

24-7056

Case No. \_\_\_\_\_

ORIGINAL

**In The Supreme Court of the United States**

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ANDREW D. ANDERSON

*Petitioner,*

v.

THE STATE OF NORTH CAROLINA, ET AL.,

*Respondents.*

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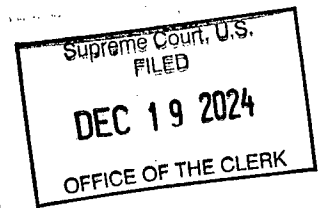
On Petition for Writ of Certiorari to the  
United States Court of Appeals for the Fourth Circuit

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**PETITION FOR WRIT OF CERTIORARI**

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Andrew D. Anderson  
177 Dills Branch Rd.  
Sylva, NC 28779  
(706) 307-9493  
*Petitioner in Pro se*



## QUESTIONS PRESENTED

As applied in petitioner's case, are the applications of judicial and prosecutorial immunities consistent and compliant with Art. III. Sec. 2. "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States"?

Does the district court err in its findings of facts and application of the law on pages 10-11 under Sec. III (A) of the order, and dismisses with prejudice under the doctrine of Sovereign immunity the petitioner's claims against Defendants, Office of the Governor of North Carolina, Roy Cooper III, North Carolina Superior Court District 30, North Carolina District Court, Josh Stein, and Office of the Sheriff? (See App. B, P. 10a.-11a.)

Did the district court err in its findings of facts and application of the law at the bottom of page 13 of the court's ORDER, under Sec. III (B) when dismissing with prejudice under the doctrine of prosecutorial immunity, Petitioner's claims against Defendants Welch, Matheson, Buckner, Phelps, Hughs, 43<sup>rd</sup> Prosecutorial District, and Office of the District Attorney? (See App. B, P. 18a.)

Did the district court err in its findings of facts and application of the law, under section III (C)(4)(f) of the district court's ORDER, the district court has found, as a matter of fact, and of law, that the Petitioner's claims against Defendants are barred by the doctrine of res judicata for previous claims in state courts against defendants being dismissed? (See App. B, P. 26a.-29a.)

Has the petitioner stated sufficiently new facts to state a new claim of actual First Amendment violations and on the same happenings not to be barred by the doctrine of res judicata?

Do the life and liberty rights guaranteed by Amend. XIV give way to Governor Roy Cooper Executive Orders 116-121, appended as Appendices L-Q? (See P. 65a.-103a.)

Is the exercise of emergency powers by government authorities constitutionally permissible under the U.S. Constitution, and if so, do these emergency powers render the individual constitutionally protected rights, by Amendments to the U.S. Constitution I, IV, V, VI, VIII, IX, X, and XIV null and void during a declared emergency (such as in an administrative court-ordered mask mandate or a panicked two weeks to slow the spread)? (See App. R, P. 105a.)

## **PARTIES TO THE PROCEEDINGS**

**Petitioner:** ANDREW D. ANDERSON, an individual, an American, and  
Disabled Veteran of Sylva, NC,

**Respondent:** THE STATE OF NORTH CAROLINA,

**Respondent:** THE OFFICE OF THE GOVERNOR OF NORTH  
CAROLINA,

**Respondent:** ROY COOPER III, an individual, and former Governor of  
North Carolina,

**Respondent:** THE OFFICE OF THE NORTH CAROLINA SUPREME  
COURT CHIEF JUSTICE,

**Respondent:** CHERI BEASLEY, an individual, and former Chief Justice of  
The North Carolina Supreme Court,

**Respondent:** PAUL NEWBY, an individual, and Chief Justice of The North  
Carolina Supreme Court,

**Respondent:** BRADLEY B. LETTS, an individual, and Senior Resident  
Superior Court Judge 30B,

**Respondent:** NORTH CAROLINA DISTRICT COURT,

**Respondent:** ROY T. WIJEWICKRAMA, an individual, formerly Chief  
District Court Judge, 30<sup>th</sup> District, now a Superior Court Judge for the 30<sup>th</sup>  
Superior Court District,

