

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

BRANDON J. LEE — PETITIONER
(Your Name)

vs.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT — RESPONDENT(S)

ON PETITION FOR A ~~WRIT OF CERTIORARI~~ ^{EXTRAORDINARY WRIT OF MANDAMUS} TO

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

Extraordinary Writ of Mandamus
PETITION FOR ~~WRIT OF CERTIORARI~~

BRANDON J. LEE
(Your Name)

WAKE COUNTY DETENTION CENTER; P.O. BOX 2479
(Address)

RALEIGH, NC 27602
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. SHOULD THE STATE BE ALLOWED TO ISSUE ILLEGALLY CONSTITUTED, INVALID, RUBBER STAMPED, FRAUDULANT TRUE BILL OF INDICTMENTS FOR ALL CRIMINAL MATTERS PERTAINING TO INDIGENT DEFENDANTS?
2. IF A STATE COURT IS SYSTEMICALLY ISSUING ILLEGALLY CONSTITUTED, INVALID, RUBBER STAMPED, FRAUDULANT TRUE BILL OF INDICTMENTS, SHOULD THE STATE BE ALLOWED TO SYSTEMICALLY WAIVE AN INDIGENT DEFENDANT'S FOURTH AMENDMENT RIGHT TO A PROBABLE CAUSE DETERMINATION AS A PREREQUISITE TO EXTENDED RESTRAINT OF LIBERTY FOLLOWING ARREST BY MEANS OF A PROBABLE CAUSE DETERMINATION HEARING WITHOUT THE INDIGENT DEFENDANT'S VERBAL AND/OR WRITTEN CONSENT?

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:

1. SUPREME COURT OF NORTH CAROLINA

ATTN: CHIEF JUSTICE JUDGE MARK MARTIN

P.O. BOX 2170

RALEIGH, NC 27602

2. SUPREME COURT OF NORTH CAROLINA

ATTN: J. BRYAN BOYD, CLERK OF COURT

P.O. BOX 2170

RALEIGH, NC 27602

3. WAKE COUNTY JUSTICE CENTER

10TH JUDICIAL DISTRICT

ATTN: SENIOR RESIDENT SUPERIOR

COURT JUDGE PAUL C. RIDGEWAY

P.O. BOX 351

RALEIGH, NC 27602

4. WAKE COUNTY JUSTICE CENTER

10TH JUDICIAL DISTRICT

ATTN: JENNIFER KNOX, CLERK OF COURT

P.O. BOX 351

RALEIGH, NC 27602

5. WAKE COUNTY DISTRICT ATTORNEY OFFICE

ATTN: LORRINE FREEMAN, D.A.

P.O. BOX 31

RALEIGH, NC 27602

6. ATTORNEY GENERAL OFFICE

ATTN: JOSH STEIN, ATTORNEY GENERAL

P.O. BOX 629

RALEIGH, NC 27602

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TABLE OF AUTHORITIES CITED

CASES	[APP=APPENDIX]	PAGE NUMBER
KERR V. US DIST COURT, 426 U.S. 394, 402 (1976)	[PG 5, APP. A PG 2]	UNITED STATES V. MAUSSAGUI, 333 F.3d 509, 516-17 (4TH CIR 2003) [PG 5, APP. A PG 2]; GURLEY V. SUPERIOR COURT OF MECKLENBURG CTY., 411 F.2d 586, 587 (4TH CIR 1969) [PG 4, APP. A PG 2]; POWELL V. ALABAMA, 287 US 45 (1932) [APP. C PG 4]; COLEMAN V. ALABAMA 399 U.S. 19 (1970) [APP. C PG 4]; KIRBY V. ILLINOIS, 406 U.S. 682, 689 (1972) [APP. C PG 4]; STRICKLAND V. WASHINGTON, 466 US 668 (1984) [APP. C PG 4]; BRITT V. NORTH CAROLINA 404 U.S. 226 (1971) [APP. C PG 4]; LEMMERMAN V. A.T. WILLIAMS OIL CO. 318 NC 577, 580, 350 SE 2d 83, 85 (1986) [APP. C PG 4]; UNITED STATES V. GAGNON, 470 U.S. 522 (1985) [APP. C PG 5]; GIBSON V. WAINWRIGHT 372 U.S. 335 SUPRA (1963) [APP. C PG 5]; POINTER V. TEXAS, 380 US 400-SUPREME COURT (1965) [APP. C PG 5]; GERSTEIN V. PUGH, 420 U.S. 103 (1975) [APP. C PG 5]; LILLY V. VIRGINIA 527 U.S. 116, 119 CT. 1887 144 LED 2d 117 (1999) [APP. C PG 5]; CRAWFORD V. WASHINGTON, 541 U.S. 36 (2004) [APP. C PG 5]; BARKER V. WINGO, 407 U.S. 514 (1972) [APP. C PG 6];
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STATUTES AND RULES		

