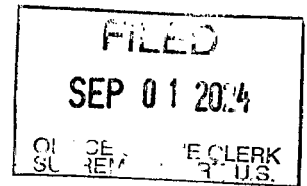


24-5585 ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

Harry Sharod James-EI — PETITIONER
(Your Name)

vs.

Eric Hooks, et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for The Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Harry Sharod James-EI # 1211724
(Your Name)

P.O. BOX 506
(Address)

Mary, NC 28554
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1.) Is petitioner James-El being deprived of his Liberty without Due Process of Law, by being incarcerated without written regulations approved by The NORTH CAROLINA ADMINISTRATIVE CODE?
- 2.) Was petitioner James-El deprived of his Right of Access to the Courts, when defendant(s) opened his outgoing legal mail outside of his presence and took it?
- 3.) Was Petitioner James-El deprived of his Religious Liberty when defendant(s) stopped him from following his religious obligation of Declaring his Nationality as a "Moorish American National"?
- 4.) Did the USDC and USCOA 4th circuit error by not establishing Article III Subject Matter Jurisdiction before ruling on this civil Action?

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:

The District Court never Sent me a copy of my original Complaint, So I do not have all the names of the respondent(s).

RELATED CASES

TABLE OF AUTHORITIES CITED

CASES

- | CASES | PAGE NUMBER |
|--|-------------|
| - <u>Daniels v. Williams</u> , 474 U.S. 327, 331, 106 S.Ct. 662, 665, 88 L.Ed. 2d 662 (1986) —————→ | 5 |
| - <u>Browning v. Vernon</u> , 874 F.Supp. 1112 (D. Idaho 1994) —————→ | 5 |
| - <u>Logan v. Zimmerman Bush Co.</u> , 102 S.Ct. 1148 (1982) —————→ | 5 |
| - <u>Goble v. Bounds</u> , 281 N.C. 307, 310, 188 S.E. 2d 347, 349 (1972) —————→ | 5 |
| - <u>Muhammad v. Close</u> , 540 U.S. 749, 158 L.Ed. 2d 32, 124 S.Ct. 1303 (2004) —————→ | 6 |
| - <u>U.S. v. Harris</u> , 12 F.3d 735 (7th Cir. 1994) —————→ | 7 |
| - <u>Brewer v. Wilkinson</u> , 3 F.3d 816 (5th Cir. 1993) —————→ | 9 |
| - <u>Lemon v. Dugger</u> , 931 F.2d 1465 (11th Cir. 1991) —————→ | 9 |
| - <u>Haze v. Harrison</u> , 961 F.3d 654 (4th Cir. 2020) —————→ | 9-10 |
| - <u>Murakush Caliphate of Amexem Inc. v. STATE OF NEW JERSEY, et al</u> , 790 F.Supp. 2d 241 —————→ | 12 |
- * Please see attach Page # 1 for other Cases.*

STATUTES AND RULES

- Title 14B N.CAC 12A.0101 (North Carolina Administrative Code) —————→ 5, 15
- N.C.G.S. 84-2.1 (North Carolina General Statutes) —————→ 10
- N.C.G.S. 84-5(a) (North Carolina General Statutes) —————→ 10

OTHER

- The Moorish Science Temple of America Divine Constitution and By Laws —————→ Pg. 11-12
- "Appendix E "Front and Back "
my only copy.

Attached Page #1

<u>Cases</u>	<u>Page Number</u>
- <u>Johnson-Bey v. Lane</u> , 863 F.2d. 1308, 1309 (7th Cir. 1998) —————>	13
- <u>Braunfeld v. Brown</u> , 366 U.S. 599, 603 (1961) —>	14
- <u>Employment Division Department of Human Resources of Oregon v. Smith</u> , 494 U.S. 872 (1990) —————>	14
- <u>Arbaugh v. Y&H Corp.</u> , 126 S.Ct. 1235 (2006) —>	17
- <u>Grimm v. Grimm</u> , 149 A.3d 77 (Pa. 2016) —>	17-18
- <u>Steel Co. v. Citizens For A Better Environment</u> , 118 S.Ct. 1003 (1998) —————>	18, 19