**Respondent:** KALEB D. WINGATE, an individual, and 30<sup>th</sup> District,  
District Court Judge,

**Respondent: DONA F. FORGA**, an individual, and 30<sup>th</sup> District, District Court Judge,

**Respondent: JOHN J. PAVEY JUNIOR**, an individual and court-appointed counsel,

**Respondent: JARED R. DAVIS**, an individual, and court-appointed counsel,

**Respondent: THE OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA**,

**Respondent: JOSHUA STEIN**, an individual, Governor of North Carolina, and formerly Attorney General of North Carolina,

**Respondent: THE 43<sup>rd</sup> PROSECUTORIAL DISTRICT**,

**Respondent: THE OFFICE OF THE DISTRICT ATTORNEY**,

**Respondent: ASHLEY H. WELCH**, an individual, and 43<sup>rd</sup> Prosecutorial District Attorney,

**Respondent: CHRISTINA B. MATHESON**, an individual, and Assistant District Attorney for the 43<sup>rd</sup> Prosecutorial,

**Respondent: ANDREW C. BUCKNER**, an individual, and Assistant District Attorney for the 43<sup>rd</sup> Prosecutorial District,

**Respondent: JACOB P. PHELPS**, an individual, and Assistant District Attorney for the 43<sup>rd</sup> Prosecutorial District,

**Respondent: JENNACA D. HUGHS**, an individual, and Assistant District Attorney for the 43<sup>rd</sup> Prosecutorial District, Jackson Co. Justice Center

**Respondent: SUMER L. ALLEN**, an individual, and Paralegal for the 43<sup>rd</sup>  
Prosecutorial District, Jackson Co. Justice Center

**Respondent: JACKSON COUNTY NORTH CAROLINA**, Jackson Co.  
Justice Center,

**Respondent: JACKSON COUNTY SHERIFF'S DEPARTMENT**, Jackson  
Co. Justice Center,

**Respondent: THE OFFICE OF THE SHERIFF**, Jackson Co. Justice  
Center,

**Respondent: CHIP L. HALL**, an individual, and retired, Jackson Co. Sheriff  
with surety bond No.62231249,

**Respondent: CNA SURETY**, of Sioux Falls, SD, Small Commercial Service  
Center,

**Respondent: HEATHER BAKER**, an individual and former Jackson Co.  
Attorney,

**Respondent: SHANNON H. QUEEN**, an individual, and former top-ranking  
officer with the Jackson Co. Sheriff's Dept.,

**Respondent: ANN D. MELTON**, an individual, and former Jackson Co.  
Clerk of Superior,

**Respondent: THE OFFICE OF THE JACKSON COUNTY CLERK OF  
SUPERIOR COURT**,

**Respondent: THE OFFICE OF THE JACKSON COUNTY  
MAGISTRATE**,

**Respondent: JEFFERY W. POWELL**, an individual, former Jackson Co.  
Magistrate and Deputy Magistrate,

**Respondent: JEFFERY W. POWELL**

**Respondent: SAMUEL K. BOWERS**, an individual, and former Jackson Co.  
Sheriff's Deputy Courthouse Security,

**Respondent: TYLER B. BRYSON**, an individual, and former Jackson Co.  
Sheriff's Deputy and Courthouse Security,

**Respondent: DEREK A. ROBINSON**, an individual, and former Jackson  
Co. Sheriff's Deputy and Courthouse Security,

**Respondent: MEGAN L. RHINEHART** an individual, and Jackson Co.  
Sheriff's Deputy,

**Respondent: KATHLEEN D. BREEDLOVE**, an individual, retired Director  
of Human Resources from Southwestern Community College and currently  
the Director of HR for Jackson Co.,

**Respondent: SOUTHWESTERN COMMUNITY COLLEGE**,

**Respondent: LYNN P. DANN**, an individual, and former Department Head,  
Psychology, Sociology, and Ethics Instructor at Southwestern Community  
College,

**Respondent: CHERYL L. CONTINO-CONNER**, an individual, and former  
Dean of Students at Southwestern Community College,

**Respondent: BARBARA B. PUTMAN**, an individual, and former Dean of  
Arts & Sciences at Southwestern Community College,

**Respondent: THOMAS R. BROOKS**, an individual, and President of Southwestern Community College.

### **CORPORATE DISCLOSURE STATEMENT**

This petition is not filed in concert with, by, or on behalf of any non-governmental corporation, or any other publicly traded, or incorporated entities.

