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ORIGINAL

IN THE
SUPREME COURT OF THE
UNITED STATES

Paul Gregory Perry – (PETITIONER)

V.S.

Warden, Van Gorder – (RESPONDENT)

ON Petition For A WRIT OF Certiorari
TO: North Carolina Supreme Court

Petition For Writ of Certiorari

Paul Gregory Perry

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# QUESTIONS PRESENTED

1) Whether "Carpenters" holding is retroactive to persons whose convictions and sentences were final when Carpenter was decided?

2) Whether appellate counsel was ineffective under the 6th and 14th Amendment of United States Constitution for allowing the State to violate the "Confrontation Clause".

3) Whether appellate counsel was ineffective for failing to brief the fatally defective indictment?

# List of Parties

[✓] All parties appear in the caption of the case on the cover page.

# Related Cases

State v. Perry, 243 N.C. App. 156, 157, 776 S.E. 2d 528, 530 (2015).

U.S. District Court - eastern district N.C. No. 5:17-HC-2072-FL.

State v. Perry, 368 N.C. 683, 781 S.E. 2d 622 (2016).

## Table of Authorities Cited

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

[✓] For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is [✓] unpublished.

# JURISDICTION

[✓] For cases from state courts:

The date on which the highest state court decided my case was 9-23-2025.
A copy of that decision appears at Appendix 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: "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 VI: provides in pertinent part: "In all criminal prosecutions, the accused shall enjoy the right to effective assistance of counsel for his defense as well as on appeal"..... "The accused shall enjoy the right to be confronted with the witnesses against him."

United States Constitution Amendment XIV: provides in pertinent part: "The accused shall enjoy the right to effective assistance of appellate counsel on direct appeal."

N.C.G.S. § 15A-262: "Application for order for pen register or trap and trace device."

N.C.G.S. § 15A-263: "Issuance of order for pen register or trap and trace device."

N.C.G.S.§-15A-264: "Assistance in installation and use of pen register or a trap and trace device."

N.C.G.S.§-90-95(h)(1): "Any person who sells, manufactures, delivers, transports, or possesses in excess of 10 pounds of marijuana shall be guilty of a felony which felony shall be known as "Trafficking in marijuana" and if the quantity of such substance involved."

N.C.G.S.§-90-95(h)(4): "Any person who sells, manufactures, delivers, transports, or possesses four grams or more of opium, opiate, or opiod, or any salt, compound, derivative or preparation of opium, opiate, or opiod (except apomorphine, nalbuphine, analoxone and naltrexone and their respective salts), including heroin, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as "Trafficking in opium, opiate, opiod, or heroin" and if the quantity of such controlled substance or mixture involved."

18 U.S.C.§.2703(d): "Required disclosure of customer communications or records."

## Statement of the Case

On December 10, 2012, Raleigh Police Department detective M.K. Mitchell arrested Kenneth Holderfield for possession of marijuana. Holderfield provided Detective Mitchell with the telephone number of his drug supplier, whom Holderfield referred to as "Sincere". Holderfield also called the number and placed the call on the speaker while in the presence of Detective Mitchell. Detective Mitchell testified he heard Sincere state "he was in Charlotte and would be coming to Raleigh tomorrow."

Detective Mitchell also testified Holderfield asked Sincere if he would "front [Holderfield] eight grams." Sincere replied, "We'll talk about it when I get to Raleigh tomorrow."

The follow day, Detective Mitchell submitted a sworn application for a phone records production order to access records associated with the telephone number provided by Holderfield, pursuant to 18 U.S.C. § 2703(d) and N.C.G.S. §§ 15A-261, 15A-262, and 15A-263, to the Wake County Superior Court. The application sought complete account and billing information, and complete call detail records "with cell site information including latitude, longitude, sector azimuth and orientation information for the target telephone number" for the period from November 13, 2012 through December 12, 2012. Detective Michell's application also requested "precision location/GPS, E911 locate or Mobile locate service if applicable from December 11, 2012 through December 12, 2012."

Superior Court Judge Lucy N. Inman signed the order and Detective Mitchell submitted it to AT&T, the cellular phone service provider and holder of the account associated with the phone number. AT&T provided the records of the location of the cell phone tower "hits" or "pings" whenever a call was made to or from the cell phone. AT&T sent emails of the longitude and latitude coordinates of these historical cell tower "hits" to Detective Mitchell every fifteen minutes. Detective Mitchell testified an approximately five-to-seven-minute delay occurred between the time the phone "pinged" a cell phone tower and the time AT&T recieved and calculated the location and sent the latitude and longitude coordinates to him.

