

No. 18-9083

Supreme Court, U.S.  
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IN THE  
SUPREME COURT OF THE UNITED STATES

Ken Gyder — PETITIONER  
(Your Name)

vs.

Richard Holcomb et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Ken Gyder  
(Your Name)

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**ORIGINAL**

**TABLE OF CONTENTS**

LIST OF PARTIES..... 2

QUESTIONS PRESENTED..... 2

OPINIONS BELOW..... 3

STATEMENT OF THE CASE..... 3

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED ..... 12

    Magna Carta 1215..... 12

    U.S. Amendment 4<sup>th</sup>..... 12

    U.S. Amendment 5<sup>th</sup>..... 13

    U.S. Amendment 14<sup>th</sup>..... 13

    § 55-248.39. Retaliatory conduct prohibited. .... 13

    § 55-225. Failure to pay certain rents after five days' notice forfeits right of possession. .... 13

    CONSTITUTION OF VIRGINIA- UNFIT JUDGES..... 13

JURISDICTION ..... 14

REASONS FOR GRANTING THE PETITION..... 14

    The Basics:..... 14

    Questions that must be answered..... 16

    Appendix A - IRS Taxpayer bill of rights ..... 18

    Appendix B – Wee Ling Ooi Instant Message – World Bank Spearphishing..... 18

    Appendix C – Shank’s towing conspiracy with local government..... 19

    Appendix D – Stinnie V Holcomb..... 20

    Appendix E – Robert Harris Admission of Original Case – existence of a contract – Venator..... 21

    Appendix F – Rent Paid in the original Venator Case..... 22

    Appendix G – Va Code Section 46.2-752(j) - Car registration and taxes ..... 22

    Appendix H – Tortious Interference in a Contract ..... 23

    Appendix I – Chief Justice Lemons Recusal in this case ..... 24

    Appendix J – Va State Supreme Court Decision..... 24

    Appendix K – DVD of the original 45 page brief and 200 pages of evidence including video to Va  
    Supreme Court..... 24

    Appendix L – Stafford County Circuit Court Decision..... 24

## LIST OF PARTIES

[ ] All parties **do not** appear in the caption of the case 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:

1. Richard Holcomb
2. Captain Sean Kimmitz of the Stafford Sherriff's Department
3. Laura Rudy

## QUESTIONS PRESENTED

1. Does a county have the right to collect taxes with no court judgment using the DMV to stop tag renewal and registration after having knowingly engaged in prosecutorial misconduct, malicious prosecution, attempted extortion and subornation of perjury IN the court room by the means of an armed uniformed deputy which was only repaired via contact with the FBI but still causing 4.5 months of unemployment and loss of a DHS job for \$74,000 offer due to the defamation in the background check because of the delay in the record expungement?
2. Can the Sheriff's department of any given county intentionally harbor an unindicted criminal who made a false report to the police?
3. Can a Sheriff's deputy tortuously interfere in a civil relationship between a renter and apartment on an invited, offered and signed contract, causing a breach and eventually unlawful eviction so as to protect the apartment from the legal liability of health issues and failure to make required repairs for months on end?
4. Can a judge refuse to set a court date for a jury trial when requested by a defendant in a criminal trial in violation of both the Va and U.S. Constitutions based on the statement "It costs too much."?
5. Is a conviction (and damages that followed) in a malicious prosecution that is later overturned only because the corruption is so great in the courts that the FBI have to be contacted to rectify this, to be buried by "sovereign immunity"?
6. When the Chief Justice of Va (Lemon), the speaker of the House Bill Howell and Tommy Norment and Dave Albo all conspire to save judge Robert Beasley from impeachment in 2015 and the same judge suborns perjury and uses a Sheriff's deputy IN the court room to coerce, armed and uniformed where are the Plaintiff's rights?
7. Does the DMV have the right to conspire with the local sheriff's department and Board of Supervisors to illegally deny a license renewal on the false claim of "back taxes" for 4 months (causing 3 stops by the Va State police and threat of vehicle loss) while the VERY issue is before the Supreme Court of Va with the DMV commissioner as defendant and then to refuse to answer a FOIA on the very same conspiracy?

8. In the midst of this very case, June 2018 while this case is before the Va Supreme court, do the local deputies of the county that has been sued, have the right to conspire with Shank's towing to suddenly, after more than a year at this address, attempt to tow the Plaintiff's car, to threaten police action (Shank's towing driver) because of marriage to a deputy and for the Sheriff to send out not one but TWO marked cars with 2 officers in each car after the threat?
9. Why did Chief Justice Lemon recuse himself in this case? Where is the precedent for this?
10. How is a county "sovereignly immune" for knowingly not installing a property inspector (negligence) so that the Plaintiff would have had a resource in March 2014 to obtain contract repairs for sewage gas and a hole in the wall created by the apartment hired, plumber?
11. How is due process afforded in a false arrest when the Plaintiff Terry Kirby has no contact with the Plaintiff for a verbal warning in a trespass case, has NO written warning, has not returned the deposit now 2 years later and on the stand, even could not remember the YEAR of her own complaint?

## OPINIONS BELOW

1. WASHINGTON et al. v. GLUCKSBERG et al. 1997 saying:  
 "First, the Court has regularly observed that the Clause (*due process*) specially protects those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition..."
2. Stinnie v Holcomb No 17-1740 United States 4<sup>th</sup> Circuit Court of Appeal RE: Va code 46.2.395 on the question of Due Process and Equal Protection having the driver's license suspended for failure to pay court debts.

## STATEMENT OF THE CASE

**All actions in this outline since 2014 have been done, attorney pro se.**

In 2009, based on a FOIA response from the Stafford county board of Supervisors, it was learned that Mark Dedenehoffer entered the vote to NOT install a property inspector in the county of Stafford, leaving it as the ONLY one (north or south Spotsylvania, Fredericksburg, Prince William County, Fairfax, Loudon.....) that does NOT, **to this day** have a property inspector to protect the renters in the county from health related abuses in rental properties in the county.