### **LIST OF DIRECTLY RELATED PROCEEDINGS**

- *Anderson v. North Carolina, et al.*, No. 24M56 S.C.O.T.U.S., petitioners' motion to proceed as a veteran denied, entered February 24, 2025.
- *Andrew D. Anderson v. The State of North Carolina et al.*, 1:24\_cv-00034-MR-WCM, U. S. District Court for the Western District of North Carolina. Judgment entered March 18<sup>th</sup>, 2024.
- *Andrew D. Anderson v. The State of North Carolina et al.*, 1:24\_cv-00034-MR-WCM, U. S. District Court for the Western District of North Carolina. Plaintiff's Notice of Appeal entered March 28<sup>th</sup>, 2024.
- *Andrew D. Anderson v. The State of North Carolina et al.*, 24-1277, U. S. Court of Appeals for the Fourth Circuit. Judgment entered August 29<sup>th</sup>, 2024.
- *Andrew D. Anderson v. The State of North Carolina et al.*, 24-1277, U.S. Court of Appeals for the Fourth Circuit. Order denying petition for rehearing, and rehearing en banc, entered September 24<sup>th</sup>, 2024.



- *Dann v. Anderson*, 20-CVD-618, District Court Division. Judgment entered October 26<sup>th</sup>, 2020.
- *Anderson v. Dann et al.*, 20-CVS-725, Superior Court Division. Judgment entered March 16<sup>th</sup>, 2021.
- *Dann v. Anderson*, 21-CRD-050258, District Court Division. Judgment entered May 25<sup>th</sup>, 2021.
- *Andrew D. Anderson v. Lynn P. Dann, et al.*, 21-CVS-244, Superior Court Division. Judgment entered August 6<sup>th</sup>, 2021.
- *Andrew D. Anderson v. Lynn P. Dann, et al.*, 21-CVS-244, Superior Court Division. Notice of Appeal filed August 16<sup>th</sup>, 2021.
- *Andrew D. Anderson v. Lynn P. Dann, et al.*, 21-CVS-244, Superior Court Division. Judgment entered March 18<sup>th</sup>, 2022.
- *State v. Anderson, Andrew, Douglas*, 21-CRS-050258, Superior Court Division. Judgment entered June 13<sup>th</sup>, 2022.

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**IN THE SUPREME COURT OF THE UNITED STATES**

**PETITION FOR WRIT OF CERTIORARI**

**NOW COMES** Petitioner, Andrew D. Anderson, while grateful for the consideration of this the Supreme Court of the United States, petitioner respectfully prays that a writ of certiorari issue to review the judgment below of the United States Court of Appeals for the Fourth Circuit, which affirmed the district court's ruling in this matter. The decision of the district court in App. B addresses critical constitutional questions that warrant the Court's attention and resolution. The petitioner believes that the court misapplied protection of the Eleventh Amendment and further misapplied sovereign immunity protections to the State. While the lower courts uphold the government's actions under the assertion of immunity and that such emergency measures are constitutionally justified, thereby limiting or seemingly nullifying, nearly all the Petitioner's constitutionally protected rights, including, Amend. VI right to access counsel, Amend. V and Amend. XIV rights to due process, Amend. I and N.C. Const. Art. I Sec. 14 right to free expression and speech on college campus N.C.G.S. §. 116-300, Amend. IV right to be secure in the petitioner's person and papers against illegal searches and seizures, Amend. VI right to a speedy trial, the right to an open court, and that justice shall be administered without favor, denial, or delay N.C. Const. Art. I Sec. 18 and Sec. 24. as well as Amend. VI right to a jury

trial in all matter's criminal, N.C. Const. Art. I Sec. 6. the right to a government with a separation of powers and Amend. VIII rights protecting the petitioner from excessive bail, N.C. Const. Art I Sec. 7. right to the suspending of laws, and N.C. Const. Art. I Sec. 19. Petitioner argues that the exercise of emergency powers, does not nullify constitutionally protected rights, and such restrictions are overbroad, undue, unnecessary, unconstitutional, and above all, ineffective and nefarious and further that such actions are precluded by Amend. X.