	NC GEN STAT 15A-954(A)(3) [APPENDIX C PG 12]
-OTHER	N.C. GEN STAT 15A-954(A)(4) [APPENDIX C PG 12]
	N.C. GEN STAT 15A-954(A)(8) [APPENDIX C PG 12]
	N.C. GEN STAT 7A-32 [APPENDIX C PG 9]
	28 U.S.C § 1651(A) [PG 4]
	N.C. GEN STAT 15A-952 [APPENDIX C PG 7]

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 _____ 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 JANUARY 22, 2018.

☒ 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

U.S. CONSTITUTION: FOURTH AMENDMENT RIGHT TO A PROBABLE CAUSE DETERMINATION AS A PREREQUISITE FOR EXTENDED RESTRAINT OF LIBERTY FOLLOWING ARREST; FIFTH AMENDMENT RIGHT TO AN INDICTMENT BY A GRAND JURY WHEREBY 'NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL OR OTHERWISE INFAMOUS CRIME UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY'; SIXTH AMENDMENT 'RIGHT TO A SPEEDY TRIAL AND PUBLIC TRIAL BY AN IMPARTIAL JURY... BE CONFRONTED WITH THE WITNESSES AGAINST HIM... AND TO HAVE ASSISTANCE OF COUNSEL FOR HIS DEFENSE'; AND FOURTEENTH AMENDMENT WHEREBY 'NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY OR PROPERTY, WITHOUT DUE PROCESS OF LAW, NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION EQUAL PROTECTION OF THE LAWS' NC CONSTITUTION: ART I, SEC 18- 'COURT SHALL BE OPEN COURT'... 'JUSTICE SHALL BE ADMINISTERED WITHOUT DENIAL OR DELAY'; ART I, SEC 19- 'LAW OF THE LAND EQUAL PROTECTION OF THE LAWS'. 'NO PERSON SHALL BE DENIED EQUAL PROTECTION OF THE LAWS'; ART I, SEC 22- 'MODE OF PROSECUTION'. 'NO PERSON SHALL BE PUT TO ANSWER ANY CRIMINAL CHARGE BUT BY INDICTMENT, PRESENTMENT, OR IMPEACHMENT'; ART I, SEC 23- 'RIGHT OF ACCUSED... TO CONFRONT THE ACCUSERS AND WITNESSES WITH OTHER TESTIMONY, AND TO HAVE COUNSEL FOR DEFENSE'; ART I, SEC 36- 'OTHER RIGHTS OF THE PEOPLE THE ENUMERATION OF RIGHTS IN THIS ARTICLE SHALL NOT BE CONSTRUED TO IMPAIR OR DENY OTHERS RETAINED BY THE PEOPLE' STATUTORY PROVISIONS N.C. GEN STAT 15-954 A) THE COURT ON MOTION OF THE DEFENDANT MUST DISMISS THE CHARGES STATED IN A CRIMINAL PLEADING IF IT DETERMINES THAT 3.) THE DEFENDANT HAS BEEN DENIED A SPEEDY TRIAL AS REQUIRED BY THE CONSTITUTION OF THE U.S. AND THE CONSTITUTION OF N.C 4.) THE DEFENDANT'S CONSTITUTIONAL RIGHTS HAVE BEEN FLAGRANTLY VIOLATED AND THERE IS SUCH IRREPARABLE PREJUDICE TO THE DEFENDANT'S PREPARATION OF HIS CASE THAT THERE IS NO REMEDY BUT TO DISMISS PROSECUTION 8.) THE COURT HAS NO JURISDICTION OVER THE OFFENCE CHARGED; N.C GEN STAT 7A-32- POWER OF THE SUPREME COURT AND COURT OF APPEALS TO ISSUE REMEDIAL WRITS. GENERAL POWER TO SUPERVISE AND CONTROL THE PROCEEDINGS OF LOWER COURTS OR ACT IN THE ABSENCE OF RULE OR STATUTE.