October 2013, the Plaintiff and wife entered into a lease agreement to July 15, 2014 with Venator Courthouse apartments in Stafford, Va. By March 2014, the sewage gas (a health issue) coming from the island sink, "sinkerator" was too much and the Plaintiff put in a ticket to have this fixed. Venator, for this Stafford apartment, brought in Raine and Sons 50 miles away in Hyattsville, MD to fix this but instead they took a hammer, put a 6 x 12 hole in the wall and neither fixed the hole nor the sewage gas. The 60 day notice for a lease renewal was not honored by Venator and instead the Plaintiff was called at 1 pm on June 17, 2014 for a renewal. Going to the office, the Plaintiff asked when this would be fixed the smart mouth "hooters girl" responded, "put in a ticket" when their staff had already made 10 visits with no fix. The Plaintiff took the

contract upstairs to the apartment where both Plaintiff and wife signed it, returned it, it was accepted and another Venator person asked if a copy was desired. The Plaintiff took a copy and went back.

The next day June, 18, 2014, the Plaintiff sent a letter saying that he July split month rent would be put into escrow until the hole and the stink were fixed. (March to June 2014 – no fix). Carefully note here that an invitation, an offer and acceptance of the new terms had been completed on June 17 and that to fulfill the contract's term over the next 13 months, money had to be paid either directly or via escrow. On June 19, Venator, in retaliation reneged on the contract so the Plaintiff went to the office speaking to Shannon Welch and said, "whomever put the hole in the wall and did not fix the stink is a clown". Welch said, "You say that again and I'll call security." The Plaintiff said, "Call them and tell them I called." Off duty deputy Mikel Reyna came and tortuously interfering in the signed contract, of his own volition, conspired and cooperated with Welch/Venator to breach the contract. Further, they both, in further retaliation to cover up the health issue, the refusal to do the repair and for the "escrow" letter, issued a "no trespass" to the office.

The Plaintiff realizing that a bona fide contract had been signed paid the rent on time on the split month rate. Venator sat on this check for 10 days until the Plaintiff demanded that this large sum, laying around either be cashed or a stop payment would be put on it. The plaintiff filed a lawsuit and stated the following as the first item for grounds for relief:

"Whereas we were called and demanded to make a decision on renewing the lease and did so legally, in good faith and have the copy, the Plaintiff demands the **specific action** of the 13 month lease to be honored and executed by Venator/Optio."

The Plaintiff was invited by phone at 1 pm on June 17 to the contract. The plaintiff was given the contract, signed it, returned it and was given a copy. The split month rent was paid on time in July. Venator could NOT issue a 5 day "pay or quit" letter because they received the rent check in full and refused to cash it in retaliation for the complaint about the sewage gas (health issue) and the hole in the wall made by Raine and Son plumbing of Hyattsville, MD, 50 miles from Stafford, Va. (location of Venator apartments)

The Plaintiff also contacted the county of Stafford and the building inspector came to the apartment and said that he could not do anything because he was NOT the property inspector, had no authority and thus left. A FOIA was sent to the Board of Supervisors and it was discovered that in 2009, Mark Dudenhoffer entered a motion to stop the committee to install a Property Inspector for the County of Stafford. Fredericksburg City, Spotsylvania county, Prince William, Arlington, Loudon and Fairfax all have property inspectors to protect renters from health issues and abuse by landlords. To this day, even with Plaintiff statements made at Stafford Supervisor meetings, refuses to install a property inspector. In a conversation with Jack Cavalier at a Widewater voting day, he admitted that the commercial property owners are the ones who are blocking this vote.

Late July, Venator sent, not employees of their repair staff but illegal, non bonded, non insured, non English speaking "cousins" of one of the employees to simply patch the hole. Instead of cutting it out, they used the joint tape across the hole, spackle, paint and walk out. A complaint was lodged with Venator about this. That actual vent can be seen here:

<https://www.youtube.com/watch?v=ZiLFWieEAXQ>

This was yet another violation of the Va Landlord Tenant act requirement to maintain the property.

Around October 2014 near Halloween, one Robert Harris appeared out of nowhere and put in a lawsuit for "unlawful detainer" in order to preempt the trial coming in November/December. The court was contacted October 30, 2014 and the Stafford general district court said the cases were one. The Plaintiff contacted again

on the 31<sup>st</sup> and again this was affirmed and then on the following Monday, the court called the Plaintiff called and said the cases were separated. "Who did this?" The clerk would not answer. "Who decided this?" The clerk threatened to hang up the phone and so the Plaintiff demanded a third time and the clerk said, "I changed the docket". The Plaintiff went to court and quizzed the judge on this. He said he did it and the Plaintiff said, "Well your clerk said she did it so who is telling the truth." (Since when does a clerk have such control to change cases??)

Appearing in the court, the Plaintiff sued the police officer for tortious interference in a contract. Appendix H Keep in mind Stafford county is very poor with many trailer home parks and used car lots or acres of used car part vehicle companies because of the proximity to Quantico and because one can hear for miles around the artillery/tank blank shots and the machine gun training even on a Saturday night as well as the V22's landing and taking off during training. The only money for taxes is the commercial real estate and they are protected with vengeance by the Stafford county Sherriff's department as will be demonstrated in this document.

The court decided to bring in Charles Foley from Fauquier county on the ruse that a local judge could not judge a police officer. The Plaintiff stood before this judge before in Fauquier county whereby the judge gave the defendant Klaus Feuschel, the Plaintiff's Internet domain: pleasantpc.com in spite of the fact that Klaus had an established company and domain (Docklaus.com) and had stolen the Plaintiff's domain to cybersquat in order to block the Plaintiff from starting a competing computer repair business in Warrenton, Va. With the aid of Foley, Klaus destroyed the Plaintiff's business as Klaus cybersquatted with aid of Godaddy for 2 years after this.

About one week before the case was heard, the sinkerator completely fell apart and underneath the island sink was mold and water from one end to another. The Plaintiff took pictures and presented all of these facts in court.

Foley took the case. At the end he said, "I've heard all of the evidence and I'll render my ruling in writing."

Robert Harris, the defending attorney who is in Manassas, Va (not far from Warrenton and may have stood in Foley's court), then, after the trial was declared over, went to Foley's bench, handed him documents and began an ex parte conversation as the Plaintiff and his wife were packing up to leave. (Both saw this in person).

Harris had asked for some form of money from October to the court date on the basis that there was NO contract in his unlawful detainer.

