PRS proceedings and to face the new charges (waiver to be exhibited. See Ex. 4 page 2), that individual should be protected under the 14th Amendment, in the criminal proceeding for the pending charges and should not be committed to a state prison facility until due process is satisfied. Mr. Watson is exercising his constitutionally protected rights. For all the foregoing reasons, a stay is justified.

Relief

In the judgments sought to be reviewed, Mr. Watson is seeking that the 2005 and 2018 judgment be set aside, that unconditional and immediate release be granted, and that he be relieved of all restraints, restrictions, conditions, and/or requirements applicable to those judgments. The complexity of Mr. Watson's case, involving two judgments in state court proceedings, both of which demanded due process and also the nature of Mr. Watson's claims and injuries suffered, render the relief sought unavailable in any other court. Mr. Watson has been the subject of an egregious fraud that has pervaded the entire 2005 judgment, been injected into the 2018 judgment, and caused irreparable constitutional injury to Mr. Watson.

Furthermore, Mr. Watson's liberty deprivation (FTP- Ground One) is not supported by any cause or initial order to imprison him. Mr. Watson's loss of liberty by the time of the 2018 final judgment, would be effectively unreviewable concerning the 2005 judgment because the parole Commission wrongfully terminated PRS on December 11, 2017 (Ex. 4 page 4) which was a 5 year term set to end April 14, 2020 (Ex. 4 page 2). Mr. Watson's interests in being free from imprisonment is independent

from the merits of his 2016 criminal case and so are his claims of fraud and could not be vindicated on appeal from the 2018 judgment. Mr. Watson has suffered an unjust incarceration with a severely oversentenced judgment obtained by fraud (Ex. 2), been falsely imprisoned past the maximum term (page 3-B of this motion), and suffered adverse collateral consequences from use of the 2005 conviction (obtained by fraud - Invalid Judgment), in obtaining and applying the habitual felon statute to Mr. Watson's 2018 judgment and sentence.

The issues in Mr. Watson's case involve legal principles of constitutional significance to the jurisprudence of the Fourth Circuit courts because the lower courts need guidance on these issues which have affected Mr. Watson's constitutional rights and compromised the fairness of the judicial process at Mr. Watson's expense.

Mr. Watson respectfully requests that this court grant this Motion to stay, in the interest of justice to all.

Respectfully Submitted,

September 20, 2021

James L. Watson
527 Commerce Dr.
Elizabeth City, N.C. 27906

Certificate of Service

I certify that the foregoing was placed in the prison mailing system to be delivered and served on the following Respondents:

ERIK A. HOOKS, Secretary, N.C. Dept. of Public Safety, et al.,

September 20, 2021

James L. Watson
527 Commerce Dr.
Elizabeth City, N.C. 27906

Under penalty of perjury the foregoing are true and correct.

September 20, 2021

James L. Watson
527 Commerce Dr.
Elizabeth City, N.C.
27906

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Motion To Stay

Petitioner's Exhibits:

1. 2005 Original Judgment and Commitment Forms (Cases 04CRS 78728, 04CRS 78731).
2. 2005 Fraudulent and Counterfeit Judgment and Commitment Forms (Cases 04CRS 78728, 04CRS 78731, 04CRS 69837).
3. State Habeas Order.
4. Magistrate's Objections (As a Reference, Documents to be exhibited).
5. Documents requested.
6. U.S. District Court order denying FHP.
7. U.S. Court of Appeals Opinion & Judgment, Order.
8. Respondent's initial attorney appearance.
9. Respondent's substitution of counsel.
10. 2018 Judgment and Commitment Forms (Cases 16 CRS 92606, 16 CRS 92606, 17 CRS 24032).
11. Initial 28 U.S.C. 2241 as a pretrial detainee (November 27, 2017).
12. Motion To Stay (U.S. CoA) with Affidavit.
13. Mandate - U.S. CoA.
14. Order Denying Motion To Stay - U.S. CoA

: copy

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Travis L. Watson

v

Dennis Daniels et al.,

Affidavit - In Support of Motion To Stay 28 U.S.C. 2101(f).

I, Travis L. Watson, do swear and affirm that:

1. On September 8, 2021, I did file a Motion to Stay the July 8, 2021 Judgment in the U.S. Court of Appeals.

2. The facts and procedural history (background) in the Motion To Stay presented to this court are supported by the record and factual.

3. Mandate was issued Sept. 16, 2021.

4. Order Denying Motion to stay was issued Sept. 17, 2021.

5. On June 17, 2021 I filed the initial Motion To Amend Pleading for Requested Relief addressing a fraud in this case (U.S. COA).

6. The Motion was not addressed in the July 8, 2021 opinion and order in the U.S. COA.

7. I refiled the Motion To Amend Pleading on August 1, 2021, after filing for a Rehearing and Rehearing En Banc.

8. I filed Interrogatories and Requests for Production of Documents to support the fraud claims in my petitions and motion.

9. I called and spoke to Case Manager A. Brownlee (U.S. COA), notifying her that intentional measures were being taken to delay me receiving the ~~due~~ documents that I requested from the U.S. District Court to support my petitions and motion. This call was August 26, 2021.

10. The U.S. COA denied my petitions and motion on September 8, 2021, before Respondents gave discovery and before receipt of supporting documents.

11. My Interrogatories and Requests for Production of Documents were not addressed in the September 8, 2021 order to deny.
12. The documents requested from the U.S. District Court were attached to an amended Motion To Amend Pleading and sent to the U.S. CoA.
13. I have requested the Court to deliver the Motion and documents back to me (Sept. 12, 2021) (See Exhibit 5)
14. As of today, I have received no documents.
15. I placed the Motion To Stay and supporting Affidavit to be delivered to this court, in the prison mailbox Sept. 20, 2021.

Under the penalty of perjury, all the foregoing are true and correct.

September 20, 2021

L. L. Water
527 Commerce Dr.,
Elizabeth City, N.C. 27906

Certificate of Service

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September 20, 2021

L. L. Water
527 Commerce Dr.
Elizabeth City, N.C. 27906

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Motion To Stay

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3. State Habeas Order 04CRS 78731 04CRS 69837 ← Fraud
4. Magistrates Objections (As a Reference Documents to be exhibited).
5. Document(s) Requested.
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In The
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Travis L. Watson

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Dennis Daniel et al.

Affidavit - In Support of Motion To Stay 28 U.S.C. 7161(f).

I, Travis L. Watson, do swear and affirm that:

1. On September 12, 2021, I did file a Motion to Stay the July 8, 2021 Judgment in the U.S. Court of Appeals.
2. The facts and procedural history (background) in the Motion To Stay presented to this court are supported by the record and facts.
3. Mandate was issued Sept. 16, 2021.
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6. The Motion was not addressed in the July 8, 2021 opinion and order in the U.S. (CA).
7. I rebiled the Motion To Amend Pleading on August 1, 2021, after filing for a Rehearing and Rehearing En Banc.
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14. As of today, I have received no documents.

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Under the penalty of perjury, all the foregoing are true and correct.

September 20, 2021

L. I. Wain
527 Commerce Dr.
Elizabeth City, N.C. 27906

Certificate of Service

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ERIK A. HOOKS, Secretary, N.C. Dept. of Public Safety et al.

September 20, 2021

L. I. Wain
527 Commerce Dr.
Elizabeth City, N.C. 27906

EXHIBIT 1

Original Judgment.

Page 1

-66-

STATE OF NORTH CAROLINA

In The General Court Of Justice

GUILFORD

County

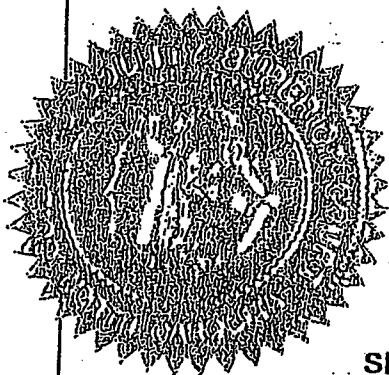
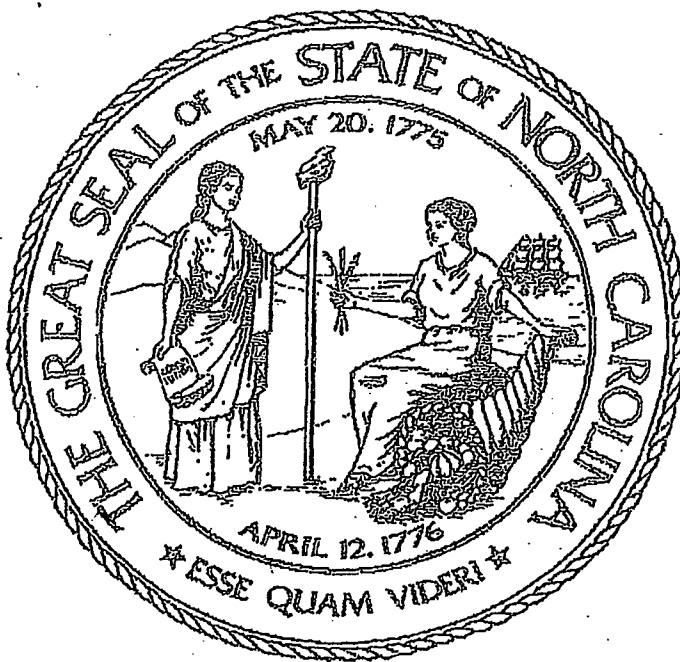
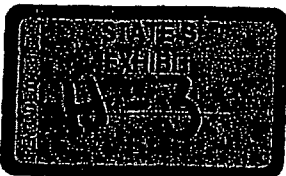
**CERTIFICATE OF
TRUE COPY**

Office of the Clerk of the Superior Court

As Clerk of the Superior Court of this County, State of North Carolina, I certify that the attached copies of the documents described below are true and accurate copies of the originals now on file in this office.

Number And Description Of Attached Documents:

(5) Pages 04CRS-78731 State of North Carolina vs. Travis L. Watson, Indictment, Warrant and Judgment



SEAL

Witness my hand and the seal of the Superior Court

| | |
|--|--|
| Date | 11-20-2017 |
| Clerk Of Superior Court | |
| Signature | <i>Akley L. Collier</i> |
| <input checked="" type="checkbox"/> Deputy CSC | <input type="checkbox"/> Assistant CSC |
| <input type="checkbox"/> Clerk Of Superior Court | |

1
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recording equipment and is true and accurate to the best of my ability.

Karina B. Wiley

February 14, 2018

Karina A. Wiley

- (all that apply)
- ☒ 1. The defendant shall pay the costs.
- ☐ 2. The defendant shall pay a fine of \$ _____
- The Court recommends:
- ☒ 3. Assignment to a substance abuse treatment unit. G.S. 15A-1351(h) (applies only to offenses committed before December 1, 2003).
- ☐ 4. Psychiatric and/or psychological counseling.
- ☐ 5. Work Release.
- ☐ 6. Payment as a condition of post release supervision, if applicable, or from work release earnings, if applicable, of the items and amounts set out below.

| Fines | Court Costs | Restitution | Attorney's Fees | Total Amount Due |
|-------|-------------|-------------|-----------------|------------------|
| \$ | \$ | \$ | \$ | \$ |

See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)." AOC-CR-611, which is incorporated by reference.

The Court further recommends:

The Court does not recommend:

- ☐ 1. Restitution as a condition of post release supervision or work release.
- ☐ 2. Work release.

AWARD OF FEE TO COUNSEL FOR DEFENDANT

☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT/APPEAL ENTRIES

☒ It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

☐ The defendant gives notice of appeal from the judgment of the trial court to the appellate division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date: 9/7/2005

Name Of Presiding Judge (Type Or Print): HENRY E. FRYE, JR.

Signature Of Presiding Judge: [Signature]

ORDER OF COMMITMENT AFTER APPEAL

Date Appeal Dismissed: _____

Date Withdrawal Of Appeal Filed: _____

Date Appellate Opinion Certified: _____

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the agency named in this Judgment on the reverse and furnish that agency two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date: _____

Signature: _____

☐ Deputy CSC ☐ Assistant CSC

☐ Clerk Of Superior Court

CERTIFICATION

I certify that this Judgment and Commitment with the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- ☐ Appeal Entries (AOC-CR-350)
- ☐ Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)
- ☐ Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)
- ☐ Victim Notification Tracking Form
- ☐ Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)

Date: 9/7/2005 11:15:17

Signature: [Signature]

SEAL

Date Certified Copies Delivered To Sheriff: 9/7/2005

☒ Deputy CSC ☒ Assistant CSC ☐ Clerk Of Superior Court

Notes: If updates are made, please attach them to this document as an addendum.

EXHIBIT 1

Original
Judgment

page 2

-67-

STATE OF NORTH CAROLINA
GUILFORD (GR) County GREENSBORO
NOTE: (This form is to be used for (1) felony offenses and (2) misdemeanors which are consolidated for judgment with any felony offense. Use AGC-CR-605 for Offenses only.)
STATE VERSUS
Name Of Defendant
WATSON, TRAVIS LASHAUN
Age B Sex M DOB 12/13/1980
Attorney For State
HUBBARD, AL
Attorney For Defendant
DAVIS, WILLIAM
In The General Court Of Justice
☐ District ☒ Superior Court Division
JUDGMENT AND COMMITMENT
ACTIVE PUNISHMENT
FELONY
(STRUCTURED SENTENCING)
GS 15A-1301, 15A-1340-13

| File No.(s) | Off. | Offense Description | Offense Date | G.S. No. | F/M | CL. | *Pun. CL. |
|-------------|------|--------------------------|--------------|----------|-----|-----|-----------|
| 04CRS078731 | 51 | SECOND DEGREE KIDNAPPING | 5/7/2004 | 14-39 | F | E | |

NOTE: Enter punishment class if different from underlying felony class (punishment class represents a status or enhancement).

The Court: (NOTE: Block 1 or 2 MUST be checked):

- ☒ 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be _____ PRIOR RECORD LEVEL: ☐ I ☐ II ☐ III ☐ IV ☐ V ☐ VI
- ☐ 2. makes no prior record level finding because none is required for Class A felony, violent habitual felon, or drug trafficking offenses.

The Court:

- ☒ 1. makes no written findings because the prison term imposed is: ☒ (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). ☐ (b) for a class A felony. ☐ (c) for an adjudication as a violent habitual felon. G.S. 14-7.12. ☐ (d) for drug trafficking offenses.
- ☐ 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
- ☐ 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
- ☐ 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
- ☐ 5. adjudges the defendant to be an habitual felon to be sentenced as a Class C felon pursuant to Article 2A of G.S. Chapter 14.
- ☐ 6. finds enhanced punishment from a Class A1 or Class 1 misdemeanor to a Class I felony. ☐ G.S. 90-95(e)(3) (drugs). ☐ G.S. 14-3(c) (hate crime). This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's plea of guilty or no contest to this issue.
- ☐ 7. finds the above designated offense(s) is a reportable conviction involving a minor. G.S. 14-208.6.
- ☐ 8. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.
- ☐ 9. finds that the defendant used, displayed, or attempted to use or display a firearm at the time of the felony and, pursuant to G.S. 15A-1340.16A, has increased the minimum term of imprisonment to which the defendant would otherwise be sentenced by sixty (60) months. This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's plea of guilty or no contest to this issue.
- ☐ 10. finds the defendant is classified as a recidivist. G.S. 14-208.6.
- ☐ 11. finds this is an aggravated offense. G.S. 14-208.6.
- ☐ 12. finds that a ☐ motor vehicle ☐ commercial motor vehicle was used in the commission of the offense and this conviction shall be reported to DMV.
- ☐ 13. finds this is an offense involving assault or communicating a threat, and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.

The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be imprisoned

for a minimum term of 27 months for a maximum term of 47 months in the custody of:

☐ Class A Felony: ☐ Life Imprisonment Without Parole ☐ Death (see attached Death Warrant and Certificates) ☒ N.C. DOC

☐ Class B1 Felony: Life Imprisonment Without Parole ☐ Sheriff pursuant to G.S. 15A-1352(b)

☐ Violent Habitual Felon: Life Imprisonment Without Parole ☐ Other _____

The defendant shall be given credit for 0 days spent in confinement prior to the date of this Judgment as a result of this charge(s).