After receiving the emails of the records from AT&T, Detective Mitchell entered the coordinates into a Google Maps search engine to determine the physical location of the last tower "pinged" from Petitioners phone. Detective Mitchell testified "the hits can range from..... a five or seven meter hit to a couple hundred meter hit," which alerts law enforcement to the general area of the phone's last "pinged" location.

On December 11, 2012, at approximately 4:00 p.m., Detective Mitchell recieved a record of a "hit" from one of AT&T's cell towers, which placed the phone within a few meters of the Red Roof Inn, located on S. Saunders street, near interstate 40 in Raleigh, N.C.

Detective Mitchell and other law enforcement officers from the Criminal Drug Enterprise unit of the Raleigh Police Department began conducting surveillance from unmarked vehicles stationed around the Red Roof Inn. Detective Mitchell testified he recieved a record, which allowed him to further "pinpoint" the phone's location "down to a certain amount of rooms" in the hotel.

Lieutenant Norris Quick received confirmation from the hotel's front desk clerk that "someone had just checked into" one of the rooms located within the block of rooms Detective Mitchell had identified. The front desk clerk gave the officers the key to the room next to the room recently occupied.

Lieutenant Quick and another officer conducted surveillance from the adjacent room. Lieutenant Quick observed two men enter the adjoining hotel room and leave after approximately five minutes. The officers inside the hotel room transmitted a description of the men leaving the room to officers stationed outside of the hotel. Detective Mitchell and Detective Bruce Bizub were inside an unmarked patrol car and saw one of the men enter a Toyota Corolla and drive away. The officers followed the vehicle and "started calling on the radio for marked units in the area."

Eventually, a marked patrol vehicle initiated a traffic stop within two miles of the Red Roof inn. The driver of the Toyota Corolla was identified as Kenneth Wheeler. The officers found ten bindles of heroin on Wheeler's person. Wheeler was arrested and told the officers he had obtained the heroin from the red Roof inn. Detective Mitchell began preparing an application for a Search warrant for Defendant's hotel room.

Before Detective Mitchell could complete the search warrant, Lieutenant Quick transmitted a request for backup at the hotel. Four individuals were leaving the adjoining room in a hurry. Someone had apparently called the occupants to warn them that Wheeler had been stopped and arrested. The officers detained three males, including Petitioner, and one female in the hallway.

The officers observed two black plastic grocery bags located on the floor near the four individuals. The bags were open to allow the officers to see inside. The bags contained brown boxes, rubber bands, and digital scales. Detective Mitchell testified, based on his training and experience, he recognized the brown boxes as the type used to contain plastic bags of heroin.

While the four individuals were standing in the hallway, the female suspect, Kiara ledbetter, voluntarily removed a large bag from inside her pants and gave it to Lieutenant Quick.

Lieutenant Quick testified Ledbetter told him, "oh, no, I'm not going down for this. This isn't mine. It's Paul's." The bag appeared to contain heroin.

Petitioner, Ledbetter, and the two other individuals, Keyondre Owens and Paul Shell, were taken into custody, advised of their Miranda rights, and searched by Detectives Mitchell and Bizub. Shell possessed ten bindles of a substance believed to be heroin in the front pocket of his jeans. Petitioner possessed $1,620 in cash, but no heroin on his person. A forensic drug chemist with the City-County Bureau of Identification subsequently confirmed the identity of the substances as heroin, including the bindles found on Wheeler during the traffic stop.

On March 11, 2013, a grand jury indicted Petitioner for: (1) Trafficking by possession, 28 grams or more of heroin; (2) Trafficking heroin by sale; and (3) maintaining a dwelling used for keeping or selling controlled substances. On July 8, 2013, Petitioner was also indicted for: (1) Trafficking heroin by transportation; and (2) conspiracy to traffic heroin by possession, transportation, and sale.

