

No. _____

24-6831

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

DEC 31 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

David Anthony Harris — PETITIONER
(Your Name)

U.S. District Court
U.S. Court of Appeals 4th vs.

Michael Hardee — RESPONDENT(S)
Benjamin P. Szany

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals 4th Circuit

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

PETITION FOR WRIT OF CERTIORARI

David Anthony Harris #0169566
(Your Name)

Wake Correctional Center 1000 Rock Quarry Rd
(Address)

Raleigh N.C. 27602
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Was Petitioner's Miranda Rights violated after he was handcuffed and questioned?
2. Did law enforcement have an exception to Miranda reading due to a pitbull being inside a house?
3. Was Petitioner's trial Attorney ineffective for not objecting to an incriminating statement knowing that his clients Miranda Rights were not read?
4. Was Petitioner's trial Attorney Ineffective for not allowing Petitioner to testify after agreeing he would let Petitioner testify?
5. Should Petitioner been granted an evidentiary hearing?
6. Did the United States Court of Appeals decide an important question of Federal Law (Miranda Rights) that has not been, but should be, settled by this Court, or has decided an important Federal question in a way that conflicts with relevant decisions of this Court.
7. Did the Magistrate Judge incorrectly apply ~~Miranda v. Arizona~~ and fail to grant an evidentiary hearing?
8. Is Petitioner's constitutional rights being violated, and should he be granted a certificate of Appealability.

LIST OF PARTIES

- [~~4~~] 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:

RELATED CASES

1. Farellta v. California, 422 U.S. 806, 819, n.15, 95 S.Ct. 2525, 2533 n.15, 45 L.Ed. 2d 562 (1975).
2. Re Oliver, 333 US 257, 273, 68 S.Ct. 499, 507, 92 L.Ed 682 (1948).
3. Strickland, 466 U.S. at 688, 104 S.Ct. 2052.
4. New York v. Quarles 467 U.S. 649 104 S.Ct. 2626 81 L.Ed. 2d 550.
5. Beckwith v. United States, 425 U.S. 341, 347-348, 96 S.Ct. 488 L.Ed. 2d (1976).
6. Davis v. North Carolina, 384 U.S. 737, 86 S.Ct. 1761, 1763, 16 L.Ed. 2d 895 (1966).
7. Miranda v. Arizona 384 U.S. 436
8. Rivera v. Thompson, 879 F.3d 7, 12-17 (1st Cir. 2018).
9. Grueninger v. Dir., Va. Dept., 813 F.3d 517, 530 (4th Cir. 2016).
10. U.S. v. James Rodriguez Pressley 990 F.3d 383 4th Cir.
11. U.S. v. Giddens, 858 F.3d 870, 879 (4th Cir. 2017).
- 12.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

1. Farell v. California, 428 U.S. 806, 819, L.Ed.2d (1975)
 2. Strickland, 466 U.S. at 688, 104 Ct. 2052.
 3. U.S. v. Allmendinger, 894 F.3d 121, 126-128, 130-31 (4th Cir. 2018).
 4. New York v. Quarles 467 U.S. 649 104 S.Ct. 2626 82 L.Ed.2d 550.
 5. Miranda v. Arizona 384 U.S. 436
 6. U.S. v. James Rodriguez Pressley 990 F.3d 383.
- * I do not have a copy of all my documents, because I could not afford copies and N.C. Prisons will not make copies without a order from the Courts.

STATUTES AND RULES

11

OTHER

11

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	Recommendation of United States Magistrate Judge
APPENDIX B	Order United States District Judge
APPENDIX C	Judgment by U.S. Court of Appeals for the 4th Circuit
APPENDIX D	
APPENDIX E	
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 C 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.

Recommendation of US Magistrate Judge Appendix A (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 December 10, 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

Petitioner's case involves a violation of the 5th and 4th
6th Amendment of the U.S. Constitution. His Miranda
Rights were violated.

