

Supreme Court, U.S.

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OFFICE OF THE CLERK

No. 23-150

IN THE SUPREME COURT OF THE UNITED STATES

RONALD PRESTON HARPER JR,
Petitioner

v.

NORTH CAROLINA,
Respondent

On Petition for Writ of Certiorari to the
Appeals Court of North Carolina

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Is it illegal to criticize police in North Carolina? Do citizens, using their God-given rights of life, liberty and pursuing their happiness, have the right to expect that police will respect those rights and not expect them to immediately kowtow? If police are given the "objective reasonableness" standard, shouldn't citizens, when confronted with gun carrying "public servants", be given grace as they move from being free to being detained? Especially as it related to the growing false accusations of "swatting"?

TABLE OF CONTENTS

QUESTIONS PRESENTED.....	ii
TABLE OF CONTENTS.....	iii
LIST OF PARTIES.....	iv
RELATED PROCEEDINGS.....	iv
TABLE OF AUTHORITIES.....	v
OPINIONS BELOW.....	vi
JURISDICTION.....	vi
RELEVANT CONSTITUTION PROVISIONS.....	vii
STATEMENT OF THE CASE.....	1
REASONS FOR GRANTING THE WRIT.....	19
CONCLUSION.....	20
APPENDIX.....	21

LIST OF PARTIES

1. Ronald Preston Harper Jr, Petitioner
2. Ms. Juliane L. Bradshaw, Assistant Attorney General, For State of North Carolina
3. Faris Dixon, District Attorney for Pitt County North Carolina

RELATED PROCEEDINGS

1. *State of North Carolina vs. Ronald Preston Harper*, Supreme Court of North Carolina, No. 324P22
2. *State of North Carolina vs. Ronald Preston Harper*, North Carolina Court of Appeals, 21-752
3. *State of North Carolina vs. Ronald Preston Harper*, Pitt County, North Carolina, 19CRS56608

TABLE OF AUTHORITIES

Federal Cases

City of Houston v. Hill, 482 U.S. 451 (1987)

Cohen v. California, 403 U.S. 15 (1971)

Graham v. Connor, 490 U.S. 386 (1989)

State Cases

State v. Mobley, 83 S.E.2d 100 (N.C. 1954)

In the Matter of D.B., 714 S.E.2d 522 (N.C. Ct. App. 2011)

State v. Otto, 366 N.C. 134, 136, 726 S.E.2d 824, 827 (2012)

State v. Johnson, 204 N.C. App. 259, 264, 693 S.E.2d 711, 715 (2010)

State v. Hughes, 353 N.C. 200, 208, 539 S.E.2d 625, 631 (2000)

OPINIONS BELOW

The published opinion IN THE COURT OF APPEALS OF
NORTH CAROLINA, 2022-NCCOA-630, No. COA21-752
(are attached in Appendix 1) and the Supreme Court of
North Carolina, No. 324P22, Denied.

JURISDICTION

The Supreme Court of North Carolina denied review on
March 1, 2023 (see Appendix 2). This petition is timely
filed pursuant to Supreme Court Rule 13.1. This Court
has jurisdiction under 28 U.S. Code § 1254.

RELEVANT CONSTITUTION PROVISIONS

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or

indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

STATEMENT OF THE CASE

This matter is about a single arrest for the sole charge of Resisting Arrest in Winterville, NC on September 14, 2019 by Officer Jordan Cruse of the Winterville Police Department. Petitioner was able to beat all the significant police retaliation that followed for the 'crime' of the Petitioner's political position of holding police accountable.

Every single moment of Petitioner's arrest and arraignment was captured on Officer Cruse's body-cam as well as Petitioner's wife who captured the arrest on video and is available for the court.

Petitioner successfully sued, in part, for the right to film police after being falsely arrested in 2004. As a result of that experience and to avoid similar situations, Petitioner comported his life to the United States Supreme ruling of City of Houston v. Hill, 482 U.S. 451 that states "The freedom of individuals verbally to oppose or challenge police

action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state." The Petitioner AKA "Public Investigator" as stated on his business card, and outspoken liberty lover, had business cards made with this United States Supreme Court quote on the back, in order to hand to police and remind them of this lawful order so that they would conduct themselves accordingly. Petitioner also bought the domain name OfficialObserver.com, "America's Constitution Police", had magnetic signs made for his vehicle, obtained a professional reflective vest prominently marked OFFICIAL OBSERVER, and carries business cards which have on the back, "Lawful ORDER by the United States Supreme Court:" with the above City of Houston v. Hill quote.

