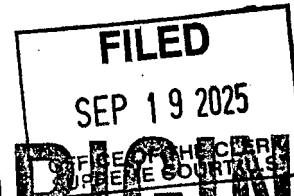


25-6034
No. _____



ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

MARKUS ODOAN mCORMICK — PETITIONER
(Your Name)

vs.

MICHAEL J. CAUMPLER, et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FOURTH CIRCUIT COURT OF APPEALS

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

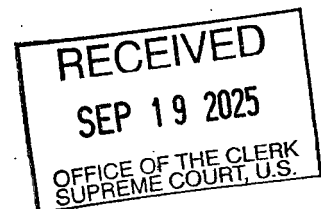
PETITION FOR WRIT OF CERTIORARI

Markus Odoan mCormick
(Your Name)

P.O. Box 1109
(Address)

Clinton, N.C. 28329
(City, State, Zip Code)

(910) 592-2151
(Phone Number)



QUESTION(S) PRESENTED

- (1) Whether a claim for relief under the 4th Amendment sufficiently pled?
- (2) Whether a claim for relief under the 14th Amendment sufficiently pled?
- (3) Whether claims are barred by the applicable statute of limitations?

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:

City of Southern Pines,
Southern Pines Police Department,
K.A. Marsh

RELATED CASES

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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☒ is unpublished.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 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☒ is unpublished.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☐ is unpublished.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 4-29-2025.

☐ 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: 4-22-2025, and a copy of the order denying rehearing appears at Appendix 0.

☐ 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

United States Constitution, Amendment IV: provides, in pertinent part: "The right of the people to be secure in their persons, 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 persons or things to be seized."

United States Constitution, Amendment XIV: provides, in pertinent part: "No State shall make or enforce any laws 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 equal protection of the laws"

North Carolina General Statute § 1-52(5): holds the applicable statute of limitations for malicious prosecution is 3 yrs.

STATEMENT OF THE CASE

On 7-12-2019 Petitioner drove to Southern Pines, N.C. at the direction of Hannah Williams (H.W. hereinafter) whom told Petitioner "she was going to meet a family member." Petitioner arrived at hotel, parked and waited on H.W. in his vehicle. As Petitioner was waiting on H.W., officers at the ordering of Michael J. Crumpler (M.J. hereinafter) blocked his vehicle in and ordered Petitioner out of the vehicle. Petitioner vehicle was searched without his consent after he was arrested and transported to the Moore County Sheriff's office. H.W. and Petitioner were transported to the Moore County Detention Center where H.W. was charged with misdemeanor drug paraphernalia and solicitation of prostitution, while Petitioner was charged with promoting prostitution. In booking room H.W. told Petitioner she "is sorry this has happened, and was under the impression she was going to meet someone at hotel to go out to eat and do drugs and even asked the person she was texting initially the question of "are you affiliated with any type of law enforcement?" In which she was told "No". Magistrate set bond for Petitioner at \$300,000 secured and \$100,000 for H.W. and set release conditions "to have no contact directly or indirectly with one another."

On 7-17-2019 M.J. appeared before a judge and gave material false statements in his probable cause affidavit to search Petitioner's phone, where he intentionally with callous disregard for the truth stated falsely "H.W. on date of arrest was interviewed by Detective Coleman and Det. Perry in room 128," when in all actuality H.W. was only interviewed by M.J. in the hotel room. Petitioner brought this to the attention of the court (Honorable Superior Court Judge Webb) whom the false statements was made to and Judge Webb reduced Petitioner bond to \$25,000 secured. Petitioner was released in Nov. 2019 after posting bail on GPS house arrest electronic ankle monitoring. H.W. was released in July 2019 and immediately began violating her release conditions by contacting Petitioner's family. Petitioner was re-arrested in early January 2020 on a bond revocation motion by the state from information gathered from M.J. in which he alleged "Petitioner had initiated contact with H.W.," that Petitioner denied, which still led to his bond being revoked.