Foley, without a motion or written request, gave Venator the victory claiming that there was NO contract, thus actively participating in the breach of contract and illegal retaliation with Deputy Mervil and Shannon Welch of Venator and then turned and said, "But you owe the money from the date of the new contract (July 15, 2014) to the court date." This makes no sense. Either there is a contract and money is owed or no contract and no money is owed. Further, how is one evicted for paying the rent, insisting there is a contract, having the rent refused, then saying it is owed on a contract that does not exist?

This is a non trivial point. The contract was offered, signed and accepted Venator and there could be no unlawful detainer because the rent was paid and thus there was no 5 day pay or quit possible. The Plaintiff was evicted just before Christmas 2014 and had to spend Christmas in the Value Place Hotel in Fredericksburg, Va. The Plaintiff made a written motion to rehear the case and Foley refused. Around the beginning of 2015 the Plaintiff, after looking at many places and now being rejected because of the judgment, we obtained an apartment at the Pointe at Stafford. Before going to this second stage of suffering, Harris and Venator put the Plaintiff in collection. The collection agency was warned to go away or a lawsuit would be filed and they responded on a \$7,000 + collection saying they would NOT collect and would remove their mark from the

Plaintiff's credit record. Which collection agency is afraid to collect even \$100 and call a person on a weekly basis much less \$7,000? Yet this was the result.

Moving into the Pointe at Stafford started off on the wrong foot. While moving in, the toilet, on a single flush, began to flow uncontrollably and resulted in an emergency call. Later we found dog feces ground into the deck boards of the apartment and a stench that was unbelievable and so the apartment was not ready for move in. Because of other health issues, a lawsuit was filed and money was put into escrow. The Plaintiff won \$385 against the Pointe in Stafford in December 2015 (with .....mysteriously Robert Harris as their attorney, who had also represented Venator) but because of the fraud/corruption of Venator and the Stafford county police and crooked courts, the Plaintiff and his wife had to move into Value Place hotel and live there for 8 months. During that time the Plaintiff endured no heat in the winter time, Muslims on one side shouting continually at their own wives, prostitutes during the night on the other side and even denial of the provision of toilet paper by the management. Dr. Gryder's father died during that time and the Plaintiff and wife had no means to provide any help in the Philippines, much less fly there for the family. The time period was from January 2016 to August 2016.

On February 1, 2016, and this has been confirmed with the Stafford GD court, the Pointe at Stafford cashed the escrow check for over \$2700. February 6, they retaliated and sent a bill for the exact same amount. February 7 they put the Plaintiff, who won the civil suit and whereby they did NOT appeal the decision, into collection for the very amount they had already cashed, in the escrow check. February 24, 2016 the Fredericksburg city police appeared at the Value Place Hotel after the Plaintiff came back from work at the World Bank in Washington DC and falsely accused the Plaintiff of trespassing at the Pointe at Stafford. They were told repeatedly about the lawsuit victory and shown the documents and repeated demands for the name of the person who was making this charge were made but they would NOT answer. The Plaintiff's wife was cornered by the Fredericksburg city police in the same hotel room. The plaintiff had to drive to Stafford county to the Sheriff's office to get answers as to who was making the complaint.

At first appearance, the Plaintiff entered a motion to dismiss based on the fact that NO trespass ever occurred. Further, Virginia law requires either a verbal warning or a written warning. There was NO communication with Terry Kirby, the liar, from late 2015 until the trial that came April 15, 2016. There was no "no trespass order" until July 5, 2016, months after the arrest. At that first appearance was yet again Bruce Strickland who gave the \$385 decision in the civil case just 4 months before in December. He refused to dismiss the charge and when he asked "do you know what the charge is?", the Plaintiff said "no" and had to proceed to the clerk's desk just to get the original magistrate's complaint, AFTER the arraignment!

What was found was that Kirby claimed she had given written notice and 3 verbal warnings. In fact, the "written notice" was a retaliatory non renewal of the lease letter in October 2015, the day AFTER she was notified of being sued for health violations, yet again a violation of the Virginia Landlord Tenant Act. The magistrate's order contains 3 "verbal" dates but the arrest warrant has an amorphous week range and a single complaint thus they DO NOT MATCH.

There was NO investigation. There were NO questions asked by Stafford county Sheriff's department to the Plaintiff in this matter. Clearly Cavalier's statement about protecting commercial property owners by the police as was done by Deputy Mervil, was manifesting itself AGAIN. (This will appear again in 2018 with Shank's towing) What is noteworthy here is the following:

1. Robert Harris was the Pointe at Stafford attorney in the case just a few months before yet Terry went to the magistrate herself and lied.
2. Robert could have written a no trespass letter but did not. He could have mailed it but did not. Terry could have given that letter to the police and they could have done an investigation. She claimed she

made 3 verbal warnings but why would you do that and not contact your lawyer? Why did Strickland not question the appalling lack of evidence in this false arrest and stop this from the outset? Why did the police never question the Plaintiff?

All of these questions matter because the ultimate question is does the county of Stafford and the Commonwealth have the right to deprive a person of the obligation to register a car (update tags) for their own corruption?

On April 15, 2016 of the trial, Robert Beasley appeared. This was a constitutional violation because Beasley was unfit to sit on the bench because in December 2015, he was nearly impeached for the first time in 65 years but was saved for political reasons by General Assembly Senate member Tommy Norment, Judicial committee member David Albo and House speaker Bill Howell, all republicans. It should be noted that Chief Justice Lemons, Howell and Albo are all UVa graduates. It should also be noted that the owner of the Pointe at Stafford, Morgan Properties in King of Prussia, Pa was an \$80,000 John McCain bundler and that Eric Olsen, the CA of Stafford county is a republican and has a picture of him embracing Jeff Sessions, all republicans. This is remarkable given the Plaintiff voted republican for 30 years until the 2014 midterm elections and then stopping all voting after that.

Bill Howell brought Beasley to Stafford because he sexually harassed staff in the courts of Amelia, Dinwiddie and Powhatan and Bill Howell is from the Stafford county district.

