

No 22-5328

JUSTIN MICHAEL TYSON,

Petitioner,

V
NORTH CAROLINA,

Respondent.

PETITIONER'S PETITION FOR REHEARING OF THE
ORDER DENYING HIS PETITION FOR A WRIT OF CERTIORARI

NOW COMES Petitioner Justin Michael Tyson, in the above titled action, represented pro se, in propria persona pursuant to Rule 442 of the Supreme Court of the United States and moves this court for rehearing of the October 11th, 2022 Order DENYING Petitioner's Petition for a Writ of Certiorari. Petitioner does have sufficient grounds for the rehearing of his petition consisting of a substantial or controlling effect. These grounds are now presented to this court respectfully.

GROUND FOR REHEARING OF THE OCTOBER 11, 2022
ORDER DENYING PETITIONER'S PETITION FOR A WRIT
OF CERTIORARI

Petitioner shows this court that this Petition for Rehearing should be considered and granted by this court due to an intervening circumstance of a substantial or controlling effect. This substantial or controlling effect consists of this court and the unnamed justice that made the decision to deny petitioner's petition for a writ of certiorari giving no reason that is supported by fact and the law. There was no application of the law in the October 11, 2022 order handed down by the unnamed justice and signed by Clerk, Scott S. Harris. The October 11, 2022 order depended on the will of the official rather than the facts and the law. This renders the October 11, 2022 action arbitrary as, "An arbitrary action is the result of the will of an individual, rather than the reasonable or reasoned application of the law to a given array. See Arbitrary (Arbitrariness) (Bouvier Law Dictionary (2012 Edition)). Arbitrary has also been defined as, "What depends on the will of the judge, not regulated or established by law. Bouvier, 1853. It has been determined by the courts that, Arbitrary means fixed or done capriciously or at pleasure. An act is arbitrary when it is done without adequately determining principle; not done according to reason or judgment, but depending upon the will alone - absolute in power, tyrannical, despotic, non-rational - implying either a lack of understanding of the fundamental nature of things. Davis - Everett v. Dole, 926 So. 2d 1153. Ct. App. 2006 (Lshee, J.).

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The decision entered on October 11, 2022 by an unnamed Justice of the Supreme Court of the United

States is capricious as the order does lack a foundation that makes any sense and it was not based on at least some form of evidence as applied to an appropriate policy, rule, or legal standard. Capricious (Capriciousness) has been defined as Unjustifiable. Capriciousness is the quality of an action or decision that lacks a foundation that makes any sense. Capriciousness is usually one half of a deferential standard of review that would uphold a decision that is not arbitrary... Thus, a decision that lacks a reasonable foundation based on at least some form of evidence as applied to an appropriate policy, rule, or legal standard is capricious. An official decision taken for strictly personal reasons that do not equate to public reasons of an official justification is capricious as an official act. (Capriciousness, Capricious or Capriciously or Caprice) (Bovier Law Dictionary (2012 Edition)).

This arbitrary act and capricious decision does result in a substantial or controlling effect because if the October 11, 2022 order is sustained then the October 11, 2022 order would allow an abuse of discretion to become the law of the case, and any other abuse of discretion would automatically be upheld in subsequent proceedings. See Southern Furniture Co. v. Dept of Transp., 133 NC App 400, 408, 516 S.E. 2d 383, 388 (1999); N.C.N.B. v. Virginia Home Builders, 307 NC 563, 299 S.E. 2d 629 (1983); Wrenn v. Maria Parham Hosp., Inc., 135 NC App 612, 522 S.E. 2d 1550 S.E. 2d 1711, 789, cert. denied, 351 NC 312, 543 S.E. 2d 149 (2000) (holding, "It has long been recognized that 'once an appellate court has ruled on a question, that decision becomes the law of the case and governs the question both in subsequent proceedings in a trial court and on subsequent appeal.'") Being that an abuse of discretion would govern the questions raised in petitioner's petition for a writ of certiorari if the October 11, 2022 order is sustained, the effect of the October 11, 2022 order and decision made by an unnamed justice would be both controlling and substantial as the law would be in an equilibrium uproar due to the controlling law of the case Hason v. State of North Carolina. This controlling law of Hason v. State of North Carolina would unlawfully justify an abuse of discretion by the courts by allowing an arbitrary act and capricious decision to be deemed lawful in the current proceeding and any other subsequent proceedings. See Southern Furniture Co. v. Dept of Transp., 133 NC App 400, 408, 516 S.E. 2d 383, 388 (1999); N.C.N.B. v. Virginia Home Builders, 307 NC 563, 299 S.E. 2d 629 (1983); Wrenn v. Maria Parham Hosp., Inc., 135 NC App 612, 522 S.E. 2d 1550 S.E. 2d 1711, 789, cert. denied, 351 NC 312, 543 S.E. 2d 149 (2000) (holding, "It has long been recognized that 'once an appellate court has ruled on a question, that decision becomes the law of the case and governs the question both in subsequent proceedings in a trial court and on subsequent appeal.'")

