

25-7549

ORIGINAL

SUPREME COURT OF THE UNITED STATES

No. 25-1819

JAMES SHELTON RAY, JR.,

Petitioner,

v.

J. H. HANAK, Officer; W. T. SPENCER, Sergeant; P. J. HOWARD, Officer

Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FOURTH CIRCUIT**

PETITION FOR A WRIT OF CERTIORARI

James Shelton Ray, Jr.

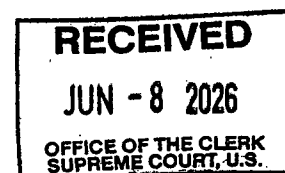
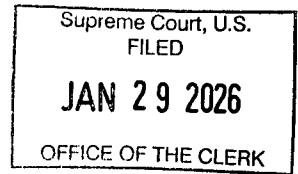
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Pro Se Petitioner



QUESTIONS PRESENTED

1. Whether the Fourth Circuit erred in affirming summary judgment on a § 1983 unlawful-arrest claim by holding that an officer's reliance on a complaining spouse's uncorroborated allegation of a push constituted probable cause as a matter of law, when the petitioner contemporaneously reported on a recorded 911 call that the spouse was the aggressor and had started to aggressively charge at him again — and when the officers arrived after the incident, fabricated an "ON VIEW" notation, and entered the curtilage without exigent circumstances or a warrant.
2. Whether the Fourth Circuit erred in holding that a pro se petitioner's objections to a magistrate judge's report and recommendation were insufficiently specific to preserve de novo review under 28 U.S.C. § 636(b)(1), where the objections explicitly identified the magistrate's failure to address self-defense evidence, the recorded 911 call, the pre-arrest video, the absence of any complaining witness filing charges, and the officers' alleged fabrication of the "ON VIEW" notation.
3. Whether the Fourth Circuit erred in affirming the quashing of a pro se petitioner's discovery subpoena seeking officers' personnel records showing prior incidents of excessive force and civil-rights violations, where those records were relevant to establishing municipal liability under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), and the district court did not consider whether the subpoena could be cured or reissued.

4. Whether the Fourth Circuit erred in failing to address the petitioner's argument that the district court improperly dismissed the State of North Carolina and the Town of Cary as defendants, where the petitioner alleged that both entities failed to supervise officers and conspired to suppress exculpatory evidence (the petitioner's 911 call and pre-arrest video).
5. Whether the Fourth Circuit erred in failing to address the petitioner's argument that Wake County District Attorney Lorrin Freeman should have been joined as a defendant for denying the petitioner — a recognized victim of domestic violence under North Carolina law — the right to confer with the prosecutor before any decision not to prosecute, in violation of N.C. Gen. Stat. § 15A-832 and the Due Process Clause.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit is unreported and appears at No. 25-1819 (4th Cir. Jan. 28, 2026) (per curiam). A copy is reproduced in the Appendix at App. 1–3.

The opinion of the United States District Court for the Eastern District of North Carolina granting summary judgment is unreported and appears at No. 5:22-cv-00379-M-RN (E.D.N.C. June 20, 2025). A copy is reproduced in the Appendix at App. 4–12.

JURISDICTION

The judgment of the United States Court of Appeals for the Fourth Circuit was entered on January 28, 2026. Petitioner filed a timely Motion to Reconsider Denial of Petition as Untimely and Petition for Rehearing and Rehearing En Banc (USCA4 Appeal: 25-1819 Doc: 15) after extreme snow prevented mail delivery of the initial petition. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

On September 22, 2019, petitioner James Shelton Ray, Jr. was inside a shed on his own property retrieving tools he was entitled to under a separation agreement. His estranged wife, Trinette Ray, blocked the exit, initiated physical contact (shoulder butt and door pinch to petitioner's leg), and continued aggressive behavior. When she started to aggressively charge at

him again, petitioner called 911, reporting “There is domestic violence going on here” while his wife was recorded being verbally abusive in the background [DE 71-4]. After officers arrived but before any arrest, petitioner recorded a video showing the ongoing situation and demonstrating that no crime had been committed [DE 93; DE 93-1 (USB); DE 93-2; DE 93-3].

Officers J.H. Hanak and P.J. Howard entered petitioner’s curtilage without a warrant or exigent circumstances and arrested him for assault on a female. Officer W.T. Spencer remained off the property but participated in the arrest decision. The police report falsely stated the incident was “ON VIEW,” although the officers arrived after the events. No citizen complaint was filed; the charge was initiated solely by the officers. Petitioner was acquitted in state court, and a state judge found no probable cause.