Petitioner was arrested for his political views on police. While Petitioner was handcuffed and in the police cruiser, Officers Cruse and Fuquay were laughing with Sgt.

Santiago when Officer Cruse said, "He was harassing him because of his Blue Line Sticker." and Sgt. Santiago responded, "He's got a Blue Line Sticker on the bumper?" (AXON_Body_2_Video_2019-09-14_1456.mp4,states evidence 2019-09-14 T1859:242)

At the arraignment for Resisting Arrest at the Pitt County Detention Center, Magistrate Kim McCauley (States evidence AXON_Body_2_Video_2019-09-14_1536.mp4, 2019-09-14 T19:37:301) was told by Officer Jordan Cruse of the Winterville Police Department "A gentleman called and saying he was being harassed by Mr. Harper about his Blue Line Sticker." Later, the Magistrate asked, "The issue is with a Blue Line Sticker?" to which Officer Cruse answered, "I guess he doesn't like police." Petitioner quoted City of Houston v. Hill, 482 U.S. 451 in the courtroom.

A few minutes later, as Officer Cruse was rolling Petitioner out in a wheelchair because of his multiple handicaps,

Petitioner said, "You told her that I was exercising my constitutional rights. I am allowed to criticize a Blue Line Bumper Sticker without being arrested. Except here in Winterville." Officer Cruse responded, "Ok, well you're in

North Carolina you're not in Pennsylvania anymore."

(AXON_Body_2_Video_2019-09-14_1536.mp4, States evidence 2019-09-14 T19:58:263)

On the way to jail for Resisting Arrest, Petitioner warned Officer Cruse that he was going to use his First Amendment rights to investigate Officer Cruse. If there were any doubt about whether Officer Cruse heard Petitioner's warning, Officer Cruse, while Petitioner was literally in jail for an unpopular opinion, searched the internet and subscribed to one of Petitioner's YouTube channels which features police accountability videos, thereby communicating that Officer Cruse was going to be monitoring Petitioner's First Amendment outlet.

Everything that follows was Winterville Police targeting Petitioner as punishment for holding police accountable.

Over the next three months, Petitioner began filming a number of Officer Cruse's traffic stops and, utilizing rights spelled out in *City of Houston v. Hill*, 482 U.S. 451, protested Officer Cruse's warrant-less searches that seemed to be predicated on racial profiling.

Unknown to Petitioner, Officer Cruse in concert with the Winterville Police command structure, on December 17, 2019, filed a false charge of COMMUNICATING THREATS, using a synthesis of multiple stops for a complete fabrication. In the charging documents, Officer Cruse said that petitioner used a finger gun and said the quote, "I'm watching you Jordan, you asshole!" In every instance where Petitioner was filming Officer Cruse in the performance of his duties, he was wearing a reflective vest

prominently marked OFFICIAL OBSERVER and driving a vehicle with signs that say "OFFICIAL OBSERVER, America's Constitution Police, WARNING: Recording Device in use". Petitioner wears the vest and has signs on his vehicle to allay any concerns police might have while also being visible to police so they're aware they're being filmed.

On December 20, 2019, Petitioner went to his medical provider to drop something off. Coincidentally, Officer Cruse was there with his father. Petitioner got into his "OFFICIAL OBSERVER" vehicle and soon was surrounded by multiple Winterville officers who arrested Petitioner. The responding officer refused to use two sets of handcuffs and the resulting rough treatment sent Petitioner to hospital for 15 days over the next 6 weeks. While Petitioner was in the hospital a week later, Officer Cruse filed a Protection From Abuse petition using his on duty activities and Petitioner filming them, along with the

chance meeting at our common medical provider as reasons he needed protection. Citizen Cruse checked the box that Petitioner should EXCLUDED from the entire 4.5 square miles of Winterville - thereby ensuring that Petition can't film him or he would face arrest. Appendix 3

Petitioner and his wife owned property on Forlines Road in Winterville, NC, which is about 200 feet from the town of Winterville proper. Officer Cruse used Petitioner's travel on his road between their house and a fixer-upper property as proof that he needed a Protection order from Petitioner.

Because of COVID-19 and Petitioner's health, this unconstitutional, illegal order remained in effect for a half a year until a hearing was held and it was dismissed at the lowest court. Petitioner was found guilty of Resisting Arrest and Communication of Threats and sentenced to 45 days in jail.

The Protection From Abuse (PFA) petition and the Communications of Threats were essentially the same set of facts. The legal threshold for the finding guilty of the criminal matter is "Beyond a reasonable doubt" and yet the judge dismissed the lesser civil matter and guilty for the criminal.

Petitioner appealed and represented himself in a three day jury trial where he was sent to jail at night without paperwork for his defense and forced to wear a leg brace on his 'good leg' during the trial. The trial judge refused to permit side bar discussions for EVERY issue and forced the jury to exit the courtroom, go into another room, and wait.

After awhile, the fatigue and annoyances on the jury were evident and Petitioner was forced to make a calculation on objections, knowing the jury was getting impatient. Also, the prosecutor was caught walking over to Defense council's desk and reading Petitioner's notes and the judge did nothing about it. After finding Petitioner "Not Guilty" of

the more severe charge of Communication of Threats, the trial Judge didn't release Petitioner but instead sent him with the jailers who placed him in the back of a cruiser without a seat belt. The petitioner who had heart attack after being falsely arrested, slid back and forth as they drove 'like they stole it'.

Arresting someone for the sole offense of resisting arrest gives police the power to turn a non-criminal interaction into a crime anytime they want. No crime happened as evidence by the lack of charges. The lower court incorrectly turns the 'beyond a reasonable doubt' on its head by repeating slanderous and defamatory accusations made by caller and police. The court incorrectly uses these lies in their decision and even at one pointed gave a defamatory heading entitled it "Willful and Unlawful Conduct" as though Petitioner had received due process and was found guilty of the crimes listed. There was no law broken and therefore Petitioner was not subject to arrest.

The responding police, had the power to arrest Petitioner but they would have to prove it in a court of law! Allowing their unproven lies to be used against Petitioner is against the principles of “innocent until proven guilty”.

Next the court admits that there's no legal requirement to present a government issue identification but then defines it such a way that only a government issue identification fits the bill.

The North Carolina Supreme court in State v. Mobley, 83 S.E.2d 100 (N.C. 1954)

The offense of resisting arrest, both at common law and under the statute, G.S. § 14-223, presupposes a lawful arrest. It is axiomatic that every person has

the right to resist an unlawful arrest. In such case the person attempting the arrest stands in the position of a wrongdoer and may be resisted by the use of force, as in self-defense. State v. Beal, 170 N.C. 764, 87 S.E. 416; State v. Allen, 166 N.C. 265, 80 S.E. 1075; State v. Belk, 76 N.C. 10; State v. Bryant, 65 N.C. 327; State v. Kirby, 24 N.C. 201; State v. Curtis, 2 N.C. 471; 4 Am.Jur., Arrest, Sec. 92; 6 C.J.S., Arrest, § 13, page 613. See also 28 Va. Law Review, p. 330.

The video of the arrest clearly shows that Cruse is handcuffing Petitioner with his state issue identification in his hand less than 10 seconds after retrieving his wallet.

Officer Cruse detained Petitioner so he couldn't get to his wallet. This 10 seconds is the delay that Officer Cruse is citing as cause for why Petitioner should be guilty of Resisting Arrest.

The caller told lies to 911 about petitioner. "Swatting" has become prevalent as miscreants use the 911 system to 'get' their enemies. However, the Petitioner, knew exactly what did or did not happened. Petitioner knew that this was not a police matter and that the caller was angered because he had said, "And you, a black man, while my brothers and sister are getting abused and even gunned down in the streets, are supporting police?!"

Officer Cruse on the other hand, wasn't there and had no clue what the truth or facts were. The one thing Officer Cruse did know was that the Petitioner didn't like the pro-police Blue Line sticker and this is what motivated the aggressive approach to Petitioner (entire exchange is on

video) . Officer Cruse, in his incident report, described his actions, "I approached him and asked him to speak with me: he replied "I'm attending to my pumping duties". I COMMANDED him to talk to me and he turned to me" (emphasized)

Why did Officer Cruse and Officer Fuquay rudely REFUSE to take Petitioner's Official Observer business card which has his name and phone along with the citation of Houston v Hill? Officer Cruse characterized it as a "Constitutional rights card" and never looked at the card to see Petitioner's name and phone number, which would have been adequate for his report. Petitioner knew that the 911 caller's debate was a political discussion about policing in America and that the business card, with the lawful order of the United States Supreme Court, was directly applicable if only Officer Cruse had approached Petitioner with an open mind as to what had/had not happened.

Instead, Officer Cruse put Petitioner in handcuffs and heading to jail within 90 seconds of contacting Petitioner.

In Graham v. Connor, 490 U.S. 386 (1989) this court:

Held: All claims that law enforcement officials have used excessive force -- deadly or not -- in the course of an arrest, investigatory stop, or other "seizure" of a free citizen are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard. Pp. 490 U. S. 392-399.

What about citizen's perspective while walking about

believing they have God-given rights of life, liberty and pursuing their happiness? If we are to give police the "objective reasonableness" standard, shouldn't citizens be given time to process that they've been falsely accused and that someone called the police and lied about them? Police have taken an oath to protect Constitutional Rights. Shouldn't they be required to give an "objective reasonableness" standard when they approach a free man who has been falsely accused?

There was nothing reasonable about Officer Cruse's approach. In his official report of the arrest, he walked up to Petitioner and according to his own words "I COMMANDED him to talk to me and he turned to me" (emphasized), clearly sending a message that Petitioner's 5th Amendment right to be silent was considered disobedience. Watching the video of the arrest, it's clear that Officer Cruse is totally controlling the conversation, and between Officer Cruse and Fuquay, they rudely refused

to take the Petitioner's business card nor acknowledge the so-called "constitutional rights card" offered to them more than a half dozen times. Shouldn't a "objective reasonableness" standard apply to police before handcuffing someone less than 10 seconds after reaching for his driver's license?

In the end, the question must be asked: Would Officer Cruse have been ready to arrest Petitioner if instead of a pro-police bumper sticker it said something like, "Satan IS THE BEST"? When talking to the 911 caller, Officer Cruse thanked him for calling and "wished more people would" (AXON_Body_2_Video_2019-09-14_1456.mp4,states evidence 2019-09-14 T1859:242)

Finally, in State's evidence Axon_Body_3_Video_2019-12-17_1754.mpg Officer Cruse, while training another future officer, admits to using speed traps as a pretext for targeting a minority community because they are "...not

the best of people living there...obviously."

Trainee "What did she say?"

J Cruse "She didn't have a reason
for going that fast."

"That's a speed trap right there"

Trainee "Yeah it is"

J Cruse "Because all of Reedy
Branch is 45. The main reason I
sit there though is, most people
speed through there, but I get a
lot of drugs sitting right there
'cause, uhm... Most of these
people are going to Patton Circle
right up here behind Taco Bell.

Trainee "umh."

J Cruse "And um, not the best of
people living there...obviously."

This is why Winterville Police Department did not want
Petitioner to continue filming. them.

REASONS FOR GRANTING THE WRIT

Petitioner lives in Pennsylvania and no longer owns property in North Carolina as a result of the deprivation of liberty experienced at the hands of “the system”.

Petitioner can live with this charge on his otherwise spotless record but what about the thousands and thousands of victims that have and will continue to be abused by police? Ironically the Pitt County District Attorney sent the video that demonstrates Winterville Police is actively targeting minorities and training their new officers to do the same.

Petitioner has spent \$10,000 fighting this case and this Writ is a “hail Mary” in the hopes that those souls who are arrested solely for Resisting Arrest in North Carolina will get relief.

IF this ruling is allowed to stand, millions of North

Carolinians will be expected, not to enjoy "Life, Liberty and, the Pursuit of Happiness but will instead have to "yes'em boss" whenever police come around. Can the people of North Carolina hold police accountable? Only when this ruling is stricken.

This grandpa of 9 grandchildren (with two more adult children yet to produce) and descendant of Declaration Signer John Morton, wants to leave this world with more freedom than we currently enjoy.

CONCLUSION

Petitioner prays that the court will see that there are literally millions of people that still live where they truly do not have freedom and liberty as this great country is to provide.

Respectfully Submitted,



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