

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**1:07cv953**

**RYAN MCFADYEN, *et al.*,  
Plaintiffs,**

**v.**

**DUKE UNIVERSITY, *et al.*,  
Defendants,**

**DEFENDANT WILSON'S REPLY TO  
PLAINTIFFS' RESPONSE TO [330]  
MOTION TO DISMISS RENEWED  
BASED ON USCA DOC 80 FILED BY  
LINWOOD WILSON**

Defendant Wilson hereby replies to Plaintiffs' response to Document 330, Motion to Dismiss renewed based on USCA 4<sup>th</sup> Circuit Document 80 and states the following:

1. In Plaintiffs' Document 341, Response to Defendant Wilson's renewed motion to dismiss, Plaintiffs' again are trying to make the same arguments they made in the original case. They are re-arguing facts that were already decided by the USCA 4<sup>th</sup> Circuit in Document 80. Why Plaintiffs' continue to re-argue the law before The US District Court MDNC Judge Beaty when those rulings have been overturned by the USCA 4<sup>th</sup> Circuit and at this point those rulings by the 4<sup>th</sup> Circuit are the standing law in these 3 combined cases, as stated by Judge Beaty himself, in Document 340, ORDER signed by JUDGE JAMES A. BEATY, JR on 5/17/2013. Defendant Wilson would argue to The Court that the only reason is to continue this biased, frivolous and unfounded lawsuit that, USCA 4<sup>th</sup> Circuit Judge Wilkerson, stated was on the verge of being unlawful and illegal, bringing suits against anyone they wanted. Defendant argues for reasons only to force further financial burdens on the Defendants and continuing to fill their pockets to the last drop of money is spent. Defendant Wilson argues that all of the Plaintiffs' and their lawyers are in violation of Rule

11. Plaintiffs'/Attorneys obviously have knowingly filed false and frivolous charges. To allow this to continue would be a travesty and injustice to the judicial system.

2. DEFINITION OF WRIT OF CERTIORARI (USLaw)

When the U.S. Supreme Court orders a lower court to transmit records for a case for which it will hear on appeal, it is done through a writ of certiorari. Certiorari is the common method for cases to be heard before the U.S. Supreme Court since it has specific jurisdiction over a very limited range of disputes. A supreme court has power to review the proceedings of all lower tribunals and to rule upon their authority to hear the case and their decisions on questions of law. However, the lower court's determination on questions of fact will rarely be disturbed, although a state statute may authorize a higher court to do so.

The following is an example of a state statute dealing with writs of certiorari:

"The justices of the Supreme Court shall have authority to issue writs of certiorari and to grant injunctions and stays of execution of judgment, subject to the limitations prescribed by this code and the Rules of Appellate Procedure, as judges of the circuit courts are authorized to grant the same."

3. Plaintiffs' state in Document 341 Conclusion:

For the foregoing reasons, Plaintiffs respectfully request that the Court decide this Motion as to Plaintiffs constitutional claims after Plaintiffs' petition for a writ of certiorari is ruled upon and any subsequent appellate proceedings are concluded. If the petition is not granted or the Fourth Circuit's decision otherwise re-mains unmodified, Counts 1 and 2 must be dismissed because this Court is bound by the Fourth Circuit's conclusion that those counts do not allege a con-situational violation. However, irrespective of further appellate proceedings, the Fourth Circuit's decision does not require dismissal of Plaintiffs' obstruction of justice claim against Levicy or Wilson, because the Fourth Circuit's ruling, by its own terms, applies only to "a common-law obstruction of justice claim *against police officers based on how the officers*

*conducted a criminal investigation.” Evans v. Chalmers, 703 F. 3d 636, 658 (4th Cir. 2012)* (emphasis added). However in the pleadings in their initial complaint they include Defendant Wilson as a law enforcement officer, as the Investigator of the 14<sup>th</sup> Judicial District of North Carolina. Plaintiffs’ can’t have it both ways. All of the Plaintiffs in all 3 cases stated, in their oppositions to Defendant Wilson’s Motion to Dismiss (Doc 324 in 1:07cv953, Doc. 186 in 1:07cv739, Doc, 296 in 1:08cv119), that if the Fourth Circuit Court of Appeals ruling is allowed to stand then the Motions to Dismiss filed by Defendant Wilson should be granted. Defendant Wilson can only surmise that the thought of more money has now driven them to change their mind AND legal opinion. The law simply is “what helps your case the most”. I am starting to see why people continue the old joke, “How do you know when a lawyer is lying? HIS LIPS ARE MOVING! Defendant Wilson is not a lawyer but has been forced to represent himself *pro se* because he cannot afford the enormous fees which were needlessly required by these lawsuits. It’s time for Justice to start! Enough injustice has already occurred over the past 7 years.

### **CONCLUSION**

Defendant Wilson prays this court to find the mandate of the 4<sup>th</sup> Circuit of Appeals is now the law controlling these cases, which are grouped together, to be the law of the 4<sup>th</sup> Circuit Court of Appeals and to dismiss the cases on Defendant Wilson which are now in the U.S. District Court MDNC by judgment of law of the United States 4<sup>th</sup> Circuit Court of Appeals. If the United States Supreme Court even considers these cases and were to remand them, The Court would have the option of reinstating them. It is yet to be seen if the Plaintiffs’ will even get a writ of certiorari. Seems the Plaintiffs’ are putting the cart well before the horse.

Defendant Wilson prays the court to find Plaintiffs’ and their Attorneys in violation of Rule 11 of the Federal Rules of Civil Procedure and to sanction them accordingly under Rule 11(c)(3).

Respectfully submitted, this the 2nd day of June, 2013.

By: /s/ Linwood E. Wilson  
Linwood E. Wilson  
*Pro Se*

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

The undersigned hereby certifies that, pursuant to Rule 5 of the Federal Rules of Civil Procedure and LR5.3 and LR5.4, MDNC, the foregoing pleading, motion, affidavit, notice, or other document/paper has been electronically filed with the Clerk of Court using the CM/ECF system, which system will automatically generate and send a Notice of Electronic Filing (NEF) to the undersigned filing user and registered users of record, and that the Court's electronic records show that each party to this action is represented by at least one registered user of record (or that the party is a registered user of record), to each of whom the NEF will be transmitted.

This the 2<sup>nd</sup> day of June, 2013.

By: /s/ Linwood E. Wilson  
Linwood E. Wilson  
*Pro Se*