### **OPINIONS BELOW**

The opinion of the United States Court of Appeals for the Fourth Circuit appears at Appendix A to the petition and is unpublished. The opinion of the United States district court appears at Appendix B to the petition and is unpublished.

### **JURISDICTION**

The judgment of the United States Court of Appeals for the Fourth Circuit was entered on August 29<sup>th</sup>, 2024, and a copy appears at App. A. The petitioner filed a timely joint petition for rehearing and rehearing en banc, which was denied on September 24<sup>th</sup>, 2024, and a copy of the order appears at App. C. The jurisdiction of this Court is invoked under 28 U.S.C. §. 1254 (1).



### STATEMENT OF THE CASE

This case arises from a 2020 First Amendment violation of free speech on campus that initially was started as a state court case that was dismissed for failure to state a claim upon which relief could be granted. The bigger problem and questions arose; when the petitioner was denied access to the Jackson County Clerk of Superior Court's public access area, to get the necessary information and material for his appeal to the North Carolina Appeals Courts and again denied access when eventually ordered to pay the clerk and attempted to do so for court costs and sanctions when the appeal was dismissed. However, not before the county sheriffs arrested the petitioner four times for trespassing on public property, for violating the court's administratively ordered mask mandates, and worked over by the local court work group. Alleging new facts, in the free speech on campus matter and the constitutional violations suffered while pursuing the original state court case until the petitioner could not petition the N.C. Court of Appeals due to the alleged unopen and unwelcome court the petitioner has filed these new challenges in 1:24\_cv-00034-MR-WCM with the District Court for the Western District of North Carolina.

## JUDICIAL AND PROSECUTORIAL IMMUNITIES

Petitioner also challenges the dismissal with prejudice under the Prosecutorial Immunity doctrine, the district court arrived at this decision of Prosecutorial Immunity petitioner believes in error through *Imbler v. Pachtman*, 424 U.S. 409 (1976), which went beyond affirming prosecutorial immunities. The Court set boundaries for this Prosecutorial Immunity.

"It remains to delineate the boundaries of our holding. As noted the Court of Appeals emphasized that each of respondent's challenged activities was an "integral part of the judicial process."

And

"We have no occasion to consider whether like or similar reasons require immunity for those aspects of the prosecutor's responsibility that cast him in the role of an administrator or investigative officer, rather than that of advocate." *Imbler* at 424 U. S. 430

The petitioner argues that the immediate case differs much from the *Imbler* case, where Pachtman was pursuing murder charges. In the immediate case, Defendants Matheson, Buckner, Phelps, Hughs, 43rd Prosecutorial District, and Office of the District Attorney pursued second-degree trespass charges against Petitioner for failing to comply with Administrative Order 21R237, which appears at App. R. The Petitioner had and retained invitee status because he was a *pro se* plaintiff and appellant in the North Carolina Courts of Appeals; at the time the Petitioner was

arrested. Petitioner; was attempting to gain access to the Clerk of Superior Courts Office, a public place open to the public during normal business hours.

The petitioner argues that the facts alleged in Petitioner's complaint are more similar and comparable to those in *Penate v. Kaczmarek*.

"As we read the core facts alleged in the complaint, in these conversations with Foster, Kaczmarek primarily functioned as a custodian of evidence. This is an administrative function not "analogous" to the advocacy of a prosecutor, Butz, 438 U.S. at 515, 98 S.Ct. 2894, nor otherwise intimately associated with the judicial process, see Odd, 538 F.3d at 213 (denying claim of absolute immunity for a "primarily administrative" function); see also, e.g., Knowlton v. Shaw, 704 F.3d 1, 5 (1st Cir. 2013) "Absolute immunity ... is not available to ... officials whose actions are primarily administrative ...."); Perez v. Ellington, 421 F.3d 1128, 1133 (10th Cir. 2005) ("Absolute immunity does not extend to actions 'that are primarily investigative or administrative in nature' ...." (quoting Pfeiffer v. Hartford Fire Ins. Co., 929 F.2d 1484, 1490 (10th Cir. 1991) )). *Penate v. Kaczmarek*, 928 F.3d 128, 139-40 (1st Cir. 2019)

Petitioner argues that in the immediate case, the sheriff deputies never had the authority to ask Petitioner to leave; the court had a constitutional duty to be open for Petitioner to pursue justice for his claims and injuries done to him. Petitioner argues there was no due process in the loss and deprivation of Petitioner's rights in Administrative Order 21R237, which appears at App. R, where the arresting deputy was not enforcing law or statute but was possibly in violation of N.C. Gen. Stat. §. 14-12.8. when demanding petitioner don a mask. (See App. S, P. 113a.)

