

26-5455

No. 26 _____

ORIGINAL

FILED

MAY 21 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

Armagene B. Ellis-Smith (now Maclin)

Petitioner,

vs.

Barrington A. Smith

Respondent.

On Petition for a Writ of Certiorari to

The United States of America Supreme Court

PETITION FOR A WRIT OF CERTIORARI

North Carolina Supreme Court No. 376P25-2

North Carolina Court of Appeals
No. COA26-73

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I. Questions Presented

Where all of the North Carolina State Appellate Courts have denied review of a Court Order that was issued from a North Carolina District Court, which violates the United States Constitution of deprivation of property by depriving Petitioner of her share of marital assets in the form of a Postal Worker's Pension, refusal to value and distribute corporation and ordering the Petitioner and all other occupants to be evicted from her own home and ordering her home sold, against her wishes, which deprives her of her property and the failure of the Durham County Clerk of Court willful failure to return Petitioners' \$15,000 cash bond that was associated with the previous dismissed appeal.

II. LIST OF PARTIES

Armogene B. Ellis-Smith (Now Maclin)

Petitioner,

Barrington A. Smith

Respondent.

III. RELATED CASES

North Carolina Court of Appeals No. COA24-977;

North Carolina District Court of Durham County:

20CVD00860-310-Armogene B Ellis -Smith, Petitioner

CASES ALL FILED BY BARRINGTON A. SMITH

21CVD03364-310 Barrington A. Smith, Petitioner

23CVD004797-310-Barrington A. Smith, Plaintiff

24CVD001497-310-Barrington A. Smith, Plaintiff

24CVM002059-310-Barrington A. Smith, Plaintiff

24CV007161-310; Barrington A. Smith, Plaintiff

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VII. Opinions Below

The North Carolina Court of Appeals decided a previous appeal of a Memorandum Order that was entered on April 9, 2024, only addressed the Rule 70 Order. The NC COA24-977, determined that they did not have jurisdiction over the appeal and dismissed it as Interlocutory and entered an unpublished opinion.

The local Durham County District Court Order that is currently under appeal dated for October 16, 2025 that granted the Rule 70 Order, denied the Motions for T.R. 60 B and denied the T.R. 59 has never been reviewed by any Court and the North Carolina Court of Appeal, dismissed the appeal, without comment. The Order that is currently under appeal has not been reviewed by any court, nor has the Durham County District Court Order been affirmed, denied or remanded.

VIII. Jurisdiction

The Petitioner request for review and Writ of Certiorari was denied by the North Carolina Supreme Court on February 23, 2026 and entered on March 4, 2026, which makes the timing of the request to the United States Supreme Court, timely since it was filed within 90 days by depositing the Writ of Certiorari, first-class postage pre-paid with the United States Postal Service on May 20, 2026 and properly addressed to the Supreme Court of the United States.

IX. Constitutional Provisions Involved

Fourteenth Amendment

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

VIOLENCE AGAINST WOMEN ACT (VAWA)

1. The Equitable Distribution of Marital Assets

The Petitioner was awarded the former marital residence as her sole property because of her labor in the 18 years of contributions to the marriage and the financial health of the parties. The Respondent never wanted the Petitioner to have her home and interfered with her getting the mortgage in her name by telling the mortgage company to prevent it from occurring. Due to the mortgage still being in the Respondent's name, he then complained to the court, that since the mortgage

was in his name, then the home should be ordered sold. Respondent invited the malfeasance and then went to the Court to complain about it, however, this has never been addressed by any reviewing Court. The Court is still depriving Petitioner access to her home and is still has the home at risk for being sold out from under her, which is contrary to the established laws that govern Equitable Distribution. The Fourteenth Amendment of the Constitution requires that it is applicable to all State Laws and in this case, it was not implemented.

2. VIOLENCE AGAINST WOMEN ACT (VAWA)

The Violence Against Women Act (VAWA) as amended and reauthorized in 2022 to recognize Economic Abuse in the definition and context of this Act. Specifically, it is when someone, in this case the Respondent, was controlling and restraining the Petitioner's ability to acquire, use or maintain the economic resource of the former marital residence, of which Petitioner was entitled to. The Respondent repeatedly obstructed the Petitioner from getting the mortgage in her name and Respondent committed fraud when he failed to disclose his Postal Worker's Pension in the Marital assets of which Petitioner is entitled to due to the length of the marriage.

X. Statement of the Case

Petitioner filed for a Divorce from Bed and Board (DBB) from the Respondent on the fault basis that the Respondent made her life unduly burdensome and alleged abuse, which included, mental, emotional, spiritual, psychological and financial, which was granted in October 2021. The Court determined that the

Respondent had made the Petitioner's life unduly burdensome and that he had abandoned her.

