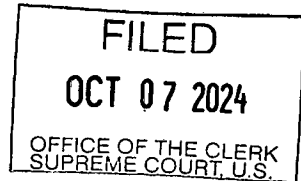


24-6250

No. USAPC No. 23-6340

(5:19-cv-3358-BD)



ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Luis Antonio Rosado — PETITIONER
(Your Name)

vs.

Joshua Barnes, 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

Luis Antonio Rosado #1087392
(Your Name)

355 old Glenwood Rd.
(Address)

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

(Phone Number)

QUESTION(S) PRESENTED

- 1) Whether Counsel of Defense Suborn Perjury?
- 2) Whether the testimony Contradicts the evidence?
- 3) Whether Defense Concealed Evidence most favorable to Plaintiff?
- 4) Whether Defendants Committed Perjury?
- 5) Whether Judge or Lower Courts Continuously abused its Discretion?

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:

Super Intendent Mark Flemmings, Da'shone Joyner,
Eric Roggs,

RELATED CASES

✓ Luis Antonio Rosado Jr. V. Joshua Barnes, et al,
(5:19-cv-03358-B0) United States District Court
For the Eastern District of N.C., W.D.

Luis Rosado Jr. V. Joshua Barnes, et al. +
Super Intendent Mark Flemmings, et al. U.S.C.A.
No. 23-6340 (4th Cir.)

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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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 A to the petition and is

☐ reported at ~~Washington Post~~ _____; 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☒ is unpublished.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☐ is unpublished.

☐ 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 20, 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: September 23, 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. § 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

- 1) 18 U.S.C.A. § 1621 section 1746 of title 28, of the United States Code. Perjury
- 2) 18 U.S.C.A. § 1622 Subornation of Perjury
- 3) 18 U.S.C.A. § 1623 (c)(1) General test for perjury
- 4) False Claims Act. 31 U.S.C.A. § 3729(a)(1)(a), (c), (d)
- 5) N.C. G.S.A. § 123-5 Causes for Impeachment
- 6) 36 C.F.R § 214.19 (a)(1)(B)
- 7) N.C. G.S.A. § 84-13 Fraudulent practice

(4)

Page 1 of 5

STATEMENT OF THE CASE

Plaintiff states a plain and Concise Claim pursuant to U.S. Supreme Court Rule 14(G) that clearly states a Cause of action for this U.S. Supreme Court to liberly Contrive as to do Substantial Justice. The facts are as follows: On 12/18/2018 Plaintiff was housed at Maury Correctional Inst, upper Red unit E Block Cell 27. That Morning officer Robinson attempted to Converse with plaintiff but he brushed the officer off because he was Sadden and was not in the mood for trivial Conversations due to plaintiff dealing with recent disturbing family news and the Stress of having to deal with Everyday Prison politics. Plaintiff then proceeded to his Cell block. Later in the afternoon during Canteen call officer Robinson was posted near the med window, Being that plaintiff was the last man in Line officer Robinson says to plaintiff "Ima Jump on you!" Plaintiff Ignored the officers threat and Continued purchasing his Canteen. During this time Plaintiff observed Officer Larry Grier walk around the corner and gave him a menacing Stare to which he noted to report later because at this point the tension was disturbingly thock in the air. After purchasing Canteen plaintiff returned to his Cell block. After the last Chow call as plaintiff was returning back to his Cell block he stopped at the Med window to take his meds. Minutes after taking his medication plaintiff began feeling the effects of his medicine so he decided to go to his Cell and lay down. while plaintiff was Laying down Listening to the calm of his radio when Suddenly his Cell door opened, Plaintiff immediately Sat up in alarm. Officer Grier stepped into Plaintiff Cell telling him to Stand up. Plaintiff Complied to officer Grier direct order then officer Grier pushed Plaintiff swiftly up against the wall with force. Plaintiff remaind Calm and never became Combative with the officer at no time. Officer Grier then Placed handcuff on Plaintiff with his ~~st~~

