

No.
In The Supreme Court of The United States

Nashid Porter
Petitioner

V.

Carlton Jaynes et al
Respondent.

On Petition For Writ of Certiorari To
The Fourth Circuit of Appeals

Petition For Writ of Certiorari

Mr. Nashid Porter
#0471570
Central Prison
1300 Western Blvd
Raleigh N.C 27604

Question Presented

Mr. Porter alleged that the grand jury did not find probable cause to believe that the Petitioner has committed any relevant offenses, nor was Mr. Porter the target of the grand jury investigation.

Mr. Porter alleged that the prosecutor never submit evidence to succeeding grand juror to obtain an indictment for the Petitioner.

Mr. Porter alleged that his court appointed counsel abridge him from privileges or challenge the grand jury on the grounds that the jurors were not legally qualified, were improperly selected, unbiased, were not racially neutral or was or not selected from the fair cross-section, to prove to his counsel that Mr. Porter was not the grand jury target.

Mr. Porter alleged He was force and hell to answer for infamous crime and the conviction obtained by a violation of the protection against illegal arrest did invalidate subsequent 'Basis for issuance of a search warrant, duty of the issuing official, Conduct Constituting a search or seizure, probable cause hearing, Determination of sufficiency of charge and prerequisite to extended restraint of liberty following arrest.

In finding no prejudice, the Fourth Circuit relied upon that Mr. Porter failed to file a timely notice of appeal under the Fed. R. App. P. 4 (2) (1) (A) but Mr. Porter was an inmate confined in an institution files a notice of appeal in the manner provided by Rule 4 (c).

Did the Fourth Circuit err in that Mr. Porter was an inmate confined in an institution files a notice of appeal in the manner provided by Rule 4 (c), when the Fourth Circuit decision was based on a flagrant misreading that they assume Mr. Porter was under Fed. R. App. P. 4 (2) (1) (A) ?

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Parties

The Petitioner is Nashid Porter, inmate at Central at 1300 Western Blvd. Raleigh N.C 27606

The Respondent is Clarence Lee Del Forge III, North Carolina Department of Justice, P.O. Box 629, Raleigh N.C 27602

Decision Below:

The Fourth Circuit Court of Appeals dismissed by unpublished per curiam opinion and copy is attached as Appendix

The order of the Fourth Circuit Court of Appeals dismissed the appeal for lack of jurisdiction because the notice of appeal was not timely filed under Fed. R. App. P. 4(2)(1)(A) and copy is attached as Appendix

Jurisdiction

The judgement of the United States Court of Appeals for the 4th Circuit was entered on January 23, 2018. An order denying a petition for rehearing force by mandate was entered on February 14, 2018 and a copy of the mandate is attached as Appendix to this petition. Jurisdiction is conferred by 28 U.S.C. §§ 1254 (1).

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Statutory and Constitutional Provisions involved

U.S. CONST. AMEND. IV

The right of the people to be secure in their person, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

U.S. CONST. AMEND. V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury.

U.S. CONST. AMEND. XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; 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 the equal protection of the laws.

U.S. CONST. AMEND. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Fed. R. App. P. 3 (d)(2)

(d) Serving the Notice of Appeal.

(2) If an inmate confined in an institution files a notice of appeal in the manner provided by Rule 4(c), the district clerk must also note the date when the clerk docketed the notice.

Fed. R. App. 4 (c)

(c) Appeal by an Inmate Confined in a Institution.

(1) If an inmate confined in an institution files a notice of appeal in either a civil or a criminal case, the notice is timely if it is deposited in the institution internal mail system on or before the last day for filing.

If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule.

Timely filing may be shown by a declaration in compliance with 28 U.S.C. § 1746, or by a notarized statement, either of which must set forth the date of deposit and state that first class postage has been prepaid.

(3) When a defendant in a criminal case files a notice of appeal under this Rule 4 (c), the 30-day period for the government to file its notice of appeals runs from the entry of the judgment or order appealed from or from the district court's docketing of the defendant's notice of appeal, whichever is later.