☐ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

| File Number | Offense | County | Court | Date |
|-------------|---------|--------|-------|------|
|-------------|---------|--------|-------|------|

EXHIBIT 2

Fraudulent Judgment (2005 case) and Document

page 1

0692957

STATE OF NORTH CAROLINA
GUILFORD (GR) County GREENSBORO
NOTE: (This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-342 for DWI offense(s).)
STATE VERSUS
Name Of Defendant: WATSON, TRAVIS, LASHAUN
Race: B Sex: M DOB: 12/13/1980
Attorney For State: HUBBARD, AL
Attorney For Defendant: DAVIS, WILLIAM
The defendant [X] pled guilty to: [] was found guilty by a jury of: [] pled no contest to:
File No. (s) Off. Offense Description Offense Date G.S. No. F/M CL. *Pri CL.
04CRS078731 51 SECOND DEGREE KIDNAPPING 5/7/2004 14-39 F E
04CRS069837 51 POSSESS STOLEN MOTOR VEHICLE 10/25/2003 20-106 F H
Spoke to Al Hubbard @ Guilford DA - office - No minor involved
*NOTE: Enter punishment class if different from underlying felony class (punishment class represents a status or enhancement).
The Court: (NOTE: Block 1 or 2 MUST be checked.)
[X] 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 5
[] 2. makes no prior record level finding because none is required for Class A felony, violent habitual felon, or drug trafficking offenses.
The Court:
[X] 1. makes no written findings because the prison term imposed is: [X] (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). [] (b) for a class A felony. [] (c) for an adjudication as a violent habitual felon, G.S. 14-7.12. [] (d) for drug trafficking offenses.
[] 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
[] 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
[] 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
[] 5. adjudges the defendant to be an habitual felon to be sentenced as a Class C felon pursuant to Article 2A of G.S. Chapter 14.
[] 6. finds enhanced punishment from a Class A1 or Class 1 misdemeanor to a Class I felony. [] G.S. 90-95(e)(3) (drugs). [] G.S. 14-3(c) (hate crime). This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's plea of guilty or not contest to this issue.
[] 7. finds the above designated offense(s) is a reportable conviction involving a minor. G.S. 14-208.6.
[] 8. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.
[] 9. finds that the defendant used, displayed, or attempted to use or display a firearm at the time of the felony and, pursuant to G.S. 15A-1340.16A, has increased the minimum term of imprisonment to which the defendant would otherwise be sentenced by sixty (60) months. This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's plea of guilty or no contest to this issue.
[] 10. finds the defendant is classified as a recidivist. G.S. 14-208.6.
[] 11. finds this is an aggravated offense. G.S. 14-208.6.
[] 12. finds that a [] motor vehicle [] commercial motor vehicle was used in the commission of the offense and this conviction shall be reported to DMV.
[] 13. finds this is an offense involving assault or communicating a threat, and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.
The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be imprisoned
for a minimum term of: 27 months for a maximum term of: 47 months in the custody of:
[] Class A Felony: [] Life Imprisonment Without Parole [] Death (see attached Death Warrant and Certificates)
[] Class B1 Felony: Life Imprisonment Without Parole
[] Violent Habitual Felon: Life Imprisonment Without Parole
The defendant shall be given credit for 0 days spent in confinement prior to the date of this judgment as a result of this charge(s).
[] The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
[X] The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below.
File Number Offense County Court
04CRS078728 51 GUILFORD (GR) SUPERIOR 09/07/2005

(check all that apply)

☐ 1. The defendant shall pay the costs.

☐ 2. The defendant shall pay a fine of \$ _____.

The Court recommends:

☐ 3. Assignment to a substance abuse treatment unit. G.S. 15A-1351(h) (applies only to offenses committed before December 1, 2003).

☐ 4. Psychiatric and/or psychological counseling.

☐ 5. Work Release.

☐ 6. Payment as a condition of post release supervision, if applicable, or from work release earnings, if applicable, of the items and amounts set out below.

| Fines | Court Costs | Restitution* | Attorney's Fees | Total Amount Due |
|-------|-------------|--------------|-----------------|------------------|
| \$ | \$ | \$ | \$ 630.00 | \$ 700.00 |

* See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)," AOC-CR-611, which is incorporated by reference.

The Court further recommends:

\$50.00 court appointed attorney assessment fee included in total amount due above.

Total amount due above shall be entered as a civil judgment.

Upon release, defendant shall register as a sex offender and abide by all conditions of the Sex Offender Control Program.

The Court does not recommend:

☐ 1. Restitution as a condition of post release supervision or work release.

☐ 2. Work release.

AWARD OF FEE TO COUNSEL FOR DEFENDANT

☒ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT/APPEAL ENTRIES

☒ It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

☐ The defendant gives notice of appeal from the judgment of the trial court to the appellate division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

| Date | Name Of Presiding Judge (Type Or Print) | Signature Of Presiding Judge |
|----------|---|------------------------------|
| 9/7/2005 | HENRY E. FRYE, JR. | |

ORDER OF COMMITMENT AFTER APPEAL

| Date Appeal Dismissed | Date Withdrawal Of Appeal Filed | Date Appellate Opinion Certified |
|-----------------------|---------------------------------|----------------------------------|
| | | |

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the agency named in this Judgment on the reverse and furnish that agency two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

| Date | Signature | <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court |
|------|-----------|---|
| | | |

CERTIFICATION

I certify that this Judgment and Commitment with the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

☐ Appeal Entries (AOC-CR-350)

☐ Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)

☐ Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)

☐ Victim Notification Tracking Form

☐ Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)

| Date | Signature | SEAL |
|--|--|------|
| 9/7/2005 | | |
| Date Certified Copies Delivered To Sheriff | <input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court | |
| 9/7/2005 | | |

Material opposite unmarked squares is to be disregarded as surplusage.

EXHIBIT 2

Fraudulent Judgment
and Document

page 2

0692957

STATE OF NORTH CAROLINA

GUILFORD (GR)

County

GREENSBORO

FORD COUNTY

No.

04CRS078728

51

NOTE: (This form is to be used for (1) felony offense(s), and (2) misdemeanor offense(s), which are consolidated for judgment with any felony offense(s). Use AOC-CR-342 for DWI offense(s).)

SEP 8 2005

In The General Court Of Justice
☐ District ☒ Superior Court Division

STATE VERSUS

Name Of Defendant

WATSON, TRAVIS, LASHAUN

BB-001 int

AT 3:10 BY

JUDGMENT AND COMMITMENT

ACTIVE PUNISHMENT

FELONY

Race

B

Sex

M

DOB

12/13/1980

(STRUCTURED SENTENCING)

G.S. 15A-1301, 15A-1340.1

Attorney For State

HUBBARD, AL

☐ Def. Found
Not Indigent

☐ Def. Waived
Attorney

Attorney For Defendant

DAVIS, WILLIAM

☒ Appointed ☐ Retained

The defendant ☒ pled guilty to: ☐ was found guilty by a jury of: ☐ pled no contest to:

| File No.(s) | Off. | Offense Description | Offense Date | G.S. No. | F/M | CL. | *Pl. Cl. |
|-------------|------|-----------------------------------|--------------|------------|-----|-----|-------------|
| 04CRS078728 | 51 | SECOND DEGREE RAPE | 5/7/2004 | 14-27.3(A) | F | C | |
| 04CRS078728 | 52 | SECOND DEGREE RAPE | 5/7/2004 | 14-27.3(A) | F | C | |
| 04CRS078728 | 53 | CONSPIRACY TO COMMIT 2ND DEG RAPE | 5/7/2004 | 14-2.4(A) | F | D | |

*NOTE: Enter punishment class if different from underlying felony class (punishment class represents a status or enhancement).

The Court: (NOTE: Block 1 or 2 MUST be checked.):

☒ 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 5 PRIOR ☐ I ☒ III ☐ V
☐ 2. makes no prior record level finding because none is required for Class A felony, violent habitual felon, or drug trafficking offenses. RECORD LEVEL: ☐ II ☐ IV ☐ V

The Court:

- ☒ 1. makes no written findings because the prison term imposed is: ☒ (a) within the presumptive range of sentences authorized under G.S. 15A-1340.17(c). ☐ (b) for a class A felony. ☐ (c) for an adjudication as a violent habitual felon. G.S. 14-7.12. ☐ (d) for drug trafficking offenses.
- ☐ 2. makes the Findings of Aggravating and Mitigating Factors set forth on the attached AOC-CR-605.
- ☐ 3. imposes the prison term pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.
- ☐ 4. finds the defendant has provided substantial assistance pursuant to G.S. 90-95(h)(5).
- ☐ 5. adjudges the defendant to be an habitual felon to be sentenced as a Class C felon pursuant to Article 2A of G.S. Chapter 14.
- ☐ 6. finds enhanced punishment from a Class A1 or Class 1 misdemeanor to a Class I felony. ☐ G.S. 90-95(e)(3) (drugs). ☐ G.S. 14-3(c) (hate crime). This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's plea of guilty or not contest to this issue.
- ☐ 7. finds the above designated offense(s) is a reportable conviction involving a minor. G.S. 14-208.6.
- ☐ 8. finds the defendant is classified as a sexually violent predator. G.S. 14-208.20.
- ☐ 9. finds that the defendant used, displayed, or attempted to use or display a firearm at the time of the felony and, pursuant to G.S. 15A-1340.16A, has increased the minimum term of imprisonment to which the defendant would otherwise be sentenced by sixty (60) months. This finding is based on the jury's determination of this issue beyond a reasonable doubt or the defendant's plea of guilty or no contest to this issue.
- ☐ 10. finds the defendant is classified as a recidivist. G.S. 14-208.6.
- ☐ 11. finds this is an aggravated offense. G.S. 14-208.6.
- ☐ 12. finds that a ☐ motor vehicle ☐ commercial motor vehicle was used in the commission of the offense and this conviction shall be reported to DMV.
- ☐ 13. finds this is an offense involving assault or communicating a threat, and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.

The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be imprisoned

for a minimum term of:

96

months

for a maximum term of:

125

months

in the custody of:

☐ Class A Felony: ☐ Life Imprisonment
Without Parole

☐ Death (see attached Death
Warrant and Certificates)

☐ Class B1 Felony: Life Imprisonment Without Parole

☐ Violent Habitual Felon: Life Imprisonment Without Parole

The defendant shall be given credit for 487 days spent in confinement prior to the date of this judgment as a result of this charge(s).

☐ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve

☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case of the defendant's present obligation to serve

File Number

Offense

County

Court

Date

2005 Judgment and commitment forms

EXHIBIT 1

EXHIBIT 7

Fraudulent Judgment
and Document

page 3

STATE OF NORTH CAROLINA

Gulford County

3/3

File No.

04 CRS 24430

In The General Court Of Justice

☐ District ☒ Superior Court Division

STATE VERSUS

Name And Address Of Defendant

TRAVIS LASHAUN WATSON

Amount Of Bond

\$

Hold

Offenses And Additional File Numbers

Prob. Revocation

CONDITIONS OF RELEASE
AND RELEASE ORDER

G.S. Chapter 15A, Art. 25, 26

Location Of Court

☐ District ☐ Superior

Date

Time

☐ AM ☐ PM

To The Defendant Named Above, you are ORDERED to appear before the Court as provided above and at all subsequent continued dates. If you fail to appear, you will be arrested and you may be charged with the crime of wilful failure to appear. The defendant has been advised of charge(s) against him/her and his/her right to communicate with counsel, family and friends.

☐ Your release is authorized upon execution of your:

☐ WRITTEN PROMISE to appear

☐ CUSTODY RELEASE

☐ UNSECURED BOND in the amount shown above

☐ SECURED BOND in the amount shown above

You will be arrested if you violate the following restrictions:

6-8m DOC

Commitment
to follow

☐ Your release is not authorized.

☐ The defendant was arrested or surrendered after failing to appear as required under a prior release order.

☐ This was the defendant's second or subsequent failure to appear in this case.

Additional Information

Date

9/19/05

Signature Of Judicial Official

Christina Farrow

☐ Magistrate

☐ Deputy CSC

☒ Assistant CSC

☐ Clerk Of Superior Court

☐ District Court Judge

☐ Superior Court Judge

ORDER OF COMMITMENT

To The Custodian Of The Detention Facility Named Below, you are ORDERED to receive in your custody the defendant named above who may be released if authorized above. If the defendant is not sooner released, you are ORDERED to:

☐ produce him/her in Court as provided above. ☐ hold him/her for the following purpose:

☐ [Check in all domestic violence cases covered by G.S. 15A-534.1 (b)] produce him/her at the first session of District or Superior Court held in this county after the entry of this Order or, if no session is held before (enter date and time 48 hours after time of arrest) ☐ AM ☐ PM produce him/her before a magistrate of this county at that time to determine conditions of pretrial release.

Name Of Detention Facility

Date

Signature Of Judicial Official

WRITTEN PROMISE TO APPEAR OR CUSTODY RELEASE

I, the undersigned, promise to appear at all hearings, trials or otherwise as the Court may require and to abide by any restrictions set out above. I understand and agree that this promise is effective until the entry of judgment in the District Court from which no appeal is taken or until the entry of judgment in Superior Court. If I am released to the custody of another person, I agree to be placed in the custody of that person and that person agrees by his/her signature to supervise me.

Date

Signature Of Defendant

Signature Of Person Agreeing To Supervise Defendant

Name Of Person Agreeing To Supervise Defendant (Type or Print)

Address Of Person Agreeing To Supervise Defendant

DEFENDANT RELEASED ON BAIL

Date

Time

☐ AM ☐ PM

Signature Of Jailer

COMBINED RECORDS

(check all that apply)

☐ 1. The defendant shall pay the costs.

☐ 2. The defendant shall pay a fine of \$ _____.

The Court recommends:

☐ 3. Assignment to a substance abuse treatment unit, G.S. 15A-1351(h) (applies only to offenses committed before December 1, 2003).

☐ 4. Psychiatric and/or psychological counseling.

☐ 5. Work Release.

☐ 6. Payment as a condition of post release supervision, if applicable, or from work release earnings, if applicable, of the items and amounts set out below.

| Fines | Court Costs | Restitution* | Attorney's Fees | Total Amount Due |
|-------|-------------|--------------|-----------------|------------------|
| \$ | \$ | \$ | \$ | \$ |

* See attached "Restitution Worksheet, Notice And Order (Initial Sentencing)," AOC-CR-611, which is incorporated by reference.

The Court further recommends:

After release, defendant shall register as a sex offender and abide by all conditions of Sex Offender Control Program.

The Court does not recommend:

☐ 1. Restitution as a condition of post release supervision or work release.

☐ 2. Work release.

AWARD OF FEE TO COUNSEL FOR DEFENDANT

☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT/APEAL ENTRIES

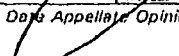
☒ It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.

☐ The defendant gives notice of appeal from the judgment of the trial court to the appellate division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

| Date | Name Of Presiding Judge (Type Or Print) | Signature Of Presiding Judge |
|----------|---|---|
| 9/7/2005 | HENRY E. FRYE, JR. |  |

ORDER OF COMMITMENT AFTER APPEAL

| Date Appeal Dismissed | Date Withdrawal Of Appeal Filed | Date Appellate Opinion Certified |
|-----------------------|---------------------------------|---|
| | |  |

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the agency named in this Judgment on the reverse and furnish that agency two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

| Date | Signature | <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court |
|------|-----------|---|
| | | |

CERTIFICATION

I certify that this Judgment and Commitment with the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

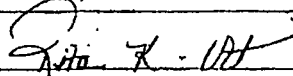
☐ Appeal Entries (AOC-CR-350)

☐ Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)

☐ Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)

☐ Victim Notification Tracking Form

☐ Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)

| Date | Signature | SEAL |
|--|--|------|
| 9/7/2005 |  | |
| Date Certified Copies Delivered To Sheriff | | |
| 9/7/2005 | <input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court | |

Material opposite unmarked squares is to be disregarded as surplusage.

EXHIBIT 3 State Habeas Order

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE GENERAL COURT OF JUSTICE
FILED SUPERIOR COURT DIVISION
04 CRS 78728

2017 NOV 27 P 2:28

STATE OF NORTH CAROLINA GUILFORD CO., C.S.C.

v.

BY *M*

ORDER

(Denying Petition on Writ of Habeas Corpus)

TRAVIS L. WATSON,
Defendant/Petitioner

This matter is before the Court on a paper writing entitled "Application for a Writ of Habeas Corpus" filed by Defendant on November 1, 2017. The Court received the file on November 22, 2017 upon which the Court has reviewed the Application and the Court files in this matter. It appears from the record that the Application should be denied.

The Applicant is imprisoned for a parole violation on post release supervision with an expected release date of April 14 2020. The offenses subject to the conviction included: conspiracy to commit second degree rape and two counts of second degree rape for which he was sentenced to a term of 96 to 125 months on September 7, 2005.

Generally, Habeas Corpus is a procedure by which a person may challenge an imprisonment or a restraint on his or her liberty "for any criminal or supposed criminal matter, or on any pretense whatsoever". However, habeas is not the proper procedure for challenging a detention pursuant to a valid final judgment in a criminal case entered by a court with proper jurisdiction. North Carolina General Statute 17-4 provides that an application must be denied when, among other reasons, the party is committed or detained by virtue of a final order, judgment, or decree of a competent tribunal; or, when the party has willfully neglected, for two whole sessions after imprisonment, to apply for the writ or when no probable ground for relief in fact or in law is shown in the petition.

The Applicant has failed to satisfy the basis for the writ.

It is therefore ORDERED that:

1. The "Application for a Writ of Habeas Corpus" filed on or about November 1, 2017 is DENIED.
2. The Clerk shall mail a copy of this Order to the defendant/applicant and to the District Attorney for the Eighteenth Judicial District.

This the 27th day of November, 2017.

[Signature]

Superior Court Judge Presiding

EXHIBIT 5

Judge Hinnant's November 22, 2017 order denying state
Habeas corpus

EXHIBIT 4

*Magistrate Objections as a Reference
To Exhibits Not Yet Received from
The Courts.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

TRAVIS LASHAUN WATSON,

Petitioner,

v.

DENNIS DANIELS,

Respondent.

1:19CV249

**MEMORANDUM OPINION AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Petitioner, a prisoner of the State of North Carolina, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (the "Petition"). (Docket Entry 7; see also Docket Entry 9 (memorandum in support).) Respondent has moved for summary judgment on the merits, as well as on grounds of non-exhaustion. (Docket Entries 11, 12.) For the reasons explained more fully below, the undersigned United States Magistrate Judge will recommend that the Court deny the instant Petition on its merits.

