

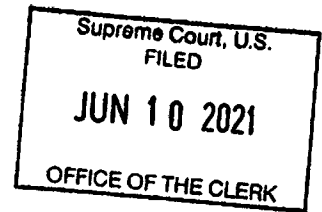
20-1827  
No. 20-

ORIGINAL

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*In The*  
**Supreme Court of the United States**

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GREGORY SHAWN MERCER,

*Petitioner,*

vs.

COMMONWEALTH OF VIRGINIA,  
COUNTY OF FAIRFAX, *et al.*

*Respondents.*

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On Petition For Writ Of Certiorari To  
The Supreme Court of Virginia

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**PETITION FOR WRIT OF CERTIORARI**

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GREGORY SHAWN MERCER,  
Petitioner, *pro se*  
3114 Borge Street  
Oakton, Virginia 22124  
202-431-9401

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## QUESTIONS PRESENTED FOR REVIEW

**A) SCOTUS Rule 10(b)** – Whether or not the Circuit Court of Fairfax County (hereafter “FCCC”) erred by entering its Prosecuting-Authority-determining 1/15/2019 “Final Order” captioned *sua sponte* “Commonwealth of Virginia versus [Petitioner]” when the lower Fairfax County General District Court’s (hereafter “FCGDC’s”) 11/13/2018 documents: **a)** “Notice of Appeal – Criminal” and **b)** the likewise Prosecuting-Authority-determining “Disposition Order – Uniform Summons” initially created “County of Fairfax v. [Petitioner],” FCCC Case No. MI-2018-1766, where these two controlling documents determined two different Prosecuting Authorities?

**B) SCOTUS Rule 10(b)** – Whether or not the Court of Appeals of Virginia (hereafter “COAV”) erred by dismissing *sua sponte* Petitioner’s appeal without remanding for an FCCC “Amended Final Order” opining that Petitioner’s 1/23/2019 “Notice of Appeal” in Record No. 0135-19-4 “fail[ed] to name a necessary party” when: **a)** no appellee ever appeared in the COAV to oppose Petitioner; while his “Notice of Appeal:” **b)** stated “*Fairfax County Code §82-5-43* is Unconstitutional with respect to the Constitution of Virginia, ... and the ... *U.S. Guarantee Clause*,” **c)** attached a copy of the *sua sponte* captioned 1/15/2019 FCCC “Final Order;” and **c)** “was hand delivered in accordance with RSCV Rule 5A:6(a) to the Commonwealth’s Attorney’s Office for Prosecutor

Maureen E. Cummins, VA Bar #85680,  
[maureen.cummins@fairfaxcounty.gov](mailto:maureen.cummins@fairfaxcounty.gov), ...?"

**C) SCOTUS Rule 10(b)** – Whether or not Petitioner received “Equal Justice Under Law” in the Supreme Court of Virginia (hereafter “SCV”) when that SCV “refused” to accept Jurisdiction of its Record No. 200331 citing VA Code §17.1-410(A)(1) & (B) where Petitioner’s 1/23/2019 FCCC to COAV “Notice of Appeal” invoked his U.S. Amendment V & XIV Due Process Rights with Constitution of Virginia (hereafter “COV”), Article I, Section 3 Right which were nullified by the SCV due to Virginia and Federal Rights (including COV, Article I, Section 2 & 5) being systematically unenforced in Virginia’s Non-Federal Courts unlike in the Supreme Courts of IA and WI?

**D) SCOTUS Rule 10(c)** – Whether or not the 1971 COV is unconstitutional with respect to the: a) *U.S. Supremacy Clause* when the SCV interprets the Constitution of the United States & its *U.S. Bill of Rights* via COV, Article VI, Sections 1 & 2; and/or b) *U.S. Guarantee Clause* as interpreted by *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) with Virginia State, County, and City Judges “chosen by” members of the Virginia General Assembly not “elected by” the People via COV, Article VI, Section 7?

**E) SCOTUS Rule 10(c)** – Whether or not current interpretation of the Constitution of the United States empowers this Supreme Court of the United States (herein “SCOTUS”) to Declare for the *U.S. Congress* and/or Order the Virginia Governor/General Assembly

that a Virginia Constitutional Convention must meet to frame for Virginia Citizens' ratification a new COV which is in accordance with the *U.S. Supremacy Clause* and/or the *U.S. Guarantee Clause*? If so, whether or not this SCOTUS will so Declare or Order?

**F) SCOTUS Rule 10(c)** – Whether or not Petitioner's invoked COV, Article I, Section 3 Right will be enforced by the SCOTUS to force Virginia: **a)** to reform its illegitimate Judicial Department establishing fair and impartial trials in accordance with the Due Process of U.S. Amendment V & XIV Rights; and/or **b)** to abandon its Contributory Negligence Tort Rule for the equitable principles of Comparative Negligence during and after Virginia Judicial Reform?

**G) SCOTUS Rule 10(c)** – To the extent that a Congressional Procedural Filibuster postponed or prevented full disclosure of the cause(s) of the insurrection at the *U.S. Capitol* on or about 1/6/2021 which jeopardizes and/or prevents Congress' continuous duty to guarantee Virginia a Republican Form of Government, whether or not the Congressional Filibuster is Unconstitutional with respect to the *U.S. Guarantee Clause*?

## **SUBSIDIARY QUESTIONS FAIRLY INCLUDED**

**(SCV 2/26/2020 PETITION FOR APPEAL)**

**SCOTUS Rule 14.1(a) – [P5-7]**

1) (Legal Error *de novo* Standard of Review) Where: **a)** the Virginia General Assembly elects/elected all Virginia State, County, and City Judges in six of the seven Constitutions of Virginia (1776, 1830, 1864, 1870, 1902, & 1971 but not 1850), **b)** the Virginia Police currently endorse Virginia General Assembly Representatives for Office in General Elections (at least 2015 and 2019 for Virginia Senator Chap Petersen), and **c)** the current Code of Virginia §2.2-3706(B)(1) withholds Virginia Police Reports from the People and the Accused at the Virginia Police Custodian of Records' Discretion, -- the ALLEGIANCE of Virginia State, County, and City Judges is no longer to the accused Defendant(s) but blindly to the Police Witness(es) for the Prosecution in Non-Federal Courtrooms contrary to the Constitution of Virginia, Article I, Sections 2 & 5 [C3-7, C10-18, E11-13, M4, N2, N4-5, O1, P5-6, P8-16, P20, P23-24, R23-24, R36-40, R46-54, R57-59, R62-63].

2) (Legal Error *de novo* Standard of Review) The trial court being the Fairfax County Circuit Court erred when it captioned its 1/15/2019 "Final Order" in Case No. MI-2018-1766 as "COMMONWEALTH OF VIRGINIA VERSUS GREGORY SHAWN MERCER" when Appellant was convicted of violating FAIRFAX COUNTY Code §82-5-43 [B2, B5-6, E3-14, G2-6, J1-2, N1-4, O1-5, P6, P15-24, R1, R19, R46, R57, R60-66].

3) (Abuse of Discretion Standard of Review) The trial court (the FCCC) was not fair and impartial when it erroneously captioned its 1/15/2019 “Final Order” without Necessary Party “COUNTY OF FAIRFAX” deliberately in order to confuse this *pro se* Appellant before the filing of his 1/23/2019 “Notice of Appeal” [B2, B5-6, C2, C6-7, C16-17, E3-14, G2-6, J1-2, M2-5, N1-4, O1-5, P1, P6-8, P13-24, R1, R6, R12, R19-20, R22-24, R36, R46, R56-57, R60-66].

4) (Legal Error *de novo* Standard of Review) The Court of Appeals of Virginia (hereafter “COAV”) erred when it docketed Record No. 0135-19-4 without first remanding to the trial court for the erroneous 1/15/2019 “Final Order” to be amended with Necessary Party “County of Fairfax” where Appellant’s timely 1/23/2019 Notice of Appeal: a) alleged the “Fairfax County Code §82-5-43 is Unconstitutional with respect to the Constitution of Virginia, Article I, Section 3 [1971] ... and the Constitution of the United States, Article IV, Section 4 (*U.S. Guarantee Clause*),” and b) was properly served by hand-delivery in accordance to RSCV Rule 5A:6(a) on the Commonwealth Attorney’s Office for Prosecutor Maureen E. Cummins with e-mail address maureen.cummins@fairfaxcounty.gov [C15, C17, E3-14, J1-2, M2-5, N1-4, O1-5, P6-8, P13-24, R46, R57, R62-66].

5) (Abuse of Discretion Standard of Review) The COAV was not fair and impartial when it docketed

Appellant's Record No. 0135-19-4, discovered the trial court's 1/15/2019 "Final Order" was deliberately erroneous by not naming Necessary Party "County of Fairfax," took no action against the trial court, then faulted the *pro se* Appellant for captioning Record No. 0135-19-4 which followed the FCCC's lead with the trial court's erroneous 1/15/2019 "Final Order" [C2, C6-7, C15-17, E3-14, G2-6, J1-2, M2-5, N1-4, O1-5, P1, P6-8, P13-24, R8, R12, R20, R22-24, R36, R46, R56-57, R62-66].

6) (Legal Error *de novo* Standard of Review) Virginia Citizens have been effectively precluded from selection of their State[,] County[, and City] Judges contrary to the *U.S. Guarantee Clause* (Constitution of the United States, Article IV, Section 4; Duncan v. McCall, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) [C3-7, C10-18, E11-13, M4, N2, N4-5, O1, P7-16, P20, P23-24, R23-24, R36-40, R46-54, R57-59, R62-63].