Petitioner filed for Equitable Distribution (ED) requesting more than half of the ME on November 14, 2021 to protect her interest in the Marital Estate (ME) prior to a final dissolution decree being entered.¹ Respondent had already filed for an absolute divorce on September 30, 2021 and it was pending at the time that the Petitioner filed for ED on November 14, 2021; Respondent request for an absolute divorce was granted and entered on December 3, 2021.²

The parties were divorced from bed and board (DBB), which is a legal separation in the State of North Carolina, which date was determined to be June 7, 2020 and ended Marital Estate (ME) except for the valuation of the Postal Worker Pension. Respondent committed fraud by not listing his Postal Worker pension and it was never included in the ME or considered in the valuation and now he wants to retain this large asset and still pursue the Petitioner's home and he does not have clean hands in the ED case.³and the non-profit religious corporation that was started by both parties but only the Respondent retained all property, bank accounts and vehicles from the corporation, which means that he received more than the ME in the ED. The ED Order was entered on September 20, 2022, and is

¹ N.C.G.S. § 50-21 govern Equitable Distribution

² 21-CVD-3364-310, Respondent was the Petitioner in this cause of action when he filed for absolute divorce that was granted on December 3, 2021.

³ See Lane v. Lane 115 N.C. App. 446, 445 S.E. 2d 70 (1994)

still in full force and effect, and in the ED Order, the Court determined that the Petitioner was entitled to more than half of the ME. The ED Order was filed under the existing DBB case and after a trial where the Court determined that the Petitioner was in fact entitled to more than half of the ME and determined that this was equitable. The ED Order, that is still in full force and effect ordered the Respondent to sign a Quit Claim (QC) deed to Petitioner within 48 hours of the request being made; Respondent did not sign the QC deed for more than eight months. The Petitioner had done all things necessary to comply with the Court's Order to refinance (or assume) the mortgage, whichever the Petitioner decided. Petitioner attempted to have the Respondent held in contempt of court for failing to comply with the ED Order that he was to complete the QC Deed within 48 hours of making the request. The Petitioner had been fully approved for a refinance and the only reason, that it failed was due to the Respondent willful failure to sign the appropriate paperwork. The parties had a hearing on May 15, 2023 at which time, the Respondent finally complied with the ED Order, which that was a delay of eight months and after the hearing where all testimony was given, Judge Dorothy Hairston Mitchell "opined" that the Respondent was somehow confused about the timeline that he was to complete the QC Deed. The Petitioner testified extensively, that the refinance failed due to the Respondent and that at that due to this delay, a mortgage assumption was the only viable option to expedite this process to get the

mortgage into the Petitioners' name especially since she was already a "confirmed successor in interest."⁴

Judge Dorothy Hairston Mitchell stated that neither party would be held in contempt and that the parties should get the details resolved to and to comply with the ED Order of getting the mortgage out of the Respondent's name and into the Petitioner's name. The Petitioner and the Respondent did what the Judge directed and they agreed to facilitate the mortgage assumption paperwork that was supplied by the mortgage company (Mr. Cooper, which is now Rocket Mortgage). The Respondent signed the QC Deed long past the 120 days that the property was to be out of his name, so to get the agreements back on track, the Petitioner and Respondent agreed that pursuing a mortgage assumption, would be the most expeditious process. The paperwork was filled out by both parties, notarized by the notary, the Petitioner turned in all necessary paperwork to the mortgage company on the same date of May 15, 2023. The assumption paperwork clearly states that the entire assumption process can take between 4-6 months. During this time, the Petitioner had been the sole person paying all mortgage payments, HOA fees, utilities, maintenance and taxes for the property. For more than two years, the Petitioner was paying all bills for the house, which improved the Respondent's credit, and he was unjustly enriched by these payments.

The Respondent once again, attempted to have the Petitioner held in contempt of Court in October 2023. Petitioner testified that it was the entire fault of

⁴ 12 CFR §1024.31

the Respondent that this mortgage and house issue had not been resolved and transferred out of his name. The Petitioner further testified and presented evidence of the new agreement that the parties had come up with to transfer the mortgage. It was at this hearing that the Respondent committed perjury (per the transcripts) and stated that he, "never signed any paperwork from the mortgage company." Petitioner was adamant that he did and was not prepared for that particular hearing because she was never served with the notice of that hearing and did not find out that it was for a "contempt" proceeding until after she was there. Petitioner was under the mistaken impression that she was attending a hearing for a gag order that had been requested by the Respondent. The Petitioner was held in contempt on that October 30, 2023 hearing, without any notice of what the subject matter was to be and was not prepared to address the false allegations and perjured testimony. The Petitioner filed a N.C. T.R. 59 Motion to Reconsider the contempt within 10 days of that hearing and provided the QC Deed, the paperwork from the mortgage company that were signed and agreed to by both parties and email correspondence from Mr. Cooper group employees, which was and has been their regular course of business communications since 2020 when COVID occurred.