The order entered on October 11, 2022 is rendered as an act that is arbitrary as it was done without adequately determining principle and not according to reason. See Davis - Everett, 926 So. 2d 219, 282 (Miss. Ct. App. 2006) (Ishee, J.). This act was done at the will of the justice and not regulated or established by law. See

Arbitrary (Bouvier, 1853). This act fails to make any sense as to why the petition for a writ of certiorari was denied. The court failed to support its decision with any statutory or legislative facts. See Capriciousness, Capricious, or Capriciously or Caprice (Bouvier Law Dictionary). There was no reasoned application of the law given as to No. 22-5328 and its denial. Rather, this denial depended on the will of the unnamed justice that carelessly denied

the petition for a writ of certiorari without making any sense of the reason for the denial or supporting that reason with facts and controlling law. In other words the court/unnamed justice abused its discretion by entering a capricious decision based upon an arbitrary act. See Washington v. Prado, 187 P.3d 901 (Wash. App. Div. 3 2008) (Stephens, J.)

(holding, An abuse of discretion occurs when the court's decision is manifestly unreasonable or is exercised on untenable grounds, or for untenable reasons.). See also (Capriciousness or Capricious or Capriciously or Caprice) (Bouvier Law Dictionary (2012 Edition)); See Davis - Everett, 926 So. 2d 279, 282 (Miss. Ct. App. 2006) (Shee, J.).

This abuse of discretion is an intervening circumstance of a substantial or controlling effect. The substantial and controlling effect of the October 11, 2022 order has been described in the above paragraphs, and this petition for rehearing of the

Petitioner's petition for A Writ Of Certiorari should be granted due to the substantial and controlling effect of an

abuse of discretion governing the question of an unlawful indictment in subsequent proceedings in a trial court or on subsequent appeal. See Southern Furniture Co., 133 NC App. 400, 408, 516 S.E. 2d 383, 388 (1999); NCNB, 307 NC 563, 299 S.E. 2d 629 (1983); Wrenn, 135

NC App. 612, 522 S.E. 2d 1550 S.E. 2d 170, 789, cert. denied, 351 NC 312, 543 S.E. 2d 49 (2000).

WHEREFORE Petitioner Justin Michael Tyeen respectfully requests this court to grant his petition

for rehearing.

CONCLUSION

For the above stated reasons this petition for rehearing should be granted.

CORPORATE DISCLOSURE STATEMENT

There is no parent or publicly held company owning 10% or more of the corporation's stock.

This the 3rd day of November 2022.

By: Justin M. Tyson

Justin M. Tyson

Pro. Se. Liggant, In Propria Persona

Pitt County Detention Center

124 New Hope Road

Greenville, North Carolina 27834

CERTIFICATE OF COUNSEL

This Petition is submitted and presented in good faith and not for delay.
This Petition is restricted to the grounds specified in Rule 44.2 of the
Supreme Court of the United States. Hereby certified by Justin M. Tyson.

This the 3rd day of November 2022

By: Justin M. Tyson
Justin M. Tyson

Pro Se Litigant, In Propria Persona

Pitt County Detention Center

124 New Hope Road
Greenville, North Carolina 27834

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2022 a copy of the document entitled Petitioner's Petition For Rehearing of the Order Denying His Petition for a Writ of Certiorari was placed in the institution's Pitt County Detention Center's internal mail system with prepaid first-class postage, by Justin M. Lyson, and mailed to:

NC Attorney General
114 West Edenton Street
Raleigh, North Carolina 27603
(919) 716-6400

Supreme Court of the United States
First Street, NE
Washington, DC 20543
(202) 479-3011

This the 3rd day of November 2022.

By: Justin M. Lyson
Justin M. Lyson
Pro Se Litigant, In Propria Persona
Pitt County Detention Center
124 New Hope Road
Greenville, North Carolina 27834