H.W. was arrested on a felony warrant in Fayetteville, N.C. in Nov. 2019 and on 12-31-2019 M.J. along with detective Sasha Graham (S.G. hereinafter) interviewed H.W. at Cumberland County Detention Center where H.W. admitted in this custodial recorded interview to initiating contact with Petitioner while he was detained in Moore County Detention Center and even though M.J. was well aware H.W. was in violation of her release conditions, still failed to have her bond revoked and during this interview H.W. repeatedly stated "she is not testifying against Petitioner and he is not her pimp nor a pimp at all."

"(see attachment)"

"(attachment)"

H.W. was released in March 2020 and immediately scheduled a recorded video visit with Petitioner while he was incarcerated at Cumberland County Detention Center and also continued to talk on the phone everyday with Petitioner.

H.W. while out on pretrial release was bitten by a spider and suffered a blood infection. H.W. would not remain in hospital to receive proper care she needed, which led to Petitioner with the authorization of H.W. mother wrote to M.J., assistant district attorney Virginia Sullivan plus clerk of court informing them that "H.W. is dying and to revoke her bond so that she can get the medical treatment she needs to save her life," and even mailed portraits of H.W.'s visitations in detention center while he was incarcerated, plus H.W. address and phone number to M.J. and district attorneys office due to there being a special duty owed to her safety, health etc. by the prosecution due to her being considered a states witness.

M.J. and the district attorneys office equipped with enough information to revoke H.W.'s bond did absolutely nothing at all and simply ignored the Magistrates order upon release and due to this gross negligence and breach of special duty, unfortunately on 6-3-2020 H.W. passed away from the infection at Cape Fear Valley hospital in Fayetteville, N.C.

On 9-16-2020 the state dismissed all charges against Petitioner this suit follows.

REASONS FOR GRANTING THE PETITION

I. The 4th Circuit did err in denying Petitioners Fourth Amendment claim for malicious prosecution

- (1) Section 1983 and the Fourth amendment require an unreasonable search or seizure to establish a malicious prosecution claim. To maintain a malicious-prosecution claim under Section 1983, a plaintiff must establish a 4th Amendment violation. And the 4th Amendment, which prohibits "unreasonable searches and seizures," requires a plaintiff to prove that the invalid criminal charge resulted in an unreasonable search or seizure. see Thompson v. Clark, 596 U.S. 36, 43 (2022); see Harris v. Town of Southern Pines, 110 F.4th 633 (4th Cir. 2024)
- (2) It has been consistently held in Section 1983 lawsuits district/circuit courts must construe the facts in the light most favorable to the Plaintiff, the court must take as broad a view as the evidence will permit of what exculpatory facts the officer knew when they arrested the Plaintiff; see Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255, 106 S.Ct. 2505 91 L.Ed. 2d 202 (1986) "finding (the evidence of the Plaintiff is to be believed, and all justifiable inferences to be drawn in his favor)." Being that the district court did not do this (accepting; adopting the Magistrate Judge recommendation) and instead improperly stepped into the jury's shoes to resolve disputed questions of facts in the officers favor clearly erring in its analysis.
- (3) In the instant case Defendant M.J. instituted the charges against Petitioner, that were later voluntarily dismissed by the prosecution in which it is alleged in the complaint that M.J. intentionally supplied misleading information to Magistrate falsely claiming alleged prostitution victim H.W. was going to hotel room to engage in prostitution when H.W. was under impression she was going out to eat and smoke crack with the individual she was talking on phone, even asking initially "are you affiliated with any type of law enforcement?" In which the response was "No" and even then, discovery will show there was never a conversation discussing sex for money. M.J. intentionally omitted these facts from Magistrate because it may have negated probable cause; and the only remedy is to reverse and remand for trial.
- (4) Petitioner alleged in complaint M.J. intentionally with callous disregard for Plaintiff's clearly established rights gave material fabricated statements by including in his affidavit "H.W. was interviewed by two other officers in hotel room," when in all actuality it was only M.J. that interviewed H.W. in hotel room. M.J. also gave the wrong hotel room door number as well in his probable cause affidavit to search Petitioner's personal property.