Petitioners case proceeded to trial before a jury on February 3, 2014. Petitioner testified he was a heroin user, and Ledbetter sold heroin. He stated he had traveled to Raleigh with Shell and Owens to purchase heroin from Ledbetter. Petitioner stated he rented a room at the Red Roof Inn. Shell and Owens were inside the hotel room "bagging up" heroin. Petitioner testified the heroin was already in the hotel room when he arrived, but he helped Shell and Owens bag it. Petitioner also testified he did not sell heroin to anyone from the hotel room, and only Shell and Ledbetter had brought heroin into the hotel room.

The jury returned a verdict of guilty on all five charges. The trial court sentenced Petitioner to mandatory minimum sentences of 225 to 282 months imprisonment for his three trafficking convictions, to run consecutively. The trial court also sentenced Petitioner to 14 to 26 months imprisonment for sale of heroin, and 6 to 8 months imprisonment for intentionally maintaining a dwelling for keeping or selling controlled substances, to run concurrently with the mandatory sentences.

Petitioner gave notice of appeal in open court.

probable cause, which was not obtained in this case; (3) All of the evidence against Petitioner must be excluded as the fruit of the poisonous tree; and (4) The NCCOA's application of the good-faith exception to the exclusionary rule was unreasonable in light of the evidence presented. The Respondent filed a motion for summary judgement, arguing the Petitioners claims fail on the merits. Petitioner responded to the summary judgement motion, and Respondent filed a reply. On March 20th, 2018 United States District Court Judge Flanagan granted Respondant's Motion for Summary Judgement, dismissed Petitioners § 2254 petition and denied a certificate of appealability.

## C

## Proceedings on Collateral review

On September 22, 2025 Petitioner filed a writ of Habeas Corpus, in the NCSC arguing (1) Ineffective assistance of Appellate counsel for failing to raise stronger issues than those presented on direct appeal, and (2) There has been a significant change of law, and on September 23, 2025 NCSC denied Petitioners petition. This petition follows..

## Reasons For Granting the Petition

I. There has been a Substantial Change in controlling law that has been clearly established.

(1) The Honorable chief Justice Roberts wrote in "Carpenter v. United States, 585 U.S. 296, 311, 314-15, 138 S. Ct. 2206, 201 L. Ed. 2d 507 (2018)," that the "Fourth Amendment protects a persons expectation of privacy in "the whole of his physical movements." Thus, when law enforcement, without a warrant, accesses a person's continuously collected and automatically generated cell-site location information, it violates that expectation of privacy. See "Id at 315-16, 138 S.ct. 2206." Carpenter does say that law enforcement needs to obtain a warrant before it utilizes digital technology to track a citizens long-term movements - "the whole of his physical movements" - at least when that person is, in effect, compelled to leave behind a digital footprint wherever he goes. "585, U.S. at 313, 315, 138 S.ct. 2206." And the fact that the Government obtained the information from a third-party does not overcome Carpenters claim to 4th Amendment protection. The Governments acquisition of the cell-site records was a Search within the meaning of the 4th Amendment and having found that the acquisition of Carpenter's

CSLI was a Search, the majority also concluded that the Government must generally obtain a warrant Supported by probable cause before acquiring such records, although the "ultimate measure of the constitutionality of a governmental Search is 'reasonableness,' our cases establish that warrantless Searches are typically unreasonable where "a Search is undertaken by law enforcement officials to discover evidence of criminal wrongdoing." See Vernonia School District 47J v. Acton, 515 U.S. 646, 652-653, 115 S.Ct. 2386, 132 L.Ed.2d 564 (1995).' And consequently, an order issued under Section 18 U.S.C. § 2703(d) of the Act is not a permissible mechanism for accessing historical cell-site records. Before compelling a wireless carrier to turn over a Subscribers CSLI, the Governments obligation is a familiar one - get a warrant!

(A) In the instant case Kenneth Holderfield was arrested for possession of marijuana on 12-10-2012. Kenneth Holderfield provided Detective Mitchell with the telephone number of his alleged Supplier, whom Kenneth Holderfield referred to as "Sincere". Kenneth Holderfield also called the number and placed the call on Speaker while in the presence of Detective Mitchell, in which at trial Detective Mitchell testified "he heard Sincere state "he was in charlotte and would be coming to Raleigh tomorrow." Detective Mitchell also testified without objection from trial counsel "Kenneth Holderfield asked Sincere if he would "front Kenneth Holderfield eight grams", and Sincere replied, "We'll talk about it when I get to Raleigh tomorrow." Based on this information the following day, Detective Mitchell submitted a sworn application for a phone records application for a phone records production order to access records associated with the telephone number provided by Kenneth Holderfield pursuant to 18 U.S.C. § 2703(d) and N.C.G.S. § 15A-261, 15A-262 and 15A-263, to the Wake County Superior Court that sought complete account and billing information and complete cell detail records "Cell site information including latitude, longitude, sector azimuth and orientation information for the target telephone numbers" "for the period from 11-13-2012 through 12-12-2012" and "precise location/GPS, E911 locate or mobile locate service if applicable from 12-11-2012 through 12-12-2012.