Petitioner filed a pro se § 1983 complaint alleging unlawful arrest without probable cause, trespass on curtilage, assault, fabrication of evidence, and conspiracy. The magistrate judge recommended partial dismissal under 28 U.S.C. § 1915(e) [DE 4]. Over petitioner’s objections [DE 99], the district court adopted the recommendation and dismissed claims against the State, Town of Cary, and others [DE 6]. The court later quashed petitioner’s subpoena for officers’ personnel records [DE 75], denied joinder of District Attorney Lorrin Freeman, and did not address the State’s alleged violation of petitioner’s right to confer with the Governor under N.C. Gen. Stat. § 15A-832.

After discovery, the magistrate recommended summary judgment on the remaining Fourth Amendment claim [DE 98]. Petitioner objected [DE 99]. The district court granted summary

judgment [DE 108], finding probable cause existed because petitioner admitted pushing his wife and the wife allegedly corroborated the allegation.

The Fourth Circuit affirmed in an unpublished per curiam opinion on January 28, 2026 [Doc. 10]. Petitioner then filed a Motion to Reconsider Denial of Petition as Untimely and Petition for Rehearing and Rehearing En Banc (USCA4 Appeal: 25-1819 Doc: 15) after extreme snow prevented mail delivery of the initial timely petition.

REASONS FOR GRANTING THE PETITION

I. The Fourth Circuit's decision conflicts with this Court's precedents on probable cause and self-defense evidence and creates a circuit split on the effect of contemporaneous exculpatory recordings.

The Fourth Circuit held that officers had probable cause as a matter of law because petitioner admitted pushing his wife and the wife allegedly corroborated the allegation, even though petitioner contemporaneously reported on a recorded 911 call and pre-arrest video that he acted in self-defense when his wife started to aggressively charge at him again after the initial push [DE 71-4; DE 93 series]. This holding conflicts with *District of Columbia v. Wesby*, 583 U.S. 48 (2018), which requires courts to consider the totality of facts known to the officer, and *Devenpeck v. Alford*, 543 U.S. 146 (2004), which prohibits ignoring exculpatory evidence that negates the elements of the offense.

The decision also deepens a circuit split on whether an officer must consider contemporaneous, reliable exculpatory evidence (such as a victim's own recorded statement or video) before making a warrantless arrest. Compare *Yousefian v. City of Glendale*, 779 F.3d 1010, 1014 (9th

Cir. 2015) (“mere existence of some evidence that could suggest self-defense does not negate probable cause”) with *Wesley v. Campbell*, 779 F.3d 421, 430 (6th Cir. 2015) (officers cannot ignore credible exculpatory evidence that directly contradicts the complainant’s version).

II. The Fourth Circuit’s overly strict application of the specificity requirement for magistrate-judge objections under § 636(b)(1) conflicts with this Court’s precedents on pro se liberal construction and creates a barrier to meaningful review.

The Fourth Circuit refused de novo review of the § 1915(e) dismissal because petitioner’s objections [DE 99] were not “sufficiently specific” under *Martin v. Duffy*, 858 F.3d 239 (4th Cir. 2017). This holding conflicts with *Erickson v. Pardus*, 551 U.S. 89, 94 (2007), which requires liberal construction of pro se pleadings and objections, and *United States v. Midgette*, 478 F.3d 616, 621 (4th Cir. 2007), which allows general objections when the pro se litigant is challenging the entire recommendation. The decision creates a practical barrier to appellate review for unrepresented litigants.

III. The Fourth Circuit erred in affirming the quashing of the subpoena for personnel records relevant to Monell liability and pattern evidence.

The district court quashed petitioner’s subpoena [DE 72-1] for officers’ personnel records as untimely and unsigned by the clerk. The Fourth Circuit affirmed, but this was an abuse of discretion because the records were central to proving municipal liability under *Monell* and pattern-or-practice evidence under Fed. R. Evid. 404(b). Denying pro se discovery of plainly relevant records violates due process and the right of access to courts. *Bounds v. Smith*, 430 U.S. 817 (1977).

IV. The Fourth Circuit failed to address the erroneous dismissal of the State and Town and the denial of petitioner's victim's rights.

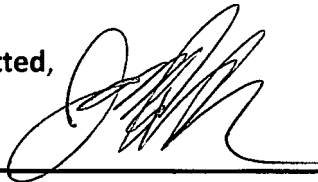
The Fourth Circuit did not reach petitioner's arguments that the district court improperly dismissed the State and Town of Cary and failed to join District Attorney Lorrin Freeman after she denied petitioner the statutory right to confer under N.C. Gen. Stat. § 15A-832. These issues involve important questions of state victim's rights law and federal due process that warrant review.

This Court has repeatedly emphasized that judicial decisions must not take both sides of a legal argument in a manner that undermines fairness and consistency. See *Romer v. Evans*, 517 U.S. 620 (1996) (Scalia, J., dissenting, joined by Thomas, J.) (criticizing the majority for applying inconsistent constitutional standards and effectively taking both sides of the legal argument regarding equal protection and state moral judgments).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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