I. Background

On September 7, 2005, in Guilford County Superior Court, Petitioner pled guilty to two counts of felony second degree rape, conspiracy to commit second degree rape, second degree kidnapping, and possession of a stolen vehicle in cases 04 CRS 78728, 04 CRS 78731, and 04 CRS 69837, respectively. (See Docket Entry 12-2.) After consolidating the rape offenses and consolidating the kidnapping and possession of a stolen vehicle offenses, the trial court imposed consecutive prison sentences of 96 to 125 months and 27 to 42 months, respectively. (See id.) Petitioner also received

Responser,
failed to
exhibit any
due process

a five-year term of post-release supervision ("PRS"), which he began to serve on April 16, 2015, see Watson v. Daniels, No. 1:18CV451, Docket Entry 13-4 at 1 (M.D.N.C. Jul. 9, 2018).¹

On December 29, 2016, officers with the Greensboro Police Department arrested Petitioner on two new felony charges (see Docket Entry 12-7 at 10-13) and detained Petitioner in the Guilford County jail (Docket Entry 9 at 1-2). [On January 3, 2017, the Post Release Supervision and Parole Commission ("PRSPC") arrested Petitioner on a warrant for post-release supervision violations based on the new felony charges. See Watson, No. 1:18CV451, Docket Entry 13-4 at 1. Petitioner appeared before the PRSPC on January 13, 2017, and signed a waiver of his right to a preliminary hearing and a hearing before the PRSPC, which provided as follows:

I do hereby waive my right to a Preliminary Hearing and [PRSPC] Hearing **until pending North Carolina criminal charges have been disposed of by the [c]ourts.** I do understand the purpose of these hearings is to determine whether there is probable cause to believe that I have violated the condition(s) of my Parole/Conditional Release/[PRS] heretofore granted by the North Carolina [PRSPC]. **I do also understand that I can request the Preliminary Hearing to be held prior to the pending charges['] disposition by contacting my Probation/Parole Officer in writing.**

Watson, No. 1:18CV451, Docket Entry 13-8 (emphasis in original).

On May 22, 2017, Petitioner transferred from the Guilford County jail to the Craven Correctional Institution ("Craven CI").

¹ In civil action 1:18CV451, Petitioner brought an action under 28 U.S.C. § 2254 challenging his 2005 convictions and sentences, which the undersigned dismissed with prejudice on January 31, 2019. See Watson, No. 1:18CV451, Docket Entries 31, 32 (M.D.N.C. Jan. 31, 2019). Throughout this Recommendation, pin citations to page numbers refer to the page numbers in the footer appended to those materials at the time of their docketing in the CM/ECF system.

Still had right to
request preliminary
hearing: PRSPC
took away that right
did not waive his right

As Mary Stew stated "the proceeding was rescinded"

(See Docket Entry 7 at 5; see also Docket Entry 9 at 1-2.)² According to Petitioner's filings in another case he brought in this Court arising out of his transfer to Craven CI, Petitioner transferred back to the Guilford County jail just eight days later on May 30, 2017, and remained there until June 22, 2017, when he returned to the Craven CI. See Watson v. State of North Carolina Post Release Supervision and Parole Commission, No. 1:17CV977, Docket Entry 2 at 9, 19, 22, 24, 26, 30, 34 (M.D.N.C. Oct. 26, 2017). Eighteen days later, on July 10, 2017, Petitioner transferred back to the Guilford County jail and remained there until August 1, 2017, when he transferred to the Caswell Correctional Center ("Caswell CC"). See id.³ On October 4, 2017, Petitioner transferred back to the Guilford County jail where he remained through his trial in late February 2018. (See Docket Entry 9 at 4.)

CRAVEN
Not challenging when he was housed, was not supposed to be in state custody, No revocation for violations, No conviction

In November 2017, Petitioner filed a pro se "Application for a Writ of Habeas Corpus" and/or a "Motion to Dismiss" with the trial court seeking dismissal of his pending 2016 criminal charges

Imprisoned into state custody and hold and although revocation proceedings and NO conviction

² The Craven CI is located in Vanceboro, North Carolina, see <https://www.ncdps.gov/adult-corrections/prisons/prison-facilities/craven-correctional-institution> (last visited Dec. 2, 2019), at a distance of approximately 190 miles from the Guilford County jail, see <https://www.mapquest.com> (enter query for directions from 201 South Edgeworth Street, Greensboro, North Carolina 27401, to 600 Alligator Road, Vanceboro, North Carolina 28586) (last visited Dec. 2, 2019).

³ The Caswell CC is located in Blanch, North Carolina, see <https://www.ncdps.gov/adult-corrections/prisons/prison-facilities/caswell-correctional-center> (last visited Dec. 2, 2019), at a distance of approximately 40 miles from the Guilford County jail, see <https://www.mapquest.com> (enter query for directions from 201 South Edgeworth Street, Greensboro, North Carolina 27401, to 444 County Home Road, Blanch, North Carolina 27212) (last visited Dec. 2, 2019).

due to the alleged revocation of his PRS without a hearing and his intermittent confinement in prison (Docket Entry 12-7 at 34-36; see also Docket Entry 7, ¶ 11(a)), which that court, following a hearing (Docket Entry 12-4), denied on November 22, 2017 (Docket Entry 12-5).⁴

RELEASE ORDER

On December 11, 2017, the PRSPC entered an order with regard to Petitioner's PRS which provided as follows:

In reference to [Petitioner], convicted September 7, 2005 in Guilford County Superior Court, docket number 04CRS078728, two counts of Second Degree Rape, Conspiracy to Commit Second Degree Rape, 96 to 125 months' active. He was released on five years post-release supervision on April 16, 2015, and was arrested January 3, 2017 by [PRSPC] warrant for reported post-release violations. The [PRSPC] finds that [Petitioner] is currently incarcerated for the [PRSPC's] January 3, 2017 warrant for which he has pending felony charges against him. The [PRSPC] further finds a preliminary hearing was postponed on January 13, 2017 until these pending charges have been resolved.

Upon further review of his case, the [PRSPC] finds that [Petitioner] has completed service of his maximum term in [his 96 to 125 month] sentence as required by N.C. [Gen. Stat. § 15A-1368.3(c)(1)] and therefore orders he be released from custody effective immediately. This order does not resolve [Petitioner] of any other legal obligations such as for the pending charges in Guilford County or for the registration requirement for [his 96 to 125 month] sentence.

~~ORDER A~~ To stop litigation Any violation - no violation
Watson, No. 1:18CV451, Docket Entry 13-3 at 1 (emphasis added).

In response to an inquiry from Petitioner, Mary Stevens, Chief Administrator of the PRSPC, wrote Petitioner a letter enclosing and explaining the above-quoted order of the PRSPC, which provided, in pertinent part, as follows:

In order for a PRS to be returned to prison, he must have evidence that he has violated the terms of PRS. Respondents have presented no evidence to show that P was sent to prison for violating terms of PRS. Or that any sentence was ordered relating to PRS. Even if they wanted to try conviction because the waiver postponed any further action by the PRSPC.

⁴ The record does not contain a copy of Petitioner's Application for a Writ of Habeas Corpus.

Cover up
Mrs. 27, FHP
Nov. 16 - S.H.P.
M.T.D.

in middle of criminal proceeding
No Authority

① meaning No further proceedings (with) resolution or request
① These since all hearings were postponed and not that P. waived his right to a hearing completely. No determination of revocation/parole/parole was made

A warrant does not give the authority to give the authority by pull the registration
Of procedure either 1) proof of conviction on the pending charges 2) Consent to the violation or 3) a hearing to alleged violations

This will acknowledge receipt of your recent correspondence dated May 27, 2018 to Governor Roy Cooper. In answer to your concerns, the [PRSPC] did not revoke your [PRS] for your previously-incarcerated [96 to 125 month] sentence. In December 2017, the [PRSPC] rescinded or stopped further [PRS] proceedings in your case and ordered that you be released from the [PRS] requirement of [your 96 to 125 month] sentence. Enclosed is a copy of that order. This means that the five (5) year [PRS] requirement for [that sentence] was completed effective December 11, 2017 because you had served your maximum sentence term.

①
Untrue - Possibly
stopped/postponed
already by who ver

Id., Docket Entry 13-3 at 2 (emphasis added). Petitioner apparently remained dissatisfied with that explanation, as Ms. Stevens sent Petitioner another letter dated June 25, 2018, explaining as follows:

This will acknowledge receipt of your recent correspondence dated June 18, 2018 in which you requested additional information concerning the post-release violation process of your previous confinement. You expressed concerns that no probable cause hearing took place in your case.

[Y]ou waived your right to a preliminary hearing and [PRSPC] hearing until your pending North Carolina criminal charges had been disposed of by the [c]ourts. Your signed waiver is why the [PRSPC] did not proceed with the hearing process in your case in 2017. Some county jails choose to send incarcerated persons to [the Department of Adult Corrections ('DAC')] (prison) custody after a [PRSPC] warrant has been served, even when there are pending charges in that county. The [PRSPC]'s order of December 11, 2017 released you from DAC custody back to the county jail. Your public record in the [Department of Public Safety] website shows that post-release supervision in your previous confinement ended December 11, 2017.

Right to have my day
to dispute charges
Admitted
PRSPC
They send for
the only violation
order to prison
Release to issued

(Docket Entry 16-6 (emphasis added).)

On March 1, 2018, a jury convicted Petitioner of felony robbery with a dangerous weapon (offense date December 22, 2016), possession of a firearm by a convicted felon (offense date December 29, 2016), and attaining habitual felon status (offense date

No hearing
No conviction
No monitoring
And so

Criminal Proceedings
In Process

Transformed in the middle of a
criminal proceeding
4 or 5 months later
For what cause

December 29, 2016) in cases 16 CRS 92606, 16 CRS 92616, and 17 CRS 24032, respectively. (See Docket Entry 7, ¶¶ 1, 2, 4-6; see also Docket Entry 12-6.) The trial court sentenced Petitioner to consecutive terms of 96 to 128 months and 97 to 129 months in prison. (See Docket Entry 7, ¶ 3; see also Docket Entry 12-6.) The trial court ordered that Petitioner receive credit for the 427 days he spent in pretrial confinement against his sentences. (Docket Entry 12-6 at 2.) Petitioner appealed (see Docket Entry 7, ¶ 8), and his case remains pending in the North Carolina Court of Appeals, State v. Watson, No. COA 18-1254 (N.C. App. Dec. 11, 2018).

In May 2018, Petitioner filed a Petition under 28 U.S.C. § 2254 with this Court attacking his 2005 convictions on the ground that his "[PRS] was revoked and [he was] returned to prison without a revocation hearing and without any official determination of wrongdoing." Watson, No. 1:18Cv451, Docket Entry 2, ¶ 12 (Ground One). The undersigned United States Magistrate first recommended denial of the Petition as moot, because it challenged only the procedures surrounding and conditions of Petitioner's term of PRS, which expired on December 11, 2017. See Watson, No. 1:18CV451, 2018 WL 6728041, at *3-4 (M.D.N.C. Dec. 21, 2018) (unpublished). The undersigned alternatively recommended denial of the Petition on its merits, because the PRSPC did not revoke Petitioner's PRS and thus did not deny Petitioner his due process rights by failing to hold a revocation hearing, and noting that the expiration of Petitioner's term of PRS on December 11, 2017, mooted any need for

Why was he in prison

a preliminary (or probable cause) hearing after that point. See id. at *4-5; see also id. at *5 (recommending denial of certificate of appealability).⁵

Petitioner subsequently filed his instant Petition in this Court on February 25, 2019, along with a memorandum in support, challenging his 2018 convictions. (Docket Entries 1, 2.)⁶ Petitioner filed an Amended Petition as of right under Rule 15(a)(1) of the Federal Rules of Civil Procedure (Docket Entry 7), as well as a supporting memorandum (Docket Entry 8). The undersigned then granted Petitioner's motion to replace that supporting memorandum with an amended memorandum (Docket Entry 9). See Text Order dated Apr. 3, 2019. Respondent thereafter filed the instant Motion for Summary Judgment and Supporting Brief (Docket Entries 11, 12), and Petitioner responded in opposition (Docket Entries 15, 16).

II. Grounds for Relief

The Petition raises four grounds for relief:

1) "Petitioner [was] denied due process as a pretrial detainee" (Docket Entry 7, ¶ 12 (Ground One) (standard capitalization applied)) because, "[o]n [May 22, 2017], Petitioner was sent to prison prior to any adjudication of guilt" and "was in

⁵ Because both parties consented to the jurisdiction of the undersigned United States Magistrate Judge, the undersigned withdrew the Recommendation and entered a final Order and a Judgment denying Petitioner's claims as moot and meritless, without a certificate of appealability. See Watson, No. 1:18CV451, Docket Entries 31, 32 (M.D.N.C. Jan. 31, 2019).

⁶ Under Rule 3(d) of the Rules Governing Section 2254 Cases in United States District Courts, the Court should deem the instant Petition filed on February 25, 2019, the date Petitioner signed the Petition (under penalty of perjury) as submitted to prison authorities (see Docket Entry 1 at 15).

state custody from [May 22, 2017,] to [December 11, 2017], prior to trial" (id., ¶ 12(Ground One)(a));

2) "Petitioner [was] denied [the] right of access to counsel" (id., ¶ 12(Ground Two) (standard capitalization applied)) because, "[o]n [May 22, 2017], Petitioner transferred over 200+ miles away from [the] place of [the] alleged crime and away from [his] court appointed counsel" and "could not relay information to [his] attorney to file [a] motion to suppress evidence" and "could not communicate with counsel to discuss a plea bargain" or "being sent to prison prior to trial" (id., ¶ 12(Ground Two)(a));

3) "Petitioner [was] denied [the] right to counsel" (id., ¶ 12(Ground Three) (standard capitalization applied)), because "Petitioner's [first] assigned [trial] counsel . . . was not present" at the hearing on Petitioner's Motion to Dismiss and/or Application for a Writ of Habeas Corpus in the trial court, and Petitioner's second trial counsel "stood by but would not represent Petitioner nor address [the] claims of Petitioner's habeas motion" (id., ¶ 12(Ground Three)(a)); and

4) "Petitioner [was] denied [the] right to a fair trial proceeding" (id., ¶ 12(Ground Four) (standard capitalization applied)), because "Petitioner [was] punished and imprisoned in [a] state correctional facility prior to guilt," Petitioner was "housed in [the] same agency as convicted felons, although presumed innocent," Petitioner was "denied access to his attorney to prepare a defense," Petitioner "was not represented at [the] habeas hearing," his "[M]otion to [D]ismiss on above issues was not

heard," his Application for a Writ of Habeas Corpus was "denied although there was no legal judgement," and a "[p]lea [was] sent to Petitioner through [the] U.S. Mail while [he was] in prison as a pretrial detainee" (id., ¶ 12(Ground Four)(a)).

III. Discussion

A. Exhaustion

Respondent contends that "Petitioner has failed to exhaust state remedies on all his Grounds for Relief as required by 28 U.S.C. § 2254(b)(1)(A) and Respondent[] do[es] not waive non-exhaustion." (Docket Entry 12 at 7.) Indeed, as Respondent asserts, "Petitioner will have to complete his direct appeal, and then file a post-conviction motion for appropriate relief (MAR) in the Superior Court of Guilford County raising his present claims, . . . [and i]f not satisfied with that court's adjudication, he must first file a certiorari petition in the [North Carolina Court of Appeals] seeking review of the MAR order, before returning to federal court." (Id.) Respondent points out that "[t]his Court has the power . . . to adjudicate and deny Petitioner's Grounds for Relief on the merits notwithstanding non-exhaustion and Respondent's refusal to waive non-exhaustion" (id. at 8 (citing 28 U.S.C. § 2254(b)(2))), and urges the Court to "exercise that power here, because Petitioner's Grounds for Relief are without merit, and in order to conserve scarce judicial resources both state and federal." (Id.)

In response, Petitioner contends that he "did file state habeas and [a M]otion to [D]ismiss, as a pretrial detainee, to

address this matter," that the constitutional errors alleged in his Petition qualify as "structural in nature and should exempt Petitioner from further exhaustion requirement," that "[f]ailure to review this claim would result in a miscarriage of justice," and that "[c]ause/[p]rejudice also exists and should exempt Petitioner from exhaustion." (Docket Entry 7, ¶ 12(Ground One)(b); see also id., ¶ 12(Ground Two)(b), ¶ 12(Ground Three)(b), ¶ 12(Ground Four)(b).) Those arguments fall short.

Even if the Court found that the Motion to Dismiss and/or Application for a Writ of Habeas Corpus Petitioner filed in the trial court in November 2017 raised the substance of Grounds One through Four of the instant Petition (compare Docket Entry 12-7 at 34-36, with Docket Entry 7, ¶ 12), Petitioner glosses over the facts that 1) his direct appeal (which, inter alia, contests the trial court's denial of his Motion to Dismiss (see Docket Entry 12-8 at 18-20)) remains pending, and 2) he has not filed a post-conviction MAR in the trial court challenging his 2018 convictions and/or sentences. Moreover, Petitioner's conclusory assertion of structural error, offered without any supporting facts or law, fails to excuse Petitioner's non-exhaustion. See Sherman v. Smith, 89 F.3d 1134, 1138 (4th Cir. 1996) (defining structural errors as defects "so severe as to render a trial inherently unfair" and cautioning that "judges should be wary of prescribing new errors requiring automatic reversal"). Furthermore, Petitioner's invocation of a miscarriage of justice and cause/prejudice fails both as conclusory and as inapplicable to Petitioner's claims,

which remain unexhausted but not procedurally defaulted. Thus, the Court presently may not grant habeas relief on any of Petitioner's Grounds for Relief, 28 U.S.C. § 2254(b)(1); however, such claim(s) "may be denied on the merits, notwithstanding the failure of [Petitioner] to exhaust [state-court] remedies," 28 U.S.C. § 2254(b)(2) (emphasis added).

B. Merits

1. Ground One

Petitioner's first ground for relief contends that "Petitioner [was] denied due process as a pretrial detainee" (Docket Entry 7, ¶ 12(Ground One) (standard capitalization applied)) because, "[o]n [May 22, 2017], Petitioner was sent to prison prior to any adjudication of guilt" and "was in state custody from [May 22, 2017,] to [December 11, 2017], prior to trial" (*id.*, ¶ 12(Ground One)(a))." As a corollary to that argument, Petitioner also has asserted that:

Pretrial detainees have a right to be free from punishment for a crime until convicted of the crime. Pretrial detainees have a right to have their day in court before they are deprived of liberty beyond the restrictions of jail management and security. Under the due process clause, pretrial detainees cannot be punished[.] [*Bell v. Wolfish*], 441 U.S. 520, 537 n.16 (1979). They can only be detained to ensure their presence at trial, and subjected to rules and restrictions that are reasonably related to jail management and security. To the contrary and prior to his trial, Petitioner was subjected to rules and policies founded on correction, retribution, and deterrence [sic] which all constitute punishment. . . . The deprivation discussed above has undoubtedly prejudiced Petitioner. The State, even after Petitioner voiced this claim at a habeas hearing in Guilford County Superior Court on November 16, 2017 as a pretrial detainee, has disregarded

Petitioner's right to due process and proceeded to gain a conviction in violation of federal law.

