

24-5417

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

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

FILED  
MAY 25 2024

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Joshua Davis — PETITIONER  
(Your Name)

vs.

Wake County Sheriff Deputies — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Fourth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joshua Davis (ID# 1123304)  
(Your Name)

Marion Correctional Institute  
355 Old Greenwood Rd.  
(Address)

Marion, NC 28752  
(City, State, Zip Code)

(919) 761-3252 (P.O.A. Regina Davis)  
(Phone Number)

(828) 659-7810 (Marion Corrections)

## QUESTION(S) PRESENTED

- 1) When Summons was served at Defendants office, Does Personal Knowledge of Plaintiffs suit, where Defendants "learned" The Plaintiff filed a civil suit summoning them to Court constitute Service of process
- 2) Does Appearance of Defendants in Court tacitly admit Service
- 3) Does Defendants Reply Brief Demonstrating Personal Knowledge of the substance in Complaint tacitly admit and constitute Service
- 4) Is Service sufficient where Defendants weren't prejudiced by any informality in Service
- 5) In Districts where public notice is lex loci, Does actual Notice Demonstrated By Defendants Knowledge of Suit constitute Service
- 6) Does The Defendants Conclusionary argument that They hadn't recieved a copy, signed a receipt, or given authorization for acceptance of service on their behalf constitute insufficient Service of process when none of those standards are required under Lex loci, and Defendants had personal Knowledge
- 7) Whether Service on sheriffs office proper when office is Droit and violations were committed under color of office
- 8) Whether Statutes mandating the rules for Service of process be construed liberally apply here

## LIST OF PARTIES

- [ ] All parties appear in the caption of the case on the cover page.
- [✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Wake County Sheriff Deputy Ian Maxfield  
Wake County Sheriff Deputy Joshua Williams  
Wake County Sheriff Deputy Mark Suravick

## RELATED CASES

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## TABLE OF AUTHORITIES CITED

### CASES

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Karlsson v. Rabinowitz 1963

McCreary v. Vaughan - Bassett furniture Co. 2005

Moore v. Cox 2004

Waller v. Butkevich 1984

### STATUTES AND RULES

N.R.S. § 1A-1 Rule 4

### OTHER

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

- ☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 4/2/24.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 5/13/24, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

4th, 5th, 6th, 8th, 9th, and 14th Amendment Rights  
against Cruel and unusual punishment, excessive force,  
and unreasonable Search and Seizure



## STATEMENT OF THE CASE

On Aug. 10, 2021 Plaintiff filed a § 1983 Civil Suit on the Defendants for violating his civil rights by the use of excessive force and a unreasonable Search and Seizure. The District Court conducted an initial Review and allowed the action to proceed Oct. 4, 2022

On Jan. 17, 2023 Defendants filed motions to Dismiss Alleging insufficient service of process, where service was effectuated by certified mail delivered to the Defendants office located in the Wake County Public Safety Center at 330. S. Salisbury St. Raleigh NC. and accepted by Wake County Sheriff's office Customer Service Representative "Gwendolyn Thornton" who worked the front Desk on Oct. 20, 2022 and Oct. 21, 2022 when service via certified mail was made Respectfully.

In exhibits 1, 2, and 3, attached to Defendants motion to Dismiss, each Defendant Declared they were "Competent" and that their Declarations were made based on their "Personal Knowledge", each Defendant then goes on to Declare They "Learned about this lawsuit that Joshua Lamar Davis (Plaintiff) filed against them" and they "were Told" that a Complaint and Summons in a civil action filed by the Plaintiff was Delivered to the Wake County Public Safety Center Sheriff's office addressed to them via Certified Mail.

## REASONS FOR GRANTING THE PETITION

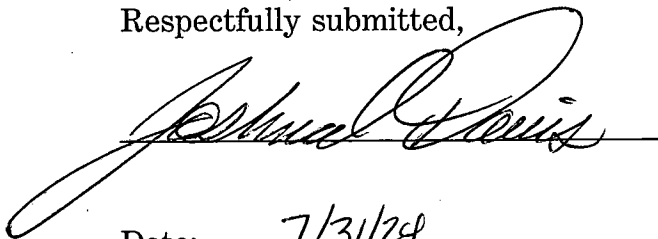
Writ should issue To allow Plaintiff Relief from violation of His civil Rights and To Protect Due Process in The Interest of Justice. First The writ should issue Because The Defendants Had Personal Knowledge and learned The Plaintiff Filed a lawsuit against Them and That They were The Subject of a Civil Rights Complaint and Had Been Summoned Via Certified mail addressed To Them Delivered To Thier office at The wake county Public Safety Center, Thereby Demostrating actual Knowledge and notice. see Karlsson v. Rabinowitz (4<sup>th</sup> circuit 1963) "cited in "McCreary v. Vaughan - Bassett Furniture Co. C.M.D. N.C. 2005". The Defendants Then appeared in court Complying with The summons They Had Knowledge of and filed a Reply Brief Demostrating Details and Personal Knowledge about The Substance of The complaint Thereby Reaffirming Their actual Knowledge of Both The summons and The formal complaint, Rendering any technical violations moot for The purposes of Invalidating The services of process, Because any Informality in services Isn't a grounds for dismissal if The Defendants Recieved actual notice and weren't Prejudiced. IN The Instant case The Defendants ~~DONT~~ Deny actual notice, In fact They admit To it, NOR Do They make a claim or argument That They were Prejudiced. IN The state of north Carolina within The District where The claim was Brought, State Statute allows for The service via a notice published in The local news paper Thereby further establishing The Precedent That actual or Implied notice is an acceptable standard for service of process. IN Defendants Declarations they make The mere conclusory argument That They weren't served with a copy, Hadn't signed any receipts, or given anyone authorization To accept summons on Their Behalf Therefore service wasn't effected, alluding To The Fact They Had actual notice. Furthermore Their argument Contradicts The [REDACTED] Precedence in The District of actual notice Being Suffice [REDACTED] absent said person [REDACTED] Being served a copy OR signing a receipt [REDACTED]. In This respect The service of process went well Beyond The accepted standard of mere public notice. Second The writ should issue Because where Violations were Comitted under color of state while sheriffs Droit, Therefore service on Customer service Representative Thornton [REDACTED] was proper, and sheriffs Department was Bound By The law of obligation To aid The service of law process, This Being a Duty of The sheriffs Department To The public.

Lex LocI, and Current Precedence mandate the Service of Process Rules be conserved liberally, and for the Reasons previously stated the Plaintiff respectfully request the Court to authorize Review. Specifically the issue is primed for Review because it poses an ambiguous legal question with differing Court opinions making the controlling law somewhat dubious, and the settlement of such issue would aid in the administration of justice to process more efficiently and allow Detainees an efficient means of service when officers personal information is shrouded in secrecy, and their offices access restricted.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 7/31/24