While essentially enforcing the local mob rule:

“Effective immediately, each individual entering the Jackson County Justice Center must wear a mask or cloth face covering while attending to court-related business.” (See App. R)

The prosecuting attorney admitted photo evidence at trial gathered from the alleged exculpatory video. Material that had been timely subpoenaed by Petitioner for his defense but ignored by the prosecution until, after an appeal to the Superior Court, Petitioner's court-appointed attorney Defendant John Pavey Jr. subpoenaed them again, however, the prosecution withheld from the discovery, interior camera footage of a maskless Deputy Clerk of Court, holding the door for the Petitioner to follow her in the building although separate entrances to the Clerk's office as her entrance was not and is not open to the public but specifically the common entrance to the building. If played before a court and admitted into evidence the withheld interior security camera footage would have revealed a clear double standard of the mask applicability and enforcement, which would have damaged the prosecutors' case and also detracted from the (“Emergency”) hysteria manifestation by the State. Petitioner argues that the decision to withhold the alleged exculpatory material from discovery was an administrative decision and not of the prosecutorial type.

Petitioner argues further to enforce Administrative Orders inconsistent with the Constitution and laws of North Carolina to prosecute an individual who was lawfully attempting to gain access to the Clerk's Office, a public place open to the public during normal business hours for trespassing and thus not in the scope of authority respondents purport to have and is beyond those powers cited in N.C. Gen. Stat. §. 114-1.1. Common-law powers. (See App. S, P. 113a)

### **SOVEREIGN IMMUNITY**

The doctrine of sovereign immunity is a legal doctrine adopted from the English common law that states governments or officers acting on their behalf cannot be sued; in federal court by citizens of other states or foreign entities without its consent. Although he believed he was ordained by God, and that no one but God had the authority to judge or remove him, no matter how hated he was on Earth, King Charles I, was the very last of those sovereign monarchs in that ever since the Magna Carta in 1215, the King has been constrained by laws and Parliament; though it is fair to still label monarchs for several centuries in practice as being absolute monarchs.

When the prosecution of King Charles I commenced on the morning of January 20<sup>th</sup>, 1649, only 68 of the 135 appointed commissioners made an appearance or participated and sat on the 'High Court of Justice.' All 68 were

considered to be firmly in the Parliamentary camp, and those who were absent without leave of the court sought to disassociate themselves from the trial of a king. The formal charges against Charles I stated that,

“wherein he was charged, that he, the said Charles Stuart, being admitted King of England, and therein trusted with a limited power to govern by, and according to the law of the land, and not otherwise, and by his trust, oath, and office, being obliged to use the power committed to him for the good and benefit of the people, and for the preservation of their rights and liberties; yet, nevertheless, out of a wicked design to erect and uphold in himself an unlimited and tyrannical power to rule according to his will, and to overthrow the rights and liberties of the people, and to take away and make void the foundations thereof and of all redress and remedy of misgovernment, which by the fundamental constitutions of this kingdom were reserved on the people’s behalf in the right and power of frequent and successive Parliaments, or national meetings in Council; he, the said Charles Stuart, for accomplishment of such his designs, and for the protecting of himself and his adherents in his and their wicked practices, to the same end hath traitorously and maliciously levied war against the present Parliament and people therein represented, as with the circumstances of time and place is in the said charge more particularly set forth; and that he hath thereby caused and procured many thousands of the free people of this nation to be slain; and by divisions, parties, and insurrections within this land, by invasions from foreign parts, endeavored and procured by him, and by many other evil ways and means, he, the said Charles Stuart, hath not only maintained and carried on the said war both by sea and land, but also hath renewed, or caused to be renewed, the said war against the Parliament and good people of this nation in this present year 1648, in several counties and places in this kingdom in the charge specified; and that he hath for that purpose given his commission to his son, the Prince, and others, whereby, besides multitudes of other persons, many such as were by the Parliament entrusted and employed for the safety of this nation, being by him or his agents corrupted, to the betraying of their trust, and revolting from the Parliament, have had entertainment and commission for the continuing and

renewing of the war and hostility against the said Parliament and people: and that by the said cruel and unnatural war so levied, continued and renewed, much innocent blood of the free people of this nation hath been spilt, many families undone, the public treasure wasted, trade obstructed and miserably decayed, vast expense and damage to the nation incurred, and many parts of the land spoiled, some of them even to desolation; and that he still continues his commission to his said son, and other rebels and revolvers, both English and foreigners, and to the Earl of Ormond, and to the Irish rebels and revolvers associated with him, from whom further invasions of this land are threatened by his procurement and on his behalf; and that all the said wicked designs, wars, and evil practices of him, the said Charles Stuart, were still carried on for the advancement and upholding of the personal interest of will, power, and pretended prerogative to himself and his family, against the public interest, common right, liberty, justice, and peace of the people of this nation" (1648/9, January 27. *Rushworth*, viii. 1420. *Gardiner*, 377-380.)

As the trial began, Charles was brought forth before the High Court of Justice, for the first three days while the high court ineffectively compelled Charles to enter a plea as to the charges. Charles refused, steadfastly, and maintained that he had been given the crown by God and that no court had jurisdiction, over the monarch. As his demise proves the notion of sovereign immunity is fiction, Petitioner renews his grievances and advances his petition for writ of certiorari.

#### **AMENDMENT XI PROTECTIONS**

As the petitioner is a naturalized citizen born at Cumberland Co. Hospital in Fayetteville, NC now Cape Fear Valley Medical Center, the petitioner is a current registered voter and resident of Jackson Co. NC, the Petitioner has not filed any actions under diversity jurisdiction.

Petitioner argues Art. III. Sec. 2, of the Constitution was modified by Amendment XI. that when the Eleventh Amendment is read and interpreted literally and narrowly as cited below, the Eleventh Amendment protections are misapplied in a subject matter jurisdiction case, where federal laws are in question as the language contained in Amendment XI. does not change alter or nullify the language contained in Art. III. Sec. 2 "between a State, or the Citizens thereof", but does explicitly bar "Citizens of another State, or by Citizens or Subjects of any Foreign State."

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." (Amend. XI.)

Petitioner further reason, that to accept immunity or Amend. XI arguments, absent of express constitutional provision undermines the separation of powers that was at the core of a workable government as well as gravely impairs the role of the courts under Art. III. of the U.S. Constitution.

Petitioner is a person and of the people, We the People, and We, the people who are the posterity, benefactors, protectees, and sovereigns as Petitioner reads from the Preambles to the U.S. Const. and N.C. Const. and read further in the constitutionally protected rights of We, the people of



North Carolina in N.C. Const. Art. I. Sec. 1. The equality and rights of persons, Sec. 2. Sovereignty of the people, Sec. 3. Internal government of the State, Sec. 18. Court shall be open.

Petitioner argues that all of these state constitutional rights above, express and refute any necessity of an express consent waiver requirement to sue the state as a person of the people of North Carolina or as a citizen of the same state as cited in *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264 (1821). Neither is there a constitutional notion or inference for the provision of such a waiver. Leading petitioner to stand fast and stand sure in his beliefs that along with the sovereign immunity doctrine, Amend. XI protections have a well-documented history of being misapplied and misinterpreted leaving the district court and Fourth Circuit panel comfortable in their orders for dismissal and affirmation despite the legitimacy, reason, logic, articulation, and merits of petitioner claims and arguments.