(Docket Entry 9 at 3-4.) [Petitioner's argument fails as moot.

2005 conviction & not at 15000
The Court "shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a) (emphasis added); see also Maleng v. Cook, 490 U.S. 488, 490-91 (1989) (holding that Section 2254 petitioner must, at the time he or she files petition, remain "in custody" pursuant to state conviction or sentence at issue (citing Carafas v. LaVallee, 391 U.S. 234, 238 (1968))). The "in custody" requirement raises a threshold jurisdictional question. Maleng, 490 U.S. at 490 (stating that "[t]he federal habeas statute gives the United States district courts jurisdiction to entertain petitions for habeas relief only from persons who are 'in custody in violation of the Constitution or laws or treaties of the United States'" (emphasis in original)).

To meet the jurisdictional "in custody" requirement, a petitioner need not remain in actual physical custody of state authorities, as well-settled law holds that an ongoing term of probation or parole constitutes a sufficient restraint on a petitioner's liberty to allow the petitioner to challenge a state sentence under Section 2254. See Jones v. Cunningham, 371 U.S. 236, 242 (1963) (deeming prisoner on parole still "in custody" for habeas purposes because release from physical confinement remains conditional and "the custody and control of the Parole Board

involves significant restraints on petitioner's liberty"). However, where a petitioner "elect[s] only to attack [his or her] sentences, and . . . those sentences expired during the course of the[] proceedings, th[e] case is moot." Lane v. Williams, 455 U.S. 624, 631 (1982); see also North Carolina v. Rice, 404 U.S. 244, 248 (1971) ("Nullification of a conviction may have important benefits for a defendant . . . but urging in a habeas corpus proceeding the correction of a sentence already served is another matter.").

not attacking old case

Here, to avoid the mootness issue, Petitioner attempts to repackage his claim from one challenging the revocation without a hearing of his PRS stemming from his 2005 convictions leading to his intermittent confinement in prison during the time period from May 22, 2017, to December 11, 2017, to one alleging wrongful pretrial detention in prison on his 2016 pending felony charges during the time period from May 22, 2017, to December 11, 2017. (Compare Watson, No. 1:18CV451, Docket Entry 2, ¶ 12 (Ground One), with Docket Entry 7, ¶ 12 (Ground One).) However, the record before the Court conclusively establishes that Petitioner's active prison sentences for his 2005 convictions expired on April 16, 2015, when he began his five-year term of PRS, see Watson, No. 1:18CV451, Docket Entry 13-4 at 1, that the PRSPC arrested Petitioner on the new 2016 felony charges on January 3, 2017, see id., that Petitioner waived a preliminary hearing and a PRSPC hearing until after resolution of his 2016 charges, see id., Docket Entry 13-8, that Petitioner experienced intermittent (and brief) periods of confinement in prison from May 22, 2017, to December 11,

break down when a parole violator can be sent to prison. There was no revocation w/o a hearing

is this it, inaccurate

? For what Case-13- justification? breach of procedure?

** There is no evidence showing how P violated the terms and conditions of PRS because P did not. There is no prison document or otherwise to show arose out of his violation*

2017, see Watson, No. 1:17CV977, Docket Entry 2 at 9, 19, 22, 24, 26, 30, 34), that the PRSPC terminated Petitioner's PRS arising from his 2005 convictions on December 11, 2017, see Watson, No. 1:18CV451, Docket Entry 13-3 at 1, and that Petitioner thereafter remained in the Guilford County jail until his trial on the 2016 charges in late February 2018 (see Docket Entry 16-6). In other words, any time Petitioner spent in prison from May 22, 2017, to December 11, 2017, arose out of his violation of the terms of his PRS which formed a part of his 2005 convictions and sentences, and not his 2016 then-pending felony charges. Because Ground One attacks only the procedures and conditions of Petitioner's expired term of PRS, Petitioner "urg[es] . . . the correction of a sentence already served," Rice, 404 U.S. at 248, and the Court should deny Ground One as moot.

2. Ground Two

Petitioner's second ground for relief alleges that "[he was] denied [the] right of access to counsel" (Docket Entry 7, ¶ 12(Ground Two) (standard capitalization applied)) because, "[o]n [May 22, 2017], Petitioner transferred over 200+ miles away from [the] place of [the] alleged crime and away from [his] court appointed counsel," "could not relay information to [his] attorney to file [a] motion to suppress evidence," and "could not communicate with counsel to discuss a plea bargain" or "to discuss being sent to prison prior to trial" (id., ¶ 12(Ground Two)(a)); see also Docket Entry 9 at 4-6). Petitioner's arguments fail as a matter of law.

Not attacking PRS. PRS is not an issue because PRS was not revoked. This person has nothing to do with PRS!

2nd correct
(A) did not address private communication build/purpose defense arose - had a new attorney unable to meet w/ attorney

"A criminal defendant's Sixth Amendment right to counsel attaches at the initiation of adversary judicial proceedings, which at least includes the point of formal charge, indictment, information, preliminary hearing, or arraignment." United States v. Cain, 524 F.3d 477, 481 (4th Cir. 2008) (citing McNeil v. Wisconsin, 501 U.S. 171, 175 (1991)). In this case, Petitioner's Sixth Amendment right to the effective assistance of counsel attached, at the latest, on January 23, 2017, the date a grand jury indicted Petitioner on his 2016 felony charges. (See Docket Entry 12-7 at 21-23.) Moreover, because Petitioner remained in jail and/or prison from the time of his indictments through his trial, the jail and/or prison must have afforded him "a reasonable opportunity to seek and receive the assistance of attorneys," and jail and/or prison "practices that unjustifiably obstruct the availability of professional representation [to inmates] . . . are invalid." Procunier v. Martinez, 416 U.S. 396, 419 (1974) (citing Ex parte Hull, 312 U.S. 546 (1941)), partially overruled on other grounds, Thornburgh v. Abbott, 490 U.S. 401, 413 (1989). Here, Petitioner's allegations of denial of the right of access to counsel fail as conclusory and unsupported. See Nickerson v. Lee, 971 F.2d 1125, 1136 (4th Cir. 1992) (holding that, "[i]n order to obtain an evidentiary hearing on an ineffective assistance of counsel claim[,] . . . a habeas petitioner must come forward with some evidence that the claim might have merit," and that "[u]nsupported, conclusory allegations do not entitle a habeas

extremely difficult to exchange information and ~~some~~ ask and answer questions about your case through letter. Day Justice info. PRIVATE COMM.

my attorney sought to meet with me twice - but made no attempt at all. I was in prison. calls are blocked but the prison

P. is not claiming counsel's assistance was not effective. Instead, P. is claiming that he was not provided with the opportunity to meet with his attorney.

Lewis v Casey inapplicable. No privilege necessary.

petition to an evidentiary hearing"), abrogated on other grounds, Gray v. Netherland, 518 U.S. 152, 165-66 (1996).

Although Petitioner alleges that his transfer to the Craven CI on May 22, 2017, placed him "over 200+ miles from [the] place of [the] alleged crime and away from [his] court appointed counsel," and that he "could not communicate with counsel" about certain matters (Docket Entry 7, ¶ 12(Ground Two)(a)), Petitioner neither alleges that the transfer actually prevented him from any communications with his counsel yes + did - p 4 through in-person visits, telephone calls, or written correspondence, nor provides the Court with any proof beyond his own unsupported allegations, about unsuccessful attempts to reach his counsel through any of those means (see id.; see also Docket Entry 9 at 4-6, Docket Entry 15 at 3-4).

Petitioner's assertions in Ground Two also ignore the facts that 1) Petitioner remained in the Guilford County jail from the date of his arrest by officers with the Greensboro Police Department on December 29, 2016, to May 22, 2017, when he transferred to the Craven CI (located approximately 190 miles from the Guilford County jail), 2) Petitioner transferred back to the Guilford County jail just eight days later and remained there from May 30, 2017, to June 22, 2017, when he returned to the Craven CI, 3) he transferred back to the Guilford County jail 18 days later on July 10, 2017, and remained there until to August 1, 2017, when he transferred to the Caswell CC (located approximately 40 miles from the Guilford County jail), and 4) he transferred back to the Guilford County jail on October 4, 2017, and remained there through

his trial in late February 2018 (see Docket Entry 9 at 4). See Watson, No. 1:17CV977, Docket Entry 2 at 9, 19, 22, 24, 26, 30, 34. Thus, the record establishes that Petitioner remained at a distance of approximately "200[] miles from [the] place of [the] alleged crime [in Greensboro, North Carolina,] and away from [his] court appointed counsel" (both located in Greensboro, North Carolina) for a total of ⁴⁷26 days (or approximately six percent) of the 427 days from his arrest on December 29, 2016, to his convictions and sentencing on March 1, 2018. Petitioner's presence in the Craven CI for such a small percentage of the time between his arrest and trial undermines his bald assertion that his time in prison denied him access to counsel.

Moreover, the record, insofar as it reflects matters occurring between Petitioner's arrest and trial, further forecloses relief. Although Petitioner alleges that he "could not communicate with counsel to discuss a plea bargain sent to him in the mail" (Docket Entry 7, ¶ 21(Ground Two)(a)), Petitioner's first trial counsel averred that "[he] visited [Petitioner] in jail on June 22[, 2017] to discuss [Petitioner's] cases and consider the plea offer" (Docket Entry 16-2, ¶ 4), which offer counsel deemed "reasonable" (id., ¶ 3). "[Counsel's] advice to [Petitioner] [wa]s that a jury trial present[ed] too many risks and that he should consider the plea offer." (Id., ¶ 7.) According to counsel, "[Petitioner] literally became enraged at [counsel's] statement and told [counsel he] was helping the prosecution and not [acting] in [Petitioner's] best interests." (Id., ¶ 8.) "[Petitioner] told [counsel] he

The clerk
The trial court appointed T. Kabin to the case that Hatfield withdrew from. The GC Superior Court Records will show that On Oct. 4, 2017, ~~the court~~ ^{the court} sent for P. via writ. The writ only acknowledges the felony that Hatfield withdrew from and T. Kabin was assigned to.

want[ed] another lawyer and instructed [counsel] to file [a] motion to withdraw." (Id., ¶ 10.) Petitioner also filed his own motion to have counsel removed and new counsel appointed. (See Docket Entry 12-7 at 24.) On July 24, 2017, the trial court allowed both motions and appointed Petitioner's second trial counsel. (See id.)⁷

After he finally met w/ attorney

Despite Petitioner's conclusory allegation that he "could not relay information to [his] attorney to file [a] motion to suppress evidence" (Docket Entry 7, ¶ 12(Ground Two)(a)), the record demonstrates that his second trial counsel filed a motion to suppress on November 22, 2017, along with a supporting memorandum and two supporting affidavits (see id. at 25-33) and, on February 27, 2018, argued in support of that motion at a hearing, calling both affiants as witnesses (see Docket Entry 12-10 at 12-59).

According to proper procedure, the trial court's order appointing new counsel comes after the an attorney withdraws from a case. Looking at attorney Hatfield's Motion to Withdraw, it can be seen that his Motion failed to grant the withdrawal himself from (see CES 92601, 92616) the case in which P is imprisoned. And so the court granted his Motion and ordered appointment of new counsel to the case that the attorney Hatfield's Motion was withdrawn from. This was No clerical error. Hatfield did not withdraw from the case.

⁷ Petitioner alleges that his second trial counsel "was assigned officially by the [trial] court to represent Petitioner[] on November 16, 2017," and thus Petitioner argues that he "had no access to any counsel to examine, discuss, and review the plea offer" from the time between the trial court's removal of his first trial counsel on July 24, 2017, and the "official[]" assignment of his second trial counsel on November 16, 2017. (Docket Entry 9 at 5.) That argument lacks merit. The trial court appointed Petitioner's second trial counsel on July 24, 2017 (Docket Entry 12-7 at 24), and Petitioner's own evidence shows that his second trial counsel corresponded with Petitioner on September 27, 2017, and "enclosed a copy of the plea offer extended by the State," Watson, No. 1:18CV451, Docket Entry 28-3. Petitioner's apparent attempt to rely on a discussion between the trial court and the prosecutor at the conclusion of the hearing on Petitioner's Motion to Dismiss and/or Application for a Writ of Habeas Corpus on November 16, 2017, misses the mark. In that discussion, the prosecutor merely noted that "[s]ome of the[] files reflect[ed] that [Petitioner's] previous attorney . . . was still [Petitioner's] lawyer even though [Petitioner's second trial counsel] [wa]s supposed to be on all of [Petitioner's] cases." (Docket Entry 16-1 at 15.) The trial court responded, "Madam Clerk, if you will check that and to the extent [Petitioner's first trial counsel] is still on any of those cases, take him off and put [Petitioner's second trial counsel] on as attorney of record." (Id. at 16.) The mere fact that, due to a clerical error, some of the trial court's files did not yet reflect Petitioner's second trial counsel as attorney of record does not establish that Petitioner's second trial counsel did not actually serve as Petitioner's attorney of record as of July 24, 2017, the date of the trial court's order appointing him.

-18-

It is no coincidence that 2nd trial counsel filed motion to suppress on Nov. 22, 2017, 1 day after he was officially assigned to Petitioner's case. T. Kabin sent letter about PRS but there were no discussions about pending cases.

Petitioner neither elucidates what information he could not relay to trial counsel for inclusion in the motion to suppress, nor how counsel's lack of such information prejudiced Petitioner. (See Docket Entries 2, 9, 15.) That failure precludes relief.

Regarding Petitioner's contention that he could not "discuss being sent to prison prior to trial" with his trial counsel (Docket Entry 7, ¶ 12(Ground Two)(a)), as discussed above, Petitioner remained represented during that time by his second appointed trial counsel (see Docket Entry 12-7 at 24), and Petitioner has not established that his brief stays in prison denied him access to his counsel. Moreover, despite representation by his second trial counsel, Petitioner proceeded to file a pro se Motion to Dismiss and/or Application for a Writ of Habeas Corpus with the trial court (Docket Entry 12-7 at 34-36), and Petitioner's second trial counsel ensured that Petitioner obtained a hearing on his pro se motion(s) on November 16, 2017, as reflected in the following on-the-record discussion during that hearing:

[TRIAL COUNSEL]: I did ask [the prosecutor] to bring [Petitioner] over today. . . . I believe [Petitioner's] case is likely to go in front of the jury sometime in December [2017] or January [2018] if I'm understanding correctly. So I thought that these issues needed to be resolved. . . .

Your Honor, I met with [Petitioner] on Tuesday as I told you. We had a good conversation. I took over this case, I believe, in early August, possibly late July, of [2017], Your Honor. . . . I have got quite a few motions that [Petitioner] has filed essentially on the same issue. And with the [c]ourt's indulgence, I was hoping the [c]ourt would hear from [Petitioner] about this so that this issue could be resolved. . . . I believe he is going to ask the [c]ourt to dismiss pending charges that he's facing at this point.

he tried to meet with me twice but I was in prison. on right to meet w/ counsel

If he let my lawyer, he should be representing my claim. he would not. I was forced to proceed pro se and file pro se. They should be worthy of being presented by the same attorney.

the deposition is not in the court's possession. After Oct 4, all took place. AFM returned.

he's able and prepared to represent or why take the initiative to set up the hearing. the court alone is capable of having a hearing is warranted. only 2

being heard at a hearing. R. attorney thought these issues were worthy of observing and deserving of a hearing. needed to be resolved and

continued denied of counsel over
T[RIAL] COURT: Do you wish to go over any of the allegations [Petitioner] is making, the legal arguments?

[TRIAL COUNSEL]: I think [Petitioner] wanted to address the [c]ourt on those, Your Honor.

T[RIAL] COURT: Are you cognizant of them? Can you also address them?

[TRIAL COUNSEL]: I believe, Your Honor, that I'm cognizant of them. I don't believe that I can present them in court.

(Docket Entry 12-4 at 6-7 (emphasis added).) The above-quoted colloquy makes clear that Petitioner did discuss his transfers to prison prior to trial with his second trial counsel. - *Yes on Tuesday, Nov. 14, 2017*

In short, Ground Two fails as conclusory and meritless.

3. Ground Three

Via Ground Three, Petitioner contends that "[he was] denied [the] right to counsel" (Docket Entry 7, ¶ 12(Ground Three) (standard capitalization applied)), because "Petitioner's [first] assigned [trial] counsel . . . was not present" at the hearing on Petitioner's Motion to Dismiss and/or Application for a Writ of Habeas Corpus in the trial court, and Petitioner's second trial counsel "stood by but would not represent Petitioner nor address [the] claims of Petitioner's habeas motion" (*id.*, ¶ 12(Ground Three) (a); see also Docket Entry 9 at 6-8; Docket Entry 15 at 4-5). Petitioner's contentions do not warrant relief.

As discussed above, Petitioner successfully moved the trial court to remove his first trial counsel on July 24, 2017 (see Docket Entry 12-7 at 24), and Petitioner's second trial counsel attended the hearing on Petitioner's Motion to Dismiss and/or Application for a Writ of Habeas Corpus in the trial court on

November 16, 2017 (see Docket Entry 16-1). Although Petitioner's second trial counsel declined to argue Petitioner's pro se contentions, Petitioner clearly insisted on filing those arguments pro se and indicated that he wanted to present those arguments to the trial court: ~~that he~~ *where in the record does P indicate he wanted to present those arguments.*

T[RIAL] COURT: Do you wish to go over any of the allegations [Petitioner] is making, the legal arguments?