The email communications verified two things: 1) Petitioner was fully approved and eligible to refinance the home within the 120 days that was ordered by the Court and 2) that the mortgage assumption did not occur because, "Mr. Smith changed his mind." I had repeatedly stated throughout every phase throughout these Court proceedings that the Respondent had committed fraud and

was always trying to force a sale of the Petitioner's home. The Petitioner has suffered deprivation of her property and continues to be economically harmed by the Court's Order that ordered the property to be awarded to the Respondent, which was NEVER included in the original ED Order and that the home be ordered sold.

The Petitioner's position is now and has always been that it is unfair, unconscionable and unjust that she be deprived of her property, after she did everything that she was required to do by law and in compliance with the ED Order to retain her property. The Respondent alone, was the sole cause of the mortgage not being transferred out of his name and this is an acknowledged fact and verified by the mortgage company.

The Order dated for October 16, 2025, that is currently under appeal, is the Order which impermissibly modified the Equitable Distribution Order, and this was improper and violated established North Carolina law as it relates to Equitable Distribution.⁵ Petitioner has repeatedly argued that since the Postal Worker Pension and other assets from the corporate entity were retained, solely, by the Respondent, the Petitioner did not receive her equitable share of the ME and has been deprived of her home. Essentially, the Respondent retained 100% of his pension, 100% of the corporation assets and has now been ordered to have the only asset that the Petitioner did receive, which was the former marital residence, which brings his share of the ME to 95%.

⁵ See Whitworth v. Whitworth, 222 NC App 771 (2012)

The Durham County, local District Court has repeatedly held hearings, entered orders of contempt to award ownership of the Petitioner's home and Order the sale of it, in violation, of the fact that no orders can be enforced as long as this matter is under appeal, "ED Judgements cannot be enforced by contempt while the ED judgement is on appeal."⁶ Additionally, the Court erred by failing to calculate and assess the value of the religious non-profit corporation and all of the tangible assets that the Respondent retained. The Court opined that since this was a religious non-profit corporation, then this was not eligible for equitable distribution, which is contrary to another Supreme Court State Law case, that has decided this exact issue. (See *Medlock v. Medlock*, 263 Neb. 666, 642 N.W. 2d 113 (2002))⁷

Armogene B. Ellis-Smith (now Maclin) is currently displaced from her home and her family has not been able to obtain permanent housing to this present time. There was no basis in law or fact for the District Court Judge to modify the Equitable Distribution (ED) Order, nor to apply Eviction Law to this ED case. "A memorandum of judgement is an entered judgment if signed by the judge and filed with the clerk of court. (See *Buckingham v. Buckingham*, 134 NC App. 82 (1999)). This contempt order denied the Petitioner of her property rights and possession of her home and these rights are significant.

⁶ See *Guerrier v. Guerrier*, 155 NC App. (2002)

⁷ *Medlock v. Medlock*, 263 Neb. 666, 642 N.W. 2d 113 (2002)

The North Carolina Court of Appeals decided a previous appeal of a Memorandum Order that was entered on April 9, 2024. The NC COA24-977, determined that they did not have jurisdiction and that the appeal was Interlocutory in nature and dismissed it. However, this was an improper decision since the Order that was on appeal held the Petitioner in Contempt of Court and affected a substantial right.⁸ Additionally that same order of April 9, 2024, divested the Petitioner of her property and ordered the property sold, therefore, she was entitled to the Interlocutory Appeal and it was improper to utilize a Rule 70 Motion to modify an ED Order and deprive the Petitioner of her property.⁹ The October 16, 2025 Order that is on appeal and no Court has reviewed the facts or relevant laws, of this case or Court Order and has ordered the sale of the Petitioner's property and conveyance from the Petitioner to the Respondent.¹⁰ The District Court Judge

⁸ **Guerrier v. Guerrier**, 155 N.C. App. 154 158, 574 S.E. 2d 69, 71 (2002) “the appeal of any contempt order affects a substantial right and is therefore immediately appealable.”

⁹ **Hanna V. Wright**, 253 N.C. App 413, 415, 800 S.E. 2d 475, 476 (2017) which states: “Our courts have recognized the.....deprivation of a significant property interest to be substantial rights.”