Statement of the case:

1. On 7-27-2012, In relevant time Detective Lenniter Rhoad of the Wilmington Police Department, unauthorized entry false information ~~to~~ into the N.C.I.C. data base that Nashid Porter was wanted person for offense N.C.G.S 14-17 on 7-27-2012, ~~with~~ (App C)
2. The U.S. Marshal Task Force and Public Law enforcement agency lead the illegal search and seized of the Petitioner sister Kenyetta Porter home on 8-7-2012 at 13902 Ascott DR, Upper Marlboro, Maryland, the Petitioner was not presented at the home.
3. The U.S. Marshal Task Force and Investigating law enforcement agency set-up unauthorized Electronic Surveillance on the Petitioner cell phone and track down the Petitioner on 9-4-2012 at 305 Broadfoot Avenue, Fayetteville N.C.
4. On 9-4-2012 U.S. Marshal Task Force used force entry on third party home at 305 Broadfoot Avenue, Fayetteville N.C to unlawfully arrested the Petitioner (App D)
5. On 9-4-2012 U.S. Marshal Task Force and Invertingating law enforcement agency did not presented the statement of cause and order with the Copy of indictment to the Appellant. pursuant to N.C.G.S 15A-305 (c) (1).

6. A magistrate, as provided in N.C.G.S. 7A-273, issued form AOC-CR-100 on 7-27-2012 at New Hanover Court House at 2:00 pm for the Appellant in offense in violation of N.C.G.S. 14-17.

In issuing the AOC-CR-100 form on 7-27-2012 was based on an unverified complainant from Detective Jennifer Rhoad.

7. The Lineups, that was conducted by state, County, and other local law enforcement officers did not meet any of the following requirements pursuant to 15A-284.52 (b)(1) through (b)(15)(H) "Eyewitness Identification Procedures".

8. The government eyewitness and witnesses identification testimony was obtained from overly suggestive procedures.

9. The government eyewitness and witnesses identification testimony was obtained from overly suggestive procedures.

10. The government eyewitnesses or witnesses did not identify the Appellant in a "show up" in which a single individual fitting a witnesses description of the suspect is presented to the witness for identification.

11. The government eyewitnesses or witnesses did not identify the Appellant in a "photo array".

12. The government eyewitnesses or witnesses did not identify the Appellant in a "line up" in which a suspect is presented along with nonsuspects.

13. Mikeya Love appears in Court on Monday June 29, 2015 at 10am in courtroom 403 of the New Hanover County Court House to do in Court identification through Appellant was only African American and handcuffed seated at the defense table.

14. 9-4-2012 through 2-14-2014, 11-19-2014 through 6-16-2016, The Appellant was held against his free will in the New Hanover County Jail in administrative segregation with 23 hour lock-up, five hours of exercise a week include recorded phone and visitation, exclusion from all programs, all out and incoming U.S. Mail Read and Copy and turn over to the prosecution include the record phone and visitation.

15. 11-19-2014 through Present, The Appellant appears numerous times before the Court and held against his will, not one time a presiding judge Notice to the Appellant of a true two bill of indictment by no grand Jury pursuant to N.C.C.S. 15A-630.

16. The Court, State, appointed counsel Nona Hargrove, Jennifer Hargrove abridge the defendant from the Bill of Right, North Carolina and Federal Rules of Criminal Procedure or any other protection "Act of Congress".

17. The Appellant filed Petition's For a Writ of Habeas Corpus pursuant to N.C.G.S 17-1 through 17-38 upon the Superior court district 5 court judge pursuant to 17-6 (2) then Justices pursuant to 17-6 (1), then petition for a writ of Certiorari in the North Carolina Appeal to inquire into the lawfulness of his liberty when all are filed before the wrongful conviction on 6-16-2014

18. The fact is someone enforce laws that abridge the Appellant and family, privileges, and deprive them of liberty, property, due process of law, and equal protection of the law.

19. The fact is an illegal governmental home invasion onto the Appellant, family and friends private property for the purpose to terrorize and invaded their personal privacy without lawful authority to search and seized.

20. The fact is the Appellant is held against his will to force answer an infamous crime with no presentment or indictment of a grand jury.

21. The fact is the Appellant was under unlawful Electronic Surveillance without authorization from a designated senior official in the Department of Justice.

22. The fact is the court has interfere with post-indictment grand jury proceedings for the sole purpose to discover facts relating to the Appellant pending prosecution.

23. The fact is that Appellant illegal arrested was not authorized under N.C.G.S 15A-623 (f).

24. The fact is the Appellant illegal search and seized was not authorized under N.C.G.S 15A-243 (3), F.R.C.P. Rule 4 and Rule 41.

25. The Appellant was taken to trial and convicted by improper jury on 06-16-2016 without an indictment by grand jury to answer an infamous crime that the state allege the Appellant committed the crime on 7-27-2012

26. The Court erred by Failing to issued Order for arrest, statement of Cause, and Copy of indictment to the Appellant during the time of illegal arrest and during the 45 monthr detainee in the New Hanover County Jail and illegal electronic home monitoring pursuant to N.C.G.S 15A-305 (b)(1) and (c)(2).

27. The Appellant court appointed counsel Nora Hargrove or Jennifer Harjo would not / did not challenge the grand jury on the grounds that the jurors were not legally qualified or were improperly selected.

28. The Appellant court appointed counsel Nora Hargrove or Jennifer Hargo would not / did not challenge the grand jury on no kind of grounds or filed no motion about challenging the grand jury.

29. The Appellant court appointed counsel Nora Hargrove or Jennifer Hargo could not / did not obtain transcripts of grand jury testimony given by a witness called by the government at trial when the grand jury testimony relates to matters explored on direct - or - any kind of grand jury testimony given by any law enforcement agency the government claim that relates to the matter, to the Appellant.

30. The Appellant court appointed counsel Nora Hargrove or Jennifer Hargo did not legal challenges to Indictment Based on alleged defects in Grand Jury proceedings.

31. The grand jury did not filed written accusation to superior court, charging the Appellant with the commission of one or more criminal offenses pursuant to N.C.R.S 15A-641.

32. The Appellant court appointed counsel Nora Hargrove and Jennifer Hargo, deprived the Appellant of a substantive and procedural right to which the law entitles him.

33. The Appellant did not testify of a pretrial hearing, trial or a post trial hearing.

34. The Appellant did not a Probable Cause Hearing nor waiver of probable cause hearing pursuant to N.C.B.S 15A-611 through 15A-606 through 15A-610

35. The Appellant did not have an arraignment nor waiver of arraignment pursuant to N.C.B.S 15A-941 through N.C.B.S 15A-950

Direct and Concise argument

Mr. Porter did file a timely notice of Appeal under the Fed. R. App. P. 4(c), He was an inmate confined in prison, In *Huston V. Lack*, 487 U.S. 266 (1988), the Supreme Court held that a prose prisoners notice of appeal is "filed" at the moment of delivery to prison authorities for forwarding to the district court.

The amendment reflects that decision the language of the amendment is similar to that in Supreme Court Rule 29.3

"Permitting an inmate to file a notice of appeal by depositing it in an institutional mail system requires adjustment of the rules governing the filing of cross appeals."

The court had no jurisdiction of the Appellant, cause the Appellant was not charged by the grand Jury. Equal Protection of the law

Therefore the Respondents trying to delay the Writ of habeas Corpus by stated the Appellant been held in custody since 9-4-2012 with no full answer from the state or Respondent of the lawfulness of his liberty.

Reason for Granting the Writ

The decision of the Fourth Circuit is in conflict with the decisions of the Supreme Court of the United States.

The case illustrates the fact that the Fourth Circuit court of Appeals is out of step with this court in its consideration of the *Houston v. Lack*, 487 U.S. 266 (1988), prejudice pron.

Certiorari should be granted to correct the error; but Appellant restraint illegal by the United States and North Carolina Constitution, and Federal and North Carolina Criminal law and Procedure, the Appellant Constitutional Rights has been flagrantly violated and there is such irreparable prejudice to the Appellant, that there is no remedy but set aside the judgement and to "discharge the Prisoner" on the ground that he is in custody in violation of the Constitution and laws of the United States.

Respectfully Submitted

Nash' Porter

Nash' Porter

1300 Western Blvd

Raleigh N.C 27606

Proof of Service

I, Nashid Porter declare under penalty of perjury pursuant to 28 U.S.C §§ 1746 that he mailed a copy of the enclosed Petition For A Writ of Certiorari to Repandent counsel's:

Clarence Joe Del Forge III

N.C.D.O.J

P.O Box 629

Raleigh N.C 27602

Solicitor General of the United States

Room 5614

Department of Justice

950 Pennsylvania Ave N.W.

Washington D.C 20530

by placing them in an envelope and placing the envelope in the mail Hall legal mail box at central Prison, 1300 Western Blvd, Raleigh N.C 27609 on 3-3-2018, 4-13-18 and 5-16-18



Nashid Porter

5-16-2018