The pertinent history of Amend. XI begins in 1792 as Alexander Chisholm a resident of South Carolina attempted to sue the state of Georgia for payments due to him for supplies provided to the state during the Revolutionary War. Georgia claimed sovereign immunity under Art. III. of the U.S. Const. and refused to appear in court. Court cases involving state governments and citizens of other states are known as diversity jurisdictions the Supreme Court ruled in favor of Chisholm and compelled Georgia to

proceed with the case. Prior to *Chisholm v. Georgia*, 2 U.S. (2 Dall.) 419 (1793), the constitution was understood to have protected states from such suits the decision sent shockwaves through the states several of whom had cases pending against them for example a British subject named William Vassal sued the state of Massachusetts for confiscating his private property. Senator Caleb Strong of Massachusetts hastily moved to propose an amendment to the constitution that clarified Art. III. of the U.S. Const.

Strong and other proponents of the amendment were intent on halting court proceedings against their states since legal actions were costly and reflected negatively on state governments Amend. XI was adopted by ratification in 1795, by several states just two years after the Supreme Court's ruling in *Chisholm v. Georgia*. The Amend. XI is an explanatory amendment it does not change the laws of the Constitution but rather explains the often misinterpreted text contained in Art. III. Sec. 2 of the U.S. Const. and allows federal courts to rule on controversies between a state and citizens of the same state, whilst, however, Amend. XI affirms state sovereign immunity by clarifying that controversies between a state and citizens of another state do not include suits brought against the state by private citizens of the same state. The amendment contradicts the Supreme Court's decision in *Chisholm v. Georgia* the Amend. XI effectively reversed the

Chisholm decision notifying any pending actions in that case and any other case citing it as a precedent the Supreme Court affirmed the retroactivity of Amend. XI with the case of *Hollingsworth, et al. v. Virginia*, 3 U.S. (3 Dall.) 378 (1798)

"[T]he [Eleventh] amendment being constitutionally adopted, there could not be exercised in any jurisdiction, in any case, past or future, in which a State was sued by the citizens of another State or by citizens or subjects of any foreign state."

Leaving cases like *Vassal v. Massachusetts* to be dismissed after the fact, though Amend. XI was meant to clarify the Constitution. Precedence has varied from case to case since the ratification causing significant controversy surrounding Amend. XI. The Supreme Court's ruling in *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264 (1821) was a refreshingly unanimous ruling by the Supreme Court and construed the amendment narrowly with the framer's intent and view in this case which the Supreme Court heard on appeal, not a writ of certiorari, the court subsequently ruled that Virginia did not enjoy sovereign immunity because the Cohens were citizens of Virginia. Justice Marshall wrote for a unanimous court that the Constitution's framers had decided to:

"confer on the judicial department the power of construing the Constitution and laws of the Union in every case, in the last resort, and of preserving them from all violation from every quarter, so far as judicial decisions can preserve them."

And that:

"There is certainly nothing in the circumstances under which our Constitution was formed, nothing in the history of the times, which would justify the opinion that the confidence reposed in the States was so implicit as to leave in them and their tribunals the power of resisting or defeating, in the form of law, the legitimate measures of the Union."

However, in the case *Hans v. Louisiana*, 134 U.S. 1 (1890) the court construed the amendment broadly and ruled that Louisiana did enjoy sovereign immunity in the case brought by Hans a citizen of that state this ruling seemingly contradicted; the conclusion of the Cohens's case. Cohens and Hans had opposite outcomes despite citing the same amendment in the decisions. This controversy was not resolved in 1999 with *Alden v. Maine*, 527 U.S. 706 (1999) when the court again ruled to uphold the creatively repurposed precedent of interpreting Amend. XI to extend sovereign immunity to include cases brought against states by citizens of that state, the court was divided in this case though with only five of the nine justices issuing the majority opinion the four dissenting justices believe that the amendment only granted state sovereignty in cases of diversity jurisdiction. The Eleventh Amendment in its wide range of interpretations reflects broader discussions of the Constitution and amendments. Some scholars, politicians, and legislators believe the constitutional document should be read literally word for word and interpreted as such, while others argue that taking the words of the constitution literally does not always lead to practical

applications of the law they outline interpreting the constitution in the context of whatever is up for discussion might offer more realistic results. Supreme Court rulings on Amend. XI cases seem to mirror predominant opinions on constitutional interpretations of the day. For example, the ruling in *Cohens v. Virginia* unanimously promotes a literal and narrow reading of the amendment. On the other hand, with split decisions in *Hansby v. Louisiana* and *Alden v. Maine*, the Supreme Court took a more flexible approach to reading the amendment.