STATEMENT OF THE CASE

NOW COMES THE PETITIONER, BRANDON J. LEE, HEREBY COMPELS THIS MOST HONORABLE COURT TO ISSUE AND GRANT ITS EXTRAORDINARY WRIT OF MANDAMUS AUTHORIZED BY 28 U.S.C. § 1651(A). THE PETITIONER IS IN A STATE OF OPPRESSIVE PRETRIAL INCARCERATION AT THE WAKE COUNTY DETENTION CENTER OF RALEIGH, NC CASE NO. 15CR227741-42. THE PETITIONER APPEALED TO THE U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT FILE NO: 17-2344 TO BE HEARD ON SEVERAL MOTIONS FOR DISMISSAL IN THE WAKE COUNTY 10TH JUDICIAL DISTRICT TRIAL COURT BY MEANS OF A WRIT OF MANDAMUS ORDERING THE CHIEF JUSTICE OF THE SUPREME COURT OF NC TO RULE ON THE WRIT OF MANDAMUS FILED IN ITS COURT. FILE NO: PSEPT17-1 THE PETITIONER IS VEHEMENTLY CHALLENGING THE FLAGRANT AND SYSTEMIC VIOLATIONS OF CONSTITUTIONAL RIGHTS THE WAKE COUNTY 10TH JUDICIAL DISTRICT HAS BECOME NOTORIOUS FOR. THE PETITIONERS WRITS OF MANDAMUS AND MOTIONS FOR DISMISSAL STAMP FILED IN THE U.S. SUPREME COURT ON DECEMBER 18, 2017 [APPENDIX C] DETAIL AND UNEQUIVOCALLY ARGUE HOW THEY DO SO. THE CRITICAL UNDERLYING PROBLEM IS THAT THEY ISSUE ILLEGALLY CONSTITUTED, INVALID, RUBBER STAMPED, FRAUDULANT TRUE BILL OF INDICTMENTS FOR ALL INDIGENT DEFENDANTS AND IN DOING SO JUSTIFY THEIR ILLEGAL PROCESS OF SYSTEMICALLY WAIVING PROBABLE CAUSE HEARINGS FOR ALL INDIGENT DEFENDANTS THROUGH THE APPOINTED STATE PUBLIC DEFENDER WITHOUT VERBAL AND/OR WRITTEN CONSENT. THEREIN, DEPRIVING INDIVIDUALS OF LIFE, LIBERTY, AND PROPERTY ABSENT OF DUE PROCESS OF THE LAW WHILE FLAGRANTLY VIOLATING THE FOURTH, FIFTH, SIXTH, AND FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION AND ART I, SEC 18, 19, 22, 23 AND 36 OF THE N.C. CONSTITUTION. THE PETITIONER IS FIGHTING NOT ONLY FOR HIS RIGHTS BUT ANYWHERE IN AMERICA THESE ILLEGAL PRACTICES CONTINUE. THE PETITIONER IS ULTIMATELY PLEADING THIS MOST HIGH COURT TO INTERVENE AGAINST THESE ILLEGAL PRACTICES THAT UNDERMINE OUR CONSTITUTION. THIS EXTRAORDINARY WRIT WILL BE IN AID OF THE COURTS APPELLATE JURISDICTION BECAUSE IT'S CLEARLY STATED IN THEIR DECISION THAT THEY DO NOT HAVE JURISDICTION TO GRANT MANDAMUS RELIEF AGAINST STATE OFFICIALS GURLEY V. SUPERIOR COURT OF MECKLENBURG CITY, 411 F.2d 586, 587 (4TH CIR 1969). HOWEVER, THE U.S. SUPREME COURT DOES. ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT. THESE EXCEPTIONAL CIRCUMSTANCES WARRANT THE EXERCISE OF THIS COURTS DISCRETIONARY POWERS.