**(COAV 5/28/2019 PETITION FOR APPEAL)**  
**SCOTUS Rule 14.1(a) – [C2-3]**

7) (Abuse of Discretion Standard of Review) Appellant did not receive a fair and impartial trial in the FCCC because Judge Mann deliberately lost Appellant's documents, did not address Appellant's fair and impartial trial concerns before the Bench Trial commenced, ignored Appellant's Constitution of Virginia, Article I, Section 3 Right, and had a mis-

placed Allegiance to the Government with Police Witness [C3-7, C10-18, R6, R12, R20, R22-24, R26-35, R36-46, R56-57, R62-63].

8) (Legal Error (*de novo*) Standard of Review) Fairfax County Code §82-5-43 is Unconstitutional with respect to the Constitution of Virginia, Article I, Section 3 (“that is best which is capable of producing the greatest degree of happiness and safety, and most effectually secured against the danger of maladministration”) and the *U.S. Guarantee Clause* (Constitution of the United States, Article IV, Section 4) [C3-7, C10-18, R20, R54-57, R63].

9) (Legal Error (*de novo*) Standard of Review) Virginia Citizens have been effectively precluded from selection of their State and County Judges contrary to the *U.S. Guarantee Clause* (Constitution of the United States, Article IV, Section 4; *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891)) [C3-7, C10-18, R24, R36-40, R46-54, R57-59, R62-63].

(FCCC 12/21/2018 OBJECTION AND MOTION)  
SCOTUS Rule 14.1(a) –  
[R20, R22-24, R36-40, R54-59]

10) Defendant cannot receive a fair and impartial trial for a Criminal Prosecution in a Virginia State or County Court [R6, R12, R20, R22-24, R26-35, R36-46, R56-57, R62-63].



11) Fairfax County Code §82-5-43 is unconstitutional with respect to the Virginia and U.S. Constitutions [R20, R54-57, R63].

12) Whether or not Virginia Citizens have been effectively precluded from the selection of their State and County Judges contrary to the *U.S. Guarantee Clause* (Constitution of the United States, Article IV, Section 4; *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891)) [R24, R36-40, R46-54, R57-59, R62-63].

### LIST OF PARTIES

- 1) GREGORY SHAWN MERCER, Petitioner, *pro se*, is a United States citizen born in Houston, Texas and a resident of Virginia since December of 2003 living at 3114 Borge Street, Oakton, Virginia, 22124, gregorysmercer@gmail.com, 202-431-9401.
- 2) COUNTY OF FAIRFAX, Respondent was initially the Prosecuting Authority for violation of Fairfax County Code §82-5-43 in County of Fairfax v. Gregory Shawn Mercer, FCCC Case Nos. MI-2018-1765 & MI-2018-1766. This FCCC case was a *de novo* appeal from County of Fairfax v. Gregory Shawn Mercer, FCGDC Case No. GT18216359-00, after Petitioner invoked his Appellate Rights by executing an 11/13/2018

FCGDC “Notice of Appeal – Criminal” [R1] for a new trial in the FCCC. An 11/13/2018 FCGDC “Disposition Order – Uniform Summons” [R19] created the FCCC case wherein under “Locality” was “*County of Fairfax*,” under “Charge” was “**Maintenance of Vehicle Parked [on Street]**,” under “Law Section” was “82-5-43,” and under “Defendant’s Name: (Last, First, Middle)” was “**Mercer, Gregory Shawn**.” However, the FCCC (herein also “**Trial Court**”) *sua sponte* substituted “*Commonwealth of Virginia*” for Prosecuting Authority “*County of Fairfax*” on the 1/15/2019 FCCC “Final Order” [R60-61] which convicted Petitioner of “MAINTENANCE OF VEHICLE PARKED ON STREET” without any Fairfax County nor Virginia Law Section identified. In fact, there is no Code of Virginia Law Section titled, “Maintenance of vehicle Parked of Street” for the “*Commonwealth of Virginia*” to even prosecute. The effect of what Petitioner believes to have been an erroneous 1/15/2019 FCCC “Final Order” was to substitute an Unnecessary Party as the Prosecuting Authority replacing the initial Prosecuting Authority. From the 10/10/2019 COAV Order there is guidance here [O1-4]:

“In *Roberson v. Commonwealth*, 279 Va. 396, 406[, 689 S.E.2d 706, 712] (2010), the Virginia Supreme Court stated that

‘[t]he controlling documents for determining what entity served as the prosecuting authority in a criminal trial are the instrument, that is the *summons* [R19], warrant, or indictment, under which the charge is brought and the *orders of conviction and sentencing that conclude the trial* [R60-61, R65-66]” [B5-6, O2 but *Roberson* continues]. In this case, each of those documents clearly indicates that the City [which Roberson failed to name on his Notice of Appeal] was the prosecuting authority and that Roberson was charged with a violation of VBCC §21-1 [which is not the case in Petitioner’s FCCC Case No. MI-2018-1766 where the 11/13/2018 FCCC “Disposition Order – Uniform Summons” and the 1/15/2019 FCCC “Final Order” identified different entities serving as the Prosecuting Authority].’

Eight days after the erroneous 1/15/2019 FCCC “Final Order” was entered, Petitioner filed his 1/23/2019 FCCC to COAV “Notice of Appeal” [R62-64] attaching a copy of the erroneous 1/15/2019 FCCC “Final Order” [R65-66] to initiate *Gregory Shawn Mercer v. Commonwealth of Virginia*, COAV Record No. 0135-19-4. Despite stating in the body of his Notice of Appeal “*Fairfax County* Code §82-5-

43 is Unconstitutional” with service in accordance with RSCV Rule 5A:6(a) by “hand deliver[y] to the Commonwealth’s Attorney’s Office for Prosecutor Maureen E. Cummins, VA Bar #85680, maureen.cummins@*fairfaxcounty*.gov, 4110 Chain Bridge Road, Suite #114, Fairfax, Virginia, 22030, 703-246-2776,” neither the “*County of Fairfax*” nor the “*Commonwealth of Virginia*” ever filed any “Brief(s) in Opposition” in the COAV to oppose Petitioner in *Gregory Shawn Mercer v. Commonwealth of Virginia*, COAV Record No. 0135-19-4. This begs the question whether these non-appearing *de facto* appellees waived their objection to any procedural defect within Petitioner’s 1/23/2019 FCCC to COAV “Notice of Appeal” in the COAV concerning the alleged “failure to name a necessary party?”

Petitioner appealed to the SCV where only the “*Commonwealth of Virginia*” appeared but which is made in a way so to mislead Petitioner that the “*County of Fairfax*” appeared as well which is not the case:

“Steve Descano  
Commonwealth Attorney for Fairfax  
County  
C. M. Jackson, VSB #84916  
Assistant Commonwealth Attorney

Office of the Fairfax County  
Commonwealth Attorney  
4110 Chain Bridge Rd., Room #114  
Fairfax, Virginia 22030  
(703) 246-2751: P  
(703) 691-4004: F  
Chanel.Jackson@fairfaxcounty.gov

*Counsel for Appellee Commonwealth of  
Virginia* [B1]

- 3) COMMONWEALTH OF VIRGINIA,  
Respondent which was substituted as the  
Prosecuting Authority *sua sponte* by the Trial  
Court in the caption of the 1/15/2019 FCCC  
“Final Order” [R60-61, R65-66] for initial  
Prosecuting Authority “*County of Fairfax*”  
and which Respondent only appeared in the  
SCV [B1]. This Respondent by the Trial Court’s  
*sua sponte* substitution was the Prosecuting  
Authority at the conclusion of County of Fairfax  
v. Gregory Shawn Mercer, FCCC Case No. MI-  
2018-1766 [R19] which the Trial Court *sua*  
*sponte* renamed Commonwealth of Virginia v.  
Gregory Shawn Mercer, FCCC Case No. MI-  
2018-1766 [R60, R65].
- 4) THE HONORABLE MARK HERRING,  
Respondent, the Attorney General of Virginia,  
202 North 9th Street, Richmond, Virginia,  
23219, mailoag@oag.state.va.us, 804-786-2071.  
In accordance with SCOTUS Rules 14.1(e)(v) &

29.4(c), Petitioner states, “**28 U.S.C. §2403(b) may apply**” and points out that the “*Commonwealth of Virginia*” was added as a Party and the Prosecuting Authority in the FCCC on 1/15/2019 and remained as a Party on appeal in the COAV and SCV. Petitioner states in accordance with SCOTUS Rule 29.4(c) and the definition of “any Court of the United States” from 28 U.S.C. §451 which appears to address Federal not Virginia State Courts that neither the Fairfax County General District Court (herein “**FCGDC**”) nor the Circuit Court of Fairfax County (herein “**FCCC**”) nor the Court of Appeals of Virginia (herein “**COAV**”) nor the Supreme Court of Virginia (herein “**SCV**”) *certified* to the Attorney General of Virginia the fact that the constitutionality with respect to the Constitution of the United States of the 1971 Constitution of Virginia (herein “**COV**”), Article VI, Sections 1, 2, & 7 were drawn into question previously in either: **a)** County of Fairfax v. [Petitioner], FCGDC Case No. GT18216359-00 (11/13/2018); **b)** County of Fairfax v. [Petitioner], FCCC Case Nos. MI-2018-1765 & MI-2018-1766 (1/15/2019); **c)** Commonwealth of Virginia v. [Petitioner], FCCC Case Nos. MI-2018-1766 (1/15/2019); **d)** [Petitioner] v. Commonwealth of Virginia, COAV Record No. 0135-19-4 (1/27/2020); **e)** [Petitioner] v. Commonwealth of Virginia, County of Fairfax, COAV Record No. 0135-19-4

(1/27/2020); f) [Petitioner] v. Commonwealth of Virginia, County of Fairfax, SCV Record No. 200331 (1/11/2021) and/or g) [Petitioner] v. Commonwealth of Virginia, SCV Record No. 200331 (1/11/2021).

### **CORPORATE DISCLOSURE STATEMENT**

There is no parent corporation nor any publicly held company that owns 10% of anything associated with *pro se* Petitioner. However, Petitioner has a mortgage and three IRA accounts. Since Petitioner is not a corporation, he has no corporate disclosures to make.

### **DIRECTLY RELATED STATE COURT INFORMATION**

8/20/2018 – “Parking Citation #121294762 [R3, R8, R14]” issued.

8/22/2018 – “Parking Citation #121329025 [R9, R15]” issued.

8/29/2018 – Petitioner called (866) 353-0452 “requesting Affidavits” allegedly to be received by mail from a woman in Wisconsin [R6-7, R12-13].

9/12/2018 – FCGDC “Mechanic’s Affidavit [R4-9,

R10-15]” filed requesting Court Date(s) as Due Process for Parking Citations #121294762 [R3] & #121329025.

11/13/2018 – FCGDC Trial in County of Fairfax v. [Petitioner], Case No. GT18216359-00 for Parking Citations #121294762 & #121329025 wherein Petitioner was found “Guilty as Charged” according to the FCGDC “Disposition Order – Uniform Summons [R19]” determinative of entity serving as Prosecuting Authority being “*County of Fairfax.*” Roberson v. Commonwealth, 279 Va. 396, 406, 689 S.E.2d 706, 712 (2010).

11/13/2018 – FCGDC to FCCC “Notice of Appeal – Criminal [R1]” filed for a *de novo* FCCC Trial as Due Process causing the case County of Fairfax v. [Petitioner], FCCC Case Nos. MI-2018-1765 & MI-2018-1766, to be docketed.

12/21/2018 – FCCC “Objection and Motion [R20-21, R26-59]” filed but not a document determinative as to the entity serving as the Prosecuting Authority. Roberson (*supra*). OBJECTION: “[Petitioner] cannot receive a fair and impartial trial for a Criminal Prosecution in a [Virginia] State or County Court [R20].” MOTION: “[Petitioner moves] to certify this question/case to the Supreme Court of Virginia for further certification to the Supreme Court of



the United States if necessary [R20] – Whether or not Virginia Citizens have been effectively precluded from the selection of their State and County Judges contrary to the U.S. Guarantee Clause (Constitution of the United States, Article IV, Section 4; *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573. 577 (1891)) [R24, R38].”

1/3/2019 – FCCC *de novo* Trial in *County of Fairfax v. [Petitioner]*, Case Nos. MI-2018-1765 & MI-2018-1766 wherein Case No. MI-2018-1765 (Parking Citation #121329025) was dismissed [R24] but Petitioner was found guilty of “MAINTENANCE OF VEHICLE PARKED ON STREET [R60-61]” in Case No. MI-2018-1766.

1/11/2019 – FCCC “Notarized Statement of Facts as an Affidavit with Attachment [R22-25 refile R26-35, R36-57, R58-59]” concerning the FCCC 1/3/2019 Trial.

1/15/2019 – FCCC “Final Order [R60-61]” *sua sponte* renamed case *Commonwealth of Virginia v. [Petitioner]*, FCCC Case No. MI-2018-1766 where substitution of Prosecuting Authority “*Commonwealth of Virginia*” for initial Prosecuting Authority “*County of Fairfax*” is determinative of entity serving as Prosecuting Authority. *Roberson (supra)*.

**1/23/2019** – FCCC to COAV “Notice of Appeal [R62-64]” filed as Due Process: 1) attaching copy of the similarly-captioned FCCC “Final Order” [R65-66]; 2) stating within body of his Notice of Appeal “[Petitioner] argued that Fairfax County Code §82-5-43 is Unconstitutional with respect to the Constitution of Virginia, Article I, Section 3 (‘that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration’) and the Constitution of the United States, Article IV, Section 4 (U.S. Guarantee Clause) [R63];” and 3) delivering with receipt “hand delivered to the Commonwealth Attorney’s Office for Prosecutor Maureen E. Cummins, VA Bar #85680, maureen.cummins@fairfaxcounty.gov, ... [R64]”

**5/28/2019** – COAV “Petition for Appeal with Objection and Motion Concerning the FCCC Record [C1-18]” timely filed without any subsequent appearance from either the “*County of Fairfax*” or the “*Commonwealth of Virginia*.”

**10/10/2019** – COAV Order *sua sponte* dismisses [Petitioner] v. Commonwealth of Virginia, COAV Record No. 0135-19-4 for “failure to name a necessary party” [O1-4] without any Appellee appearing to allege any a Procedural

Defect in Petitioner's 1/23/2019 FCCC to COAV  
"Notice of Appeal [R62-66]."

10/21/2019 – COAV "Motion for Leave to Amend  
Caption and Add Necessary Party to  
Appellant's 5/28/2019 'Petition for Appeal with  
Objection and Motion Concerning FCCC  
Record' in Advance of Consideration by a Three-  
Judge Panel [M1-9]" filed.

10/24/2019 – COAV "Oral Presentation Demand to  
Three Judge Panel [J1-3]" filed.

1/15/2020 – COAV Oral Presentation in [Petitioner] v.  
Commonwealth of Virginia, County of Fairfax,  
COAV Record No. 0135-19-4 [N1-5].

1/27/2020 – COAV "Final Order [O5]" *sua sponte*  
dismissing [Petitioner] v. Commonwealth of  
Virginia, COAV Record No. 0135-19-4 and *sua*  
*sponte* denying Petitioner's 10/21/2019 "Motion  
for Leave to Amend Caption and Add Necessary  
Party [M1-6]."

2/26/2020 – COAV to SCV "Notice of Appeal /  
1/15/2020 [COAV] Oral Presentation Statement  
of Facts [N1-5]" as Due Process in [Petitioner] v.  
Commonwealth of Virginia, County of Fairfax,  
COAV Record No. 0135-19-4 filed.

2/26/2020 – "SCV Petition for Appeal [P1-25]" timely  
filed.

3/16/2020 – SCV "Brief in Opposition to Petition for

Appeal [B1-8]” timely filed arguing Petitioner failed to name an indispensable party.

3/19/2020 – “SCV Reply to Brief in Opposition [E1-14]” with Unexecuted “Amended Notice of Appeal [AN1-3 or E15-17]” timely filed simultaneously to SCV “Replacement Brief in Opposition to Petition for Appeal [B1-9]” filed.

3/21/2020 – “SCV Supplement to Reply to Brief in Opposition [G1-6]” filed in accordance with RSCV Rule 19(a).

1/11/2021 – SCV “Final Order [S1]” in *[Petitioner] v. Commonwealth of Virginia*, Record No. 200331 where the SCV had *sua sponte* “refused” to review case for lack of jurisdiction citing Code of Virginia §17.1-410 (A)(1) & (B). Petitioner was denied Due Process in *U.S. Amendments V & XIV* contrary to other State Courts of Last Resort. See *Cooksey v. Cargill Meat Solutions Corporation*, 831 N.W.2d 94, 96, 101-102 (Iowa 2013) [A519-524]; and *Nigbor v. Department of Industry, Labor & Human Relations*, 120 Wis.2d 375, 355 N.W.2d 532, 535-36 (1984) [A594-98].

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## **GUIDE TO DOCUMENTS IN COURTS BELOW**

- R#** FCCC Record Page No. [R3-15, R20-66]  
attached to 5/28/2019 COAV “Petition for  
Appeal with Objection and Motion Concerning  
the FCCC Record” [C1-18] and 3/16/2020 “Brief  
in Opposition to Petition for Appeal” [B1-9]  
including 1/11/2019 [FCCC] “Notarized  
Statement of Facts as an Affidavit with  
Attachment [R22-25]”
- C#** 5/28/2019 COAV “Petition for Appeal with  
Objection and Motion Concerning the FCCC  
Record” Page No. [C1-18]
- M#** 10/21/2019 COAV “Motion for Leave to Amend  
Caption and Add Necessary Party to  
Appellant’s 5/28/2019 ‘Petition for Appeal with  
Objection and Motion Concerning the FCCC  
Record’ in Advance of Consideration by a Three-  
Judge Panel” Page No. [M1-6] with attached  
letter to Fairfax County Prosecutor Maureen E.  
Cummins sent by certified mail (7019 1120

0001 7734 4874) stating as in the “Motion for Leave to Amend and Add Necessary Party ...” [M7-9].

- O#** 10/10/2019 COAV First Order [O1-4] then  
1/27/2020 COAV Second Final Order [O5] Page  
No. [O1-5] attached to 2/26/2020 “Notice of  
Appeal / 1/15/2020 [COAV] Oral Presentation  
Statement of Facts” [N1-5]
- J#** 10/24/2019 [COAV] “Oral Presentation Demand  
to Three-Judge Panel” Page No. [J1-3]
- N#** 2/26/2020 “Notice of Appeal / 1/15/2020 [COAV]  
Oral Presentation Statement of Facts” Page No.  
[N1-5] with attached [O1-5]
- P#** 2/26/2020 “SCV Petition for Appeal” Page No.  
[P1-25]
- B#** 3/16/2020 “Brief [B] in Opposition to Petition  
**RB#** for Appeal” with five Attachments including  
[R1] & [R19] and 3/19/2020 “Replacement Brief  
[RB] in Opposition to Petition for Appeal”  
without Attachments Page No. [B1-8 and RB1-  
9 where difference is mainly on font size of text]
- E#** 3/19/2020 “SCV Reply to Brief in Opposition”  
Page No. [E1-14] with attached [AN1-3]
- AN#** Unexecuted “Amended Notice of Appeal” Page  
No. [AN1-3] attached to 3/19/2020 “SCV Reply  
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- G#** 3/21/2020 “SCV Supplement to Reply to Brief in

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00, GC15137252-00, GC15137253-00, 3 were *nolle*  
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## OPINIONS AND ORDERS BELOW

(See Appendix “OPINIONS  
AND ORDERS TEXT” [A17-28])

- **FCCC)** 1/15/2019 “Final Order” [R60-61]  
a copy of which was attached to the  
1/23/2019 FCCC to COAV “Notice  
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- **COAV1)** 10/10/2019 Opinion & Order  
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- **SCV)** 1/11/2021 Final Order [S1] A27-28

## JURISDICTION

The bases for jurisdiction in this SCOTUS where *pro se* Petitioner reserves for his future attorney **28 U.S.C. §1653** (Amendment of pleadings to show jurisdiction) are:

1) pursuant to **28 U.S.C §1331** (Federal question) because the questions herein arise under the Constitution and the Laws of the United States as they have been applied in the State of Virginia;

2) pursuant to **28 U.S.C. §1343(a)(3)** (Civil rights and elective franchise) because the SCV deprived by nullification Petitioner’s Due Process Rights (U.S. Amendments V & XIV with COV, Article I, Sections 3 & 11 Rights) under color of the Code of

Virginia §17.1-410(A)(1) & (B) in order to avoid accepting jurisdiction of Petitioner's SCV case concerning the previous misinterpretation [28 U.S.C. §2111 (Harmless error)] under color of RSCV Rule 5A:6(a) in Petitioner's COAV case where he was unopposed [See O2 – 28 U.S.C. §1654 (Appearance personally or by counsel)] for which Petitioner seeks redress herein pursuant to 42 U.S.C. §1981(a & c) (Equal rights under the law) through comparison of Petitioner's SCV, COAV, and FCCC cases with Supreme Court of Iowa Case Law Cooksey v. Cargill Meat Solutions Corporation, 831 N.W.2d 94, 95, 104-105 (2013) [A519-24] and The Supreme Court of Wisconsin Case Law Nigbor v. Department of Industry, Labor & Human Relations, 120 Wis.2d 375, 378-81, 355 N.W.2d 532, 534-36 (1984) [A594-98];

3) pursuant to 28 U.S.C. §1343(a)(4) (Civil rights and elective franchise) because Petitioner seeks to recover damages (previous Virginia taxes paid to illegitimate Virginia State and County Governments, court fees/costs, & prayed for sanctions) which is not capable of having a plain, speedy, and efficient remedy by Virginia Courts despite 28 U.S.C. §1341 (Taxes by States) due to Virginia's Unrepublican Form of Government for which Petitioner seeks to secure other relief by way of a Virginia Constitutional Convention to create at a minimum new COV, Article VI, Sections 1, 2, & 7 to be submitted to the Virginia PEOPLE for a ratification vote:

[Petitioner alleges the current 1971 COV is unconstitutional with respect to the Constitution of the United States (hereafter “CUS”) where COV, Article VI, Sections 1 & 2 [A306-08] violate the *U.S. Supremacy Clause* [A283-84] empowering the SCV with the ability to interpret the CUS with its *U.S. Bill of Rights* [A419-20] while Virginia State, County, and City Judges are “chosen by” the members of the Virginia General Assembly via COV, Article VI, Section 7 [A308-09] which members may be endorsed by the Virginia Police but not “elected by” the Virginia PEOPLE contrary to the *U.S. Guarantee Clause* [A283-84] as interpreted by the supreme law of the land in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct.573, 577 (1891) [A532-33]. Therefore, Virginia Judges have a *Conflict of Interest* [A272-75] to side with the Virginia Police leaving Virginia and Federal Rights unenforced rather than to side with the Virginia PEOPLE then face unfavorable Judicial Selection in the Virginia General Assembly contrary to COV, Article I, Section 2 (People the source of power) [A302] creating the base for jurisdiction pursuant to 42 U.S.C. §1985(2 & 3) (Conspiracy to interfere with civil rights)];

3) pursuant to 28 U.S.C. §1257(a) (State courts; certiorari) because this appeal seeks a Writ [28 U.S.C. §1651(a) (Writs)] of Certiorari to the SCV after a final order of that SCV [28 U.S.C. §2104 (Reviews of



State court decisions) & §2106 (Determination)] which deprived by nullification Petitioner's Due Process Rights (U.S. Amendments V & XIV with COV, Article I, Sections 3 & 11 Rights) under color of the Code of Virginia §17.1-410(A)(1) & (B) in order to avoid accepting jurisdiction of Petitioner's SCV case concerning the previous misinterpretation [28 U.S.C. §2111 (Harmless Error)] under color of RSCV Rule 5A:6(a) in Petitioner's COAV case where he was unopposed [28 U.S.C. §1654 (Appearance personally or by counsel)] and which SCV & COAV interpretations were repugnant to the Constitution of the United States;

4) pursuant to 28 U.S.C. §1367(a) (Supplemental jurisdiction) for joinder or intervention of additional parties because Petitioner presents questions following the final order of the SCV seeking to advise or order the U.S. Congress, the Virginia Governor, and/or the Virginia General Assembly to force a Virginia Constitutional Convention in order to create at a minimum new COV, Article VI, Sections 1, 2, & 7 to be submitted to the Virginia PEOPLE for a ratification vote; and

5) pursuant to 28 U.S.C. §2403(b) (Intervention by United States or a State; constitutional question) **which may apply** because Petitioner questions the constitutionality of the 1971 COV [Article VI, Sections 1, 2, & 7; *et al.*] and the constitutionality of certain sections of the Code of Virginia [§17.1-410(A)(1) & (B); §2.2-3706(B)(1); *et al.*]

with respect to the Constitution of the United States affecting the public interest in the enforcement of State and Federal Rights within Virginia.

**CONSTITUTIONAL PROVISIONS, ACT OF  
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<u>The Two Reconstructions, the Struggle for Black Enfranchisement</u> by Richard M. Valelly, copyright 2004 by the University of Chicago Press	A401, C11-12, P12-13, R52-53
Trump Acquitted of Inciting Insurrection, Even as Bipartisan Majority Votes ‘Guilty’	A408
Unite the Right Rally in Charlottesville, Virginia (2017)	A418, C7, C10, P13

U.S. Bill of Rights           A419, AN2, C6, C14, P9-10,  
P12-13, R47, R49-50, R53-54

U.S. Civil War                   A420, C10, P11,  
R47-48, R50, R52

U.S. Congress               A422, C11, C14, P11,  
P14, R37, R45-48, R54

Virginia Beach City Code §21-1   A426, A607, E5

Voting Rights Act of 1965   A377, A428, C12, P13

Washington State (1973 – First Extraordinary  
Session, Sessions Law, Chapter 138)   A450

White Supremacist Constitutions   A451,  
C10, C13

Without Sanctuary’s “Hellhounds” by  
Leon F. Litwack (2000)   A331, A402-03, A453, C12

### CONCISE STATEMENT OF THE CASE

“[Petitioner] cannot receive a fair and impartial trial for a Criminal Prosecution in a Virginia State, County, or City Court [AN2, C2, C6, C9-10, C16, P6, P12, P15-16, P18, R20, R23, R36, R42, R46, R51-52, R54, R62-63].” Quoted from [R20]. However, this appeal never involved a Virginia City Court so Petitioner never argued “City.” Petitioner has been struggling to understand [A60-107, A123-34, A164-75, A180-81, C10-17, P8-17, P23-24, R26-59] Virginia since 2006: Mercer v. Commonwealth of Virginia [A585-87];

*Mercer v. Fairfax County Board of Supervisors, et al.* [A587-88]; *Commonwealth of Virginia v. Mercer* [A518-19]; *Mercer v. Powers* [A588-89, R42, R44-45]; and *Mercer v. Vega* [A589-90, N5, P14].

## HISTORY

Virginia has had a Renewed Confederate Police Government since 1902 which disrespects [A271-72, C12-13, P11-12, R50] the *U.S. Supremacy Clause* where the link between a “Confederacy” in the United States and the disrespect of the *U.S. Supremacy Clause* was historically illuminated by the restatement of the *U.S. Supremacy Clause* [A283-84, C11, P11, R37] in the 1863 Constitution of West Virginia, Article I, Section 1 [A309, C10, P11, R49]. This was when newly-formed West Virginia separated from Confederate Virginia in order to remain in the Northern Union:

“The State of West Virginia shall be and remain one of the United States of America. The Constitution of the United States, and the laws and treaties made in pursuance thereof, shall be the supreme law of the land. [A309].”

The Virginia Confederacy was finally abolished by adoption of the 1870 Constitution of Virginia (hereafter and herein “COV”), Article I, Section 3 [A289, C11, P11-12, R50] which was also a restatement of the *U.S. Supremacy Clause*:

“That the Constitution of the United States, and the laws of Congress passed in pursuance thereof, constitute the supreme law of the land, to which paramount allegiance and obedience are due from every citizen, anything in the constitution, ordinances, or laws of any State to the contrary notwithstanding [A289].”

Virginia’s adoption of this restatement of the *U.S. Supremacy Clause* [A283-84] was through U.S. Congressional Application of the *U.S. Guarantee Clause* [A283, C11, P11, R37] against each previous Confederate State between 1866 and 1870 which concluded by Congressional Acts [A217-234] in order that each of these States could be represented in the U.S. Congress again. This was after the *U.S. Civil War* [A420-422]. See *U.S. Congress* at [A422-426, C11, P11, R48] which also quotes from *Hardeman v. Downer, Wilkes County, Georgia Superior Court*, 39 Ga. 425, 443-44 (1869) [A546-47, C14, P11, R47, R50] for proof that each previous Confederate State at least eliminated “white” from “white male” voter consistent with U.S. Amendment XV [A282, C11, P12, R48].

However, the 1902 COV, Article VI, Section 88 [A298-300] abandoned the 1870 COV, Article I, Section 3 it replaced to create a Renewed Virginia Confederacy. This Renewed Confederacy continued into the current 1971 COV, Article VI, Sections 1 & 2 [A306-08, C12-13, P12-13, R50] because each of these past and current Virginia Constitutional Article VI sections (88

[A298-300] then 1 & 2 [A306-08]) disrespects the *U.S. Supremacy Clause* [A283-84] by empowering Virginia's Supreme Court with the ability to interpret the Constitution of the United States along with Federal Rights in the *U.S. Bill of Rights* [A419-420]. Simply read the U.S. Supremacy Clause at A283-84 then read the 1902 and 1971 Constitutions of Virginia sections at A298-300 and A306-08. This is a clear no-brainer violation of the *U.S. Supremacy Clause* in the current 1971 COV.

The reason for the return of this current Virginia Confederacy in 1902 was initially *racially-inspired* [A378-81, C6, C13, P13, R53]. Together with Poll Taxes and Literacy Tests [A234-42, A292-98, A379-80, C12-13, P13, R53], the 1902 COV, Article VI, Section 88 was a third way that Virginia re-disenfranchised against the 1870-franchised African American male voters denying them Federal Rights. Petitioner read Authority and Greenstone Book Award-winning [A330-331] The Two Reconstructions, the Struggle for Black Enfranchisement by Richard Valelly [A401-408] which refers to Representative John Lewis endorsed, fully-referenced "Without Sanctuary [A453-505]" to be compared [A481] later with a 1/11/2021 Associated Press article "Hang Mike Pence!": Assault on U.S. Capitol a more sinister attack than first appeared [A331-339]" and a 8/13/2017 ABC News article "White Nationalist Rally in Charlottesville, Virginia Sparks Violent Clashes, Turns Deadly."

However, this third way to dis-enfranchise against African Americans has never been limited to African Americans. Confederacies in the United States by design do not enforce Federal or State Rights [C13-14, P8-9, R46-47]. In a Democracy or Constitutional Republic, People are protected from Government with Rights. When Rights are denied, cases come before Judges who decide whether or not to enforce a Right. Judges protect Rights in a Democracy or Constitutional Republic because the ALLEGIANCE of the Judges are to the People. In a Confederacy, Government is protected from the People by Denying Rights. Confederacies control the Judges so that those Judges' ALLEGIANCE is to Government and the Police [C13-14, P8-9, R46-47].

The 1902 COV, Article VI, Section 88 [A298-300, C13, P12, R50] then 1971 COV, Article VI, Sections 1 & 2 [A306-08, C13, P13, R51-52] empowered the 1902 Supreme Court of Appeals of Virginia then the 1971 Supreme Court of Virginia (hereafter and herein "SCV") to interpret the Federal Rights in the *U.S. Bill of Rights* [A419-20, C14, P8-9, R51] which violates the *U.S. Supremacy Clause* [C16, P9, R51]. This makes the SCV the Gatekeeper of the Federal Rights in Virginia since this Supreme Court of the United States (hereafter and herein "SCOTUS") grants Petitions for Writ of Certiorari to the SCV filed in the SCOTUS an average of less than 1% of the time [C14, P9, R50, R57]. This is a general statistic and may not be specific to the SCV but SCOTUS rarely grants Certiorari.

The 1902 COV, Article VI, Sections 87, 91, 96, & 99 [A300-02, C12, P10, R50] then 1971 COV, Article VI, Section 7 [A308-09, C14, C16, P8, R50-51] empowered the 1902 then 1971 Virginia General Assemblies to select all Virginia State, County, and City Judges which again violates the *U.S. Guarantee Clause* [A283, C6, P16, R38] and *U.S. Supremacy Clause* [A283-84] because this was contrary to the Supreme Law of the Land found in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) [A532-33, C6, P16, R38]:

“By the constitution, a republican form of government is **guarantied** [sic. – “**guaranteed**”] to every state in the Union, and the distinguishing feature of that form is the right of the people to choose their own officers for governmental administration, . . . [A532-33, P10, R38]”

The Virginia Police now endorse [*SEE Virginia Senator Chap Petersen 2015 & 2019 Campaign Sign Photographs*: A106-07, C(as Attachment), R58-59] Virginia General Assembly Representatives in General Elections contrary to 1971 COV, Article I, Section 5 [A303-304, C6, P5-6, R36]. This forces the *ALLEGIANCE* of Virginia State, County, and City Judges *to change from the PEOPLE* as mandated by 1971 COV, Article I, Section 2 [A302, C6, P5-6, R36] *to the POLICE*. Arguably, the Virginia State, County, and City Judges fear Virginia Police Lobbies' interference in Virginia General Assembly Judicial

Selections if Police Officers are angered or upset in that Judge's Courtroom [C6, P8, R36]. In fact, the Virginia General Assembly passed a law that Virginia Police Reports are to be disclosed to the Public or an Accused at the Police Custodian of Records' Discretion (VA FOIA, Code of Virginia §2.2-3706(A)(1) & (B)(1) [A261-265]) which is totally anti-Right, Pro-Confederacy, and contrary to the 1971 COV, Article I, Section 2:

“That all power is vested in, and consequently derived from, the people, that magistrates are their trustees and servants, and at all times amenable to them [A302].”

Virginia Police enforcement is complicated by Federal and State Rights because criminals would be much more easily found if the Virginia Police could simply search residences and seize property from any Virginia resident's home and/or vehicle at will and without a proper Warrant. Virginia State, County, and City Judges do not enforce Federal and State Rights in Confederate Virginia [C13-14, P8-9, R46-47]. An unconstitutional Search and Seizure by the Virginia State Police of Petitioner's house and vehicle occurred in June of 2015 [R26-34, R42-43]. Petitioner's cellular phones and computer were never returned to him. He was Unlawfully Imprisoned for three and a half days. Then all 11 False Charges against his were dismissed with prejudice or Nolle Prosequied [A60-73, A518-519, R26-35].



What has occurred in Virginia's Confederate Police Government is that the Virginia State, County, and City Judges do not enforce Federal and State Rights because they have a *Conflict of Interest* [A272-275, C13-14, C16, E9, E12-13, M4, P16-17, P20, P23-24, R23, R47, R53, R56-57, R62-63]. Petitioner believes that the SCOTUS should review this matter.

### THE CASE

This appeal presents the fact that Virginia is in Maladministration with a simple Parking Citation [R3] where Petitioner was clearly denied his Due Process Rights in U.S. Amendment V [A279, AN2, C2, C9-10, C16, O1, P6, P15-16, P18, R20, R23, R42, R51, R54, R62-63] & U.S. Amendment XIV [A280-82, AN2, C2, C6, C9-10, C16, O1, P6, P11-12, P15-16, P18, R20, R23, R36, R42, R49, R51, R54, R62-63] with 1971 COV, Article I, Sections 3 [A302-03, AN3, C2-3, C9, C15-17, E7, E12, N2, P6, P19, R46, R57, R63] & 1971 COV, Article I, 11 [A304-06, AN2, C2, C6, C9-10, C16, O1, P6, P15-16, P18, R20, R23, R46, R54]. Petitioner adds 1971 COV, Article I, Section 3 because he has a State Right to:

“[Government] that is best which is capable of producing the greatest degree of **happiness** and **safety**, and most effectually secured against the danger of **maladministration**” or Petitioner being within “a majority of the community hath an *indubitable*,

*inalienable, and indefeasible right* to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal [A302-03, C15, P19-20, R46].”

Petitioner invoked his U.S. Amendments V & XIV with 1971 COV, Article I, Sections 3 & 11 Rights in the Fairfax County General District Court (herein and hereafter “FCGDC”), Circuit Court for Fairfax County (herein and hereafter “FCCC”), Court of Appeals of Virginia (herein and hereafter “COAV”), and SCV by:

- a) 9/12/2018 Timely-filed “Mechanics Affidavit” requesting a Court Date in the FCGDC [R7, R13];
- b) 11/13/2018 Timely-filed FCGDC to FCCC “Notice of Appeal – Criminal” requesting a *de novo* FCCC Appeal [R1];
- c) 1/23/2019 Timely-filed FCCC to COAV “Notice of Appeal” then Petition for Appeal [C1-18] requesting review in the COAV [R62-66]; and
- d) 2/26/2020 Timely-filed COAV to SCV “Notice of Appeal / 1/15/2020 [COAV] Oral Presentation Statement of Facts” [N1-5] then Petition for Appeal [P1-25] requesting review in the SCV.

Petitioner’s invoked 1971 COV, Article I, Section 3 Right has been continuous and uninterrupted in Seven Constitutions of Virginia [A400-01] since

1776 excepting it became 1870 COV, Article I, Section 5 [A289-90] for 32 years. Petitioner believed and still does believe that if the Virginia People have had a continuous and uninterrupted Right to “[Government] ... capable of producing the greatest degree of happiness and safety ...” since 1776 then on 1/29/1886 Carl Benz applied for a patent on a vehicle powered with a gasoline engine, how can Fairfax County Code §82-5-43 selectively infringe on Petitioner’s continuous and uninterrupted 1776 Right because of the 1886 invention of an automobile?

“(a) It shall be unlawful for a person, firm or corporation to service any motor vehicle stopped or parked on any public street or public right-of-way within the County, except for minor repairs as necessitated by an emergency. Emergency repairs constitute the least amount of immediate repair necessary for a vehicle to operate. Examples of repairs would be replacing a battery or changing a tire. Regularly required vehicle maintenance or complex vehicle repairs would not be considered emergency repairs [C15, R55].”

Petitioner had an August of 2018 emergency repair where “the least amount of immediate repair necessary for the vehicle to operate” was to replace the gasoline engine [R5, R11]. Petitioner lacked money for professional repairs in August of 2018 [R5, R11] so he completed these repairs himself over four days safely then has happily enjoyed an additional

approximately 55,000 miles of use in his repaired vehicle. Petitioner believed and still does believe “that Fairfax County Code §82-5-43 is unconstitutional with respect to the Virginia and U.S. Constitutions.” because Federal and State Rights (specifically his 1971 COV, Article I, Section 3 Right) are unenforced in Virginia. Quoted from [R20]. Virginia currently has a renewed Confederate Police Government in violation to the *U.S. Guarantee Clause*, the *U.S. Supremacy Clause*, and the Supreme Law of the Land in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891). Petitioner demands “Equal Justice Under Law” in this SCOTUS because in almost identical cases of State Courts of Last Resort, Petitioners were given Due Process according to U.S. Amendments V & XIV and favorable outcomes (at least Iowa and Wisconsin): See *Cooksey v. Cargill Meat Solutions Corporation*, 831 N.W.2d 94, 96, 101-102 (Iowa 2013) [A519-524]; and *Nigbor v. Department of Industry, Labor & Human Relations*, 120 Wis.2d 375, 355 N.W.2d 532, 535-36 (1984) [A594-598].

### STATEMENT OF FACTS

- 8/20/2018 – Parking Citation #121294762 [A34-38, R3, R8, R14] was issued while Petitioner repaired is vehicle [A47-48, R16-18].
- 9/12/2018 – Petitioner filed timely “Mechanics Affidavit [A38-43, R4-9, R10-15]” requesting a Court Date in the FCGDC [A42, R7, R13].

- 11/13/2018 – Petitioner was found “guilty as charged” in the FCGDC [A48-53, R19 at A49].
- 11/13/2018 – Petitioner filed timely FCGDC to FCCC “Notice of Appeal – Criminal [A28-32, R1]” for a *de novo* Appeal in the FCCC.
- 11/13/2018 – FCGDC generated controlling document “Disposition Order – Uniform Summons [A48-53, R19]” which identified the entity serving as the Prosecuting Authority as “*County of Fairfax* [R19 at A51].” *Roberson v. Commonwealth*, 279 Va. 396, 406, 689 S.E.2d 706, 712 (2010).
- 12/21/2018 – FCCC “Objection and Motion [A53-54, A60-107, R20-21, R26-59]” filed but not a document determinative as to the entity serving as the Prosecuting Authority. *Roberson* (*supra*). OBJECTION: “[Petitioner] cannot receive a fair and impartial trial for a Criminal Prosecution in a [Virginia] State or County Court [R20 at A54].” MOTION: “[Petitioner moves] to certify this question/case to the Supreme Court of Virginia for further certification to the Supreme Court of the United States if necessary [R20 at A54] – Whether or not Virginia Citizens have been effectively precluded from the selection of their State and County Judges contrary to the U.S. Guarantee Clause (Constitution of the United States, Article IV, Section 4; *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891)) [A58-59, A76-78, R24, R38].”

- **1/3/2019** – Petitioner was found guilty in the FCCC [R60 at A18].
- **1/11/2019** – Petitioner filed “Notarized Statement of Facts as an Affidavit with Attachment [A55-107, R22-25 refiling R26-35, R36-57, R58-59]” concerning the FCCC 1/3/2019 Trial but which was not a document determinative as to the entity serving as the Prosecuting Authority. Roberson (*supra*).
- **1/15/2019** – FCCC entered controlling document “Final Order [A16-19, R60-61]” which *sua sponte* identified by caption and where body never states “*County of Fairfax*” a new entity serving as the Prosecuting Authority replacing “*County of Fairfax*” with “*Commonwealth of Virginia* [R60 at A17].” Roberson (*supra*).
- **1/23/2019** – Petitioner filed timely FCCC to COAV “Notice of Appeal [A108-111, R62-64]” which: a) attached a copy [A16-19, R65-66] of the similarly-captioned [R62 at A108] 1/15/2019 FCCC “Final Order [A16-19, R60-61];” b) was served in accordance with RSCV Rule 5A:6(a) by “hand-deliver[y] to the Commonwealth Attorney’s Office *for* Prosecutor Maureen E. Cummins, VA Bar #85680, maureen.cummins@fairfaxcounty.gov ...[R64 at A110-111];” and c) stated in the “Notice of Appeal” body:
  - 1)“Petitioner raised the Objection that he could not receive a fair and impartial trial for a

criminal prosecution in a Virginia State or County Court because his State Rights are denied by the Allegiance of Virginia State and County Judges which is to the Police Witness for the Prosecution (not to the Virginia Citizen since Police endorse Virginia General Assembly Representatives who elect all Virginia Judges) and his Federal Rights (U.S. Amendment IV, V, & XIV Rights) are denied by the Supreme Court of Virginia which violates the U.S. Supremacy Clause routinely by following the Constitution of Virginia, Article VI, Sections 1 & 2 permitting interpretation of the U.S. Constitution/Federal Case Law by Supreme Court of Virginia Judges. ...[R62-63 at A109]"

2) "The [Petitioner] argued that *Fairfax County Code §82-5-43* is Unconstitutional with respect to the Constitution of Virginia, Article I, Section 3 ("that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration") and the Constitution of the United States, Article IV, Section 4 (U.U. Guarantee Clause) [R63 at A110]."

- 5/28/2019 – Petitioner filed timely COAV "Petition for Appeal with Objection and Motion Concerning the FCCC Record [A111-135, C1-18]" without any subsequent appearance from either the "*County of Fairfax*" or the "*Commonwealth of Virginia*."

- **10/10/2019** – COAV Order [A19-25, O1-4] *sua sponte* dismisses [Petitioner] v. Commonwealth of Virginia, COAV Record No. 0135-19-4 for “failure to name a necessary party” [O1 at A20] without any Appellee appearing to allege a Procedural Defect in Petitioner’s 1/23/2019 FCCC to COAV “Notice of Appeal [R62 at A108].”
- **10/21/2019** – Petitioner filed unopposed COAV “Motion for Leave to Amend Caption and Add Necessary Party to Appellant’s 5/28/2019 ‘Petition for Appeal with Objection and Motion Concerning FCCC Record’ in Advance of Consideration by a Three-Judge Panel [A135-147, M1-9].”
- **1/27/2020** – COAV “Final Order [A25-26, O5]” *sua sponte* dismissing [Petitioner] v. Commonwealth of Virginia, COAV Record No. 0135-19-4 and *sua sponte* denying Petitioner’s 10/21/2019 “Motion for Leave to Amend Caption and Add Necessary Party [A135-142, M1-6].”
- **2/26/2020** – Petitioner filed timely COAV to SCV “Notice of Appeal / 1/15/2020 [COAV] Oral Presentation Statement of Facts [A150-156, N1-5]” in [Petitioner] v. Commonwealth of Virginia, County of Fairfax, COAV Record No. 0135-19-4.
- **2/26/2020** – Petitioner filed timely “SCV Petition for Appeal [A156-182, P1-25]” with subsequent appearance of only “*Commonwealth of Virginia*” by 3/16/2020 “Brief in Opposition to Petition for Appeal



[A182-191, B1-8]” then “Replacement Brief in Opposition to Petition for Appeal [A182-191, RB1-9].”

- 1/11/2021 – SCV “Final Order [A26-27, S1]” in [Petitioner] v. Commonwealth of Virginia, Record No. 200331 where the SCV had *sua sponte* “refused” to review case for lack of jurisdiction citing Code of Virginia §17.1-410 (A)(1) & (B).

### DIRECT AND CONCISE ARGUMENT FOR ALLOWANCE OF THE WRIT

Petitioner adopts and incorporates all previous sections of this Petition for Writ of Certiorari by reference to ensure all his argument is before this SCOTUS.

The SCV denied Petitioner Due Process. But is there another State Court of Last Resort that has decided the Due Process Federal Question for a similar case of “failure to name a necessary party” in a way that conflicts with the SCV? See SCOTUS Rule 10(b) [A399-400].

First, Petitioner argues that the Supreme Courts of Iowa and Wisconsin at the very least considered such similar cases, reversed, and remanded. Cooksey v. Cargill Meat Solutions Corporation, 831 N.W.2d 94, 96, 101-102 (Iowa 2013) [A519-524] and Nigbor v. Department of Industry, Labor & Human Relations, 120 Wis.2d 375, 355 N.W.2d 532, 535-36 (1984) [A594-598].

More completely: *Cooksey v. Cargill Meat Solutions Corporation*, 831 N.W.2d 94, 96, 101-102 (Iowa 2013) [A519-24] citing: *Associated Growers' Co. of St. Louis v. Crowe*, 389 S.W.2d 395, 398-400 (Mo.Ct.App. 1965) [A507-10] quoting *Hood v. Nicholson*, 137 Mo. 400, 38 S.W. 1095, 1098 (1897) [A557]; *Nigbor v. Department of Industry, Labor & Human Relations*, 120 Wis.2d 375, 355 N.W.2d 532, 535-36 (1984) [A594-98]; *Hopper v. Indus. Comm'n*, 27 Ariz.App. 732, 558 P.2d 927, 932 (1976) [A558-59]; *D. C. Dep't of Admin. Servs. V. Int'l Bhd. Of Police Officers*, 680 A.2d 434, 438 (D.C. 1996) [A526-30]; *Klopfenstein v. Okla. Dep't of Human Servs.*, 177 P.3d 594, 597-99 (Okla.Civ.App. 2008) [A566-71]; *Skagit Surveyors & Eng'rs, LLC v. Friends of Skagit Cnty.*, 135 Wash.2d 542, 958 P.2d 962, 969 (1998) [A616-18]; and *ESG Watts, Inc. v. Pollution Control Board*, 191 Ill.2d 26, 245 Ill.Dec. 288, 727 N.E.2d 1022, 1024, 1028 (2000) [A533-35].

Second, Petitioner argues that SCV case law in *Roberson v. Commonwealth*, 279 Va. 396, 406, 689 S.E.2d 706, 712 (2010) shows that the 1/15/2019 FCCC "Final Order [A16-19, R60-61]" was clearly erroneous making the entity that served as the Prosecuting Authority Petitioner's case in the FCCC ambiguous between the "*County of Fairfax*" and the "*Commonwealth of Virginia*." Comparatively, the FCCC's fault in entering a clearly erroneous 1/15/2019 "Final Order [A16-19, R60-61]" eclipses any fault of Petitioner where Petitioner does not believe he has any fault. Virginia should abandon the doctrine of

Contributory Negligence and adopt the doctrine of Pure Comparative Negligence. If the Federal Rights of this SCOTUS are not strong enough to order such an alteration in Virginia because of Virginia's State Rights, Petitioner's invoked COV, Article I, Section 3 Right is strong enough because it is an *indubitable, inalienable, and infeasible right* to reform, alter, or abolish Virginia's Governments. This SCOTUS merely needs to enforce Petitioner's invoked COV, Article I, Section 3 Right.

Pure Comparative Negligence: Arizona (1984 – Sessions Law, Chapter 237) [A244-54]; Louisiana (1979 – Sessions Law, Act 431) [A341-46]; Mississippi (1910 – Sessions Law, Chapter 135) [A369-70]; New York (1975 – Sessions Law, Chapter 69) [A371-74]; Rhode Island (1971- Sessions Law, Chapter 206) [A381-82]; Washington State (1973 – First Extraordinary Session, Sessions Law, Chapter 138) [A450-51]; *Gustafson v. Brenda*, 661 S.W.2d 11, 12-13, 15-16 (1983) [A544-46]; *Hilen v. Hays*, 673 S.W.2d 713, 714, 720 (1984) [A548-550]; *Hoffman v. Jones*, 280 So.2d 431, 433-34, 439-40 (1973) [A550-56]; *Kaatz v. State of Alaska*, 540 P.2d 1037, 1040-41, 1049-51 (1975) [A560-66]; *Li v. Yellow Cab Co.*, 13 Cal.3d 804, 808-09, 828-30, 119 Cal.Rptr. 858, 532 P.2d 1226 (1975) [A571-77]; *Placek v. City of Sterling Heights*, 405 Mich. 638, 650-51, 677-79, 275 N.W.2d 511 (1979) [A603-07]; *Scott v. Rizzo*, 96 N.M. 682, 634 P.2d 1234, 1235, 1242 (1981) [A613-15]; and *United States v. Reliable Transfer Co., Inc.*, 421 U.S. 397 (1975) [A630].

But there is still another way for Virginia to adopt the doctrine of Pure Comparative Negligence. The 1971 COV violates the *U.S. Supremacy Clause* in two ways: 1) the 1971 COV, Article VI, Sections 1 & 2 empower the SCV with the ability to interpret the Constitution of the United States with all the Federal Rights in the *U.S. Bill of Rights*; and 2) the 1971 COV, Article VI, Section 7 nullifies the Supreme Law of the Land found in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) bringing to mind *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct 1401, 3 L.Ed.2d 5 (1958) and others. See complete list below. Because the 1971 COV, Article VI, Sections 1, 2, & 7 violate the *U.S. Supremacy Clause*, these Constitutional sections are null and void. Nulling and voiding 1971 COV, Article VI, Section 7 means all the Virginia State, County, and City Judges are illegitimate. Because these Judges have ignored 1971 COV, Article I, Section 2 that the People are the Source of Power and have instead given that Power to the Virginia Police, all Virginia State, County and City Judges are incompetent. There must be a section of the 1971 COV that Virginia Judges must be removed by impeached is null and void as well. The Virginia Governor is chosen in voting booths all across the State of Virginia. You need to impeach to remove the Virginia Governor. The Virginia State, County, and City Judges are each "hired" in one joint or two separate meetings of the Virginia General Assembly. Either all Virginia State, County, and City Judges must be "fired" in one joint or two separate meetings of the Virginia General

Assembly as ordered by this SCOTUS or this SCOTUS could order that the Virginia State, County, and City Judges just cease to hear/interpret any more Virginia cases until these illegitimate and incompetent Judges are replaced by Virginia Judges elected by the People. Then Virginia Judges will have an ALLEGIANCE to the People. Police Reports must become available to the Public and Accused on demand so that Defendants may properly defend themselves using Rights. No Police Officer should make any arrests until he/she memorizes verbatim the Federal and State Rights for the jurisdiction where he/she will police and be periodically certified on his knowledge of those Federal and State Rights.

Now then, there are currently no more Virginia Judges to hear my case that Virginia should abandon the doctrine of Contributory Negligence and adopt the doctrine of Pure Comparative Negligence to confuse the issue except for the Justices of this SCOTUS. Will this SCOTUS hear me on this issue?

Violations of the U.S. Supremacy Clause: *Ableman v. Booth*, 62 U.S. (21 How.) 506 (1859) [A505-07]; *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, 5 L.Ed. 257, 265-68, 376, 378, 381, 404, 430, 447-448 (1821) [A516-18]; *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct 1401, 3 L.Ed.2d 5 (1958) [A524-26]; *Marbury v. Madison*, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60 (1803) [A579-81]; *Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304 (1816) [A581-83]; *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819) [A584-85]; *Obergefell v. Hodges*,

576 U.S. 644, 125 S.Ct. 2584 (2015) [A598-602]; Texas v. White, 74 U.S. (7 Wall.) 700 (1869) [A622-23]; United States v. Peters, 9 U.S. (5 Cranch) 115 (1809) [A627-30]; Ware v. Hylton, 3 U.S. 199, 199-207, 285, 3 Dall. 199, 1 L.Ed. 568 (1796) [A631-32], and “Restrictions on the Authority of the Several States,” Federalist Papers, No. 44, 1/25/1788 [A394-99].

Third, Petitioner was unopposed in the COAV. The COAV should respect the fact that it is neutral. If neither the “*County of Fairfax*” nor the “*Commonwealth of Virginia*” bothered to appear in the COAV after Petitioner’s proper service of his COAV Documents on them, the argument that Petitioner’s 1/23/2019 FCCC to COAV “Notice of Appeal” has a Procedural Defect has been WAIVED. This esoteric question actually comes from Appellate Judge Koontz concerning Roberson v. Commonwealth on or about 3/7/2010, “Roberson v. Commonwealth, or Will Somebody Please Answer Justice Koontz’s Question?” Petitioner is surprised at the COAV for *sua sponte* raising other argument [O3] like that in Carraway v. Hill, 265 Va. 20, 24, 574 S.E.2d 274, 275-76 (2003) [A513-16] and Doud v. Commonwealth, 282 Va. 317, 321-22, 717 S.E.2d 124 (2011) [A532]. The COAV Judges are illegitimate and incompetent clearly without ALLEGIANCE to the People.

• Cooksey v. Cargill Meat Solutions Corporation, 831 N.W.2d 94, 96, 101-102 (Iowa 2013) [A519-524]:

Petitioner Cooksey failed to name "Employment Appeal Board" or "EAB" in the caption to his Petition for Judicial Review of Agency Action pursuant to Iowa Administrative Procedure Act, Chapter 17A.19(2) [A339-341]. His Petition body stated,

"This action is brought by Petitioner, Jeremie J. Cooksey, pursuant to Chapter 17A.19(2) of the Iowa Administrative Procedure Act ... for review of the final agency action of the EMPLOYMENT APPEAL BOARD asset forth in the Decision filed 3/7/2011 ... AND, as FINALLY determined in the Employment Appeal Board Decision of April 4, 2011, denying Petitioner's Application for Rehearing"

Cooksey attached a copy of the final decision to the petition. The petition and its attachment were timely served on the EAB.

"The district court concluded that it was [fatal] and dismissed the appeal. The court of appeals affirmed. For the reasons expressed below, we vacate the decision of the court of appeals, reverse the decision of the district court, and **remand** the case for further proceedings."

In Petitioner's case herein, Petitioner failed to name "County of Fairfax" in his 1/23/2019 FCCC to COAV "Notice of Appeal." His Notice of Appeal body stated,

“The Defendant/Appellant argued that *Fairfax County Code §82-5-43* is Unconstitutional with respect to the Constitution of Virginia, Article I, Section 3 (“that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration”) and the Constitution of the United States, Article IV, Section 4 (U.U. Guarantee Clause) [R63 at A110].”