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- APPENDIX B - United States District Court for the Middle District of North Carolina order.
- APPENDIX C - United States District Court for the Middle District of North Carolina Magistrate Judge recommendations order.
- APPENDIX D - United States District Court for the Middle District of North Carolina Magistrate Judge order striking Petitioners' argument to challenge Subject Matter Jurisdiction.
- APPENDIX E - The Divine Constitution and By-Laws of The Moorish Science Temple of America,
- APPENDIX F

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 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 United States district 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. "Not Sure"

☐ 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 August 27, 2024.

☐ 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 _____.
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

- Constitutional Provisions

- Article III Section 2 = Names of Lawful Subject Matter Jurisdiction
- Article VI = The Supreme Law of the Land.
- The First Amendment "Freedom of Speech"
 - Religious Liberty
 - The Right to petition the Government for the redress of any grievance
- The 5th Amendment Substantial and procedural Due Process
- The 8th Amendment = cruel and unusual punishment
- The 13th Amendment = False imprisonment
- The 14th Amendment = Equal Protection and Due Process of the Law

* Dear Clerk I really don't understand page, but I did it to the best of my effort.

STATEMENT OF THE CASE

Petitioner, a prisoner of the State of NORTH CAROLINA, seeks a writ of habeas Corpus pursuant to 28 U.S.C. 2254.

Petitioner was convicted on June 10, 2010 following a Jury trial in Mecklenburg County Superior Court of committing first-degree murder and armed robbery when he was under 18 years old. He was sentenced to life imprisonment without parole for the murder, and to a concurrent term of a minimum 64, maximum 86 months for armed robbery. On June 13, 2019, Petitioner was resentenced for murder, receiving a sentence of life imprisonment with the possibility of parole.

In this Federal habeas action, petitioner challenges being incarcerated, without written regulation approved by the North Carolina Administrative Code, prison disciplinary convictions, which was appealed. On December 27, 2021 Petitioner filed the instant Petition challenging restraints on his Liberty.

REASONS FOR GRANTING THE PETITION

1) Is petitioner James-El, being deprived of his Liberty without Due Process of Law, by being incarcerated without written regulations approved by The NORTH CAROLINA ADMINISTRATIVE CODE?

The defendant(s) "STATE employees" are acting arbitrarily by keeping petitioner James-El, incarcerated without authorized penal Code approved by the NORTH CAROLINA ADMINISTRATIVE CODE (NCAC). The defendant(s) allowed the penal Code - Title 14B NCAC 12A.0101 to be declared null and void. "The right of due Process is the right to be free from arbitrary actions of the government." Daniels v. Williams, 474 U.S. 327, 331, 106, S.Ct. 662, 665, 88 L. Ed. 2d 662 (1986); "Due Process is Jeopardized where there are no written regulations." Browning v. Vernon, 874 F. Supp. 1112 (D. Idaho 1994); Logan v. Zimmerman Bush Co., 102 S.Ct. 1148 (1982). Do to there being no authorize binding penal Code, petitioner James-El, was to be released from prison, because his prison Sentence was/is declared null and void, by the actions of the administrative branch of government "Generally, the administration of prison facilities within North Carolina Department of Public Safety's Division of prisons is a function of the executive branch of government and not subject to judicial oversight." Goble v. Bounds, 281 U.C. 307, 310, 188 S.E.2d 347, 349 (1972). "An exception to this rule is that oversight on questions of a constitutional nature is permitted - Goble 281 U.C. at 311, 188, S.E. 2d at 350. Petitioner James-El brought to the courts attention that he is being deprive of his Liberty without Due Process of Law and the U.S. Magistrate Judge Stated that this is an argument only for Section 1983. The District Court errored in its desision agreeing with the defendant(s). The Supreme Court of The United States has Stated "A prisoner can sue a prison official ->

under Section 1983 over a confrontation and Subsequent disciplinary charge without first exhausting State or Federal Habeas remedies as long as the claim doesn't implicate his conviction or the duration of his Sentence."

Muhammad v. Close, 540 U.S. 749, 158 L.Ed. 2d 32

124 S.Ct. 1303 (2004). "Prisoner objecting to

incremental level of incarceration, such as

Segregation has administrative remedies and

if these fail he can apply for habeas Corpus,

arguing that he is being deprived of Liberty

without due process of law, providing that

he has been given by Statute or regulation

an entitlement to less restrictive confinement -

U.S. v. Harris, 12 F.3d 1735 (7th cir. 1994).

Petitioner James-El, is arguing that his Sentence is declared null and void and he has no administrative remedies, because there is no administrative penal Code to do so, pursuant to Title 14B NCAC 12A.0101.

Without the intervention of this court Petitioner James-El, will continue to be deprived of his Liberty without Due process of Law pursuant to the 5th, 8th, 13th, 14th Amendments of The Constitution of The United States of America.

2) Was petitioner James-El deprived of his Right of Access to the Courts, when defendant(s) opened his outgoing mail outside of his presence and took it?

Petitioner James-El, was Sending out "Speacil Mail" Labeled (Legal Mail) on the envelope, The prison mail room at Albermarle Correctional Institution opened Petitioner James-El outgoing Legal mail outside his presence and took the legal documents and gave them to Correctional officers who read them and Label his religious / Legal Moorish American Documents as Security Risk Group "SRG" and wrote him

8.

up. It is well established that "1) Special mail may not be opened by prison officials outside the presence of the inmate, 2) Special mail is mail from federal prisoner directed to attorney's, designated state and federal officials and representatives of news media, and it is not to be opened by prison officials, 3) Prison official interference with plaintiff's legal mail violates both plaintiff's Constitutional right of access to the courts and First Amendment right of free speech." - Brewer v. Wilkinson, 3

F.3d 816 (5th cir. 1993); Lemon v. Dugger, 931

F.2d 1465 (11th cir. 1991); "Prison officials

Cannot read prisoners' Legal Mail." - Haze

v. Harrison, 961, F.3d 654 (4th cir. 2020).

Petitioner James-El, Legal mail was opened outside of his presence and taken, without the intervention of this court, the defendant(s) will continue to enforce this unofficial / unlawful custom. Prison officials are not allowed to practice law pursuant to W.C. G.S. 84-2.1; 84-5(a). The defendant(s) actions deprived / petitioner James-El of his Right of access to the Courts in violation of the 1st, 8th, 14th Amendments of The Constitution of The United States of America.

3) Was Petitioner James-El, deprived of his Religious Liberty when defendant(s) stopped him from following his religious obligations of Declaring his Nationality as a "Moorish American National?"

The legal mail that petitioner James-El, was sending out, which was opened and taken from him by defendant(s) was his "Moorish American Name Proclamation Declaration". Petitioner James-El, religion (The Moorish Science Temple of America) requires him to annex "El" or "Bey" to his nomen and proclaim /declare his nationality as "Moorish American National", pursuant to

Act #6 of The Moorish Science Temple of

America Divine Constitution and By Laws.
(Appendix E)

Prison officials labeled petitioner James-EI

Lawful religious documents as "Sovereign

Citizen", even though he is not a Sovereign

citizen. The defendant(s) actions are not

only religious discrimination, it is also

ethnicity discrimination. The federal

Courts, recognize, the Moorish Science

Temple of America as a religion "Black

Islamic Sect" and the sovereign citizen

movement as a paper terrorist organization,

see -> Murakush Caliphate of Amexem Inc.,

V. STATE OF NEW JERSEY, et al., 790 F.Supp 2d 241;

Johnson-Bey v. Lane, 863 F.2d 1308, 1309

(7th cir. 1998). The Moorish Science Temple

of America was established as a religious

Corporation, by filing the Affidavit of

organization, Document # 10105905, Form

1099 recorded in the recorder of Deeds

Office in County of Cook, STATE OF ILLINOIS

on August 1st, 1928 A.D, at 2:52pm.

"Prison may not, because it is contemptuous

or unreasoningly fearful of particular Sect,

Place arbitrary obstacles in way of inmates

seeking to participate in Sect's mode of

observance." Johnson-Bey v. Lane, 863

F.2d 1308, 1309 (7th cir. 1998). "The Free

Exercise clause is invoked in Several

Situations, 1) The Government prohibits

behavior that a persons religion requires,

2) The government requires conduct that a

persons religion prohibits, 3) when individuals

claims that Laws burden or make more

difficult religious observances. "Braunfeld

v. Brown, 366 U.S. 599, 603 — (1961).

"The government may not compel affirmation

of religious belief, Punish the expression

of religious doctrines it believes to be false." —

Employment Division Department of Human

Resources of Oregon v. Smith, 494 U.S. 872

— (1990). Being that there are no binding
14.

authorize penal code pursuant to The
North Carolina Administrative Code (NCAC),
Petitioner James-El, has no Lawful Due
Process to get the "SRG"- Sovereign Citizen
Label off of him. Petitioner James-El was
retaliated against and penalize for
following the obligations of his religion.
Without the intervention of this court,
Petitioner James-El, will still be deprived
of his religious Liberty, and Equal
protection of the Law pursuant to the
1st, 5th, 8th, 14th Amendments of The
Constitution of The United States of
America.

4.) Did the USDC and USCOA 4th

Circuit error by not establishing

Article III Subject Matter Jurisdiction

before ruling on this civil action?

During the civil process, petitioner James-El

recognize that the name of the jurisdiction that

the USDC was operating under is no

where in the record, So petitioner James-El

moved an affidavit challenging the Subject

matter Jurisdiction of the District Court.

The U.S. magistrate Judge struck the affidavit

from the record (Appendix D) and never

established Subject matter Jurisdiction and

the U.S. District Court Judge just went

along with the magistrate Judge and never

proved Subject matter Jurisdiction. The United

States District Court, nor, the United States

Court of Appeals for the Fourth Circuit

never had, nor established Subject matter

Jurisdiction, that being said the opinions

of both courts are null and void. "objection

that federal court lacks Subject matter

Jurisdiction may be raised by party, or by

Court on its own initiative, at any stage

in litigation even after trial and entry

of Judgement." Arbaugh v. Y&H Corp. 126

S.Ct. 1235 (2006). "Subject Matter Jurisdiction

is not Susceptible to waiver." Grimm -

v. Grimm, 149 A.3d 77 — (Pa. 2016).

"Federal courts must stay within their constitutionally prescribed sphere of action whether or not exceeding that sphere will harm one of the other two branches of government." — Steel Co. v. Citizens for a Better Environment, 118 S.Ct. 1003 — (1998).

Article III establishes 3 jurisdictions that lawful tribunals can operate under, 1) common Law Jurisdiction, 2) Equity Law Jurisdiction, 3) Admiralty Law Jurisdiction. The name of the jurisdiction that the tribunal is operating under must be made known to all parties, the tribunal cannot proceed

with establishing lawful Article III

Subject Matter Jurisdiction. "Federal court may

not, via doctrine of "Hypothetical Jurisdiction,"

decide cause of action before resolving whether

court has Article III Jurisdiction; doing so

would carry courts beyond bounds of authorized

Judicial action and thus offend fundamental

principles of Separation of powers, and would

produce nothing more than hypothetical

Judgement, which would come to same thing

as advisory opinion, disapproved by Supreme

Court from the beginning; abrogating."

Steel Co. v. Citizens For A Better Environment,

118 S.Ct. 1003 (1998). The actions of
19.

the United States District Court and the United States Court of Appeals for the Fourth Circuit were/are arbitrary and deprives petitioner James-El of, Free Speech, the right to petition the government for the redress of any grievance, Substantial and Procedural Due Process, which is Cruel and Unusual punishment, pursuant to Article III and Article VI, the 1st, 5th, 8th, 14th Amendments of The Constitution of The United States of America. Without the intervention of this court petitioner James-El, fundamental rights will be infringed upon. This is a Plain Error.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 1st September 2024