(B) Detective Mitchell duly sworn affidavit statement stated: The Raleigh Police Department is conducting an investigation of drug trafficking case that occurred in Raleigh. There is probable cause to believe that records

For [Petitioners telephone number] constitute evidence of a crime and/or the identity of a person participating in this crime, to wit: "This cellular telephone number was obtained from a cooperating defendant who was arrested as a result of drug trafficking. The possessor of the phone .....is being investigated as a major drug trafficker in the Raleigh area. This information has been corroborated by this detective. It is believed that information received in the records requested in the court order will be crucial in the progression of this investigation." The Superior court Judge signed the order.

## A

1. The CSLI order does not qualify as a warrant under the $4^{th}$ Amendment and the Good-Faith exception does not apply because the affiant was misleading and the application is so lacking in indicia of probable cause as to render reliance upon it unreasonable.

(A) This court has already recognized that individuals have a reasonable expectation of privacy in the whole of their physical movements. See "United States v. Jones, 565 at 415, 132 S.ct. (2012)." and the exclusionary rule should be used to "deter deliberate, reckless, or grossly negligent conduct, or in some circumstances recurring or systemic negligence." See "United States v. Herring, 555 at 144, 129, S.ct. 695 (2009)", plus responsible law enforcement officers will take care to learn what is required of them under Fourth Amendment precedent and will conform their conduct to those rules. See "United States v. Davis, 564 at 241, 131, S.ct. 2419 (2011)."

(B) In the instant case Detective Mitchell affidavit pertaining that Petitioner sold drugs to Kenneth Holder was too vague and did not offer a time frame of the alleged drug-dealing transactions, nor a specific drug for Petitioners activity. Detective Mitchell did not provide any information to establish Kenneth Holder provided detailed information that has proven to be reliable with other narcotics investigations in the past to obtain convictions for the State, the affidavit did not adequately implicate Petitioner in illegal activities, Detective Mitchell did not cite any information establishing Kenneth Holderfield routinely sold illegal narcotics in the Raleigh area. Detective Mitchell did not provide transcripts from several calls in which Kenneth Holderfield discussed getting drugs from petitioner. Detective Mitchell did not confirm "Sincere" being Petitioners nickname or street name through past arrests or ongoing investigations, the application failed to identify particular attributes of the alleged criminal conduct that, in combination with Detective Mitchell's asserted expertise with similiar activities, supported a reasonable inference that Petitioners cell phone would contain relevant evidence and most importantly Kenneth Holderfield was arrested for "Possession of Marijuana" in which he had a small amount to be considered "personel use" not trafficking marijuana which in North Carolina under N.C.G.S. § 90-95(h)(1) a person must "Sell, manufacture, deliver, transport or possess in excess of 10 pounds to be considered drug trafficking in marijuana" and the only possible explanation for Detective Mitchell to "mislead" in this fashion was to receive a faverable ruling from the judicial officer which is unacceptable in this court and the only remedy is to grant this writ and vacate Petitioners Sentence.

## B

1. The decision in Carpenter announces a "Watershed" rule that rework our understanding of bedrock criminal procedure.

(A) under Teague's Framework, an old rule applies both on direct and collateral review, but a new rule generally applies only to cases still on direct review and applies retroactively in a collateral proceeding only if it (1) is substantive or (2) is a watershed rule that implicates "The fundamental fairness and accuracy of the criminal proceeding." See "Saffle v. Parks, 494 U.S. 484, 495, 110 S.ct. 1257, 108 L. Ed. 2d. 415 (1990)." (quoting) "Teague v. Lane, 459 U.S. 288, 109 S.ct.

1060, 103 L. Ed. 2d. 334 (1989)."