[TRIAL COUNSEL]: I think [Petitioner] wanted to address the [c]ourt on those, Your Honor.

T[RIAL] COURT: Are you cognizant of them? Can you also address them? *If you're cognizant of them and you thought these issues should be heard, then you should be the one addressing these issues.*

[TRIAL COUNSEL]: I believe, Your Honor, that I'm cognizant of them. I don't believe that I can present them in court.

(Docket Entry 12-4 at 6-7 (emphasis added).)⁸

Accordingly, Petitioner has failed to establish a denial of his right to counsel at the hearing on his Motion to Dismiss and/or Application for a Writ of Habeas Corpus in the trial court.

4. Ground Four

Lastly, Petitioner maintains that "[he was] denied [the] right to a fair trial proceeding" (Docket Entry 7, ¶ 12(Ground Four) (standard capitalization applied)), because "[he was] punished and imprisoned in [a] state correctional facility prior to guilt," Petitioner was "housed in [the] same agency as convicted felons,

⁸ Petitioner's second trial counsel likely could not address Petitioner's arguments due to the North Carolina Rules of Professional Conduct. See N.C. R. Prof. Cond. 3.1 ("A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law."); see also In re Small, 201 N.C. App. 390, 393-94 (2009) (recognizing that trial court possessed "inherent authority" to sanction criminal defendant's attorney for filing frivolous motions).

The fact is T. Kobin was not the attorney on record despite the order. T. Kobin did not file M.T.S. nor any other motions and could not present P's allegations because of this.

the court should hear this but did not represent P on these issues.

~~Not an attorney on record~~
No effective private communications (phone not private letter no)
Stipulation proves he wasn't represented (see plea)

although presumed innocent," Petitioner was "denied access to his attorney to prepare a defense," Petitioner "was not represented at [the] habeas hearing," his "[M]otion to [D]ismiss on above issues was not heard," his Application for a Writ of Habeas Corpus was "denied although there was no legal judgement," and a "[p]lea [was] sent to Petitioner through [the] U.S. Mail while [he was] in prison as a pretrial detainee" (id., ¶ 12(Ground Four)(a); see also Docket Entry 9 at 8-10; Docket Entry 15 at 6). Those assertions lack merit.

~~time to prepare for the hearing - adequate time~~

As discussed above in the context of Ground One, Petitioner's argument that "[he was] punished and imprisoned in [a] state correctional facility prior to guilt" and was "housed in [the] same agency as convicted felons, although presumed innocent" (Docket Entry 7, ¶ 12(Ground Four)(a)) fails as moot. Furthermore, as detailed in the discussion of Ground Two, Petitioner has not shown that his short stints at the Craven CI denied him access to either of his appointed trial counsel. Moreover, as already addressed in the analysis of Ground Three, Petitioner remained represented by his second trial counsel at the hearing on his Motion to Dismiss and/or Application for a Writ of Habeas Corpus, but Petitioner insisted on pursuing those matters pro se.

Not Moot

Forced to proceed pro se
Attorney told the Court he could not proceed
Claims to the Court

Petitioner's assertion that his "[M]otion to [D]ismiss . . . was not heard," and that his Application for a Writ of Habeas Corpus was "denied although there was no legal judgement" (id.) falls short. The trial court denied Petitioner's Application for a Writ of Habeas Corpus for lack of jurisdiction in open court (see

did not address
A No effective private communications
B ~~excluded from any assistance~~
C D.A. & attorney aware of jurisdiction via plea stipulation

May 22, 2017 to Aug 22, 2017

Docket Entry 16-1 at 14-15), and Petitioner did receive the trial court's Order filed on November 27, 2017, denying his Application for a Writ of Habeas Corpus. See Watson, No. 1:18CV451, Docket Entry 2 at 16. Moreover, although the record lacks any evidence that the trial court entered a written order denying Petitioner's Motion to Dismiss, that Motion raised the very same argument that the trial court addressed and denied both in open court and in its Order denying Petitioner's Application for a Writ of Habeas Corpus. (Compare Docket Entry 12-7 at 34-36, with Docket Entry 16-1 at 14-15 (denying Application for a Writ of Habeas Corpus in open court after hearing), and Docket Entry 12-5 (written order denying Application for a Writ of Habeas Corpus).)

Lastly, Petitioner's contention that a "[p]lea [was] sent to Petitioner through [the] U.S. Mail while [he was] in prison as a pretrial detainee" (Docket Entry 12-7 at 34-36 (Ground Four) (a)) fails to allege any constitutional violation. Moreover, as already detailed above, Petitioner's first appointed trial counsel presented a reasonable plea offer to Petitioner in person at the Guilford County jail in June 2017 (which plea Petitioner emphatically rejected) (see Docket Entry 16-2, ¶¶ 3, 4, 7, 8), and Petitioner remained represented by his second trial counsel when he mailed Petitioner a copy of a plea offer on September 27, 2017. (See Watson, No. 1:18CV451, Docket Entry 28-3. Finally, as discussed above, Petitioner has not established that his short stays in prison during the time period from May 22, 2017, to December 11,

address I

rule of habeas
whole other standard
standard method

Each attorney see their own negotiating w/ D.A. That's why I fired him.

right to New Plan to compete

I denied it. State offered a second plea who have any access to my lawyer to this new plea.

original plan had already been rejected, the 1st plea. Why would they send a 2nd plea? This was a new plea and Petitioner had a right to have counsel's assistance. No court offers the same plea on the plea once I rejected the 1st plea. They went up 58-77 77-77

2017, denied him access to either of his appointed trial counsel to discuss plea offers.

In sum, Ground Four entitles Petitioner to no relief.

V. Conclusion

IT IS THEREFORE RECOMMENDED that the Petition (as amended) (Docket Entry 7) be denied, that Respondent's Motion for Summary Judgment (Docket Entry 11) be granted, and that a Judgment be entered dismissing this action, without issuance of a certificate of appealability.

/s/ L. Patrick Auld
L. Patrick Auld
United States Magistrate Judge

December 3, 2019

copy

United States Court of Appeals
For The Fourth Circuit
No: 20-6239, (1:19cv249)

EXHIBIT 5

Document Requests from
U.S. COA and U.S. District C.

Travis L. Watson

v

Dennis Daniels, et al.

Habeas Corpus 2254

Request For Documents Affidavit Attached,

1. I am indigent and under 28 U.S.C. 2250 I am entitled to documents without cost.
2. I request a copy of a document entitled Motion To Amend Pleading for requested relief that I mailed to this court for filing on September 8, 2021. The Motion consists of 3 pages of Grounds for Relief and Relief Sought followed by 14 pages of claims of Fraud and other violations of the law by the State of N.C. There are 16 Exhibits and an Affidavit attached to the Motion. Please send the complete Motion, Exhibits and Affidavit.
3. I request a docket sheet of all filings in this court in the above captioned case.
4. I request a copy of all orders in this court in the above captioned case.

Thank You

September 10, 2021

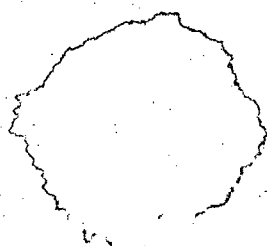
Under penalty of perjury all the foregoing are true and correct.

September 10, 2021

Travis L. Watson

Travis L. Watson

1 of 1



Copy

United States Court of Appeals
For the Fourth Circuit
No: 20-6234, (1:19 cv 249)

Travis L. Watson

v

Dennis Daniels

Habeas Corpus 2234
On Appeal

Affidavit: In Support of Request For Documents.

I, Travis L. Watson, the pro se Petitioner, do swear and affirm:

1. I am the pro se Petitioner in the above-captioned case.
2. I am indigent and entitled to documents without cost under 28 U.S.C. 2250.
3. I did request documents from this court signed Sept. 10, 2021.
4. The following documents, I did request:

1. A copy of my Motion To Amend Pleading For Requested Relief - filed/submitted September 8, 2021 by placing in prison mail box.
2. A docket sheet of all my filings in this court.
3. A copy of all order in this court in relation to above caption.
4. This Affidavit and the request is being placed in the mailbox this day.

Under the penalty of perjury, all the foregoing are true and correct.
September 12, 2021

Travis L. Watson

Certificate of Service

I certify the foregoing was placed in the mail box to be delivered and served on the following Respondents:

Erik A. Hooks, Secretary, N.C. Dept. of Public Safety, et al.,

September 12, 2021

1 of 1

Travis L. Watson

copy

United States District Court
For The Middle District of North Carolina

September 12, 2021

Re: Request For Documents by An Indigent Prisoner.
28 U.S.C. 2250.

Dear Clerk (Miss Jamie) - Hello and I hope you are well,

At no fault of this court I am experiencing difficulty in receiving pertinent documents pertaining to my case. I realized that someone in the prison was withholding and denying my mail. I need some help. Please deliver to me the following:

~~No. 1:19~~ No: 1:19 cv 451

Respondent's Summary Judgment Exhibits:

Exhibit 1 - 2005 Judgment + Commitment; Exhibit 2 - 2015 Judgment + C.

Opposition To Sum. J. Petitioner's Exhibits:

Ex. B - Habeas Cor. Order; EX. C - Release from DAC; Ex. E - Grievance;
EX G - Waiver; EX. H - 28 U.S.C. 2241

No: 1:19 cv 249

Respondent's Motion For Summary Judgment is requested via Brief;
Exhibits; Judge Hannon's order

Opposition To Sum. J. Petitioner's Exhibits:

Ex. 1 - Habeas Transcript; Ex. 3 - Mot. To Withdraw; Ex. 7 June 25, 2020 letter;
docket entry 13-3 at 2 - Mary Stevens June 11, 2018 letter

Please forgive any inconvenience. And I really appreciate from my heart your help. Thank You so much.
September 12, 2021

Travis L. Watson

copy

United States District Court
For The Middle District of North Carolina

Attendant: In Support of Request For Documents.

I, Travis L. Watson, do swear under penalty of perjury,

1. I am requesting the several documents from the US District Court Clerk. See Page 1.
2. I am an indigent prisoner requesting the documents.
3. I am submitting this request this day by placing the request and this Affidavit in the prison mailbox for delivery.

Under penalty of perjury, all the foregoing are true and correct,

September 12, 2021

Travis L. Watson
527 Commerce Dr.
Elizabeth City, NC 27906

3 copy

United States District Court
middle District of North Carolina
No: 1:19 cv 249

Travis L. Watson

✓
Dennis Daniels, et al.,

Habeas Corpus 2254

Request For Documents.

Your honor the Clerk,

I am indigent and am requesting documents without cost, under 28 U.S.C. 2250. Documents requested are as followed:

1) Order Denying FRP No: 1:19 cv 249
on 2/6/2020 - Judge Loretta C. Biggs.
(two copies please)

September 15, 2021

L. L. Watson

Affiant

I, Travis L. Watson, swear and affirm:

1. I am the affiant making the above document request.
2. I am indigent.
3. This document was placed in the mailbox on Sept. 15, 2021.

Under penalty of perjury, the foregoing are true and correct.

September 15, 2021

L. L. Watson

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

| | | |
|------------------------|---|-----------|
| TRAVIS LASHAUN WATSON, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | 1:19CV249 |
| |) | |
| DENNIS DANIELS, |) | |
| |) | |
| Respondent. |) | |

ORDER

The United States Magistrate Judge issued a Recommendation that this action under 28 U.S.C. §2254 (“Section 2254”) be dismissed. (ECF No. 17.) The Recommendation was filed with the Court in accordance with 28 U.S.C. § 636(b) (*id.*) and, on December 3, 2019, was served on the parties in this action (ECF No. 18). Plaintiff filed Objections to the Magistrate Judge’s Recommendation (ECF No. 20), as well as two supplements to his objections (ECF Nos. 21, 22). Petitioner raised new arguments (*see, e.g.*, ECF No. 20 at 8-9) and attached new evidence to his Objections, e.g., an Affidavit he signed on December 17, 2019 (ECF No. 20 at 29-30) and a letter he wrote to his trial counsel (*id.* at 31-32). Accordingly, the Court will make a de novo determination of all matters raised in Petitioner’s Objections, including any new arguments and evidence. *See United States v. George*, 971 F.2d 1113, 1118 (4th Cir. 1992) (“We believe that as part of its obligation to determine *de novo* any issue to which proper objection is made, a district court is required to consider all arguments directed to that issue, regardless of whether they were raised before the magistrate.”); *see also Cruz v. Marshall*, 673 F. App’x 296, 299 (4th Cir. 2016) (“When a party raises new information

The order ignores the waiver signed just 10 days after the PRSPC warrant was served, (notes) ... which would eliminate any legitimate purpose of the GCT to send P to prison for anything relating to P's or the 2005 judgments. His PRS had not been revoked not has he in this regard has infringed... To transfer P into state custody with no legitimate interest could only be presumed to serve an arbitrary purpose. They knew

Not an action prescribed as justifiable by law or by an order.

in objections . . . , regardless of whether it is new evidence or a new argument, the district court must . . . provide independent reasoning tailored to the objection[s].”).

I. Ground One

Petitioner first objects to the Magistrate Judge’s recommendation that the Court deny Ground One as moot. (See ECF No. 20 at 1-7; see also ECF Nos. 21, 22 .) In that regard, Petitioner denies that he based his claim for relief in Ground One on his 2005 convictions and sentences (including his term of post-release supervision arising out of the 2005 convictions), but instead argues that he “is challenging his 2018 conviction[s] because he was . . . sent to prison by county officials before his trial.” (ECF No. 20 at 1 (emphasis added).)

Petitioner’s argument ignores the letter dated June 25, 2018, to Petitioner from Mary Stevens, Chief Administrator of the North Carolina Post-Release Supervision and Parole Commission (“PRSPC”), explaining that “[s]ome county jails choose to send incarcerated persons to [the Department of Adult Corrections (“DAC”)] (prison) custody after a [PRSPC] warrant has been served, even when there are pending charges in that county.” (ECF No. 16-6 (emphasis added).) As the emphasized language makes clear, Petitioner’s arrest on the PRSPC warrant alleging violation of the terms of post-release supervision which formed part of the sentence for his 2005 convictions caused the Guilford County jail to transfer Petitioner into prison custody. Because the PRSPC terminated Petitioner’s post-release supervision arising out of his 2005 convictions on December 11, 2017, see Watson v. Daniels, No. 1:18CV451, Docket Entry 13-3 at 1 (M.D.N.C.), and because Ground One attacks only the conditions of Petitioner’s expired term of post-release supervision, Petitioner “urg[es] . . . the correction of a sentence already served,” North Carolina v. Rice, 404 U.S. 244, 248 (1971).

This practice of the GCT does not comply with the practice of ... The N.C. Rules of Criminal Procedure not the ~~practice~~ but the ~~standards~~ Federal standards of parole revocation procedures - Commitment, Nothing linking imprisonment to 2005 conviction

DO NOT CHALLENGE 2005 CONVICTION

Moreover, Petitioner's attempt to reframe Ground One as an attack on his "wrongful pretrial imprisonment" while awaiting trial on his 2016 charges also fails. (ECF No. 20 at 1.) A federal habeas petitioner "in custody pursuant to the judgment of a State court" may seek relief under Section 2254, 28 U.S.C. § 2254(a); however, as a pretrial detainee awaiting trial on his 2016 charges, Petitioner did not qualify as "in custody" pursuant to a state court judgment, making relief under Section 2254 unavailable. *state court habeas. Federal habeas not say otherwise*

Thus, the Court overrules Petitioner's objections to the Magistrate Judge's recommendation that the Court deny Ground One as moot.

II. Ground Two

Petitioner contends that his pretrial imprisonment denied him access to counsel in violation of due process, "because the delay in Petitioner's new counsel acquiring information relevant to his case led to a delay in the filing of a [m]otion [t]o [s]uppress illegally obtained evidence." (ECF No. 20 at 8.) According to Petitioner, "[i]f Petitioner had not been unjustifiably transferred to prison, causing a delay in the filing of the [motion to suppress] and interrupting [sic] his ability to meet with counsel, the [motion to suppress] could have been heard much earlier, denied (as it was), and Petitioner would have accepted the plea to avoid trial." (*Id.*) Petitioner also maintains that his trial counsel "attempt[ed] to reach Petitioner twice at the jail to discuss matters but Petitioner had been transferred both times." (*Id.* at 9 (internal citation omitted) (citing ECF No. 20 at 31-32).)

Petitioner's new arguments provide no basis to overrule the Recommendation of denial with respect to Ground Two. Petitioner has provided nothing beyond his own bald assertions to show that Petitioner's brief stints in prison had any impact at all on the timing or content of the motion to suppress (and thus, in turn, Petitioner's decision to reject or accept a plea

offer). See Nickerson v. Lee, 971 F.2d 1125, 1136 (4th Cir. 1992) (holding that, “[i]n order to obtain an evidentiary hearing . . . , a habeas petitioner must come forward with some evidence that the claim might have merit,” and that “[u]nsupported, conclusory allegations do not entitle a habeas petition to an evidentiary hearing”), abrogated on other grounds, Gray v. Netherland, 518 U.S. 152, 165-66 (1996).¹ Furthermore, the letter Petitioner attached to his Objections which he purportedly wrote to his trial counsel on August 11, 2017, does not provide any support for Petitioner’s assertion that his trial counsel “attempt[ed] to reach Petitioner twice at the jail to discuss matters but Petitioner had been transferred both times.” (ECF No. 20 at 9, (internal citation omitted) (citing ECF No. 20 at 31-32).)

*Affidavit
If this affidavit
were to be offered as
trial along w/ attorney
testimony...*

Therefore, the Court overrules Petitioner’s objections to the Magistrate Judge’s Recommendation that the Court deny Ground Two as meritless.