REASONS FOR GRANTING THE PETITION

- I. THE PETITIONER CAN ASK A HIGHER COURT TO ISSUE A WRIT, OUTSIDE OF THE USUAL APPEAL PROCESS, TO RECTIFY A CERTAIN WRONG BY THE TRIAL COURT. HALL V. QUATERMAN 534 F.3d 365, 367-69 (5th CIR 2008); WINSTON V. PEARSON, 683 F.3d 489, 494-500 (4th CIR 2012)
- II. PETITIONER ARGUES THAT THE WORD WRIT MEANS AN ORDER WHEN THE MATTER IS URGENT AND ARE CONSIDERED TO BE EXTRA-ORDINARY REMEDIES. THE WRITS ARE HEARD MORE QUICKLY THAN APPEALS, SO IF THE PETITIONER FEELS WRONGED BY THE ACTIONS OF THE TRIAL COURT HE MAY NEED TO TAKE A WRIT TO OBTAIN AN EARLY REVIEW BY A HIGHER COURT, AS IS WHEN FINAL JUDGEMENT HAS NOT YET BEEN ENTERED IN THE TRIAL COURT, BUT THE PTN SEEKING THE WRIT NEEDS RELIEF AT ONCE TO PREVENT INJUSTICE, UNNECESSARY EXPENCE AND UNDULY DELAYED RULING.
- III. PETITIONER ARGUES THAT A WRIT OF MANDAMUS IS TO ABOARD, CORPORATION, INFERIOR COURT, OFFICER OR PERSON COMMANDING THE PERFORMANCE OF A SPECIFIED OFFICIAL DUTY IMPOSED BY LAW. QUOTING SUTTON V. FIGGAT, 280 NC 89, 93, 185, SE 2d 97, 99 (1971); IN RE T.H.T 366 NC 446, 454, 665 SE 2d 54, 60 (2008)
- IV. PETITIONER ARGUES THAT MANDAMUS RELIEF IS A DRASTIC REMEDY AND SHOULD BE USED ONLY IN EXTRAORDINARY CIRCUMSTANCES. KERR V. U.S. DIST COURT, 426 U.S. 394, 402 (1976); UNITED STATES V. MOUSSAOUI, 333 F.3d 509, 516-17 (4th CIR 2003). THIS IS AN EXTRAORDINARY CIRCUMSTANCE.
- V. PETITIONER ARGUES THAT THE SUPREME COURT OF THE UNITED STATES HAS GENERAL SUPERVISORY AUTHORITY OVER THE ORDERS, JUDGEMENTS, AND DECREES OF THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT; THIS IS AN EXTRA-ORDINARY WRIT WHICH IN A PROPER CASE, WHEN NECESSARY TO PROMOTE THE EXPEDITIOUS ADMINISTRATION OF JUSTICE, THE SUPREME COURT OF THE UNITED STATES OF AMERICA WILL NOT HESITATE TO EXERCISE.

ACCORDING TO A RECENT NEWS AND OBSERVER ARTICLE DATED THURSDAY JUNE 29TH, 2017 THE PRETRIAL JUSTICE INSTITUTE STATED "LEGAL AND EVIDENCE BASED PRETRIAL JUSTICE PRACTICES ARE NOT IN PLACE IN NORTH CAROLINA" AND THAT SIMILAR SYSTEMS HAVE BEEN RULED UNCONSTITUTIONAL IN VARIOUS FEDERAL COURTS. IT SEEMS THAT IN NORTH CAROLINA OUR CONSTITUTION IS MORE DEFINED BY ITS DYSFUNCTION, ABUSE, AND FLAGRANT DISREGARD THAN BY ITS PRINCIPLES AND VALUES WE HOLD SELF EVIDENT. WE MUST NEVER ACCEPT SYSTEMIC VIOLATIONS OF CONSTITUTIONAL RIGHTS MEERLY ALLOWING THE DAILY SUNDERING AND THREATS AGAINST ITS PRINCIPLES WHICH PROTECT LIFE AND LIBERTY. WHEN SUCH BEHAVIOR EMINATES FROM THE TOP OF OUR JUDICIAL SYSTEM IT IS SOMETHING ELSE. IT IS DANGEROUS TO OUR DEMOCRACY. THE PRINCIPLES THAT UNDERLIE OUR CONSTITUTION, THE VALUES OF OUR GREAT NATIONS FOUNDING ARE TOO VITAL TO BE COMPROMISED.

CONCLUSION

THE PETITIONER MOVES THIS COURT TO GRANT THIS EXTRAORDINARY WRIT OF MANDAMUS AND SUCH OTHER FURTHER RELIEF AS APPEARS TO THIS MOST HONORABLE COURT TO BE JUST AND PROPER.

The petition for a ~~writ of certiorari~~ should be granted.
EXTRAORDINARY WRIT OF MANDAMUS

Respectfully submitted,

A handwritten signature in black ink, appearing to be "B. L. A.", written over a horizontal line.

Date: JANUARY 31, 2018