(B) In the instant case in "State v. Perry, 243 N.C. App. 156, 157, 776 S.E. 2d 528, 530 (2015)." The North Carolina Court of Appeals Chief Judge McGee disagreed with the majoritys characterization of the information obtained pursuant to the judicial order that was entered and executed on 12-11-2012 for information generated and transmitted on the same day from AT&T to law enforcement officers after only a "five-to-seven minute delay" as "historical" information, rather than "real-time" information. The evidence presented at trial established that AT&T sent e-mails at regular intervals to law enforcement officers on 12-11-2012, that such e-mails contained longitude and latitude coordinates of Petitioners cell phone as captured by AT&T's cell tower sites, and that the information provided by AT&T was sent with a frequency and contemporaneousness with Petitioner's then-current location-from somewhere between every five to seven minutes to every fifteen minutes-to allow law enforcement to track Petitioners location, through the information provided by AT&T to a hotel where Defendant was physically located. For instance, one law enforcement officer testified that, by using the coordinates from AT&T law enforcement "was able to say for sure that Petitioners cell phone was in that hotel." However, the majority determined that the information acquired from AT&T was "historical" based on the following testimony: (1) That there was "probably a five or seven minute delay" from when Petitioners cell phone connected with the cell tower sites; (2) That AT&T e-mailed the delayed recorded information to [the law enforcement officer] every fifteen minutes; and (3) That law enforcement did not recieve the information directly from Defendants cell phone but, instead, had to enter the coordinates provided from AT&T's "Stored records," into google Maps search engine to determine the physical location of the last tower pinged." And Chief Judge McGee believed, allowing the majority's characterization of the information provided by AT&T to law enforcement, based on the facts in this case, would effectively obliterate the distinction between "historical" and "real-time" cell site information, respectfully disagreed with the majority's characterization but declined to undertake an examination of whether the majority properly concluded that Petitioner had a reasonable expectation of privacy in the real-time cell site information obtained by law enforcement from AT&T in light of, "United States v. Graham II, 796 F.3d 332, 343 (4th Cir. 2015)."

(C) Petitioner asserts because Carpenter announced a "new rule" and because it is clear and undisputed a 4th Amendment Violation occurred when law enforcement tracked Petitioner's "physical movements in "historical" and "real-time" it is substantive, and this rule must be applied in this collateral attack because it is a watershed rule of criminal procedure implicating the fundamental fairness and accuracy of the criminal proceeding," it would remedy an "impermissibly large risk" of this inaccurate conviction and alters the understanding of the bedrock procedural elements essential to the fairness of a proceeding. See "Schriro v. Summerlin, 542 U.S. 348, 352, 124 S.ct. 2519, 159 L.Ed. 2d 442 (2004)." and unlike other substantive rules, Carpenter is retroactive because it necessarily carries a significant risk that a defendant faces a punishment that the law cannot impose upon him. See "Montgomery v. Louisiana, 136 S.ct. 718, 725 (2016)". And the only remedy is to apply "Carpenter" to this case and order immediate release upon granting of the writ.

II. Trial counsel was ineffective for allowing without objection the State to violate the 6th Amendment Confrontation Clause by introducing the out of court testimonial statements of a non-testifying material cooperating witness through the testimony of an investigating officer.

(1) In "Crawford v. Washington, 541 U.S. 36, 54 (2004)," this court held the Confrontation Clause of the Sixth Amendment sets out "one of the bedrock constitutional protections afforded to criminal defendants." citing "Hemphill v. New York, 142 S. Ct. 684, 690 (2022)" It provides that, "in all criminal prosecutions, the accused shall enjoy the right to be confronted with the witnesses against him," U.S. Const. Amend. VI. Because "the text of the Sixth Amendment does not suggest any open-ended exceptions from the confrontation requirement to be developed by the courts," "it permits" only those exceptions established at the time of the Founding because the right to confront adverse witnesses is "one of the Fundamental guarantees of life and liberty," See "Kirby v. United States, 174 U.S. 47, 55 (1899)," and "essential to a fair trial," See "Alford v. United States, 282 U.S. 687, 692 (1931)," this court has been "zealous to protect it from erosion." See "Greene v. McElroy, 360 U.S. 474, 497 (1959)." And this court has already recognized that the confront-

ation Clause puts the burden on the prosecution, not the defendant, to present the witnesses against the defendant for cross-examination?

(A) In the instant case, on trial page 522-24 the state without objection was allowed to elicit testimony from Detective Mitchell about a conversation he had with material cooperating witness (Kenneth HolderField) That wasn't present at trial to testify. The "Washington Court" held that "the confrontation clause prohibits the prosecution from presenting testimonial statements of witnesses absent from trial unless the declarant is unavailable and the defendant has had a prior opportunity to cross-examine." "Id at 59."

(B) Petitioner contends he was deprived of his right under the "confrontation clause" to a face to face meeting with "this cooperating material witness" appearing before the trier of fact. See "Coy v. Iowa, 487 U.S. 1012, 1016, 1017 (1984). And the jury, in turn, was unable to observe "This cooperating witness" and judge by their demeanor upon the witness stand and the manner in which they gave their testimony was worthy of belief. The State failed to afford Petitioner any opportunity to cross-examine Kenneth HolderField, plus failed to carry it's burden to demonstrate that he was unavailable and most importantly trial counsel is at fault for failing to subpoena Kenneth Holderfield or object as the testimonial statements were introduced, and on direct appeal, appellate counsel failure to brief this constitutional denied Petitioner his right to effective assistance of appellate counsel. See "Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984)", See "Davila v. Davis, U.S. 137 S.Ct. 2058, 2062, 198 L.Ed. 2d 603 (2017)", See "Jones v. Barnes, 463 U.S. 745, 751-52, 103 S.Ct. 3318, 77 L.Ed 2d. 987 (1983)" and the only remedy is to grant this writ and order a new trial. "U.S. Const. Amend. 6th: 14th".

III. Ineffective assistance of appellate counsel for failing to brief the fatally flawed defective indictment.

(1) In N.C. Courts have consistently held that an indictment for sale; delivery of controlled substances must state the name of the person to whom the accused allegedly sold narcotics unlawfully when it is known or must allege in the alternative the name of the person is unknown. See "State v. Calvino, 179 N.C. App. 219, 632 S.E. 2d 839, 842 (2006) (vacating defendants conviction for sale and delivery of cocaine because Indictment was fatally

Flawed in that it did not state the name of the person to whom defendant allegedly sold narcotics when the State knew the name of the individual." See "State V. Long. 14 N.C. App 508, 510, 188 S.E. 2d 690, 691 (1971), (holding the indictment for the unlawful sale or narcotics was fatally defective and could not sustain judgement because indictment to state the name of the person to whom defendant allegedly sold marijuana or that the name of such person was unknown), See "State V. Bennett, 280 N.C. 167, 185 S.E. 2d 147 (1971) (courts arrested judgment based on indictment when indictment failed to state sufficient facts because it did not allege the name of the person to whom the sale ~~w~~was made or that his name was unknown.)"

(A) In the instant case count I of indictment 13CRS003178 it alleges in part "That on or about December 11, 2012 in Wake county, the defendant named above unlawfully, willfully and feloniously did traffic by transportation 28 grams or more of heroin, a controlled substance which included in Schedule I of the North Carolina controlled Substances Act. This act was done in violation of N.C.G.S. § 90-95 (h)(4), but failed to set forth the essential elements in the body of the indictment, leaving blank the name of the individual to whom Petitioner allegedly transported the controlled substances in question nor that the name of the individual was unknown. In which our courts have consistently held "whenever a prosecutor Submits a bill of this nature and fails to allege the name of the individual known or unknown that constitutes a fatal flaw in the indictment and leaves it defective or void" and had appellate counsel argued this fatal defect there is a strong probability a different result would of occurred and the only remedy is to dismiss the defective indictment in its entirely or in the alternative grant this writ, since such errors renders the indictment fatally defective and it cannot sustain the judgement in a case. See "State v. Calvino, 179 N.C. App. 219, 632 S.E. 2d 839 (2006)." "U.S. Const. Amend. 6th : 14th."

## IN CONCLUSION

Petitioner states upon this court with clarity that a grave miscarriage of justice has accurred in this case and the only way to correct this unjust conviction is to apply this new "watershed" rule, due to the requirements being met entirely for the above mentioned reasons and prays this court grant this petition for Writ of Certiorari.

Respectfully submitted, Paul G. Perry
Paul Perry

Date: October, , 8, 2025