Ryan Fitzgerald representing the CA's office and Eric Olsen of Stafford County, came in and told Beasley that he wanted to speak to the Plaintiff in the back room. Beasley stepped out of the court which was filled with police officers. Fitzgerald then said to the Plaintiff that this "charge" would be dropped if the Plaintiff would sign a "no trespass" order in front of Beasley and sign a peace bond. (It should be noted that to this day, Terry Kirby and Morgan properties has NOT returned the rent deposit.) **The Plaintiff refused.** The "no trespass" must come BEFORE the arrest and not AFTER. This was the first attempt at subornation of perjury. As for the "peace bond", the Plaintiff assumed that this would be used as a means to block a future civil suit for false arrest and that, because it involves money, was an attempt at extortion.

The Plaintiff reentered the court room and sat down waiting for Beasley to appear. It should be noted that in the lobby were Terry Kirby and her lawyer Robert Harris. Now Fitzgerald, in front of all of the police officers, entered the courtroom and attempted both subornation of perjury, namely to admit to a trespass that NEVER occurred and to attempt to extort the Plaintiff. The Plaintiff refused a second time to this coercion. According to 2 calls weeks later (check and recheck) to a first sergeant of the Stafford Sherriff's office, only Deputy Reyna was assigned to the court room that day. Thus while waiting for Beasley to come back into the court to start the trial, Fitzgerald, Harris and Kirby conspired and sent armed, uniformed, court assigned deputy Mikel Reyna INTO the court room to attempt.....for a THIRD time to coerce the plaintiff against his will into perjury and extortion (sign a trespass order and sign a peace bond as an "admission of guilt") in front of that room of police officers .....including at least ONE Va State Trooper. The Plaintiff refused.

Near the beginning of the trial, Terry Kirby who made this false report blurted out "I didn't know we were having a trial today" which demonstrated the full circle of conspiracy and retaliation not just Terry losing the case, Robert Harris losing the case but for the Stafford Sheriff's department and the previous Venator case where Deputy Mervil was sued for tortious interference in a rental agreement and actively participating in retaliation on behalf of is salary source, a commercial property owner. This is called police thuggery in normal English.

During the trial while Kirby was on the stand, she could not remember the dates of her own complaint. Recall that the arrest warrant mentions only a short date range while the magistrate's complaint has dates all over.



Fitzgerald then began to take her magistrate's complaint to remind her. The Plaintiff objected and Beasley lectured that this has been done for "a thousand years". That would be interesting to actually pinpoint such actions that occurred before....1215 and the Magna Carta. She was shown her document and then under oath, still got the dates wrong and in one case got the year wrong.

On cross, the Plaintiff began to question her knowledge about the legal requirements (written or verbal) of trespass law which the Plaintiff had in hand. Beasley blocked all questions on this thus proving his "unfitness" to sit on the bench twice now. Terry could not explain what she claimed to say on these "dates" saying, 'I don't remember" and could not produce any documents or anything because she was lying and retaliating.

When the Plaintiff was on the stand, Fitzgerald, now with nothing in hand, started random questions about dates not even on the magistrates order. When the Plaintiff attempted to go to the table to retrieve this document, Deputy Early and Beasley blocked the Plaintiff and Beasley suborned perjury by telling the plaintiff "answer these questions or I'll dismiss ALL of your testimony and render judgment".

At fingerprinting, Deputy Early did the same process twice in a rush and it was found later that the bond paperwork was NOT done correctly.

That same day, the Plaintiff went to the local Porter library and using their computer, wrote a letter for the return of the rent deposit, printed it out and faxed it to the Morgan Properties King of Prussia office. About 3 days later, the Plaintiff while at work at the World Bank, received not one but TWO harassing calls from the Stafford county police demanding to know, "Why did you contact the Pointe at Stafford?". The home office of Morgan properties was contacted and NOT anyone in Stafford county. No one to this day has answered the question of how a fax sent from that library to Pennsylvania got into the hands of the Stafford Sheriff's department and Captain Kimmitz, who is harboring this unindicted criminal who made yet ANOTHER false report to the police, refuses even in a FOIA to answer the question. Kimmitz is one of the defendants in this case who claims "sovereign immunity" against revealing to the Plaintiff who made this false report.

At the setting of the circuit court appeal, the Plaintiff asked for a jury trial. Judge Victoria Willis said, "You can't have one because it costs too much" thus violating the 6<sup>th</sup> amendment of the U.S. Constitution and Article 1, Section 8 of the Bill of Rights of the Virginia Constitution. Standing at the podium, to the left was the public defender said, "I'm not representing him judge but I see that you have July 24 open on your docket for a jury trial" and then she had to relent in conspiracy with the Commonwealth's attorney. The court room was full of people who witnessed this.

The Plaintiff then called for a pre-trial hearing (heard on July 5, 2016) demanding that the charge be summarily dismissed for the false arrest, perjury by Kirby on the stand, the in court attack by Deputy Reyna and the lack of a "no trespass" document. She refused. In a letter dated that same day and when Robert Harris did NOT appear in court, the Plaintiff a few days later sent a "no trespass" letter and included, for further retaliation, the name of the Plaintiff's Asian, naturalized, patent holding, electroneurophysiological research PhD wife of 25 years. Arrest in February 2016, trespass letter in July 2016. The Plaintiff called for another pre-trial hearing and walking in Willis told Fitzgerald that she granted his motion to change the trial date. That was a shock given there was NO notice whatsoever on this and demonstrating conspiracy AGAIN via ex parte communication. Willis now was adamant about not giving ANY consideration whatsoever to Reyna's outrageous actions in the court and even now with the proof of the July 5 letter from Harris, would NOT dismiss the case.

The Plaintiff then wrote subpoenas to a wide variety of individuals and drove to Richmond, Va to deliver a complaint to Chief Justice Lemons at Supreme court about this and then in the parking lot of the FBI on Parham road, filed a complaint with a Special Agent.