III. Ground Three

Petitioner’s contentions in his Objections do not supply a reason to overturn the Recommendation that Ground Three be denied as meritless. Although Petitioner apparently disagrees with his trial counsel’s decision not to argue Petitioner’s pro se Motion to Dismiss and/or Application for a Writ of Habeas Corpus in the trial court on November 16, 2017, Petitioner concedes that trial counsel both arranged for and attended that hearing on Petitioner’s behalf. (See ECF No. 20 at 10-13; see also ECF No. 12-4 at 6-7; ECF No. 16-1.) Contrary to Petitioner’s arguments, trial counsel’s scheduling of and attendance at the hearing

¹ Petitioner’s trial counsel filed the motion to suppress on November 22, 2017, along with a supporting memorandum and two supporting affidavits (see ECF No. 7 at 25-33); however, the trial court did not hear the motion until February 27, 2018, the day before trial (see ECF No. 12-10 at 12-59). Petitioner presents no evidence that, had trial counsel filed the motion to suppress before November 22, 2017, the trial court would have ruled on that motion any earlier than the day before trial.

did not obligate counsel to present Petitioner's pro se arguments to the trial court, particularly given that the North Carolina Rules of Professional Conduct limited the scope of arguments that Petitioner's trial counsel could have made to the trial court. See N.C. R. Prof. Cond. 3.1 ("A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.")

Accordingly, the Court overrules Petitioner's objections as to Ground Three.

IV. Ground Four

Lastly, Petitioner's contentions do not provide any grounds to overrule the Recommendation that Ground Four be denied as meritless. Petitioner simply has not sufficiently established that his short stays in prison during the time period from May 22, 2017, to December 11, 2017, denied him access to trial counsel to discuss plea offers or other pretrial matters.

IT IS THEREFORE ORDERED that the Petition, as amended, (ECF No. 7), is DENIED, that Respondent's Motion for Summary Judgment, (ECF No. 11), is GRANTED, and this action is DISMISSED WITH PREJUDICE.

A Judgment dismissing this action will be entered contemporaneously with this Order.

Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability is DENIED.

This, the 6th day of February 2020.

/s/ Loretta C. Biggs
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

| | | |
|------------------------|---|-----------|
| TRAVIS LASHAUN WATSON, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | 1:19CV249 |
| |) | |
| DENNIS DANIELS, |) | |
| |) | |
| Respondent. |) | |

JUDGMENT

For the reasons set forth in the Order filed contemporaneously with this Judgment,
IT IS HEREBY ORDERED AND ADJUDGED that the Petition, as amended, (ECF No. 7), is DENIED, that Respondent's Motion for Summary Judgment, (ECF No. 11), is GRANTED, and that this action is DISMISSED WITH PREJUDICE.

Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability is DENIED.

This, the 6th day of February 2020.

/s/ Loretta C. Biggs
United States District Judge

EXHIBIT 7

*U.S. Court of Appeals
Opinion and Denial of Relief;
Petition For Rehearing + Rehearing En Banc
Denial of Relief; Motion To
Amend Pleading Denial of Relief*

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 20-6239

TRAVIS L. WATSON,

Petitioner - Appellant,

v.

DENNIS DANIELS,

Respondent - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Loretta C. Biggs, District Judge. (1:19-cv-00249-LCB-LPA)

Submitted: June 28, 2021

Decided: July 8, 2021

Before NIEMEYER, MOTZ, and KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Travis L. Watson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Travis Watson seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 petition. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B). The magistrate judge recommended that relief be denied and advised Watson that failure to file timely, specific objections to this recommendation could waive appellate review of a district court order based upon the recommendation.

The timely filing of specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned of the consequences of noncompliance. *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017); *Wright v. Collins*, 766 F.2d 841, 846-47 (4th Cir. 1985); *see also Thomas v. Arn*, 474 U.S. 140, 154-55 (1985). Although Watson received proper notice and filed timely objections to the magistrate judge's recommendation, he has waived appellate review of his claim that he was denied the right to counsel during a hearing on his state application for a writ of habeas corpus because he did not specifically object to that portion of the recommendation. See *Martin*, 858 F.3d at 245 (holding that, "to preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection" (internal quotation marks omitted)).

Watson's appeal of the remaining portion of the district court's order is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(A). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When the district

court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists could find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 137 S. Ct. 759, 773-74 (2017). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). We have independently reviewed the record and conclude that Watson has not made the requisite showing for his remaining claims.

Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Watson's motions for leave to use the original record, a transcript at the Government's expense, and for judicial notice, and deny as moot Watson's motion for a final disposition. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

FILED: July 8, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-6239
(1:19-cv-00249-LCB-LPA)

TRAVIS L. WATSON

Petitioner - Appellant

v.

DENNIS DANIELS

Respondent - Appellee

J U D G M E N T

In accordance with the decision of this court, a certificate of appealability is denied and the appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

FILED: September 8, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-6239
(1:19-cv-00249-LCB-LPA)

TRAVIS L. WATSON

Petitioner - Appellant

v.

DENNIS DANIELS

Respondent - Appellee

O R D E R

The court denies the petitions for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

The court grants the motion to exceed length limitations. The court denies the motion for additional relief and review.

Entered at the direction of the panel: Judge Niemeyer, Judge Motz, and Senior Judge Keenan.

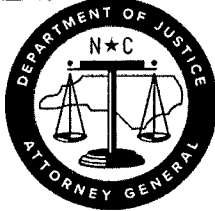
For the Court

/s/ Patricia S. Connor, Clerk

EXHIBIT 8

Attorney for Respondents initially

JOSH STEIN
ATTORNEY GENERAL



CLARENCE J. DELFORGE, III
CAPITAL LITIGATION SECTION
(919) 716-6571

1 May 2019

Travis Lashaun Watson
No. 0692957
Pasquotank Correctional Institution
527 Commerce Drive
Elizabeth City, North Carolina 27906

Re: Travis Lashaun Watson v. Erik A. Hooks, Secretary, N.C. Dept. of Public Safety, et al.
No. 1:19CV249: Copies of Respondent's (1) Answer; (2) Motion for Summary Judgment;
(3) Supporting Brief; (4) Exhibit List and Exhibits; and (5) Consent to Exercise of
Jurisdiction by a Magistrate Judge.

Dear Mr. Watson:

Please find enclosed herewith, copies of all documents filed by the Respondents in the
above- referenced federal habeas case.

Sincerely,

Clarence J. DelForge, III
Special Deputy Attorney General
North Carolina Department of Justice

General Docket
United States Court of Appeals for the Fourth Circuit

| Court of Appeals Docket #: 20-6239 Nature of Suit: 3530 Habeas Corpus Travis Watson v. Dennis Daniels Appeal From: United States District Court for the Middle District of North Carolina at Greensboro Fee Status: in forma pauperis | | Docketed: 02/20/2020 | | | | | | | | | | | | | | | |
|---|----------------------------|--------------------------------|-----------------------------|----------------------------|-----------------|-------------------|-----|-------------|---------------|----------------|------------|------------|------------|------------|----------------|------------|--|
| Case Type Information: 1) Habeas Corpus-State 2) state 3) null | | | | | | | | | | | | | | | | | |
| Originating Court Information: District: 0418-2 : 1:19-cv-00249-LCB-LPA Presiding Judge: Loretta C. Biggs, U. S. District Court Judge Date Filed: 03/01/2019 <table style="width: 100%; border: none;"> <tr> <td style="width: 25%;">Date Order/Judgment:</td> <td style="width: 25%;">Date Order/Judgment</td> <td style="width: 25%;">Date NOA</td> <td style="width: 25%;">Date Rec'd</td> </tr> <tr> <td></td> <td>EOD:</td> <td>Filed:</td> <td>COA:</td> </tr> <tr> <td>02/06/2020</td> <td>02/06/2020</td> <td>02/18/2020</td> <td>02/19/2020</td> </tr> </table> | | | Date Order/Judgment: | Date Order/Judgment | Date NOA | Date Rec'd | | EOD: | Filed: | COA: | 02/06/2020 | 02/06/2020 | 02/18/2020 | 02/19/2020 | | | |
| Date Order/Judgment: | Date Order/Judgment | Date NOA | Date Rec'd | | | | | | | | | | | | | | |
| | EOD: | Filed: | COA: | | | | | | | | | | | | | | |
| 02/06/2020 | 02/06/2020 | 02/18/2020 | 02/19/2020 | | | | | | | | | | | | | | |
| Prior Cases: None | | | | | | | | | | | | | | | | | |
| Current Cases: <table style="width: 100%; border: none;"> <thead> <tr> <th style="text-align: left;">Related</th> <th style="text-align: left;">Lead</th> <th style="text-align: left;">Member</th> <th style="text-align: left;">Start</th> <th style="text-align: left;">End</th> </tr> </thead> <tbody> <tr> <td></td> <td>20-6239</td> <td><u>20-6550</u></td> <td>04/22/2020</td> <td></td> </tr> <tr> <td></td> <td>20-6239</td> <td><u>20-7177</u></td> <td>08/11/2020</td> <td></td> </tr> </tbody> </table> | | | Related | Lead | Member | Start | End | | 20-6239 | <u>20-6550</u> | 04/22/2020 | | | 20-6239 | <u>20-7177</u> | 08/11/2020 | |
| Related | Lead | Member | Start | End | | | | | | | | | | | | | |
| | 20-6239 | <u>20-6550</u> | 04/22/2020 | | | | | | | | | | | | | | |
| | 20-6239 | <u>20-7177</u> | 08/11/2020 | | | | | | | | | | | | | | |

| | |
|--|---|
| TRAVIS L. WATSON (State Prisoner: 0692957) Petitioner - Appellant | Travis L. Watson [NTC Pro Se] PASQUOTANK CORRECTIONAL INSTITUTION 527 Commerce Drive Elizabeth City, NC 27906-5005 |
| v. | |
| DENNIS DANIELS Respondent - Appellee | Phillip Anthony Rubin, Special Deputy Attorney General Direct: 919-716-6904 Email: prubin@ncdoj.gov [NTC Government] NORTH CAROLINA DEPARTMENT OF JUSTICE |

| | | | | | |
|---|------------------------|---|--|---|-------------------|
| STATE OF NORTH CAROLINA | | | | File No. 16CRS092616 51 | |
| GUILFORD County | | GREENSBORO City | | Seal of Court | |
| NOTE: [Use AOC-CR-342 for DWI offense(s)] | | | | | |
| STATE VERSUS | | | JUDGMENT AND COMMITMENT | | |
| Name Of Defendant WATSON, TRAVIS, LASHAUN | | | 2018 MAR -6 AM 11: 27 | | |
| Race B | Sex M | Date Of Birth 01/23/1980 | C.S.C. | | |
| Attorney For State WILLIAM A WOOD II | | | Attorney For Defendant THOMAS B KOBRIN | | |
| Def. Found Not Guilty | | | Def. Waived Attorney | | |
| G.S. 15A-1301, -1340.13 | | | G.S. 15A-1301, -1340.13 | | |
| The defendant was found guilty/responsible, pursuant to <input type="checkbox"/> plea <input type="checkbox"/> pursuant to Afford <input type="checkbox"/> of no contest <input type="checkbox"/> trial by judge <input checked="" type="checkbox"/> trial by jury, of | | | | | |
| File No.(s) | Off. | Offense Description | Offense Date | G.S. No. | F/M CL. *Pun. CL. |
| 16CRS092616 | 51 | POSSESSION OF FIREARM BY FELON | 12/29/2016 | 14-415.1 | F G C |
| 17CRS024032 | 51 | HABITUAL FELON | 12/29/2016 | 14-7.1 | F C |
| <p>*NOTE: Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement). The Court: <input checked="" type="checkbox"/> 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be <u>09</u>. Any prior record level point under G.S. 15A-1340.14(b)(7) is based on the determination of this issue by the trier of fact beyond a reasonable doubt or the defendant's admission to this issue. <input type="checkbox"/> 2. makes no prior record level finding because none is required for Class A felony, violent habitual felon, or drug trafficking offenses.</p> | | | | | |
| <p>The Court (NOTE: Block 1 or 2 MUST be checked.):</p> <p><input checked="" type="checkbox"/> 1. makes no written findings because the term imposed is: <input checked="" type="checkbox"/> (a) in the presumptive range. <input type="checkbox"/> (b) for a Class A felony. <input type="checkbox"/> (c) for adjudication as a violent habitual felon, G.S. 14-7.12. <input type="checkbox"/> (d) for drug trafficking. <input type="checkbox"/> for which the Court finds the defendant provided substantial assistance, G.S. 90-95(h)(5). <input type="checkbox"/> (e) in the aggravated range, pursuant to G.S. 20-141.4(b)(1a).</p> <p><input type="checkbox"/> 2. finds <input type="checkbox"/> the Determination of aggravating and mitigating factors on the attached AOC-CR-605. <input type="checkbox"/> egregious aggravation under G.S. 14-27.2A, 14-27.4A, 14-27.23, or 14-27.28, on the attached AOC-CR-618, which requires a sentence in excess of that authorized by G.S. 15A-1340.17.</p> <p><input checked="" type="checkbox"/> 3. adjudges the defendant to be a habitual felon to be sentenced <input type="checkbox"/> (offenses committed before Dec. 1, 2011) as a Class C felon. <input checked="" type="checkbox"/> (offenses committed on or after Dec. 1, 2011) four classes higher than the principal felony (no higher than Class C).</p> <p><input type="checkbox"/> 4. adjudges the defendant to be a habitual breaking and entering status offender, to be sentenced as a Class E felon.</p> <p><input type="checkbox"/> 5. adjudges the defendant to be an armed habitual felon to be sentenced as a Class C felon (unless sentenced herein as a Class A, B1, or B2 felon) and with a minimum term of imprisonment of no less than 120 months.</p> <p><input type="checkbox"/> 6. finds enhancement pursuant to: <input type="checkbox"/> G.S. 90-95(e)(3) (drugs). <input type="checkbox"/> G.S. 14-3(c) (hate crime). <input type="checkbox"/> G.S. 50B-4.1 (domestic violence). <input type="checkbox"/> G.S. 14-50.22 (gang misdemeanor). <input type="checkbox"/> Other: _____</p> <p>This finding is based on the determination of this issue by the trier of fact beyond a reasonable doubt or on the defendant's admission.</p> <p><input type="checkbox"/> 7. finds that the defendant committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and actually possessed the firearm or weapon about his or her person. This finding is based on the jury's determination of this issue beyond a reasonable doubt or on the defendant's admission. Pursuant to G.S. 15A-1340.16A, the Court has increased the minimum sentence by (check only one) <input type="checkbox"/> (Class A-E felony committed prior to Oct. 1, 2013) 60 months. <input type="checkbox"/> (Class A-E felony committed on or after Oct. 1, 2013) 72 months. <input type="checkbox"/> (Class F or G felony committed on or after Oct. 1, 2013) 36 months. <input type="checkbox"/> (Class H or I felony committed on or after Oct. 1, 2013) 12 months.</p> <p><input type="checkbox"/> 8. finds the above-designated offense(s) is a reportable conviction under G.S. 14-208.6 (check only one) <input type="checkbox"/> a. and therefore makes the additional findings and orders on the attached AOC-CR-615, Side One. <input type="checkbox"/> b. but makes no finding or order concerning registration or satellite-based monitoring due to a sentence of life imprisonment without parole.</p> <p><input type="checkbox"/> 9. finds the above-designated offense(s) involved the <input type="checkbox"/> physical or mental <input type="checkbox"/> sexual abuse of a minor. (NOTE: If offense(s) is not also a reportable conviction in No. 8 above, this finding requires no further action by the court.)</p> <p><input type="checkbox"/> 10. finds that a <input type="checkbox"/> motor vehicle <input type="checkbox"/> commercial motor vehicle was used in the commission of the offense and that it shall be reported to DMV.</p> <p><input type="checkbox"/> 11. finds this is an offense involving assault, communicating a threat, or an act defined by G.S. 50B-1(a), and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.</p> <p><input type="checkbox"/> 12. (offenses committed on or after Dec. 1, 2017, only) finds that the offense was committed as part of criminal gang activity as defined in G.S. 14-50.16A(2). <input type="checkbox"/> and that the defendant was a criminal gang leader or organizer as defined in G.S. 14-50.16A(3). This finding is based on the determination of this issue by the trier of fact beyond a reasonable doubt or on the defendant's admission.</p> <p><input type="checkbox"/> 13. finds the above-designated offense(s) involved (check one) <input type="checkbox"/> (offenses committed Dec. 1, 2008 - Nov. 30, 2017) criminal street gang activity <input type="checkbox"/> (offenses committed on or after Dec. 1, 2017) criminal gang activity. G.S. 14-50.25.</p> <p><input type="checkbox"/> 14. did not grant a conditional discharge under G.S. 90-96(a) because (check all that apply) <input type="checkbox"/> the defendant refused to consent. <input type="checkbox"/> (offenses committed on or after Dec. 1, 2013, only) the Court finds, with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense.</p> <p><input type="checkbox"/> 15. finds that the defendant used or displayed a firearm while committing the felony. G.S. 15A-1382.2.</p> <p><input type="checkbox"/> 16. finds that this was an offense involving child abuse or an offense involving assault or any of the acts as defined in G.S. 50B-1(a) committed against a minor. G.S. 15A-1382.1(a1).</p> | | | | | |
| The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be sentenced (check only one) | | | | | |
| <input type="checkbox"/> to Life Imprisonment Without Parole for <input type="checkbox"/> Class A Felony. <input type="checkbox"/> Class B1 Felony. <input type="checkbox"/> Violent Habitual Felon. <input type="checkbox"/> egregious aggravation under No. 2, above. | | | In the custody of: <input checked="" type="checkbox"/> N.C. DACJJ. <input type="checkbox"/> Other: _____ | | |
| <input type="checkbox"/> to Life Imprisonment With Parole, pursuant to G.S. Chapter 15A, Article 81B, Part 2A. | | | <input type="checkbox"/> Other: _____ | | |
| for a minimum term of: | and a maximum term of: | <input type="checkbox"/> ASR term (Order No. 4, Side Two) | | <input type="checkbox"/> to Death (see attached Death Warrant and Certificates) | |
| 96 months | 128 months | months | | | |
| The defendant shall be given credit for <u>427</u> days spent in confinement prior to the date of this Judgment as a result of this charge(s). | | | | | |
| <input type="checkbox"/> The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve. <input type="checkbox"/> The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below: | | | | | |
| File No. | Offense | County | Court | Date | |

Material opposite unmarked squares is to be disregarded as surplusage.