¹⁰ See **Phoenix Ltd. P'ship of Raleigh v. Simpson**, 201 N.C. App. 493, 688 S.E. 2d 717 (2009) (agreeing a substantial right was implicated where a trial court granted

Amanda Maris is the Judge who presided over the DBB and the ED hearings and entered the orders. The Order that is currently under appeal and that was modified by District Court Judge Dorothy Hairston Mitchell, has modified the ED Order, as it relates to the Petitioner being awarded the former marital residence and that Petitioner is entitled and awarded more than half of the ME and that this would be equitable.¹¹

XI. REASONS FOR GRANTING THE WRIT

This case involves a question of violations of Constitutional Rights as it relates to a marital property interest in a Postal Worker's Pension and this Question has never been addressed by the United States Supreme Court. There is another issue that has never been addressed by the United States Supreme Court and that is what does it mean to be a "confirmed successor in interest" (SII) pursuant to 12 CFR §1024.31 in the context of a domestic relations case when it involves an FHA mortgage and the SII has been denied the unilateral right to be treated as a customer and assume the mortgage. Additionally, the Supreme Court has never had the opportunity to review the VAWA and how it relates to Equitable

the plaintiff specific performance and ordered a property conveyed from the defendant to the plaintiff).

¹¹ See *In re Royster*, 361 N.C. 560, 563, 648 S.E.2d 837, 840 (2007) "A Judge of the District Court cannot modify a judgment or order of another judge of the District Court"

Distribution that was incorporated into a Divorce from Bed and Board, which was granted under grounds of fault, when the Respondent abandoned the Petitioner and made her life unduly burdensome. The United States Supreme Court is the only Court that is in position to address all of the issues involved in this case and there are many Women who were married to Pastors and co-founded organizations and the husband always get the assets of the organization and the Court specific found in the ED Order that the Respondent was going to retain benefits of the organization that the Petitioner would no longer have access to. Hundreds of thousands of women are negatively impacted when, like North Carolina is an Equitable Distribution State and the concept of marriage being a partnership and the Court is required in a three (3) step process is required to 1) Identify and Classify marital property, 2) perform an valuation of all the marital property, 3) distribute the marital property in an equitable manner. In the case at hand, the Judge that entered the ED Order, that is still in full force and effect determined that the Petitioner was entitled to more than half of the marital estate and that this is equitable. With the Order that is currently in place, it totally contradicts, supersedes and modifies the original ED Order.

The Petitioner was awarded the former marital residence as her sole property because of her labor in the 18 years of contributions to the marriage and the financial health of the parties. The Respondent never wanted the Petitioner to have her home, and he complained to the Court that the Petitioner should be held in contempt and the home ordered sold. Respondent repeatedly filed several causes of

action to have the Respondent and her adult children and young grandchildren evicted from the home, which created a cloud on the title and further impeded the process of a refinance in addition to filing for an order of trespass, when he was fully aware that since the home did not belong to him, he did not have standing to file these multiple causes of action. There has been an abuse of process through these entire proceedings, in that the Petitioner, had filed to run for Durham County Clerk of Court on December 18, 2025 and three (3) days later, the Respondent put his name on a Writ of Eviction, as if he was the Petitioner, Landlord and Owner of the Property and the Clerk of Court issued a Writ of Eviction for the Petitioner on December 21, 2025. Without any notice, hearing or further communication, the Durham County Sheriff showed up at the Petitioner's home with the Respondent and she along with six minor children were immediately evicted from the home. Respondent invited error and committed fraud throughout these entire proceedings and obtained possession of the Petitioner's home and none of these matters have ever been reviewed by any Court.¹² Respondent's request for eviction and possession of the Petitioner's home had been denied three (3) times by three different Durham County District Court Judges and he was only successful with filing a "Rule 70" Motion for an eviction with Durham County District Court Judge,

¹² See *Morris v. Rodeburg*, 385 N.C. 405 (2023) "We review a lower court's interpretation of statutes de novo."

Dorothy Hairston Mitchell, who overruled those three prior District Court Judges, who heard the entire case.

Additionally, the local District Court is withholding my \$15,000 cash bond from the previous appeal that was dismissed as an Interlocutory Appeal and these costs were satisfied. (See Appendix H and I).

XII. CONCLUSION

The Petitioner is requesting that the United States Supreme Court review this case because there are monumental issues that directly impact the Petitioner and many other Women who are similarly situated and it is a great hardship to be consistently punished for simply requesting review of the District Court Order, dated for October 16, 2025 that is under appeal and no court has reviewed the order for an abuse of discretion and violative of the state laws or the Constitution that governs these proceedings or “Affirmed” the Order. It is unconscionable that the Petitioner has repeatedly been denied even a cursory review of the order that violates several of the Petitioner’s constitutional rights and protections. The Petitioner has expended thousands of dollars for transcripts that will verify her account as to what occurred in the local Durham County District Court, only for the transcripts, never have been even looked at or reviewed and this is the United States Supreme Court of last resort and these issues must be addressed to prevent manifest injustice.