The court date had been moved out to August but at the World Bank in mid July while working on the help desk of the International Finance Corporation, the Plaintiff was contacted by a Chinese national via WB instant message demanding access to the IFC docs multibillion dollar database for unnamed people and “other confidential databases”. This spearphishing attack continued the next day with demands being made by the “Manager” (when in fact, there is a form that the manager would fill out and send to the help desk) and by finally demanding the “names” of “corporate IFC IT”. (Notice “names” – why plural?) The Plaintiff took screenshots of this and turned in this Wee Ling Ooi to Info Security, having studied the SYS 301 Security + book and test questions cover to cover and having lived and worked in Japanese companies in Nagasaki, Osaka and Nagoya, using Japanese only. (Deep knowledge of security and of Asians) HCL America falsely accused the Plaintiff of “stereotyping Asians” and fired the Plaintiff. Appendix B – IM screenshots

The Plaintiff in August 2016 obtained 2 job offers, one for the PTO in Crystal City and another for DHS for \$74,000. Both were lost on a background check because of the damage done by Terry Kirby, the courts, the lawyers, the police, the General Assembly and its JIRC committee.

When finally entering court in August, because of the contact with Lemons and the FBI, Fitzgerald ....dropped the charge. The record was not expunged until late November and the Plaintiff did not get a job until January 17 the following year. On January 1, 2017, the Plaintiff and his wife nearly ended up homeless save for a church that loaned \$900+ dollars. The Plaintiff was out of work for 4.5 months because of what these people did. (false arrest, malicious prosecution, prosecutorial misconduct, perjury, subornation of perjury, conspiracy, attempted extortion at the barrel of a gun.)

Now Stafford county, after all it's done to the Plaintiff wants back taxes but the story does not end here. The county since May 2017 has been using the DMV to block the Plaintiff from registering the single car owned by the Plaintiff, now with 170,000 miles. This lawsuit was filed at this time to force the county to sue the Plaintiff for the taxes so that ALL of this evidence would be brought forth in court. To cut to the point, the defendants have continually and without legal basis of either the state or federal question, claimed sovereign immunity.

On the very day of first return for this lawsuit, the Plaintiff was given, on the court house steps, a “no trespass” order to the Stafford Sheriff's department on behalf of defendant, Captain Kimmitz, for the purpose of demonization, intimidation and defamation in this very case before the U.S. Supreme court.

With the new job, the Plaintiff was travelling from Stafford to Chantilly, Va crossing Fauquier, Prince William and Fairfax counties so a 73 page explanation was sent to each police chief to stay out of this legal matter. In October 2017, the Plaintiff was stopped around 10:30 pm in Fauquier county on the way home for a technical training class in Ashburn (MSCA 2012) with the claim of speeding. The Plaintiff put on a Sting song in PW county on his iPhone and while singing, rode lock step with one other car in front into Fauquier county on the way home. In court, the deputy claimed that his radar did not “see” the car in front but his own dashcam showed just before he turned on his lights, the exact position the Plaintiff pointed out. In court he lied about not seeing the car in front and the Plaintiff is convinced that this was a BOLO event and not a car stop based on the previous 73 page document to their police chief. On April 3, three days before the circuit court appeal while driving to work a car was travelling ahead of the Plaintiff at 53 in a 45 and passed a Fauquier county SUV police vehicle stopped at a church. The Plaintiff was ¼ mile back and the police did nothing but pulled out after the Plaintiff went by (doing 45 the whole time which is why the other car was ahead) and 3 miles later, the SUV was ON THE BUMPER of the Plaintiff's car only stopping at the county line. This was all caught on video. The State Police were called but said, “We only manage the Interstates”. 15 minutes later in Nokesville, at the intersection of 28 and the PW county parkway there was one marked and unmarked cars suddenly behind the plaintiff. The Plaintiff pulled out the phone and videoed this and going past the solid line splitting the ramp from the road going to Manassas, the police slammed the brakes and followed the Plaintiff over the flyover, stopping to give a big lecture on the tags but not writing a ticket. This was captured on video.

In fact, the Plaintiff has been stopped probably a dozen tags while this case has been in the courts and has had to carry the case itself and the State Supreme court letter in the car to stop the police harassment.

A mere 10 minutes later getting on Interstate 66, the Plaintiff was stopped this time by a Fairfax unmarked car and given a warning note. This was in sharp contrast to the conversation 30 minutes before with the State Police who said they patrol the interstates.

Three (3) stops in 45 minutes. The Plaintiff had to go to work and explain this and the contact with the FBI and then began harassment at work by the boss and other employees who were NOT told, including “trouble”, “sunshine” “old goat” and “old man” nicknames. The Plaintiff made a complaint about these in September 2018 was fired October 5 in the middle of a medical procedure (Oct 2 CT scan for abdominal pain and Oct 9 GI exam thinking there might be cancer) and has been unemployed since and cannot find a job.

In June 2018, while going into a Giant grocery store just for discounted blueberries for the mother-in-law’s health needs, the Plaintiff passed a 12 year old shilling for some cheerleading group donations. Going back to the car in a few minutes the boy interrupted again and then again going in. The Plaintiff then told the boy that time would be better spent going to the library reading books than doing this which has no career value in the long term. Within seconds a white guy got in the face of the Plaintiff in the area between the 2 sets of sliding doors and started making threats. The police were called and Giant grocery employees witnessed this. No disorderly conduct charges were levied against this person in spite of talking over the Plaintiff while on the 911 call.

A few days later, after living for more than a year at this rented townhome, Shank’s towing made a threat to tow the Plaintiff’s car for tags in spite of the fact that this case was already before the Va State Supreme court. Appendix C Speaking to the towing girl the Plaintiff made this fact known and the towing girl became violent so the Plaintiff began videoing this person and she purposely used the white light on her phone to wash out her identity given that this was late at night. Plaintiff has that video. She then made the threat that her husband/boyfriend was a Stafford county deputy and she would call him. This closed the loop once again going all the way back to Deputy Mervil and Venator and all of the police retaliation. Within 20 minutes, not one but 2 marked cars came and each containing not one but 2 individuals.

In May 2018 while this case was before the Va State Supreme court and one year after filing and having the tag issue, the Plaintiff thought that he had lost his driver’s license. Thus going to the Garrisonville DMV, the Plaintiff requested a full renewal but was told with emphasis that it could not be renewed beyond the of the month. The Plaintiff was stopped at his home by State police about the tags and license and twice at the Virginia center on Interstate 66 on the way to work. On the third stop there, an older trooper said that tags could be withheld but not the license renewal. He went back to his car and confirmed with an “investigator” via phone.