The Court further Orders: (check all that apply)

1. The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below.

| Costs | Fine | Restitution* | Attorney's fees | SBM Fee | Appt Fee/Misc | Total Amount Due |
|------------|------|--------------|-----------------|---------|---------------|------------------|
| \$ 4622.50 | \$ | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ 4,622.50 |

*See attached "Restitution Worksheet, Notice and Order (Initial Sentencing)," AOC-CR-611, which is incorporated by reference.

- ☐ 2. The Court finds that restitution was recommended as part of the defendant's plea arrangement.
- ☐ 3. The Court finds just cause to waive costs, as ordered on the attached ☐ AOC-CR-618. ☐ Other: _____
- ☐ 4. Without objection by the State, the defendant shall be admitted to the Advanced Supervised Release (ASR) program. If the defendant completes the risk reduction incentives as identified by the Division of Adult Correction and Juvenile Justice, then he or she will be released at the end of the ASR term specified on Side One. G.S. 15A-1340.18.
- ☐ 5. Other: _____

The Court recommends:

- ☐ 1. Substance abuse treatment. ☐ 2. Psychiatric and/or psychological counseling. ☐ 3. Work release ☐ should ☐ should not be granted.
- ☐ 4. Payment as a condition of post-release supervision or from work release earnings, if applicable, of the "Total Amount Due" set out above.
☐ but the Court does not recommend restitution be paid ☐ as a condition of post-release supervision. ☐ from work release earnings.

The Court further recommends:**ORDER OF COMMITMENT/APEAL ENTRIES**

- ☒ 1. It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- ☐ 2. The defendant gives notice of appeal from the judgment of the trial court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date: 03/01/2018
 Name Of Presiding Judge (type or print): THE HONORABLE EDWIN G WILSON JR.
 Signature Of Presiding Judge: 

ORDER OF COMMITMENT AFTER APPEAL

Date Appeal Dismissed: _____ Date Withdrawal Of Appeal Filed: _____ Date Appellate Opinion Certified: _____

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the agency named in this Judgment on the reverse and furnish that agency two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date: _____ Signature Of Clerk: _____ ☐ Deputy CSC ☐ Asst. CSC
☐ Clerk Of Superior Court

CERTIFICATION

I certify that this Judgment and Commitment with the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- ☒ Appellate Entries (AOC-CR-350) ☐ Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)
- ☐ Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605) ☐ Judicial Findings And Order For Sex Offenders - Active Punishment (AOC-CR-615, Side One)
- ☐ Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317) ☐ Additional Findings (AOC-CR-618)
- ☐ Victim Notification Tracking Form ☐ Convicted Sex Offender Permanent No Contact Order (AOC-CR-620)
- ☐ Additional File No.(s) And Offense(s) (AOC-CR-626) ☐ Other: _____

Date: 3-10-18 Date Certified Copies Delivered To Sheriff: _____ Signature Of Clerk:  ☐ Deputy CSC ☒ Asst. CSC
☐ Clerk Of Superior Court **SEAL**

Material opposite unmarked squares is to be disregarded as surplusage.

107

| | | | | | |
|--|------------------------|--|--|--|---|
| STATE OF NORTH CAROLINA | | FILED | | File No. 16CRS092606 51 | |
| GUILFORD County GREENSBORO | | Seal of Court | | | |
| NOTE: [Use AOC-CR-342 for DWI offense(s).] | | | | In The General Court Of Justice <input type="checkbox"/> District <input checked="" type="checkbox"/> Superior Court Division | |
| STATE VERSUS | | 2018 MAR -5 PM 2:57 | | JUDGMENT AND COMMITMENT ACTIVE PUNISHMENT - FELONY (STRUCTURED SENTENCING) (For Convictions On Or After Jan. 1, 2012) G.S. 15A-1301, -1340.13 | |
| Name Of Defendant WATSON, TRAVIS, LASHAUN | | Race B | | Sex M | |
| Date of Birth 12/13/1980 | | County GUILFORD CO., N.C. | | C.S.C. | |
| Attorney For State WILLIAM A WOOD II | | <input type="checkbox"/> Def. Found Not Indigent <input type="checkbox"/> Def. Waived Attorney | | Attorney For Defendant THOMAS B KOBRIN | |
| | | <input checked="" type="checkbox"/> Appointed <input type="checkbox"/> Retained | | Crt Rptr Initials MS | |
| The defendant was found guilty/responsible, pursuant to <input type="checkbox"/> plea <input type="checkbox"/> pursuant to Afford <input type="checkbox"/> of no contest <input type="checkbox"/> trial by judge <input checked="" type="checkbox"/> trial by jury, of | | | | | |
| File No.(s) | Off. | Offense Description | Offense Date | G.S. No. | F/M CL. *Pun. CL. |
| 16CRS092606 | 51 | ROBBERY WITH DANGEROUS WEAPON | 12/22/2016 | 14-87 | F D |
| *NOTE: Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement). The Court: <input checked="" type="checkbox"/> 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be <u>11</u> . Any prior record level point under G.S. 15A-1340.14(b)(7) is based on the determination of this issue by the trier of fact beyond a reasonable doubt or the defendant's admission to this issue. <input type="checkbox"/> 2. makes no prior record level finding because none is required for Class A felony, violent habitual felon, or drug trafficking offenses. | | | | | |
| PRIOR RECORD LEVEL: <input type="checkbox"/> I <input type="checkbox"/> III <input type="checkbox"/> V <input checked="" type="checkbox"/> II <input checked="" type="checkbox"/> IV <input type="checkbox"/> VI | | | | | |
| The Court (NOTE: Block 1 or 2 MUST be checked.): <input checked="" type="checkbox"/> 1. makes no written findings because the term imposed is: <input checked="" type="checkbox"/> (a) in the presumptive range; <input type="checkbox"/> (b) for a Class A felony; <input type="checkbox"/> (c) for adjudication as a violent habitual felon, G.S. 14-7.12; <input type="checkbox"/> (d) for drug trafficking; <input type="checkbox"/> for which the Court finds the defendant provided substantial assistance, G.S. 90-95(h)(5); <input type="checkbox"/> (e) in the aggravated range, pursuant to G.S. 20-141.4(b)(1a). <input type="checkbox"/> 2. finds <input type="checkbox"/> the Determination of aggravating and mitigating factors on the attached AOC-CR-605. <input type="checkbox"/> egregious aggravation under G.S. 14-27.2A, 14-27.4A, 14-27.23, or 14-27.28, on the attached AOC-CR-618, which requires a sentence in excess of that authorized by G.S. 15A-1340.17. <input type="checkbox"/> 3. adjudges the defendant to be a habitual felon to be sentenced <input type="checkbox"/> (offenses committed before Dec. 1, 2011) as a Class C felon. <input type="checkbox"/> (offenses committed on or after Dec. 1, 2011) four classes higher than the principal felony (no higher than Class C). <input type="checkbox"/> 4. adjudges the defendant to be a habitual breaking and entering status offender, to be sentenced as a Class E felon. <input type="checkbox"/> 5. adjudges the defendant to be an armed habitual felon to be sentenced as a Class C felon (unless sentenced herein as a Class A, B1, or B2 felon) and with a minimum term of imprisonment of no less than 120 months. <input type="checkbox"/> 6. finds enhancement pursuant to: <input type="checkbox"/> G.S. 90-95(e)(3) (drugs); <input type="checkbox"/> G.S. 14-3(c) (hate crime); <input type="checkbox"/> G.S. 50B-4.1 (domestic violence); <input type="checkbox"/> G.S. 14-50.22 (gang misdemeanor); <input type="checkbox"/> Other: _____ This finding is based on the determination of this issue by the trier of fact beyond a reasonable doubt or on the defendant's admission. <input type="checkbox"/> 7. finds that the defendant committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and actually possessed the firearm or weapon about his or her person. This finding is based on the jury's determination of this issue beyond a reasonable doubt or on the defendant's admission. Pursuant to G.S. 15A-1340.16A, the Court has increased the minimum sentence by (check only one) <input type="checkbox"/> (Class A-E felony committed prior to Oct. 1, 2013) 60 months. <input type="checkbox"/> (Class A-E felony committed on or after Oct. 1, 2013) 72 months. <input type="checkbox"/> (Class F or G felony committed on or after Oct. 1, 2013) 36 months. <input type="checkbox"/> (Class H or I felony committed on or after Oct. 1, 2013) 12 months. <input type="checkbox"/> 8. finds the above-designated offense(s) is a reportable conviction under G.S. 14-208.6 (check only one) <input type="checkbox"/> a. and therefore makes the additional findings and orders on the attached AOC-CR-615, Side One. <input type="checkbox"/> b. but makes no finding or order concerning registration or satellite-based monitoring due to a sentence of life imprisonment without parole. <input type="checkbox"/> 9. finds the above-designated offense(s) involved the <input type="checkbox"/> physical or mental <input type="checkbox"/> sexual abuse of a minor. (NOTE: If offense(s) is not also a reportable conviction in No. 8 above, this finding requires no further action by the court.) <input type="checkbox"/> 10. finds that a <input type="checkbox"/> motor vehicle <input type="checkbox"/> commercial motor vehicle was used in the commission of the offense and that it shall be reported to DMV. <input type="checkbox"/> 11. finds this is an offense involving assault, communicating a threat, or an act defined by G.S. 50B-1(a), and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim. <input type="checkbox"/> 12. (offenses committed on or after Dec. 1, 2017, only) finds that the offense was committed as part of criminal gang activity as defined in G.S. 14-50.16A(2). <input type="checkbox"/> and that the defendant was a criminal gang leader or organizer as defined in G.S. 14-50.16A(3). This finding is based on the determination of this issue by the trier of fact beyond a reasonable doubt or on the defendant's admission. <input type="checkbox"/> 13. finds the above-designated offense(s) involved (check one) <input type="checkbox"/> (offenses committed Dec. 1, 2008 - Nov. 30, 2017) criminal street gang activity <input type="checkbox"/> (offenses committed on or after Dec. 1, 2017) criminal gang activity. G.S. 14-50.25. <input type="checkbox"/> 14. did not grant a conditional discharge under G.S. 90-96(a) because (check all that apply) <input type="checkbox"/> the defendant refused to consent. <input type="checkbox"/> (offenses committed on or after Dec. 1, 2013, only) the Court finds, with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense. <input type="checkbox"/> 15. finds that the defendant used or displayed a firearm while committing the felony. G.S. 15A-1382.2. <input type="checkbox"/> 16. finds that this was an offense involving child abuse or an offense involving assault or any of the acts as defined in G.S. 50B-1(a) committed against a minor. G.S. 15A-1382.1(a1). | | | | | |
| The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be sentenced (check only one) | | | | | |
| <input type="checkbox"/> to Life Imprisonment Without Parole for: <input type="checkbox"/> Class A Felony. <input type="checkbox"/> Class B1 Felony. <input type="checkbox"/> Violent Habitual Felon. <input type="checkbox"/> egregious aggravation under No. 2, above. | | | in the custody of: <input checked="" type="checkbox"/> N.C. DACJJ. <input type="checkbox"/> Other: _____ | | |
| <input type="checkbox"/> to Life Imprisonment With Parole, pursuant to G.S. Chapter 15A, Article 81B, Part 2A. | | | | | |
| for a minimum term of: | and a maximum term of: | | <input type="checkbox"/> ASR term (Order No. 4, Side Two) | | <input type="checkbox"/> to Death (see attached Death Warrant and Certificates) |
| 97 months | 129 months | | | | |
| The defendant shall be given credit for <u>0</u> days spent in confinement prior to the date of this Judgment as a result of this charge(s). | | | | | |
| <input type="checkbox"/> The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve. <input checked="" type="checkbox"/> The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below: | | | | | |
| File No. | Offense | County | Court | Date | |
| 2016CRS 92616 | 51 | GUILFORD | SUPERIOR | 03/01/2018 | |

Material opposite unmarked squares is to be disregarded as surplusage.
(Over)

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The Court further Orders: (check all that apply)

1. The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below.

| Costs | Fine | Restitution* | Attorney's fees | SBM Fee | Appt Fee/Misc | Total Amount Due |
|-----------|------|--------------|-----------------|---------|---------------|------------------|
| \$ 352.50 | \$ | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ 352.50 |

*See attached "Restitution Worksheet, Notice and Order (Initial Sentencing)," AOC-CR-611, which is incorporated by reference.

- ☐ 2. The Court finds that restitution was recommended as part of the defendant's plea arrangement.
- ☐ 3. The Court finds just cause to waive costs, as ordered on the attached ☐ AOC-CR-618. ☐ Other: _____
- ☐ 4. Without objection by the State, the defendant shall be admitted to the Advanced Supervised Release (ASR) program. If the defendant completes the risk reduction incentives as identified by the Division of Adult Correction and Juvenile Justice, then he or she will be released at the end of the ASR term specified on Side One. G.S. 15A-1340.18.
- ☐ 5. Other: _____

The Court recommends:

- ☐ 1. Substance abuse treatment. ☐ 2. Psychiatric and/or psychological counseling. ☐ 3. Work release ☐ should ☐ should not be granted.
- ☐ 4. Payment as a condition of post-release supervision or from work release earnings, if applicable, of the "Total Amount Due" set out above.
☐ but the Court does not recommend restitution be paid ☐ as a condition of post-release supervision. ☐ from work release earnings.

The Court further recommends:

ORDER OF COMMITMENT/APEAL ENTRIES

- ☒ 1. It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- ☒ 2. The defendant gives notice of appeal from the judgment of the trial court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

| Date | Name Of Presiding Judge (type or print) | Signature Of Presiding Judge |
|------------|---|------------------------------|
| 03/01/2018 | THE HONORABLE EDWIN G WILSON JR. | |

ORDER OF COMMITMENT AFTER APPEAL

| Date Appeal Dismissed | Date Withdrawal Of Appeal Filed | Date Appellate Opinion Certified |
|-----------------------|---------------------------------|----------------------------------|
| | | |

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the agency named in this Judgment on the reverse and furnish that agency two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

| Date | Signature Of Clerk | <input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk Of Superior Court |
|------|--------------------|--|
| | | |

CERTIFICATION

I certify that this Judgment and Commitment with the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- | | |
|--|---|
| <input checked="" type="checkbox"/> Appellate Entries (AOC-CR-350) | <input type="checkbox"/> Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611) |
| <input type="checkbox"/> Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605) | <input type="checkbox"/> Judicial Findings And Order For Sex Offenders - Active Punishment (AOC-CR-615, Side One) |
| <input type="checkbox"/> Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317) | <input type="checkbox"/> Additional Findings (AOC-CR-618) |
| <input type="checkbox"/> Victim Notification Tracking Form | <input type="checkbox"/> Convicted Sex Offender Permanent No Contact Order (AOC-CR-620) |
| <input type="checkbox"/> Additional File No.(s) And Offense(s) (AOC-CR-626) | <input type="checkbox"/> Other: _____ |

| Date | Date Certified Copies Delivered To Sheriff | Signature Of Clerk | <input type="checkbox"/> Deputy CSC <input checked="" type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk Of Superior Court | SEAL |
|--------|--|--------------------|---|------|
| 3-6-18 | | | | |

Material opposite unmarked squares is to be disregarded as surplusage.

EXHIBIT II*Initial habeas as a
pretrial detainee.*

18BB,HABEAS

**U.S. District Court
North Carolina Middle District (NCMD)
CIVIL DOCKET FOR CASE #: 1:17-cv-01067-LCB-LPA
Internal Use Only**

WATSON v. CARVER

Assigned to: JUDGE LORETTA C. BIGGS

Referred to: MAG/JUDGE L. PATRICK AULD

Related Case: 1:17-cv-00934-LCB-LPA

Cause: 28:2241 Petition for Writ of Habeas Corpus (Federal) Jurisdiction: Federal Question

Date Filed: 11/27/2017

Jury Demand: None

Nature of Suit: 530 Habeas Corpus
(General)**Petitioner****TRAVIS LASHAUN WATSON**represented by **TRAVIS LASHAUN WATSON**

0692957

CASWELL CORRECTIONAL
CENTER



444 COUNTY HOME ROAD


BLANCH, NC 27212

PRO SE

V.