STATEMENT OF THE CASE

On 2-9-2017, Petitioner was called to a rental property by the Durham County Sheriff to check on the condition of a dog. When he arrived, he was immediately approached by several armed officers and handcuffed. He was not read his miranda rights. The Sheriff confiscated drugs from the house. Petitioner made bail and awaited trial. Before trial, Petitioner constantly told trial counsel that his miranda rights were not read. He also told his trial counsel that he wanted to testify. He and his counsel agreed that Petitioner could testify. Trial counsel met with the tenant of the house and the tenant wrote an affidavit that he lived in the house and the drugs found was his. The trial started July 15, 2019. The DA informed trial counsel that the alleged deputy that was a surveillance officer for a control buy by Petitioner had been found guilty in Federal Court for stealing Federal money. Trial Counsel did not subpoena the corrupt Sheriff. Trial Counsel did not file a suppression motion knowing that the state was going to use an incriminating statement. Trial counsel did not object when two deputies testified that Petitioner stated, "I'm the only one that lives in the house". Trial Counsel did not object when the DA stated he took a witness what to say. Trial Counsel did not allow Petitioner to testify. Trial Counsel did not object to the state for removing a juror due to his religion. Trial counsel refused to file a Franklin motion. Trial Counsel failed to remove a sleeping juror. Petitioner's Appeal attorney failed to raise a miranda violation and other IAC claims. Petitioner filed a pro-se (MAR) and requested an evidentiary hearing. The (MAR) was denied. Petitioner filed Writ of Cert with the N.C. Appeal Court raising all the above IAC claims and requested an evidentiary hearing. The writ was denied without an evidentiary hearing. Petitioner then filed a Federal Habeas Corpus raising jurisdiction and IAC claims. He also requested an evidentiary hearing. The Magistrate Judge denied the Habeas Corpus. Petitioner objected to the U.S. District Court and he was denied with no evidentiary hearing. Petitioner appealed to the U.S. Appeal Court 4th circuit requesting an evidentiary hearing. The Appeal Court denied the motion. Petitioner now seeks justice in this Honorable United States Supreme Court.

REASONS FOR GRANTING THE PETITION

The U.S. Magistrate Judge, U.S. District Court and United States Court of Appeals has decided an important question of Federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court. The Petitioner has a Miranda violation that undermines the ruling in Miranda v. Arizona. This Court has ruled that when a citizen is in custody and being interrogated, their miranda rights should be read to them. Petitioner in this case was asked a question that they should have known would lead to an incriminating statement. A pitbull in the house, should not be an exception to the rule because there was no danger to the officers or the public. Furthermore, Petitioner's trial Counsel was ineffective for not filing a suppression hearing after being informed that the incriminating statement would be used. Refusing Petitioner the right to testify, prohibited him from being able to tell the Court his rights were violated. Petitioner's trial attorney and Appeal attorney were ineffective in that they never raised a miranda violation along with other IAC claims. Petitioner was never given an evidentiary hearing to create a record for any Court to determine rather or not his attorney was aware of a miranda violation, or to question the attorney on other ineffective counseling.

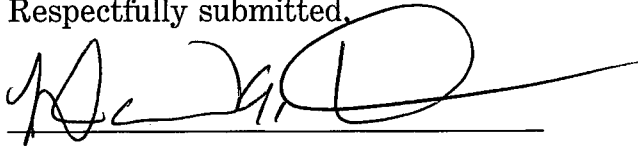
For this Court not to grant Petitioner's writ of Certiorari will not only render him a fundamental of injustice, but it will also send a message to society that law enforcement

Can violate your Miranda rights, simply because a dog was in a resident. It will also allow an attorney to get away with having to answer to the ineffective decisions that prejudice the Petitioner. Two Deputy Sheriffs testified that Petitioner stated he was the only one that lived in the house. There was suppression hearing or an objection to that statement. Petitioner was clearly in custody and interrogated. The incriminating statement did influence the jury to find Petitioner guilty. This Court should grant this writ of Certiorari, because the ruling in Miranda V. Arizona, clearly states and supports Petitioner's argument.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Mc [unclear]", written over a horizontal line.

Date: ⁰⁴~~February 18,~~ 2025
MARCH 10,