The next day the Plaintiff went BACK to Garrisonville DMV and they argued. Finally after telling them what the state police said, they renewed the license but the Plaintiff suffered, needlessly with TWO renewals and riding around in this state from May 2018 until September 2018 – 4 months! A FOIA was dropped off with an October 19, 2018 deadline for all contact information with Stafford county and the DMV and even upon return after this and speaking with the local manager, they will NOT answer the FOIA.

Now let’s circle back to June 2014 and the first in the grounds for relief in the Venator case which triggered ALL of these problems because of Deputy Mervil. The lawsuit says:

“Whereas we were called and demanded to make a decision on renewing the lease and did so legally, in good faith and have the copy, the Plaintiff demands the **specific action** of the 13 month lease to be honored and executed by Venator/Optio.”

The Plaintiff in less than 30 days of this first case in 2014, did put in a motion to rehear and Foley refused. Appendix E and F In 2017 this was done again and this time, Robert Harris wrote on page 2 item 8 of his response:

**" The Tenants were evicted from the apartment based on the failure to pay rent"**

The rent check that was paid on the new contract on time and was rejected was presented at trial and is still in the evidence box in Stafford. The Plaintiff has a certified copy of this.

Robert Harris lied in court, engaged in ex parte communication and conspired with Judge Foley to cover up tortious interference by Deputy Mervil in a bona fide contract for a lease renewal that has destroyed now the Plaintiff's reputation, credit and ability to hold or obtain a job because of background checks. Compounding this, because Foley had recused himself of this and Reibach took this up in 2017, he said it could not be heard because the “General Assembly did not intend to have a case reheard over and over. It's called judicial economy”.

Not it's not. It's called judicial conspiracy to cover up massive fraud, harassment, attempted extortion, subornation of perjury, tortious interference in a bona fide contract, false arrest, malicious prosecution, prosecutorial misconduct, perjury, Va Landlord Tenant violations, due process, equal protection, right to a jury Constitutional violations, defamation, retaliation, conspiracy to block a driver's license renewal (including defendant DMV commissioner Richard Holcomb), multi county police harassment (4/3/3018 – three interactions on the way to work), intentional infliction of emotional distress, political corruption (republican party), putting an unfit judge on the bench (Beasley and Foley), failure provide taxpayer's basic rights to even discuss back taxes (like the IRS has) (after losing 4.5 months of a \$74,000 DHS job offer = \$24,000 lost), near homelessness, unspeakable pain and stress on the Plaintiff's innocent wife, credit/reputation destruction, endless birddogging in multiple counties by local police, conspiracy by court staff to retaliate, conspiracy by court police to retaliate, illegal and retaliatory trespass order to the Sheriff's department, illegal conspiracy with Shank's towing to take the Plaintiff's car with the Stafford deputies (which have a towing committee with Eric Olsen), interstate police conspiracy to interfere in the collection of the rent deposit (from King of Prussia and Stafford deputies including Defendant Captain Kimmitz) and probably a few more offenses.

In particular, the Stafford police recently wrote a ticket for the tags and when the Plaintiff went to court to obtain the documents for subpoena, the court police went around the back and then formed point positions in the clerk's office and outside to intimidate the Plaintiff. So far multiple IAD complaints have been filed and 3 “cease and desist” orders have been written to the Stafford county Sheriff's and one each to Fauquier, Prince William and Fairfax county concerning these matters.

Strickland blocked all of the witnesses and all of the evidence. He went on to demean the Plaintiff's efforts to appeal to the U.S. Supreme court. He like others are protecting the county from the legal exposure of all of these incredible illegalities.

Even just about 2 years ago when the Plaintiff was in court and the clerk Kelly was there, the Plaintiff noticed the 5 day “pay or quit” notice requirement for anyone desiring to evict a tenant pasted both to the civil desk counter top and on the wall. When the Plaintiff asked for a copy, Kelly promptly ripped them both down and they have never appeared again. In fact, the entire.....clerk staff has turned over and all are new hires.

Why is that?

Robert Harris failed to follow this in the Venator case because the rent check was paid on the bona fide contract and deputy Mervil with Harris and Foley covered up the fact that this was in fact a contract and thus could not issue a 5 day pay or quit having rejected the paid rent check to fraudulently break the new lease. Kelly was fully aware of this fact. Reibach, Foley and Strickland are aware of this fact. Now there is no one permanently stationed on the civil desk at Stafford.

Further, in May 2017 when Reibach pulled the “judicial economy” stunt on the motion to rehear the original Venator case, the Plaintiff went to the clerk’s office to file an appeal. “Tracey” said that there might be a bond in order to do this and refused to answer the question for nearly 2 months. Finally when an answer came, she said “It does not’ smiling at the damage inflicted on the Plaintiff. She is now working at a social center for the government in Warsaw, Va.

A couple of other points worth noting on the Pointe at Stafford malicious prosecution involving Beasley. When this case went to the Va State Supreme Court, Chief Justice Lemons recused himself. Appendix I Even after Beasley was nearly impeached, was investigated by the FBI in the Pointe at Stafford case, Lemons sent him back to Powhatan and 11th District Chief Judge Mayo Gravatt said July 18, 2017 in the Richmond Times Dispatch, “We didn’t need another judge.”. The actions of the chief justice and of Gravatt demonstrate the Plaintiff’s point, namely the Va Constructional requirement for putting a “fit judge” on the bench, was violated. (Article VI, Sections 10, 11, 12; Article VII Section 1 20 . In particular, it states, “If the Supreme Court after the hearing on the complaint finds that the judge has engaged in misconduct while in office, or that he has persistently failed to perform the duties of his office, or that he has engaged in conduct prejudicial to the proper administration of justice, it shall censure him or **shall remove him from office.**”)

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

### **Magna Carta 1215**

(34) The writ called precipe shall not in future be issued to anyone in respect of any holding of land, if a free man could thereby be deprived of the right of trial in his own lord's court.

(39) No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.

### **U.S. Amendment 4<sup>th</sup>**

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.

### **U.S. Amendment 5<sup>th</sup>**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual

service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. (due process)

### **U.S. Amendment 14<sup>th</sup>**

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."

### **§ 55-248.39. Retaliatory conduct prohibited.**

A. Except as provided in this section, or as otherwise provided by law, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession or by causing a termination of the rental agreement pursuant to § 55-222 or 55-248.37 after he has knowledge that (i) the tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health or safety; (ii) the tenant has made a complaint to or filed a suit against the landlord for a violation of any provision of this chapter; (iii) the tenant has organized or become a member of a tenants' organization; or (iv) the tenant has testified in a court proceeding against the landlord.

### **§ 55-225. Failure to pay certain rents after five days' notice forfeits right of possession.**

If any tenant or lessee of commercial or other nonresidential premises, being in default in the payment of rent, shall so continue for five days after notice, in writing, requiring possession of the premises or the payment of rent, such tenant or lessee shall thereby forfeit his right to the possession.

## **CONSTITUTION OF VIRGINIA- UNFIT JUDGES**

Article VI, Sections 10, 11, 12; Article VII Section 1 20

Section 10. Disabled and unfit judges.

The General Assembly shall create a Judicial Inquiry and Review Commission consisting of members of the judiciary, the bar, and the public and vested with the power to investigate charges which would be the basis for retirement, censure, or removal of a judge. The Commission shall be authorized to conduct hearings and to subpoena witnesses and documents. Proceedings and documents before the Commission may be confidential as provided by the General Assembly in general law. If the Commission finds the charges to be well-founded, it may file a formal complaint before the Supreme Court.

Upon the filing of a complaint, the Supreme Court shall conduct a hearing in open court and, upon a finding of disability which is or is likely to be permanent and which seriously interferes with the performance by the judge of his duties, shall retire the judge from office. A judge retired under this authority shall be considered for the purpose of retirement benefits to have retired voluntarily. If the Supreme Court after the hearing on the complaint finds that the judge has engaged in misconduct while in

office, or that he has persistently failed to perform the duties of his office, or that he has engaged in conduct prejudicial to the proper administration of justice, it shall censure him or **shall remove him from office**. A judge removed under this authority shall not be entitled to retirement benefits, but only to the return of contributions made by him, together with any income accrued thereon.

This section shall apply to justices of the Supreme Court, to judges of other courts of record, and to members of the State Corporation Commission. The General Assembly also may provide by general law for the retirement, censure, or removal of judges of any court not of record, or other personnel exercising judicial functions.

## JURISDICTION

From the Va State Supreme Court Record 180517 Circuit Court CL17002426-00 – decided September 28, 2018 and found in **Appendix J**

## REASONS FOR GRANTING THE PETITION

c) **a state court** or a United States court of appeals has decided **an important question of federal law that has not been, but should be, settled by this Court**, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

.....

### The Basics:

- A. DMV commissioner Richard Holcomb has been sued because he is interfering unconstitutionally with a county tax matter (with that long history outlined). The Plaintiff is entitled to a trial for those taxes and a judgment. The “never wrong” arrogance of the General Assembly’s law in this case must be struck and the entire truth must be laid out in a court of law. The DMV is NOT a party to the tax dispute in Stafford county and the illegalities outlined.
- B. Laura Rudy – treasurer of Stafford county has the very same obligation. She may not use the DMV to block registration of the Plaintiff’s car for the collection of taxes when there has been no discussion and no accounting for the county’s own unbelievable illegal acts against the Plaintiff as outlined.
- C. Captain Kimmitz may not harbor an unindicated criminal who made a false report during the week of April 15 resulting in 2 harassing phone calls to the Plaintiff and interfering in the lawful return of the rent deposit (which to this day is still outstanding).
- D. None of these parties may claim sovereign immunity because it does not apply.
- E. The IRS has a “bill of rights” for the tax payer and thus in the vein of equal protection the county must do the same for the Plaintiff. (Appendix A)
- F. The DMV and Laura Rudy (Stafford county) do not have a judgment against the Plaintiff for taxes and thus until the Plaintiff’s loss of \$24,000 in wages due to the malicious and retaliatory prosecution that required the FBI and the chief justice’s involvement to rectify, these two parties may not stand off and make unconstitutional demands for said taxes nor withhold a tag registration, again, in retaliation.
- G. The case has followed Moon’s judgment in the Stinnie v Holcomb case by going through the state courts to the U.S. Supreme court. Appendix D
- H. The county of Stafford has written a ticket for tags and that has been continued by Strickland until June 2019. The same issue is being litigated over and over and they will not relent in their corruption and attacks.

- I. In *Stinnie v Holcomb*, Holcomb did NOT assert sovereign immunity and yet all parties who have acted with utmost corruption are doing this to avoid their legal responsibility and to cover up Appendix D
- J. The DMV et al have asserted sovereign immunity but the Va Supreme Court has said that the evidence does not support the facts. In fact, Robert Harris perjured himself and all of his defendants with the aid of Deputy Mervil and Judge Foley in the original case but the check, that is in the Stafford court evidence box shows from the original trial that rent was paid and there was no “unlawful” action. Harris admits the existence of a contract 3 years later in his filing, item 8 with the second perjurious statement of “rent not being paid”. This is the second step of this entire debacle with the first being Shannon Welch simply not fixing....a sinkerator for nearly 4 months and then using Deputy Mervil to retaliate to breach an invited, offered, signed and received contract.
- K. In the hundreds of thousands of cases being represented by *Stinnie v Holcomb*, all of those plaintiffs have a judgment against them. The stark differences here are:
  - a. The county has no judgment against the Plaintiff for anything or any laws broken.
  - b. The county refuses to discuss this matter as the IRS does. This is an equal protection violation.
  - c. The county refuses to sue the Plaintiff because they are terrified of these facts and a massive countersuit. (Too late. A federal suit in Alexandria for \$5 million has already been filed for the Pointe at Stafford half and very soon another one will be filed for the Venator/Mervil corruption.)
  - d. The corruption of the courts of Va demonstrate that this issue MUST be settled by the federal authorities and thus the *Stinnie v Holcomb* is in the right venue and Judge Moon erred in his original ruling.
  - e. There is no evidence of a corrupt judge, illegal police intervention in civil matters, conspiracy, perjury, attempted extortion, malicious prosecution, prosecutorial misconduct, recusal of the Chief justice of the supreme court of Va and all of the other malfeasance in the *Stinnie v Holcomb* case.
  - f. There is no defamation, job loss, multiyear suffering in the *Stinnie v Holcomb* case because of corruption as seen in this case.
  - g. There is no evidence in *Stinnie v Holcomb* of JIRC, General Assembly, Speaker of the House, Republican party politics and ....FBI involvement in their case.
  - h. There is no evidence of gross negligence on the part of the state in obtaining judgment as opposed to Stafford county refusing to install a property inspector.....even to this day, to rectify these abuses. (Doing so would prove the Plaintiff’s point but they are trying to take the Plaintiff’s car, render the Plaintiff homeless and probably hoping for death all in retaliation.)
  - i. There is no evidence of fraud, violation of Va Statutes or the incorporation of police in other precincts (as in this case) in the *Stinnie v Holcomb* case.
- L. The equal protection has been violated because countless times the Plaintiff has been singled out for continual attacks by a government which has “sic semper tyraus” on its flag and is the birth place of the founding documents for this entire country. The hypocrisy boggles the mind.
- M. Due process has been violated multiple times over.
- N. Sovereign immunity does not apply to these criminal offenses committed by all of the individuals listed in this case.
- O. Appendix J – The State Supreme court provides NO reason why 200 pages of evidence “do not support the case”. This is the height of the cover up by all parties.