Respondent**MARK CARVER**

| Date Filed | # | Docket Text |
|------------|---|---|
| 11/27/2017 | <u>1</u> | PETITION for Writ of Habeas Corpus (pursuant to 28: U.S.C. 2241), filed by TRAVIS LASHAUN WATSON.(Butler, Carol) (Entered: 11/27/2017) |
| 11/27/2017 | | Filing fee: \$5.00, receipt number NCM039502. (Butler, Carol) (Entered: 11/27/2017) |
| 11/27/2017 | | Case Reassigned to JUDGE LORETTA C. BIGGS and MAG/JUDGE L. PATRICK AULD. N UNASSIGNED no longer assigned to the case. (Butler, Carol) (Entered: 11/27/2017) |
| 11/27/2017 | | CASE REFERRED for Screening (Butler, Carol) (Entered: 11/27/2017) |
| 11/27/2017 |  | (Court only) Set Flag (Butler, Carol) (Entered: 12/04/2017) |
| 11/30/2017 |  | (Court only) Case no longer referred for Screening (Butler, Carol) (Entered: 11/30/2017) |
| 11/30/2017 | 1 2 | ORDER AND RECOMMENDATION as to TRAVIS LASHAUN |

| | | |
|------------|---|---|
| | | WATSON, signed by MAG/JUDGE L. PATRICK AULD on 11/30/2017. ORDERED that in forma pauperis status is granted for the sole purpose of entering this Order and Recommendation. The Clerk is instructed to return the five dollar filing fee to Petitioner and send Petitioner § 2241 forms, instructions, and a current application to proceed in forma pauperis. RECOMMENDED that this action be filed, but then dismissed sua sponte without prejudice to Petitioner filing a new petition which corrects the defects of the current Petition. (Butler, Carol) (Entered: 11/30/2017) |
| 11/30/2017 | <u>3</u> | Notice of Mailing Recommendation. Objections to R&R due by 12/14/2017. Objections to R&R for Pro Se due by 12/18/2017 (Butler, Carol) (Entered: 11/30/2017) |
| 11/30/2017 | | ORDER that in forma pauperis status is granted. Signed by MAG/JUDGE L. PATRICK AULD on 11/30/2017. See <u>2</u> .(Butler, Carol) (Entered: 11/30/2017) |
| 11/30/2017 |  | (Court only) NOTICE of Manual Mailing re <u>1</u> Petition for Writ of Habeas Corpus, <u>3</u> Notice of Mailing Recommendation, <u>2</u> RECOMMENDED RULING - MAGISTRATE JUDGE, § 2241 forms, instructions, and a current application to proceed in forma pauperis in paper form from the Clerk's Office to TRAVIS LASHAUN WATSON, 069295,7 CASWELL CORRECTIONAL CENTER,444 COUNTY HOME ROAD,BLANCH, NC 27212. (Butler, Carol) (Entered: 11/30/2017) |

copy

United States Court of Appeals
For The Fourth Circuit
No: 20-6239 (1:19 cv 249)

EXHIBIT 12

Travis L. Watson

v

Dennis Daniels et al.

Harris Corpus 2254
On Appeal

Directly Related Cases: 2005 Judgment-
04CRS78728; 04CRS78731; 04CRS69837

Motion For Stay of Mandate, Fed. R. App. P. Rule 41(d)(1).
Substantial Questions Presented. Affidavit Attached.

1. IS an individual, who is charged with a new crime while on post-release supervision, entitled to Due Process before he's sent to prison to process?
2. Is it constitutional for an individual who has been accused of a crime while on post-release supervision to be committed to a state prison facility, when:
 - a) There has been no adjudication of guilt in the criminal proceeding for the new charges?
 - b) There has been no order or decree from any court or authorized agency?
 - c) Post-release supervision has not been revoked?
 - d) The individual has not been afforded any notice or process at all prior to imprisonment in the state prison?
 - e) No statement or commitment has been issued to the Dept. of Public Safety, Division of Adult Correction, concerning the individual's imprisonment, in accord with N.C. General Statutes 14B-59 and 15A-1361? and
 - f) The individual is under contract to postpone the post-release supervision proceedings "until pending N.C. criminal charges have been disposed of by the courts"?
3. Is it constitutional for the state to commit the accused, unconvicted Defendant/Supervisee to a state prison and force him to work?

* 4. Does the following verbatim clause give rise to a protected liberty interest? This is a clause in the waiver that Mr. Watson signed with the state:

"I do hereby waive my right to a Preliminary Hearing and LPRSCJ Hearing until pending North Carolina criminal charges have been disposed of by the courts. I do understand the purpose of these hearings is to determine whether there is probable cause to believe that I have violated the conditions of my Parole / Conditional Release / LPRSCJ here to fore granted by the North Carolina LPRSCJ. I do also understand that I can request the Preliminary Hearing to be held prior to the pending charges' disposition by contacting my Probation / Parole Officer in writing".

5. Is it constitutional to commit an individual to a state prison pursuant to above waiver and without any process subsequent to the waiver?

6. Is it constitutional to deny state habeas Right To Counsel when General Statutes afford Petitioner Right To Counsel? See G.S. 7A-451(a)(2).

September 12, 2021

L. L. Watson

Certificate of Service

I certify that the foregoing was placed in the prison mail to be delivered and served on the following Respondents:

1. ERIC A. HOOKS, Secretary, N.C. Dept. of Public Safety, et al.

September 12, 2021

L. L. Watson

∴ copy United States Court of Appeals
For The Fourth Circuit
No: 20-6239, (1:19cv249)

Travis L. Watson

v

Dennis Daniels et al.

Habeas Corpus 2254

On Appeal.

Directly Related Cases: 2005 Judgment.
04CRS78728; 04CRS78731; 04CRS69837

Motion For Stay Of Mandate. Fed. R. App. P. Rule 41(d)(1).

^{Affidavit Attached.}
The pro se Petitioner, Travis L. Watson, moves the court to stay

the mandate pending the filing of a Petition for a Writ of Certiorari in the U.S. Supreme Court. This Motion will show that based on the particular facts surrounding, in, and pertaining to Mr. Watson's case, that this Motion should be granted because there are substantial and constitutional questions that would be presented in the petition and there is also good cause for a stay. This Motion is not a frivolous Motion nor is it filed for delay. The claims presented in this Motion have merit, are factually and materially based, and are supported by the record.

FACTS

PROCEDURAL HISTORY

Defendant-Petitioner, Travis L. Watson was released from prison to serve a 5 year post-release supervision (PRS) sentence in reference to a 2005 conviction, cases 04CRS78728, 04CRS78731, and 04CRS69837, on April 16, 2015. On December 29, 2016, officers with the Greensboro Police Department arrested Mr. Watson on two new felony charges and detained him in the Guilford County Jail. On January 3, 2017, the Post Release Supervision and Parole Commission (PRSPC) served Mr. Watson with a post-release supervision warrant based on the new felony charges. On January 13, 2017, Mr. Watson met with a representative

from the PRSPC in which he signed a waiver contract to postpone the PRS proceedings "until pending North Carolina criminal charges have been disposed of by the courts", as the waiver states. On May 22, 2017, Mr. Watson was committed to a state prison facility to process before any adjudication on the new charges and without any hearing with the PRSPC. On November 1, 2017, Mr. Watson filed a state habeas application to challenge the imprisonment. On November 13, 2017, Mr. Watson also filed a Motion to dismiss the criminal charges. On November 16, 2017, the said motions came for hearing before the Honorable John D. Craig III, Superior Court Judge Presiding. Finding he was without jurisdiction to address a related habeas issue regarding PRS, Judge Craig declined to dismiss the criminal charges as requested by Mr. Watson. Mr. Watson remained a ward of the state until the December 11, 2017 order issued by the PRSPC to release Mr. Watson from the Division of Adult Correction (DAC).

REASONS WHY THIS MOTION SHOULD BE GRANTED

1. The issue of the State of N.C. imprisoning Mr. Watson in a state prison facility before adjudication on pending felony charges and ~~without any hearing~~ for PRS is one of first impression based on the facts and circumstances of this case. This issue involves legal principles of constitutional significance to the jurisprudence of the Fourth Circuit Courts because the lower court's need guidance on this issue which has affected Mr. Watson's constitutional rights and has a material bearing on this case depending on how the following substantial questions are answered:

(i) Is an individual who is charged with a new crime while on post release supervision, entitled to due process before he's sent to prison to process?

• (ii) Is it constitutional for an individual who has been accused of a crime while on post-release supervision to be committed to a state prison facility, when:

a) There has been no adjudication of guilt in the criminal proceeding for the new charges?

b) There has been no order or decree from any court or authorized agency, to imprison Mr. Watson?

c) Post-release supervision has not been revoked?

d) The individual has not been afforded any notice or process at all prior to imprisonment in the state prison?

e) No statement or commitment has been issued to the Dept. of Public Safety, Division of Adult Correction, concerning the individual's imprisonment in accord with N.C. General Statutes 14B-59 and 15A-1301.3 and

f) The individual is under contract to postpone the PRS proceedings "until pending N.C. criminal charges have been disposed of by the courts?"

2. There is good cause for a stay because the court has misapprehended the veracity of Mr. Watson's claims in his Federal Habeas Petition (FHP) due to fraud. The State of N.C. has injected several fraudulent claims, concealments, and documents in this case, that it is improperly influencing the judicial system's ability to impartially adjudicate the matter without prejudice to Mr. Watson.

(i) The State of N.C. altered and changed Mr. Watson's original judgment and commitment forms illegally imposing a lengthier sentence.

(ii) Concealment of Mr. Watson's state habeas application.

(iii) Prosecutor committed fraud on the trial court with a misrepresentation that had a material bearing on the judge's decision at the November 16, 2017 hearing in Guilford County Superior Court.

(iv) Fabricated order by a parole commission.

(v) State habeas order misrepresents material facts of the 2005 judgment.

3. In this case, Mr. Watson was sent to prison with absolutely no process and forced to work. When he filed complaint, he was transferred to Caswell C.C. where he was placed in solitary confinement for refusing to carry prisoners' property to a specific destination. Again, Mr. Watson filed complaint. A month later he was sent back to the Guilford County Jail. These actions are in contravention to the 13th Amendment and constitute slavery and leads to another substantial question:

(i) Is it constitutional for the state to commit the accused, unconvicted Defendant / Supervisee to a state prison and force him to work?

4. Mr. Watson did not receive a fair review of his case. The fraud has not been addressed in Mr. Watson's case. On August 8, 2021 Mr. Watson informed the U.S. Court of Appeals that documents to support his claims of fraud in his Motion To Amend Pleading for Requested Relief (filed 8-1-21), had been requested from the U.S. District Court - M.D.N.C. Mr. Watson also notified the court of intentional intervening actions to delay him receiving the documents. He even called the Case Manager, A. Browlee of the Fourth Circuit COA and notified her. On September 6, 2021, Mr. Watson mailed the requested documents attached to the Motion and also in a separate envelope, an Affidavit concerning its arrival. The Affidavit made it to the court but the package was delayed by the prison. Despite the Affidavit, the court denied Mr. Watson's Motion To Amend Pleading For Requested Relief ~~without~~ without the supporting documents to verify, affirm, and prove his claims of fraud.

5. The review in the Court of Appeals did not comport with due process. After realizing that the state's fraud was influencing the court's ability to determine the facts, on August 12, 2021, August 14, 2021, and August 18, 2021, Mr. Watson filed a request

for interrogatories and production of documents to be served on the respondents. Their interrogatories and documents were made clear to the court that they would support Mr. Watson's claims in his Petition for Rehearing, Petition for Rehearing En Banc, and Motion to Amend Pleading for Requested Relief. The petitions and motion were denied before the state disclosed any discovery and the discovery requests were not mentioned or addressed in the September 8, 2021 order.

In similar fashion Mr. Watson filed his initial Motion to Amend Pleading for Requested Relief on June 17, 2021 with the Fourth Circuit court. On July 8, 2021, after a 17 month wait (informal brief filed February 20, 2020), the court issued an order denying Mr. Watson's appeal. The order did not address Mr. Watson's June 17, 2021 Motion to Amend Pleading for Requested Relief and that is why he refiled it on August 1, 2021 after he submitted his Petition for Rehearing and Motion for Rehearing En Banc. It appears the court is going around addressing the fraud that has plagued Mr. Watson's case. They refuse to acknowledge it although it is supported by the record. The State of N.C. has committed fraud on the trial court, the U.S. District Court, and the Fourth Circuit court. The failure of the court to address this fraud which was perpetrated to cover up perjured procedural due process violations in the 2005 judgment and 2018 judgment has caused irreparable constitutional injury to Mr. Watson. The fairness and integrity of the 2005 and 2018 judgment has been compromised at Mr. Watson's expense. Original judgments changed and altered material facts misrepresented by documents and at a hearing, deprivation of freedom without any process not to mention the many violations of the state's own N.C. General Statutes in order to perpetrate the fraud, and yet the court can see no error.

5. This Motion should also issue because the State of N.C. breached a contractual agreement with Mr. Watson. On January 13, 2017 Mr. Watson signed a waiver to postpone the res proceedings

in the 2005 Judgment and to face the new charges in the criminal proceedings initiated for the 2016 felony charges. The waiver obligated the state to dispose of the pending N.C. criminal charges, per contract. Despite this obligation, Mr. Watson was committed to a state prison, which leads to the following substantial questions:

(i) Does the verbatim clause of the waiver contract give rise to protected liberty interests in the 2005 and 2018 Judgments?
(See Complete clause on page 2 of Questions).

(ii) Is it constitutional to commit an individual to a state prison pursuant to this waiver, before any process subsequent to the waiver?

6. This Motion should be granted because Mr. Watson's Petition For Rehearing involves a Right To Counsel claim in which Mr. Watson was denied counsel at his November 16, 2017 habeas hearing. The habeas transcript shows why Mr. Watson was denied counsel and forced to proceed pro se without a waiver of counsel in contravention to *Faretta v California*, U.S. Supreme Court. Mr. Watson's objections also show that he did object to the Magistrate Judge's Recommendation in that portion of the claim. The Fourth Circuit CA, in their July 8, 2021 opinion, denied review of the claim because [Mr. Watson] had waived appellate review of his claim that he was denied the right to counsel during an hearing on his state application for a writ of habeas corpus because he did not specifically object to that portion of the recommendation. This is clear and plain error. Mr. Watson's objections show did he did in fact object and argue against the Magistrate Judge's Recommendation to Ground 3. This leads to the final substantial question:

(i) Is it constitutional to deny the Right To Counsel and allow a defendant/petitioner to proceed pro se without a waiver of counsel during a state habeas hearing, when the state's General Statutes give a state habeas Petitioner the Right To Counsel? See N.C.G.S. 7A-451(a)(2).

For the following reasons, Mr. Watson respectfully requests the court to grant this Motion To Stay The Mandate.

September 12, 2021

6 of 6

James L. Watson
527 Commerce Dr.
Elizabeth City, N.C.
27906

Certificate of Service

I certify that the foregoing 'Motion To Stay The Mandate' was placed in the prison mailing system to be delivered and served on the following:

1. ERIK A. HOOKS, Secretary, N.C. Dept. of Public Safety, et al.
(Respondents)

September 12, 2021

Law L. Watson
527 Commerce Dr.
Elizabeth City, N.C.
27906

1 of 1

- : copy

United States Court of Appeals
For The Fourth Circuit
No: 20-6239 (1:19cv249)

Travis L. Watson

v

Dennis Daniels et al.

Habeas Corpus 2254

On Appeal

Directly Related Case(s): 2005 Judgment
04CR578728; 04CR578731; 04CR569837

Affidavit: In Support of Motion For stay of Mandate

I, Travis L. Watson, do swear and affirm under penalty of perjury:

1. I did complete a Motion To Stay the Mandate of the September 8, 2021 order from the U.S. Court of Appeals.
2. That the claims and Issues in the Motion are supported by the record and will be presented as soon as the documents are delivered by this court.
3. That the facts and procedural history in the Motion are factual and supported by the records.
4. That the Fourth Circuit COA decided and denied my Motion To Amend Pleading For Requested Relief, before the court received the supporting record and documents although I kept the court up to breast the status of the requested documents through letters and phone calls.
5. The court did not give a deadline for the documents but I sent them as soon as I received them which was (1) one month from initial request for the documents and notice to the court that the documents were requested.
6. That on May 22, 2017 I was committed to prison without any process

and forced to work. I was transferred after complaint.

7. At the next prison, Caswell C.C. I was placed in segregation after refusing to carry a large load of prisoners' property to a destination. I had been at the prison 10 days.

8. On June 17, 2021 I initially filed a Motion To Amend Pleadings. For Requested relief once I realized the fraud in my case and that the fraud was influencing the judge's determinations of facts.

9. The Motion was not addressed in the July 8, 2021 Order denying my appeals.

10. I refiled the Motion To Amend Pleadings on August 1, 2021 after I filed my Petition for Rehearing and Petition For Rehearing En Banc.

11. I filed interrogatories and production of documents to support both my petitions and Motion To Amend Pleadings, exposing the fraud in my case.

12. The court denied my Motion and Petitions before the Respondents gave any discovery and before my documents to support my claims were delivered to the court.

13. I called and spoke to my case manager, A. Brownlee, notifying her that intentional measures were being taken to delay me receiving the documents. This was August 26, 2021 around 9:15 a.m. I told her I'd re-requested them the same day.

14. I objected to the Magistrate Judge's Recommendation to my Right To Counsel claim and my objections state that I objected and argued.

15. I placed this Motion To Stay with Attached Affidavit in the prison mailbox on September 11, 2021.

Under penalty of perjury, all the foregoing are true and correct.

September 11, 2021

2 of 3

Travis C. Watson
Travis C. Watson
527 Commerce Dr.
Elizabeth City, N.C. 27906

Certificate of Service

The foregoing Affidavit in Support of Motion To Stay the Mandate was placed in the mailbox to be delivered and served on the following Respondents:

1. ERIK A. HOOKS, Secretary, N.C. Dept. of Public Safety et al.

September 12, 2021

Law Liberator
527 Commerce Dr.
Elizabeth City, N.C.
27906

FILED: September 16, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-6239
(1:19-cv-00249-LCB-LPA)

TRAVIS L. WATSON

Petitioner - Appellant

v.

DENNIS DANIELS

Respondent - Appellee

M A N D A T E

The judgment of this court, entered July 8, 2021, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

FILED: September 17, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-6239
(1:19-cv-00249-LCB-LPA)

TRAVIS L. WATSON

Petitioner - Appellant

v.

DENNIS DANIELS

Respondent - Appellee

ORDER

Upon consideration of the motions to stay mandate, the court denies the motions.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk