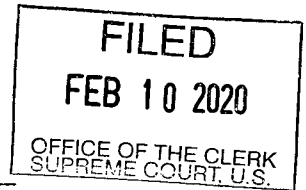


ORIGINAL

No. 19-7669



IN THE
SUPREME COURT OF THE UNITED STATES

LAWRENCE E. MATTISON; Petitioner

VS.

JANIE D. WILLIS, SHERRY A. ZAMORA, TIMOTHY M. O'BOYLE, ADRIENNE
R. MAUNEY, EMILY S. HUNT, TONYA HENDERSON-STITH, BONNIE L.
JONES, BARBARA T. HANNA; Respondents

On Petition For Writ Of Certiorari To
The Fourth Circuit Court of Appeals
Petition for Writ of Certiorari

Lawrence E. Mattison
948 Copper Stone circle
Chesapeake, Virginia 23320
(757) 604-7894
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QUESTION(S) PRESENTED

Under the Federal Constitution Art. I, §8, Cl. 17/18 Lands comprising the Hampton Veterans Affairs Medical Center ("HVAMC") was ceded to the United States in the 1869-70 Act of the Virginia General Assembly c. 325 @ pg. 479, creating a federal enclave and giving the HVAMC exclusive jurisdiction. In a 1976 legislative Act of the Virginia General Assembly c. 211 @ pgs. 239-242, Virginia repealed subject-matter jurisdiction over crimes and offenses on federal property and expressly reserved jurisdiction for taxations. In July of 1977 that specific legislative Act was accepted by the Department of Veterans Affairs ("DVA") on behalf of the HVAMC in what is referred to in this case as "The retrocession letter";

THE QUESTIONS ARE:

- (1) Whether repeal of code of Virginia §7.1-21(1976) of jurisdiction over alleged crimes and offenses committed on federal enclave property, and acceptance of that repeal by the DVA on behalf of the HVAMC, confers concurrent criminal jurisdiction on persons acting under color of State law to prosecute Petitioner for the alleged crime of Stalking and annoying calls under Virginia criminal process, when the alleged crimes are within the exclusive jurisdiction of the Department of Justice or U.S. Attorney under 18 U.S.C. §13 and 38 CFR §§14.560 and .561.
- (2) Whether the retrocession letter in this case, in light of the 1976 legislative Act, confers concurrent criminal jurisdiction on persons acting under color of State law to use a State court criminal process against petitioner for alleged crimes committed on HVAMC property.

RELATED CASES

Commonwealth of Virginia v. Lawrence Mattison case No. 171012

Lawrence Mattison v. Commonwealth of Virginia, U.S. S. Ct. case No. 17-8868

In re Lawrence Mattison (Habeas petition) U.S. S. Ct. case No. 19-7509

LIST OF PARTIES

1. Petitioner is Lawrence E. Mattison ("I", "me", "My"). Represented *pro se* and *In forma pauperis* to the lower federal courts. A mailing address @ 948 Copper Stone Cir, Chesapeake, Va. 23320.
2. Respondent is the United States Attorney General; Office of the Solicitor General, Room 5614, Department of Justice @ 950 Pennsylvania Ave., N.W., Washington, DC 20530-0001, for **FEDERAL DEFENDANTS**: Timothy M. O'Boyle; Sherry A. Zamora; Janie D. Willis,
3. Respondent is the Virginia Attorney General; Solicitor General of Virginia, Office of the Attorney General (Mark Herring); 202 North Ninth Street Richmond, Virginia 23219, for **STATE DEFENDANTS**: Bonnie L. Jones; Tonya Henderson-Stith; Emily S. Hunt; Adrienne R. Mauney,
4. Respondent is Benjamin Mason; Mason, Mason, Walker & Hendrick, P.C 11848 Rock Landing Drive, Suite 201, Newport News, Virginia 23606, for **STATE DEFENDANT** : Barbara T. Hanna

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

The Order of the 4th Circuit Appellate court Denying Rehearing (App. 1a infra) is Unpublished/ Unreported. The Order of the 4th Circuit appellate court Affirming the lower court dismissal order (App. 2a infra) is Unpublished/Unreported. Relevant portions of the Written Opinion of the Eastern District of Virginia ("E.D. Va.") (App. 5a infra) is Unpublished/Unreported.

JURISDICTION

The decision of the 4th Court of Appeals denying Rehearing/Rehearing in Banc was issued November 25, 2019, see App 1a. The Jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Pertinent Constitutional and statutory provisions are:

(1) Article I, §8, Cl 17/18 of the Federal Constitution states:

"Congress shall have the power.....

[Cl. 17] to exercise exclusive legislative authority in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular States, and the Acceptance of Congress, become the seat of the Government Of The United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of Forts, Magazines, Arsenals, docks-yards, and other needful buildings."

U.S. Const. Art. I §8, Cl. 17 (June 21, 1788).

[Cl. 18] to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or office thereof."

U.S. Const. Art. I §8, Cl. 18 (June 21, 1788).

(2) 38 CFR § 14.560 - Procedure where violation of penal statutes is involved including those offenses coming within the purview of the Assimilative Crime Act (18 U.S.C. 13).

§ 14.560---- The Department of Justice, or the U.S. Attorneys, are charged with the duty and responsibility of interpreting and enforcing criminal statutes, and the final determination as to whether the evidence in any case is sufficient to warrant prosecution is a matter solely for their determination. If the Department of Justice or U.S. Attorney decides to initiate action, the Regional Counsel will cooperate as may be requested. The Regional Counsel will promptly bring to the attention of the General Counsel any case wherein he or she is of the opinion that criminal or civil action should be initiated notwithstanding a decision by the U.S. Attorney not to bring such action; any case where action has been inordinately delayed; and any case which would cause significant publicity or notoriety.

(Authority: 38 U.S.C. 501)

[50 FR 24767, June 13, 1985, as amended at 68 FR 17551, Apr. 10, 2003]

Id. 38 CFR §14.560

(3) 38 CFR §14.561- Administrative action prior to submission

§14.561- Before submission is made to the U.S. Attorney in cases involving personnel or claims, the General Counsel, if the file is in central Office, or the Regional Counsel at the regional office, hospital or center, if the file in the regional office or other field facility, will first ascertain that necessary administrative or adjudicatory (forfeiture (see Pbu. L. 86-222; 73 Stat. 452), ect, action has been taken; except that in urgent cases such as breach of the peace, disorderly conduct, trespass, robbery, or where the evidence may be lost by delay, or prosecution barred by the statute of limitations, submission to the U.S. Attorney will be made immediately.

(4) 1869-70 Acts of the Virginia General Assembly c. 325, pgs. 479-80 states:

"CHAP. 325. – An ACT in Relation to the Establishment, in the State of Virginia, of a Branch of the National Asylum for Disabled Volunteer Soldiers, and to Cede Jurisdiction to the United States over a tract of Land in the State of Virginia, not exceeding Five Hundred Acres, for that purpose.

Approved July 11, 1870

Whereas, the board of managers of the National asylum for disabled soldiers look with favor upon the state of Virginia as possessing such advantages of climate and easy access as rendered it desirable to locate within her borders a branch asylum; and whereas, the necessary expenditures for buildings and other improvements can be made by said board of managers only upon property under the control of the national government: therefore,

1. Be it enacted by the general assembly, that the consent of the legislator of this state is hereby given to the board of managers of the National asylum for disabled volunteer soldiers, to locate a branch of that establishment in the state of Virginia; and such jurisdiction is hereby ceded to the United States over a tract of land, not exceeding five hundred acres, to be selected by the board of managers, for the purpose of locating thereon such branch asylum, a full description of which tract shall be filed in the office of the secretary of the Commonwealth, as is within the contemplation of the seventeenth clause of the United States. But this cession is made subject to the following terms and conditions:

First---- That the state retains concurrent jurisdiction with the United States over the same pieces of parcel of land, so that the courts, magistrates, and officers of this state, may take such cognizance, execute such process, and discharge such other legal functions within the same, as may not be incompatible with the consent hereby given.

Second---- That if said branch asylum be not erected on said land within five years from the passage of this act, or though it should be erected within that time, if, by reason of its falling into decay, or otherwise, there should be a failure to use it for that purpose for

five years, then the consent hereby given shall cease and determine: provided, however, that no inmate of any institution erect in this commonwealth, under the provisions of this act or of the act of congress therein referred to, shall vote or hold office within this state.

2. This act shall be in force from its passage."

Id.; see App. 14a; see retrocession letter; 1869-70 Act of Virginia General Assembly c. 325 (July 11, 1870). This document can be found in the Wolf Law Library on the campus of William & Mary college in Williamsburg, Virginia, see Fed R. Evid 901(a)(b)(7)

(5) The 1922 Acts of the Virginia General Assembly c. 390, pgs. 657-58 states:

"CHAP. 390----- An ACT to amend and re-enact an act entitled an act ceding to the United States exclusive jurisdiction over lands acquired for public purposes within the State, and authorizing the acquisition thereof and interest therein, and repealing all prior acts and parts of acts in conflict with this act, approved March 16, 1918. [H B 116]

Approved March 24, 1922

1. Be it enacted by the General assembly of Virginia, that an act entitled an act ceding to the United States exclusive jurisdiction over certain lands acquired for public purposes within the State, and authorizing the acquisition thereof, and any interest therein, and **repealing all prior acts and parts of acts in conflict with this act**, approved March sixteenth, nineteen hundred and eighteen, be amended and re-enacted so as to read as follows:

Sec. 1. The consent of the State of Virginia is hereby given in accordance with seventeenth clause, eighth section, of the first article of the Constitution of the United States to the acquisition by the United States, by purchase, condemnation, lease, or in any other manner whatsoever, of any land, or right or interest therein, in this State, required for sites for custom houses, court houses, **hospitals, sanatoria**, postoffices, arsenals, depots, terminal, cantonments, military or naval camps or bases or stations, aviation fields or stations, radio stations, storage places, target ranges, or for any other military or naval purpose whatsoever of the government.

Sec. 2. **Exclusive jurisdiction in and over any lands**, or buildings, any right or interest which has been so acquired by the United States, **whether before or after the passage of this act**, shall be and the same is hereby ceded to the United States for all purposes, herein provided except the service upon such sites of civil and criminal process of the courts of this State, which right of service of said process within the bounds of said lands and sites is reserved to this State; but the jurisdiction so ceded shall continue no longer than the United States shall own or occupy such lands, or any right or interest therein; and whenever such lands or buildings abut upon the navigable waters of his State, such jurisdiction so ceded shall extend to and include such of the underwater lands adjacent thereto as lie between the line of lower water mark and the bulkhead or pierhead line as now established or as such lines may be hereafter established.

Sec. 3. The jurisdiction ceded shall not vest until the United States shall have acquired the title to, or possession of the said lands, or rights, or interest therein, by purchase, condemnation, lease, or otherwise; and so long as the lands, or rights, or interest therein are held in fee simple by the United States, and no longer, such rights, or interest, as the case may be, shall continue exempt and exonerated, from all State, county and municipal taxation, assessment or other charges, which may be levied or imposed under the authority of this State.

2. All acts or parts of acts in conflict with this act are to that extent repealed.
3. An emergency existing this act shall be in force and take effect from passage.

*Id. see App.17a infra*¹

1922 Acts of the Virginia General Assembly c. 390. This document can be found at the Wolf Law Library on the campus of William & Mary college in Williamsburg, Virginia, see Fed. R. Evid 901(a)(b)(7)

¹ Bold print added by Petitioner for emphasis.

(6) The 1976 Act of the Virginia General Assembly c. 211, pgs. 239-242 states:

CHAPTER 211

An Act to amend and reenact §§ 7.1-20, 7.1-21 and 7.1-22, as severally amended, of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 7.1- 18.1; and to repeal §§ 7.1-13, Z-14, 7.1-15 as amended, 7.1-16, 7.1-17 and 7.1-18 of the Code of Virginia, relating to the jurisdiction over lands in Virginia acquired by the United States.
[S 247]

Approved March 25, 1976

Be it enacted by the General Assembly of Virginia:

1. That §§ 7.1-20, 7.1-21 and 7.1-22, as severally amended, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 7.1-18.1 as follows:

§ 7.1-18.1. Consent to acquire certain lands; concurrent jurisdiction.---The conditional consent of the Commonwealth of Virginia is hereby given to the acquisition by the United States, or under its authority, by purchase, lease, condemnation, or otherwise, of any lands in Virginia, whether under water or not, from any person, for any proper purpose of the government of the United States.

Over all lands hereafter acquired by the United States, the Commonwealth hereby cedes to the United States concurrent governmental, judicial, executive and legislative power and jurisdiction.

There is hereby expressly reserved in the Commonwealth, over all lands so acquired by the United States, the jurisdiction and power to levy a tax on oil, gasoline and all other motor fuels and lubricants thereon owned by others than the United States and a tax on the sale thereof, on such lands, except sales to the United States for use in the exercise of essentially governmental functions. **There is further expressly reserved in the Commonwealth** the jurisdiction and power to serve criminal and civil process on such lands and to license and regulate, or to prohibit, the sale of intoxicating liquors on any such lands and to tax all property, including buildings erected thereon, not belonging to the United States, and to require licenses and impose license taxes upon any business or businesses conducted thereon. **There is also expressly reserved in the Commonwealth** the jurisdiction and power to impose and collect the emplaning service fee provided for

in Chapter 7 (§ 5.1-77, et seq.), Title 5.1 of the Code of Virginia. For all purposes of taxation and of the jurisdiction of the courts of Virginia over persons, transactions, matters and property on such lands, the lands shall be deemed to be a part of the county or city in which they are situated Any such acquisition by or conveyance or lease to the United States, as is herein provided for, shall be deemed to have been secured or made upon the express condition that the reservations of power and limitations hereinabove provided for are recognized as valid by the United States and, in the event the United States shall deny the validity of the same, as to all or any part of such lands, then and in that event, the title and possession of all or any such part of such lands, conveyed to the United States by the Commonwealth, shall immediately revert to the Commonwealth.

Nothing herein contained shall affect any special act heretofore or hereafter adopted ceding jurisdiction to the United States, nor any deeds executed pursuant to § 7.1-21.

§ 7.1-20. Waste, unappropriated and marshlands.--(1) Waste and unappropriated lands. --- The Governor is authorized to execute in the name of the Commonwealth deeds conveying, subject to the jurisdictional and other limitations and reservations contained in §§ ~~7.1-17~~ 7.1-18.1 and 7.1-22, to the United States such title as the Commonwealth may have in waste and unappropriated lands entirely surrounded by lands owned by the United States, when the same are certified as being vacant and unappropriated by a duly authorized agent of the United States and are described by metes and bounds descriptions filed with the Secretary of the Commonwealth and with the clerk of the court in the county wherein such unappropriated land is situated.

(2) Marshlands in certain counties.---The Governor is authorized to execute, in the name and on behalf of the Commonwealth, a deed or other appropriate instrument conveying to the United States, without any consideration but subject to the jurisdictional limitations and reservations contained in §§ ~~7.1-17~~ 7.1-18.1 and 7.1-22, such right, title and interest in or easement over and across the marshes lying along the sea side of the counties of Accomack and Northampton as may be necessary and proper for the construction, operation and maintenance of a canal or channel for small boats over and through such marshlands.

§ 7.1-21. Ceding additional jurisdiction to the United States.----

(1) ~~In addition to the jurisdiction and powers over certain lands ceded to the United States by §§ 7.1-14, 7.1-15 and 7.1-17, there is hereby ceded to the United States concurrent jurisdiction over crimes and offenses committed on lands acquired since March twenty eighth, nineteen hundred thirty six, and hereafter acquired by the United States in Virginia by purchase, lease, condemnation or otherwise, for sites for parks, parkways or other recreational areas, custom houses, court houses, arsenals, forts, naval bases, military or naval airports, or airplane landing fields, veterans hospitals, or for any military or naval purposes, and there is hereby ceded to the United States such additional jurisdiction and powers over lands acquired by the United States in Virginia by purchase or condemnation as hereinafter provided.~~

(2) Whenever the head or other authorized officer of any department or independent establishment or agency of the United States shall deem it desirable that ~~such~~ additional jurisdiction or powers be ceded over any lands in Virginia acquired or proposed to be acquired by the United States under his immediate jurisdiction, custody or control, and whenever the Governor and Attorney General of Virginia shall agree to the same, the Governor and Attorney General shall execute and acknowledge a deed in the name of and under the lesser seal of the Commonwealth ceding such additional jurisdiction. The deed shall accurately and specifically describe the area and location of the land over which the additional jurisdiction and powers are ceded and shall set out specifically what additional jurisdiction and powers are ceded, and may set out any reservations in the Commonwealth of jurisdiction which may be deemed proper in addition to those referred to in subsection (6) hereof.

(3) ~~In the event that the United States does not desire to accept all or any part of the jurisdiction and powers ceded by §§7.1-14, 7.1-15 and 7.1-17 the deed shall set out specifically the jurisdiction and powers which it is desired not to accept~~

(4) No such deed shall become effective or operative until the jurisdiction therein provided for is accepted on behalf of the United States as required by section three hundred and fifty-five of the Revised Statutes of the United States. The head or other authorized officer of a department or independent establishment or agency of the United States shall indicate such acceptance by executing and acknowledging such deed

and admitting it to record in the office of the clerk of the court in which deeds conveying the lands affected would properly be recorded.

(5) When such deed has been executed and acknowledged on behalf of the Commonwealth and the United States, and admitted to record as hereinbefore set forth, it shall have the effect of ceding to and vesting in the United States the jurisdiction and powers therein provided for and none other.

(6) Every such deed as is provided for in this section shall reserve in the Commonwealth over all lands therein referred to the jurisdiction and power to serve civil and criminal process on such lands and in the event that the lands or any part thereof shall be sold or leased to any person, under the terms of which sale or lease the vendee or lessee shall have the right to conduct thereon any private industry or business, then the jurisdiction ceded to the United States over any such lands so sold or leased shall cease and determine, and thereafter the Commonwealth shall have all jurisdiction and power she would have had if no jurisdiction or power had been ceded to the United States. This provision, however, shall not apply to post exchanges, officers' clubs and similar activities on lands acquired by the United States for purposes of national defense. It is further provided that the reservations provided for in this subsection shall remain effective even though they should be omitted from any deed executed pursuant to this section.

(7) Nothing contained in this section shall be construed as repealing any special acts ceding jurisdiction to the United States to acquire any specific tract of land.

§ 7.1-22. Reversion to Commonwealth; recorded title prerequisite to vesting jurisdiction.--- A. If the United States shall cease to be the owner of any lands, or any part thereof, granted or conveyed to it by the Commonwealth, or if the purposes of any such grant or conveyance to the United States shall cease, or if the United States shall for five consecutive years fail to use any such land for the purposes of the grant or conveyance, then, and in that event, the right and title to such land, or such part thereof, shall immediately revert to the Commonwealth.

~~Provided, however, that in the event the United States shall acquire other lands adjacent to the Shenandoah National Park in exchange for lands granted to it by the Commonwealth which are at present a part of the Shenandoah National Park, and that such manner ceasing to be owned by the United States shall not revert to the~~

~~Commonwealth, but such limitation shall attach to the lands acquired by the United States by exchange as provided herein.~~

B. All deeds, conveyances or title papers for the transfer of title of lands to the United States shall be recorded in the county or corporation wherein the land or the greater part thereof lies, but no tax shall be required on any such instrument made to the United States by which they acquire lands for public purposes.

C. The jurisdiction ceded by §§ ~~7.1-14, 7.1-15 and 7.1-17~~ 7.1-18.1 shall not vest until the United States shall have acquired the title of record to such lands, or rights or interest therein, by purchase, condemnation, lease or otherwise. So long as the lands, or any rights or interest therein, are held in fee simple by the United States, and no longer, such lands, rights or interest, as the case may be, shall continue exempt and exonerated, from all State, county and municipal taxes which may be levied or imposed under the authority of this State.

2. That §§ 7.1-13, 7.1-14, 7.1-15 as amended, 7.1-16, 7.1-17 and 7.1-18 of the code of Virginia are repealed.

*Id.*²; see App. 20a

see 1976 Act of the Virginia General Assembly c. 211 as amended and re-enacted (March 25, 1976). This document can be found at the Wolf Law library on the campus of William & Mary college in Williamsburg, Virginia, see Fed R. Evid 901(a)(b)(7)

(7) Retrocession to Concurrent Jurisdiction signed June 20, 1977 States:

VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D.C. 20420

MAY 5 1977

BOOK 503 PAGE 825

The Honorable
Mills PD. Godwin
Capitol Square

² Bold print added by petitioner for emphasis, Strikethroughs are part of the original document.

State Capitol
Richmond, Virginia 23219

Dear Governor Godwin:

We have been advised that your records do not reflect receipt of retrocession letters mailed From this office on January 23, 1976. Accordingly, letters covering certain Veterans Administration property in Virginia are re—submitted.

Pursuant to the authority vested in me by Public Law 93—82, 38 United States Code 5007 and Public Law 93_113, 38 United States Code 10014(g), on behalf of the United States, I hereby retrocede and relinquish to the Commonwealth of Virginia, such measure of legislative jurisdiction as is necessary to establish concurrent jurisdiction over lands comprising the Veterans Administration Hospital at Salem and the Veterans Administration Center at Hampton. Included within the boundaries of the Hampton Center is the property known as Hampton National Cemetery, a former Veterans Administration Department of Medicine and Surgery Cemetery now a part of the National cemetery System.

There is some question as to the legislative jurisdiction of the Veterans Administration Hospital grounds at Salem. It is carried on property records compiled by the Department of Justice and the Veterans Administration as exclusive Federal legislative jurisdiction. Those records reflect that the property was acquired for purposes consistent with Article I, Section 8, Clause 17 of the Constitution with consent embodied in Chapter 390, Acts of the General Assembly of Virginia, 1922, page 657. The Position of the Commonwealth of Virginia is that the Commonwealth had the authority to cede a measure of legislative jurisdiction less than exclusive despite Article I, Section 8, Clause 17 of the United States Constitution; that the Acts of Assembly, 1932, Chap. 213 had the effect of amending the cession of exclusive jurisdiction to cede only concurrent jurisdiction and, therefore, the legislative jurisdiction over the lands comprising the Veterans Administration Hospital at Salem is concurrent in nature.

Without deciding the merits of the respective positions, acceptance by the Commonwealth of the measure of legislative jurisdiction tendered by this letter will make this question moot and from the effective date of retrocession establish without qualification that the legislative jurisdiction of the lands comprising the VA Hospital at Salem (266.4 acres more or less) is concurrent in nature.

Exclusive jurisdiction over the lands comprising the Veterans Administration Center at Hampton, which Center includes Hampton National Cemetery (85.27 acres more or less) vested in the United States by virtue of Article I, Section 8, Clause 17 of the Constitution, with consent of the Commonwealth embodied in the Virginia Act of Cession approved July 11, 1870, recorded in Chapter 325, page 479, Acts of the General Assembly, Commonwealth of Virginia, dated 1869—70.

The retrocession to concurrent jurisdiction over said lands shall become effective upon your written acceptance. Consent of the Commonwealth is embodied in section 7.1—25.1 of the Code of Virginia effective July 1, 1975. This letter has been prepared in duplicate original. It is requested that one original be returned duly executed for Veterans Administration records.

Sincerely,

(SIGNED)

MAX CLELAND

Administrator

The above retrocession to concurrent jurisdiction is accepted on behalf of the Commonwealth of Virginia.

6-20-77

DATE

(Signed)

MILLS E. GODWIN

Governor of Virginia

Id. see App 25a

see 1977 Retrocession to Concurrent jurisdiction

signed June 20, 1977. This document can be

found at the circuit court building in Hampton Virginia; book 503, pg. 824, see Fed. R. Evid 901(a)(b)(7)

STATEMENT OF THE CASE

This Court may take judicial notice that the Hampton Veterans Affairs Medical Center ("HVAMC") is a Federal enclave within the territorial jurisdiction of the United States. see Fed R. Evid. 201(b)(2). Petitioner previously supplied this Court with a summation of trial Judge B. Jones's (defendant) findings and the opinion of the Virginia court of appeals in Mattison v. Virginia, U.S. Sup Ct. case No. 17-8868 (138 S. Ct. 2689 (Cert Denied)).

On November 13, 2017 Petitioner filed a 42 U.S.C. §1983/ §1985 civil complaint against eight persons acting under color of State law in E.D. Va. case 4:17-CV-134. On May 09, 2018 the E.D. Va. authorized an Amendment. *see Id. @ ECF No. 61*. On May 18, 2018 Petitioner filed an Amended complaint ("ECF No. 63"), *see Id @ ECF No. 63*.

The facts on ECF No. 63 are not in dispute in that A Federal Department of Veterans Affairs police officer (defendant J. Willis) along with other defendants used a State of Virginia criminal process to gain a conviction against Petitioner for alleged Stalking and Annoying calls committed while on HVAMC property.

On December 6, 2018 the E.D. Va. dismissed the complaint. On August 13, 2019 the Fourth Circuit Appeals court Affirmed the lower court's decision in case No.19-1020. On August 30, 2019 the Fourth Circuit Appeals court Denied a Petition for Rehearing. The

specific issue presented to the E.D. Va. and the fourth Circuit was that criminal jurisdiction was not in the hands of the eight defendants allowing them authority to use a State criminal process against petitioner under their §18.2 criminal codes. (emphasis)

REASON(S) FOR GRANTING THE PETITION

This Petition seeks this courts supreme supervisory powers to protect the legislative and judicial authority of a United States Government Agency --- The Department of Veterans Affairs ("DVA")----- and make clear that the 1976 Virginia legislative Act granted sole criminal jurisdiction over crimes and offenses on HVAMC property to the DVA. This petition involves the Fourth Circuit nefariously hiding the enclave Status of the HVAMC in an effort to protect persons acting under color of State law. The nefarious act was to ignoring the Virginia legislative act that repealed criminal jurisdiction over crimes and offenses and acceptance of the Act by the DVA on behalf of the HVAMC in order to avert Petitioner's civil rights complaint. To not grant this petition would be equivalent to condoning unconstitutional and unlawful acts. The enclave Status of ANY federal facility is a federal question. The Fourth Circuit and every other federal circuit in this Nation have answered this Federal question many times by looking into State legislative acts and State laws for their expressed reservations.

Introduction

This Writ involves a nefarious act created by the Fourth Circuit's decision (E.D. Va. and appeals court) in conflict with decisions of its own circuit, all other circuits of this United States, and decisions of this Court. This petition involves an issue well-settled under the

federal Constitution Art. I, §8, Cl. 17 when determining whether a State shares criminal jurisdiction with a Federal enclave.

1. The 1976 repeal of code of Virginia §7.1-21(1976) of jurisdiction over alleged crimes and offenses committed on federal enclave property, and acceptance of that repeal by the DVA on behalf of the HVAMC, Does Not confer concurrent criminal jurisdiction on persons acting under color of State law to prosecute Petitioner for the alleged crime of Stalking and annoying calls under Virginia criminal process, when the alleged crimes are within the exclusive jurisdiction of the Department of Justice or U.S. Attorney under 18 U.S.C. §13 and 38 CFR §§14.560 and .561.

The 1869-70 Act of Virginia's legislators is well-settled and unrefuted but ignored by the 4th Circuit. The Act establishes that the HVAMC has Exclusive legislative, executive and judicial authority over HVAMC property. The Act of ceding lands is constant with the establishment of a Federal enclave under the Federal Constitution Art. I, §8 cl. 17, see *supra* @ 1; see *supra* @ 2; see *infra* @ App @ 25a

In *Shelley FEDERICO, et al. v. LINCOLN MILITARY HOUSING, et al.* 901 F. Supp. 2d. 654 @ 664 (4th Cir. 2012) the 4th Cir acknowledged: "The Supreme Court has held that the question whether the United States has acquired exclusive jurisdiction over a federal enclave is a part of the Court's federal question jurisdiction under 28 U.S.C. § 1331" *Id* @ 664; See *Paul v. United States*, 371 U.S. 245, 267, 83 S.Ct. 426, 9 L.Ed.2d 292 (1963). Then went on to quote Paul: A federal enclave can be created by the federal government where it acquires land by purchase or condemnation with the consent of the state or commonwealth in which the land is located. *Id. at 264, 83 S.Ct. 426 (quotation omitted).*

A. Federal Case Precedent Is Clear And Unrefuted that Exclusive Federal Enclaves May Retrocede Some Of Its Authority Back To The State, But Not To The Inclusion Of Repealed State processes.

The act of ignoring the standard of review for this Federal question on the exclusive criminal jurisdiction of a United States Agency is equivalent to lying about the legislative and judicial authority of a Federal Government Agency. (emphasis) This well-settled standard is unrefuted and has been cited /used by the 4th Circuit in other cases. In United State v. Schuster, 220 F. Supp. 61 @ 64(E.D. Va. 1963) the 4th Cir claimed: ("The mere fact that the state has retained the right to serve criminal and civil process on such lands is not effective to prevent cession of exclusive or concurrent criminal jurisdiction to the federal government." (quoting United States v. Lovely, 4 Cir., 319 F.2d 673.) *Id.* @ 64. The 4th Cir went on the claim: ("The terms of cession, to the extent that they may lawfully be prescribed, determine the extent of the federal jurisdiction (quoting United States v. Unzeuta, 281 U.S. 138, 142, 50 S.Ct. 284, 74 L.Ed. 761) *id* @ 64;

The 4th Circuit has also quoted portions of Mater v. Holly, 200 F. 2d 123 (5th Cir 1952) to justify Stokes V. Adair, 265 F. 2d 662, 664-665 (4th Cir 1959). In Stokes the 4th circuit did a full detail analysis acknowledging that the State of Kansas expressly reserved jurisdiction to tax and serve criminal and civil process. *Id.*

B. Petitioner's ECF No. 63 and Informal Brief made clear the issues is that the Type, Nature And Extent Of Virginia's Concurrent Jurisdiction Can Only Be Determined By The Law Of Virginia In Place When The Retrocession Letter Was Signed In Agreement

This standard of review was Ignored by The 4th Circuit In This Case But Not Others. This nefarious act by the E.D. Va w/ acceptance by the 4th Circuit appellate court "seems to allege" that the retrocession letter ---in itself --- somehow grants "unlimited shared authority" where State and Federal sovereigns may apply their respective criminal processes to this federal enclave. The assertion assumes----- without looking into Virginia law and expressed reservations --- that the HVAMC is actually a proprietor. Not only did Plaintiff's ECF No. 63 and Informal Brief supply the proper information on the enclave status of the HVAMC, it also supplied Virginia's 1976 legislative act. ECF No. 63 supplied the entire retrocession letter referenced by the E.D. Va. The retrocession letter itself dictates that the property is not proprietorial. Retrocession clearly states in part:

"... such measure of legislative jurisdiction as is necessary to establish concurrent jurisdiction....."

This statement is clearly in reference to "limited concurrent jurisdiction"

The Virginia legislative act in effect at the time the retrocession letter was signed in agreement dictate the type, extent and nature of shared jurisdiction but only if it does not affect the federal purpose (emphasis added).

In this case it is pellucidly clear by the 1976 legislative Act that Virginia was granting the HVAMC sole criminal jurisdiction over HVAMC property in exchange for taxations. The State of Virginia's relinquishment of criminal jurisdiction to the HVAMC

makes Persons acting under color of State law and their conspirators liable under 42 U.S.C. §1983 and 42 U.S.C. §1985 for violation of the 4th, 5th, 6th, & 14th Amendments to the Federal Constitution for using Virginia criminal processes against Petitioner, when persons acting under color of State law lacked ALL jurisdiction to do so, up to incarceration (emphasis added). In *FEDERICO*, supra, The 4th Circuit cited several cases that a State can relinquish all or portions of jurisdiction. In *Federico* @ 663 the 4th Cir quoted the 5th Cir by claiming:

“The Fifth Circuit found that Fort McPherson was a federal enclave in that the lands comprising Fort McPherson were duly ceded to the United States by the State of Georgia. Georgia only retained concurrent jurisdiction for the service of state process and the regulation of public utilities on the fort.”³ Id @ 663.

Then again @ 665-66 the 4th Circuit again cited *Adair* and *Mater* claiming:

The Fourth Circuit has also cited *Mater* with approval in *Stokes v. Adair*, 265 F.2d 662 (4th Cir.1959). In *Stokes*, two Virginians sustained injuries in an automobile accident on Fort Leavenworth military base in Kansas, which was a federal enclave with exclusive federal jurisdiction. Kansas only retained the right to serve civil and criminal processes and the right to tax railroad property within the enclave. Id. at 664.

Then went on @ 665-66:

It is important to note, however, that the level of concurrent jurisdiction in *Mater* and *Stokes* was much less than the level of concurrent jurisdiction

³ quotations added for clarity and directness of 4th Cir citations.

the Commonwealth of Virginia has in the matter presently before the Court. see *Federico*, supra, @ 665-66.

The 4th Cir then continued the analysis in *Federico*, supra @ 669-70 to cite *United States v. Schuster*, 220 F.Supp. 61 (E.D.Va.1963) claiming:

Finally, one last case which bears upon the Court's consideration of this case is *United States v. Schuster*, 220 F.Supp. 61 (E.D.Va.1963). The Navy, acting in behalf of the United States, accepted concurrent jurisdiction over the property 'in the manner and form granted and ceded by an Act of the General Assembly of the Commonwealth of Virginia approved April 1, 1940,' incorporated into the Code of Virginia, 1950, as § 7–19. Section 7–19 of the Code of Virginia, 1950, provides in part:

With regard to the issue of concurrent jurisdiction, Judge Hoffman found that Virginia had clearly ceded concurrent jurisdiction to the United States for crimes committed on the property leased by the United States for the purpose of the naval base. *Id.* at 64. Thus, in essence the court found that when the United States and the Commonwealth had concurrent jurisdiction over criminal matters, it was appropriate for a federal district court to retain jurisdiction over the prosecution of a crime that occurred on a federal enclave when federal interests were involved. *see Federico @ 669-70*

Petitioner emphasizes the case of *United States of America v. Cornelius Johnson*, Criminal No. 3:17-CR-136–HEH, signed 02/22/2018 (E.D. Va. ECF No.43), because this case was pending at the very same time as petitioners. (emphasis) Petitioner's Informal Brief clearly represented the analysis in *Johnson* (which cited the 1940 Va. Acts of the Virginia General Assembly c. 761 and the 1947 acceptance of that Act for the Richmond Veterans Affairs Medical Center, in Richmond, Virginia.)

Petitioner's position in the Informal Brief is that the E.D. Va. and the 4th circuit appellate court have in-fact acknowledged the legal concept of a State retaining "limited concurrent jurisdiction" by looking into State law.

In *James Stewart & Co., Inc., V. Sadrakula* (1940) This court clearly settled that while exclusive federal jurisdiction attaches, state courts are without power to punish for crimes committed on federal property. *Id.* 309 U.S. 101, 60 S.Ct. 434.

As in this case, Petitioner's claims are the same in reference to exclusive criminal jurisdiction.

2. The Retrocession Letter In this Case ---In light of the legislative Act ---- Does Not Confer Concurrent Criminal Jurisdiction on Persons Acting Under Color of State law the authority to use State criminal processes.

The language of the retrocession letter does not confer jurisdiction to tax liquor, no jurisdiction to tax gasoline, no jurisdiction to tax property owned by the HVAMC (in-fact the transitional home(s) in Hampton and surrounding area are marked 'Exempt'), no jurisdiction over crimes and offenses on this enclave's property. To the contrary, the State legislative Act determines whether the State has criminal jurisdiction. This Court has settled in *North Dakota v. United States* that "concurrent jurisdiction" does not mean that the State and the Federal Government each have plenary authority over the territory in question.⁴ The 1976 Acts' repeal of crimes and offenses on property purchased by the United States represents Virginia's 18.2 criminal code. *see code of Virginia 18.2 as Titled "Crimes and Offenses Generally"*. Repeal includes alleged Stalking

⁴ *Id.* 495 U.S., 470-71, 110 S. Ct. 2013 (1990)

(§18.2-60.3) Annoying calls (§18.2-429) and protective order violations (§18.2-60.4) committed on HVAMC property and were used against petitioner.

In *James v. Dravo Contracting Co.*, 302 U.S., at 142, 58 S.Ct., at 213, it was well settled: ("If lands are otherwise acquired [not as exclusive jurisdiction enclaves], and jurisdiction is ceded by the State to the United States, the terms of the cession, to the extent that they may lawfully be prescribed, that is, consistently with the carrying out of the purpose of the acquisition, determine the extent of the federal jurisdiction");

It is absolutely well- settled that the expressed reservation and State's legislative Act are the question(s) to answer whenever a retrocession agreement has been accepted. The Federal congresses enactment of 18 U.S.C. §13 (The Assimilative Crimes Act of 1940) grants authority for the federal government to use State laws "if necessary". Also, 38 CFR §14.560 and §14.561(tailored specifically for the DVA, enacted in 1985, amended in 2003): ---after a proper Administrative investigation --- places alleged crimes committed on DVA property solely in hands of the Department of Justice or a U.S. Attorney: meaning Virginia's 1976 legislative Act of granting exclusive criminal jurisdiction to the HVAMC was accomplished. This Virginia Act has not been refuted, only ignored, which is the basis of a nefarious act.⁵

The eight defendant violated petitioner's federal constitutional rights under §1983/ §1985 for using and conspiring to use a State criminal process without jurisdiction.

⁵ No Federal Attorney or the DOJ has supplied evidence, alleged or claimed that Virginia stalking or Annoying calls Statue was violated, nor has a federal attorney claimed Janie Willis had authority to seek State warrants.

THEREFORE, If the Answer to question 1 and/ or 2 confers No criminal jurisdiction on persons acting under color of State law and/or federal law, then this case should be returned to the lower federal court to reevaluate the Rooker-Feldman defense, the Heck v. Humphries defense and Immunities defenses as claimed by defendants, and reevaluate the Federal Constitution's 4th Amendment, 5th Amendment, 6th Amendment and 14th Amendment violations under §1983 and §1985 as claimed by petitioner.

CONCLUSION

The Petition for Writ of Certiorari should be GRANTED based on §1254(1), and in emphasis to this Court's supervisory power. Also, Petitioner respectfully asks this Court to APPOINT Counsel (not a 4th Cir Attorney) to argue on behalf of and assemble a Brief w/ appendix for this case if this court shall so order.

Respectfully submitted to the United States Supreme Court by,

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