

24-5567

No. _____

FILED

JUL 11 2024

OFFICE OF THE CLERK
U.S. SUPREME COURT

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

DAVID L. SMITH — PETITIONER
(Your Name)

vs.

ROY A. COOPER III ET AL RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NORTH CAROLINA SUPREME COURT

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

PETITION FOR WRIT OF CERTIORARI

DAVID L. SMITH

(Your Name)

P.O. BOX 215

(Address)

MARY N.C. 28554

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

IS IT A FACIALLY UNCONSTITUTIONAL ACT OF THE N.C. GENERAL ASSEMBLY TO ASSEMBLE (4) CRIMINAL STATUTES INTO N.C.G.S. 14-7.1 FOR STATE COURT ENHANCEMENT OF REPEAT OFFENDER SENTENCES?

DID WAKE COUNTY SUPERIOR COURT JUDGE KEITH D. GREGORY DENY CLASS ACCESS TO COURTS, BY HAVING RETALIATORY EX-PARTE HEARING, DEPRIVING PLAINTIFF OF HIS RIGHT TO BE HEARD AND ORDERING HIS CASE NUMBER 22CVSD13960 TO BE DISMISSED WITH PREJUDICE ON UNKNOWN DATE, TIME AND GROUNDS?

DID STATE GOVERNOR ABUSE HIS DISCRETION IN FINDING GENERAL ASSEMBLY ACT ASSEMBLING CRIMINAL STATUTES INTO CRIMINAL STATUTE NOT FACIALLY UNCONSTITUTIONAL?

DID STATE COURT ABUSE DISCRETION IN ITS FAILURE TO TRANSFER CASE TO (3) JUDGE PANEL FOR PROCESS, AFTER PLAINTIFF CLAIMED FACIAL UNCONSTITUTIONAL FOR GENERAL ASSEMBLY TO ASSEMBLE CRIMINAL STATUTES INTO STATUTE FOR STATE COURT USE IN ENHANCING REPEAT OFFENDER SENTENCES?

A STATE LOWER COURT HAS DECIDED FEDERAL QUESTION IN MANNER THAT CONFLICTS WITH ITS EARLIER DECISION ON IDENTICAL ISSUE.

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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:

ROY A. COOPER III 41294 M.S.C. RALEIGH N.C. 27699
JUDGE KEITH D. GREGORY P.O. BOX 351 RALEIGH N.C.
27602

RELATED CASES

STATE OF N.C. V. DAVID L. SMITH 03CRS049691-94 - 910
03CRS056350-910

LIMWOOD E. DUFFIE V. ROY A. COOPER III ET AL 24CV01907-910

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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 A to the petition and is

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☒ is unpublished.

The opinion of the WAKE COUNTY SUPERIOR court appears at Appendix B to the petition and is

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☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

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

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

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was JULY 2, 2024
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: AUGUST 11, 2024, and a copy of the order denying rehearing appears at Appendix C.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

N.C.G.S. A. §1-267.1

N.C.G.S. 14-7.1

4TH AMD. LI. S. C.

STATEMENT OF THE CASE

N.C. GOVERNOR ROY A. COOPER III KNOWN OR SHOULD HAVE KNOWN THAT THE N.C. GENERAL ASSEMBLY COMMITTED A FACIALLY UNCONSTITUTIONAL ACTION BY UNLAWFULLY ASSEMBLING (4) CRIMINAL STATUTES INTO N.C.G.S. 14-7.1 FOR STATE COURT USE IN ENHANCING REPEAT OFFENDER SENTENCES, VIOLATING N.C.G.S.A. 1-267.1.

WAKE COUNTY SUPERIOR COURT JUDGE KEITH D. GREGORY DENIED CLASS ACCESS TO COURTS BY HAVING RETALIATORY EX PARTE HEARING, DEPRIVING PLAINTIFF OF HIS RIGHT TO BE HEARD AND ORDERING HIS CASE NUMBER 22 CVS 013960-910 TO BE DISMISSED WITH PREJUDICE ON UNKNOWN DATE, TIME AND GROUNDS, VIOLATING CLASS 4TH AMD. U.S.C. RIGHTS.

WAKE COUNTY SUPERIOR COURT DISMISSED ACTION, THAT CHALLENGES FACIAL CONSTITUTIONALITY OF N.C. GENERAL ASSEMBLY'S ASSEMBLY OF (4) CRIMINAL STATUTES INTO N.C.G.S. 14-7.1 TO ENHANCE REPEAT OFFENDER SENTENCES ON MAY 23, 2024 AS FRIVOLOUS AND PRELIMINARY APPROVED IDENTICAL CLAIM IN CASE LIMMOND E. DUFFIE VS. ROY A. COOPER III AND ET. AL 24 CV 011907-910 ON JULY 3, 2024 AND SERVED COPIES OF COMPLAINT ON ALL (3) DEFENDANTS.

REASONS FOR GRANTING THE PETITION

N.C. GENERAL ASSEMBLY HAS COMMITTED FACIALLY UNCONSTITUTIONAL ACTION OF ASSEMBLING CRIMINAL STATUTES INTO A CRIMINAL STATUTE, FOR STATE COURT ENHANCING OF REPEAT OFFENDER SENTENCES.

WAKE COUNTY SUPERIOR COURT JUDGE REITH D. GREGORY DENIED CLASS ACCESS TO COURTS BY HAVING RETALIATORY EX-PARTE HEARING, DEPRIVING PLAINTIFF OF HIS RIGHT TO BE HEARD AND ORDERING HIS CASE NUMBER 22 CVS 013960-910 TO BE DISMISSED WITH PREJUDICE ON UNKNOWN DATE, TIME AND GROUNDS.

SUPERIOR COURT ABUSED ITS DISCRETION IN ITS FAILURE TO FIND CLAIM WARRANTED JUDICIAL REVIEW, THEN ORDER TRANSFER OF CASE TO (3) JUDGE PANEL FOR PROCESS, AFTER PLAINTIFF CLAIMED FACIAL UNCONSTITUTIONAL ACT BY GENERAL ASSEMBLY IN ASSEMBLY OF (4) CRIMINAL STATUTES INTO STATUTE FOR STATE COURT ENHANCING OF REPEAT OFFENDER SENTENCES.

A STATE SUPERIOR COURT HAS DECIDED A FEDERAL QUESTION IN A MANNER, THAT CONFLICTS WITH ITS EARLIER DECISION.

PETITIONER IS ENTITLED TO CONSOLIDATION OF HIS CASE 22 CVS 013960 WITH IDENTICAL CASE 24CV01907-910, FOR JUDICIAL EFFICIENCY.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

David L. Smith

Date: July 5, 2024