hand placed behind his back. Officer Grier then conducted a thorough full body pat down on plaintiff and at no time was any contraband or weapons ~~confiscated~~ confiscated off plaintiff person. Officer Grier then struck plaintiff in the face calling him racial slurs. Everything happened so fast and the effects of plaintiff mental medication combined put him in a complete state of shock as officer Grier evacuated and escorted plaintiff out of the cell. Plaintiff noticed a gang of officers (Sgt. Joyner, Sgt. Barnes, Robinson, Johnson, Mr. Artist) standing at the bottom of the staircases as being on the ready in case assistance was needed. Plaintiff was ~~escorted~~ escorted on the elevator down to lower Red unit. Upon arriving on lower Red unit Robinson additionally had leg restraints placed on plaintiff. The officers then took plaintiff to an unauthorized search area inside staff only Restroom including Officer Robinson, Grier, and Barnes. Robinson asked plaintiff "Do you want to see medical first or strip search?" Plaintiff responded "medical." At that point Robinson unexpectedly punched plaintiff in the face with such impact knocking plaintiff to the ground. When being knocked down plaintiff hit his head against the concrete floor with such impact he nearly lost consciousness. At all times plaintiff remained in full restraints and could not stretch out his arms to cushion the fall. Immediately plaintiff was then hit with a barrage of kicks, and punches throughout his face, head, and body. Plaintiff was scared helplessly and defenseless. Fearing great bodily harm even death. At one point plaintiff just layed on the floor moaning and crying in pain while the officers stared down

at him jubilating in Plaintiff's Agony. Plaintiff told the officers "he was gonna report this that they will not get away with this" Officer Robinson then takes out a knife (homemade) and said to plaintiff "I Just did" then yelled out "banger." The officers then began to pounce on Plaintiff once more kicking, and punching him throughout his face, head and body. The door comes open and Johnson (Officer) stepped in to join in the assault by taking plaintiff ankle out of Restraint and began twisting it in attempts to break it. The entire time plaintiff was yelling "HELP!" The door comes open a second time and Riggs came in to join in the assault by spraying plaintiff excessively with pepperspray throughout his face, head, and body. While on the floor struggling to breath, weeping, badly beaten and battered, Can't see, and laying on the floor the officers finished their assault they dragged plaintiff out of the restroom like a rag-doll to a decontamination shower. Officer Robinson stood watch while plaintiff ~~was~~ struggled to shower and Sadistically laughing at his agony. Photographs was taken of plaintiff injuries then taken to be placed in Solitary Confinement Gray Unit B Block without ~~being~~ being seen by medical personnel. On the way to Gray Unit B Block plaintiff ask Correctional officer Ravenelle to see Medical and he stated "Sgt. Jayner told me not to take you to medical only to your cell." while in Solitary Confinement plaintiff begged medical emergency but everytime he was denied by staff. Three days after being assaulted plaintiff was seen by medical personnel to be treated for his injuries on 12/18/18

where Plaintiff injuries were visible. while placed in Solitary Confinement Plaintiff property was lost while under the Supervision and Control of the Institutional Staff. No DC-160 inventory form was filed as to Plaintiff Property. Plaintiff property ~~that~~ that has been lost are his brand new shoes, Jvc headphones, 3 bottles of religious oils, and cosmetics worth \$10.00⁰⁰. No Investigation was done on Plaintiff lost property.

The Evidence in the light most favorable to Plaintiff shows through photographs taken the Causality Plaintiff sustained from the assault. His face and eyes was severely swollen, his head/hair and clothes was saturated in pepper spray. Plaintiff was beaten and battered so badly photographs shows the officers had to hold him upright while they took photographs of him because he could barely stand nor sit up on his own.

The Record also reflects through Trial Transcripts pages [TT page 47 Line 3-8; TT page 47 Line 21-25; TT page 48 Line 1, TT page 57 Line 9-14; TT page 85 Line 1-6, Line 16-25; TT page 86 Line 1-2; TT Day 2 page 6 Line 7-11; TT Day 2 page 24 Line 10-14, 17-23] Plaintiff was beaten and battered so badly he was disoriented that he couldn't speak and when he was asked questions he uttered out murrmmers. But defendants defense Stated "Plaintiff could not stand nor sit up on his own was due to his mental health medication," which is totally absurd. Though Plaintiff mental health medication does have side effects but not to that extreme, its prescription medication not a

Street drug that has the side effects of heroin or crack cocaine. Defendants viciously assaulted Plaintiff when he did absolutely nothing to warrant it. The officers that assaulted Plaintiff went to great length by planting a homemade knife on Plaintiff and telling contradicting lies that he became combative to have an excuse behind their actions. But the Institution delegate conducted a thorough investigation on the assault and Plaintiff was cleared of any wrongdoing [see Appendix F]. Defendants then acted under the doctrine of Unclean hands by destroying eleven separate video footages damaging key evidence that catches them red handed of their assault.

Plaintiff has stated a Cause of Action that raises an issue of Federal Law. It's obvious the Lower Courts has abused its discretion by conducting an artificial ~~evaluation~~ evaluation because the aforementioned are key facts that if taken into account no reasonable fact finder would have not held defendants ~~to~~ to be liable for their misconduct.

REASONS FOR GRANTING THE PETITION

The Trial Court and United States Court of Appeals for the Fourth Circuit has blatantly abused its discretion by continuously ignoring the plaintiff vigorous complaints of defense actions of perjury, suborning of perjury and misrepresentation of material facts. Plaintiff has filed multiple motions to trial court (see appendix D.) for legal malpractice plaintiff is invoking the N.C.G.S.A. § 84-13 which states Attorney liable for fraudulent practice. During the plaintiffs Trial session defendants and Counsels violated their oath and affirmation by presenting false testimony to raise the passion of the Jury. During Trial session Defense Counsel spoiled key evidence favorable to plaintiff, Defendants + Counsel withheld the Disciplinary Report which clearly shows that Counsel and Clients perjured themselves throughout the entire litigation. (see Appendix F) [see Lips V. Scottsdale HealthCare Corp., 224 Ariz 266, 229 P3d 1 (DOJ 2018)]. During Trial + Appeal the Courts continued to Abuse its discretion and continued to ignore plaintiffs valid motions for new Trial and plaintiff vigorous complaining of miscarriage of ~~Justice~~ Law. (see Appendix D.) During Trial Defendants Counsel Bradley D. Brecher an Assistant Attorney General suborn perjury and committed perjury in front of the Jury 3x times. Perjury and suborning perjury is a class F felony. It also violates N.C. State Bar Rule ch. 2, Rule 1.2 (D); violation of code of Professional Responsibility DR 7-102; see Gender V. U.S. (supreme Court of U.S.) 425, U.S. 80; see also State V. McCormick U.S. Supreme Court 299 N.C. 788. During the course of litigation Defense made false claims which violated The False Claims Act 31 U.S.C.A. § 3729 (A)(1)(a)(c) and plaintiff prays for the U.S. Supreme Court to review the case de novo via 36 C.F.R. § 214.19 (a)(1)(b). Perjury and suborning perjury violates 18 U.S.C.A. § 1621, & § 1622, Lastly § 1623(c)(1). During Trial session Defendants spoiled 11-13 separate security cameras and egregiously failed to cover up their blatant negligence. (See William V. Werner Enterprise Inc., 235 W. VA 32, 770 S.E. 2d 532 (2015); see Hannah V. Heeter 213 W. VA 704, 584 S.E. 2d 560 (2003). Perjury is a serious violation of section 125 of

The Criminal code and is Punishable upto 5 years. To allow these false Statements and blatant disregard for Authority to Enter and Percolate on the Record is a complete abuse of discretion and miscarriage of Law ~~see~~ (see In Re Burton 442 B.R. 421; see also State V. Linney Court of Appeals of N.C. 138 N.C. App 169; U.S. V. Spirito U.S.C.A., Fourth Cir. 36 F.4th 191; see also 18 U.S.C.A. § 1621, § 1622, § 1623 (c)(1). See also other cases; Venters V. Albritton ~~289~~ Ne App 2301645 S.E 2d 839

See Attached Papers —

Plaintiff has been highly prejudiced by the lower Courts for failing to administer fairly his Rule 60(b)(6) "motion for Relief of Judgment" to enable him to raise issues of the lower Courts invalid nonbinding orders and abuse of discretion through the proper vehicles to be able to preserve these issues for this U.S. Supreme Court review see Att.

CONCLUSION

For the Foregoing Reasons the Supreme Court should Conduct a de novo Review on these Claims. And Plaintiff be awarded double the Judgment per N.C.G.S.A. § 84-13.
The petition for a writ of certiorari should be granted.

Respectfully submitted,

Luis Antonio Rosado Jr.

Date: December 3, 2024