Thus in accordance with rule 10, item C, the similar case of judgment/loss of license against this one no judgment/inability to register the auto are both cases that must be decided by federal authorities because the General Assembly of Virginia has twice overstepped the boundaries of the U.S. Constitution (in both cases) and the Plaintiff asks that the U.S. Supreme court strike this law. (**section-46.2-752 Appendix G**) Another similar case of civil asset forfeiture has gone to the Supreme court where there are accusations of wrongdoing. In this



case, ALL of the wrongdoings were committed by the apartment complexes, the county, the attorneys, the General Assembly, the JIRC and the courts themselves.

One cannot be expected, in the vein of equal protection, to follow laws that the Judicial and Legislative Branches of government along with law enforcement in multiple localities, REFUSE to follow themselves.

In contrast, if the DMV desires to participate, then it becomes a codefendant in all of this corruption. Ironically, by illegally denying Plaintiff's driver's license renewal for nearly 4 months this year until a State Trooper stepped in, they did in fact, make themselves defendants in the upcoming federal lawsuit.

### **Questions that must be answered**

1. Beginning with the Venator case, the sewage gas in the sinkerator and the first repair ticket in March 2014. Why didn't Venator simply fix the Sinkerator? Why did they do nothing from the early part of March until June 17 when the renewal offer was made via phone call at 1 pm?
2. The contract offer was made at 1pm on June 17, 2014 starting with the inviting phone call? Was that a fraud or was the renegeing on the contract AFTER the threat of escrow the fraud?
3. Why did deputy Mervil involve himself in this matter? Why did he not go upstairs and see the hole for himself made months before by the "clowns" at Raine and son from Hyattsville, Md?
4. Why did Shannon Welch retaliate? Why did she reject the rent check 10 full days after receiving and ONLY after 4 separate contacts demanding action?
5. Why was law 55-248.39 prohibiting retaliation in this exact health issue ignored by all parties?
6. What is the meaning of a ruling that says the defendant rejected the rent check paid on time but sues illegally on a baseless unlawful detainer (since no laws were broken) and then demands payment while at the very same time, via Foley's stunning ruling, that there is no contract and there is an eviction?
7. After breaking no laws, why were the Plaintiff and wife relegated to living 8 months in a hotel?
8. Why was Terry Kirby at the Pointe at Stafford not prosecuted for fraudulent billing and collection after losing the civil suit in December 2015?
9. Why has she not been prosecuted for false arrest and making a false report to the magistrate?
10. Why is Captain Kimmitz shielding the parties that made a false report on April 15, 2016 resulting in 2 police calls to the Plaintiff while working at the World Bank?
11. What is the justification of Captain Kimmitz issuing a "no trespass" order to the Plaintiff to the police station when he is an employee and not the owner of said government property?
12. What is the meaning of a Commonwealth Attorney entering a court of law to attempt to suborn perjury and attempt extortion on behalf of a perjuring apartment employee and then using an armed, uniformed deputy, an OFFICER of the COURT on a THIRD try in the court room itself?

13. What is the meaning of judge that should have been impeached, involved in all of these proceedings and now is not allowed to sit on the bench in his original jurisdiction?
  14. What is the meaning of the DMV, while the case is BEFORE the Supreme Court of Va, illegally blocking the Plaintiff's driver's license renewal?
  15. What is the meaning of Shank's towing and the same Stafford Sherriff's department conspiring to attempt to take the Plaintiff's car, simply for a tag registration?
  16. What is the meaning of the Plaintiff nearly being homeless because of the malicious prosecution and prosecutorial misconduct because of losing 2 job offers due to the defamation caused by Terry Kirby, Robert Harris, Robert Beasley, Bruce Strickland, Victoria Willis, the CA's office, the County of Stafford (et al), the Sheriff's department, the JIRC and General Assembly of Va, the Speaker of the House and the Chief Justice of the Supreme Court of Va?
  17. Why has SO much money and time been wasted when Stafford could allow the Plaintiff to simply register.....the car and then act like civilized people and take into account all they have done to the Plaintiff and his wife?
  18. Why are the courts helping Stafford county in this matter of corruption all the way to the State Supreme Court of Va saying "the evidence does not support the claims"? **Appendix J**
  19. Why are these people from end to end not being criminally charged?
  20. How can the IRS at the federal level, offer a Bill of Rights and in particular:
    - A. The Right to Challenge the IRS's Position and Be Heard
    - B. The Right to Appeal an IRS Decision in an Independent Forum
- ...yet, the county of Stafford and the State of Virginia deny these very due process rights? Wherein is the "equal protection" at all levels of government under the U.S. Constitution here?
21. Why are the police continually harassing the Plaintiff and trying to create a crime where there is none and still....rabidly defending the corrupt apartments and local government?
  22. What gives the government the right to intervene illegally in the Venator signed contract (tortuously) and put a mark on the Plaintiff's record that interferes with secret clearance and public trust background checks?

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ken Gyer for The Gyer

Date: 12/26/18