### **RES JUDICATA AND RELATED MATTERS**

Petitioner argues and alleges that Deputy Derek Robinson was obstructing justice when he denied Petitioner access to the Clerk of Superior Court's office as Petitioner was attempting to pursue an appeal of the Superior Court's dismissal of 20-CVS-725 which was dismissed under the doctrine of res judicata, however, not only does he argue that 1:24\_cv-00034-MR-WCM was dismissed in error under the doctrine of res judicata petitioner argues he has stated sufficiently new facts to state a new claim on the same happenings not to be barred by the doctrine of res judicata. These matters are further related in several different ways or an interconnected web. The petitioner argues that the alleged initial First Amendment violations would likely have never happened without the emergency transition from the seat-

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### **REASONS FOR GRANTING THE WRIT**

The constitutional questions presented in this case are of exceptional national importance and have far-reaching implications for the balance of individual rights, and governmental authority, particularly during public health emergencies.

#### **1. Constitutional Limits on Emergency Powers:**

The question of whether emergency powers can override fundamental constitutional rights, such as freedom of religion, freedom of movement, and the right to avoid unwarranted government impositions, has profound implications for the protection of civil liberties in times of crisis. The lower courts have issued conflicting

decisions on this issue and this Court's intervention is needed to clarify whether emergency powers, while permissible, can extend so far as to nullify these rights altogether.

**2. Judicial and Prosecutorial Immunities:**

Petitioner believes striking down the alleged unconstitutional adoptions of the judicial and prosecutorial immunities would restore a reverence to We the people's collective and individual, constitutionally protected rights in the Justice system as well as restore a balance to the adversarial court system.

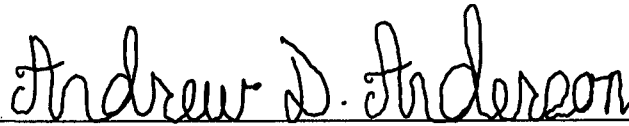
**3. The 11th Amendment and Subject Matter Jurisdiction:**

The Court should resolve the question of whether Amend. XI bars suit against states in cases involving public health emergencies where individual constitutional rights are implicated. Lower courts have reached divergent conclusions regarding the application of Amend. XI to federal jurisdiction in cases where state mandates are challenged on constitutional grounds. Clarifying the scope of Amend. XI's protections and doctrines of immunity in such contexts will guide future cases and ensure uniformity in the interpretation of federal jurisdiction over state actions where federally protected rights are involved.

## CONCLUSION

This case is a suitable vehicle and presents a unique opportunity for the Court to address these important and unresolved constitutional questions, and restore the freedoms lost during the COVID pandemic which continue to affect North Carolinians and American citizens alike across the nation in the context of ongoing and planned public health crises. For the foregoing reasons, the Petitioner respectfully requests that this Court grant the writ of certiorari to review the judgment of the Fourth Circuit Court of Appeals and resolve the significant constitutional questions presented in this case.

Respectfully submitted by Petitioner in Pro se. Dated: April 14th, 2025

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Petitioner Andrew D. Anderson  
177 Dills Branch Rd.  
Sylva, NC 28779  
(706) 307-9493(18)



Case No. \_\_\_\_\_

**In The Supreme Court of the United States**

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ANDREW D. ANDERSON

*Petitioner,*

v.

THE STATE OF NORTH CAROLINA, ET AL.,

*Respondents.*

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On Petition for Writ of Certiorari to the United States  
Court of Appeals for the Fourth Circuit

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**APPENDIX TO THE PETITION  
FOR A WRIT OF CERTIORARI**

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*Petitioner in Pro se*

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Appendix B	<i>Andrew D. Anderson v. The State of North Carolina et al.</i> , 1:24_cv-00034-MR-WCM, U. S. District Court for the Western District of North Carolina. Judgment entered March 18 <sup>th</sup> , 2024.....(5a-37a)
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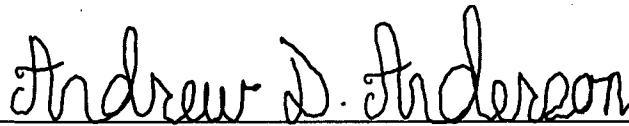
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