(see attachment)

II. The 4th Circuit did err in denying Petitioner's Fourteenth Amendment claim for fabrication of evidence

- (1) In N.C. to prevail on a Fourteenth Amendment constitutional claim for fabrication of evidence one must show that (1) law enforcement officers fabricated or omitted material evidence; (2) he suffered loss of liberty and (3) loss of liberty was caused by fabricated evidence. see "Harris in Town of Southern Pines, 110 F.4th 633 (4th Cir. 2024); citing "Massey v. Janit, 759 F.3d 343, 354 (4th Cir. 2014)"
- (a) In the instant case the panel did commit reversible error affirming the district court's order dismissing Petitioner's fabrication of evidence claim because it is alleged in complaint M.J. intentionally with callous disregard for Plaintiff's clearly established rights gave material fabricated statements by including in his probable cause affidavit H.W. was interviewed by Det. Perry and Coleman in hotel room, when in all actuality it was only him whom interviewed H.W. in hotel room, plus including the wrong hotel room number in his affidavit.
- (b) Petitioner theory is that the investigation into his actions was initiated and exacerbated by the Southern Pines police Department Defendants such that without their unconstitutional activities, he would not have been subject to any criminal proceedings and with a malicious prosecution 4th Amendment claim the first element is satisfied "where it is unlikely there would have been a criminal prosecution of a Plaintiff except for the efforts of a defendant," a genuine issue of material fact exists regarding the first requirement of a malicious prosecution claim. see "Becker v. Pierce, 168 N.C. App. 671, 608 S.E.2d 825, 829 (2005)" The second element a lack of probable cause is plausibly alleged, taken as true, as the court must on a Rule 12(b)(6) motion. Plaintiff asserts he has plausibly alleged implied malice through a lack of probable cause, by alleging H.W. never had a conversation with a undercover officer agreeing to have "sex for money" only under impression she was going out to eat and smoke crack and due to H.W. revealing this M.J. is liable on his 4th; 14th Amendment fabrication of evidence and unreasonable search and seizure claims as well and the only remedy is to reverse the 4th Circuit decision and allow all claims against M.J. to proceed.
- (c) In the instant case the panel did commit reversible error affirming the district court's order dismissing Petitioner's Failure to train, Supervisory liability, negligence, state-law common torts against Defendants K.A. Marsh and City of Southern Pines because K.M. as M.J. supervisor reviewed the probable cause affidavit that contained the material false statements plus material omissions and didn't intervene which at this early stage in the proceedings a genuine dispute

exists that must be decided by a jury and the only remedy is to reverse and remand.

III. The Panel Erroneously concluded Petitioners claims are barred by statute of limitations

(1) Petitioner asserts the 4th Circuit did err finding that claims are barred by the applicable statute of limitations because N.C. Gen. Stat. § 1-52(5) holds the applicable statute of limitations for malicious prosecution is 3 yrs., and it has been consistently held in N.C. in a malicious prosecution claim the statute of limitations began to run from the termination of the acts which constituted the abuse complained of, see "Barnette v. Woody, 242 N.C. 424, 88 S. Ed. 2d 223 (1955)"

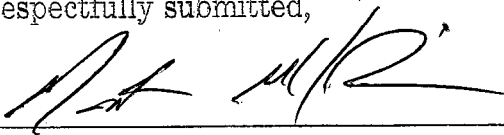
(a) In the instant case the charges were dismissed on 9-16-2020 therefore the favorable termination element has been satisfied due to this action being filed on 2-2023 well within the 3 year mark in which the court held in "Mobley" the day Mobley alleged all criminal charges against him were dropped followed a hearing started the time clock and he had 3 yrs to file suit from that day. See "Mobley v. Greensboro City Police Department, Fed. Supp. 2018 WL 6110997" and the only remedy is to reverse and remand, allowing all claims to proceed.

Petitioner contends the allegations contained in Complaint does plausibly state a claim for relief in that the action should of survived review being that the fabricated evidence was included as an exhibit to the complaint showing the district court has m.s, intentionally violated Petitioners 4th; 14th Amendment clearly established constitutional rights in which the 4th circuit is in conflict with its own circuit as it relates to these claims because in "Harris v. Town of Southern Pines, 110 F.4th 633 (4th Cir. 2024)", the court reversed the district court decision and allowed the action to proceed but a different panel dismissed petitioner claims when they are same and similar and for these reasons included in this petition and briefs previously submitted, the only remedy is to grant this petition and reverse and remand.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 9-8-2025