Petitioner attached a copy of the 1/15/2019 FCCC “Final Order [R65-66] to his Notice of Appeal. The Notice of Appeal and its attachment were timely served on the Fairfax County Prosecutor where there is a stamp on the Notice of Appeal “Received ‘2019 JAN 23 AM 9:29 Fairfax Commonwealth’s Attorney’s Office” where the specific County of Fairfax Prosecutor was simultaneously an Assistant Commonwealth’s Attorneys The Notice of Appeal has a Certificate of Service stating “hand delivered to the Commonwealth’s Attorney’s Office for Prosecutor Maureen E. Cummins, VA Bar #85680, maureen.cumminsfairfaxcounty. gov, 4110 Chain Bridge Road, Suite #114 Fairfax, Virginia, 22030, 703-246-2776.”

The COAV concluded that it was fatal and dismissed the appeal. The SCV affirmed. For the reasons of “Equal Justice Under Law,”



Petitioner believes this SCOTUS ought to vacate the decision of the court of SCV, reverse the decision of the COAV, and **remand** the case for further proceedings which ought to include remand to the FCCC for an Amended Final Order with 30 days in accordance to RSCV 5A:6(a) for Petitioner to file an Amended Notice of Appeal.

The only difference is that Petitioner did not file an Application for Rehearing in the SCV and there is a Court under the "district court" to which the Iowa Supreme Court remanded. For further proceedings

• *Nigbor v. Department of Industry, Labor & Human Relations*, 120 Wis.2d 375, 355 N.W.2d 532, 535-36 (1984) [A594-598]:

"... This decision was appealed to the Commission which affirmed the examiner's order on August 27, 1981. [Petitioner] Nigbor commenced an action appealing the Commissioner's decision.

"The caption shown on the summons and complaint named DILHR as a defendant but did not name the Commission. The body of the complaint set forth the action taken by the Commission in affirming the examiner's findings. The face of the original summons shows that the Commission acknowledged receipt of a copy of the summons and complaint on September 25, 1981. DILHR moved to

dismiss the complaint on the ground that the court lacked personal and subject matter jurisdiction because the Commission was not named as a party required by statute. ... However, this court has previously held that a caption is not a part of a pleading and that the nature of an action must be determined from the allegations of a pleading rather than its caption. ... Even though DILHR rather than the Commission was named in the caption, The body of Ms. Nigbor's complaint clearly showed that her grievance was against the Commission. ... The summons and complaint were correctly filed in Dane county circuit court. The trial court had dismissed the action based on the improper caption. We reversed, stating:

“The defects alleged here are of a hypertechnical nature, and the entire tenor of modern law is to prevent the avoidance of adjudication on the merits by resort to dependency on nonprejudicial and nonjurisdictional technicalities.”

*Id.* at 449, 260 N.W.2d 602. We concluded that DILHR had received notice of the action, was completely aware of the complaint's intensions, and was in way misled by the defect in the caption. *Id.* at 453, 260 N.W. 2d.”

The fact that there is no State Violation Code Section for “Maintenance of Vehicle Parked in Street” in the Code of Virginia, the “*Commonwealth of Virginia*” cannot be a Prosecuting Authority for this charge. Fairfax County Code §82-5-43 is only a Local violation not a State violation. The “*County of Fairfax*” and the “*Commonwealth of Virginia*” were both completely aware of Petitioner’s intentions and in no way misled in the alleged defect in the Notice of Appeal’s caption. Again, the Notice of Appeal has the stamp “Received ‘2019 JAN 23 AM 9:29 Fairfax Commonwealth’s Attorney’s Office” and it was “*for*” an attorney therein with e-mail address [maureen.cummins@fairfaxcounty.gov](mailto:maureen.cummins@fairfaxcounty.gov).

- *Roberson v. Commonwealth*, 279 Va. 396, 406, 689 S.E.2d 706, 712 (2010) [A607-613]:

Roberson states [A612]:

“[t]he controlling documents for determining what entity served as the prosecuting authority in a criminal trial are the instrument, that is the *summons* [R19], warrant, or indictment, under which the charge is brought and the *orders of conviction and sentencing that conclude the trial* [R60-61, R65-66]” [B5-6, O2 but *Roberson* continues]. In this case, each of those documents clearly indicates that the City [which Roberson failed to name on his Notice of Appeal] was the prosecuting authority and that Roberson was charged with a violation

of VBCC §21-1 [which is not the case in Petitioner's FCCC Case No. MI-2018-1766 where the 11/13/2018 FCCC "Disposition Order – Uniform Summons" and the 1/15/2019 FCCC "Final Order" identified different entities serving as the Prosecuting Authority]."

The 1/15/2019 FCCC "Final Order [R60-61]" identifying the "*Commonwealth of Virginia*" as the Prosecuting Authority created ambiguity because the other controlling document as to the entity serving as the Prosecuting Authority, the "Disposition Order – Uniform Summons [R19]," identified the "*County of Fairfax*." The 1/15/2019 was clearly erroneous. See United States v. United States Gypsum, Co., 333 U.S. 364, 394-395 (1948) [A630-31]. Petitioner does not even believe the COAV can decide this can without the COAV itself remanding to the FCCC for an Amended Final Order which in turn would give Petitioner 30 days to file an Amended Notice of Appeal in accordance with RSCV 5A:6(a). The charge "Maintenance of Vehicle Parked on Street" is not a violation in the Code of Virginia so what can the COAV decide without an Amended Final Order? The FCCC clearly made a mistake and the 1/15/2019 FCCC "Final Order [R60-61]" is clearly erroneous.

- Finally, no Brief in Opposition was filed in the COAV. Petitioner was unopposed. Did the "*County of Fairfax*" and the "*Commonwealth of Virginia*" waive the argument that the Notice of Appeal has a Procedural Defect? This esoteric question actually

comes from Appellate Justice Koontz concerning Roberson v. Commonwealth on or about 3/7/2010. It is on the web under "Roberson v. Commonwealth, or Will Somebody Please Answer Justice Koontz's Question?" I will argue that both the "**County of Fairfax**" and the "**Commonwealth of Virginia**" waived by failing to appear their opportunity to allege Petitioner "failed to name a necessary party."

- Comparatively in the Contributory Negligent State of Virginia, look for ways to foil Justice and avoid liability with technicalities. Like a child that won't admit he/she made a mistake. Judge Mann, can we calla spade a spade? You made this situation occur and you did it deliberately. Can't we finally grow beyond this petty nonsense and bring Justice to Virginia? Virginia needs to focus on the People not the Police. Virginia needs to adopt the doctrine of Pure Comparative Negligence.

- The last time I filed Petitions in the SCOTUS, it was in Mercer v. Vega, et al., Case No. 20-348. I finished my Appendix then ran out of words writing my Facts Section like four or five days before filing. I sent Justice John G. Roberts, Jr. and the Virginia State Police an Application to exceed the 9,000 words but much less than the SCOTUS Rule 33.1(d) 15 days. I filed and sent the Virginia State Police a copy on 7/2/2020 with like 13,500 words. Clerk Scott S. Harris via Lisa Nesbitt gave me 60 more days on 7/14/2020. I had told the COAV that I was going to file a SCOTUS

Petition at my Oral Presentation in this case on 1/15/2020. When I went to file on 9/11/2020, the Virginia State Police were there ready for me dressed like SCOTUS Guards. I was told to file at the Southern Guard Booth behind the SCOTUS Building. Thereat after I left, my 648-page Authorized Appendix was stripped off my Petition and a prepared 12-page Appendix was substituted before my Petition made it to the SCOTUS Clerk. I didn't realize what had happened for about a month. I wrote an Affidavit [A356-67] and so did the woman I was with on 9/11/2020 when I filed wrote an Affidavit [A356-59, A368-69]. I think the Virginia State Police were trying to prevent my filing information about the Jury Tampering Expert [A350-55] they had used against me on 3/26/2007 and 3/27/2007 to Falsely Convict me of Assaulting Virginia State Trooper Kenneth S. Houtz. His name was Jack Verona and he was CIA, DIA, and the husband of Juror Esther Verona in FCCC Case No. MI-2006-2302 [A585-87]. I finally had that Jury investigated in August of 2020. On 9/11/2020, I also gave this SCOTUS Jurisdiction via 28 U.S.C. §1257(a) (State Courts; Certiorari) and 28 U.S.C. §1367(a) (Supplemental Jurisdiction) [A349-50] to help move this case herein out of the SCV. All I know is that around 2:30 pm, This SCOTUS denied the Petition for Rehearing in Case No. 20-348 and practically simultaneously the SCV sent me an e-mail that this case had been denied in the SCV. I wasn't going to look a gift horse in the mouth so I never filed a Petition for Rehearing in the SCV.

But this Confederate Police Government attracts Whit Supremacists. There was chaos in Charlottesville, Virginia on August 11th & 12th of 2017 [A418-19]. Then the FBI tried to send out warnings on 1/5/2021 [A314-322] before the Capitol Insurrection on 1/6/2021 [A331-39]. The U.S. Congress has a Constitutional Duty of Care to the States through the U.S. Guarantee Clause [A283]. The U.S. Congress failed miserably in this Guarantee of a Republican Form of Government in Virginia from 1902 to present. The U.S. Senate even agreed that Trump was more than likely than not guilty of inciting the Capitol Insurrection but that Senate left Trump enough bullets to fight another day [A408-418]. But America is becoming scary. The GOP [A322-330] should not be able to use a *procedural filibuster* [A323] to continue to force the U.S. Congress to continue to fail at its Constitutional Duty of Care to the Guarantee Republican Governments for the States. I am in a position today to point out that the U.S. Congress has a Duty of Care to Guarantee the States Republican Forms of Government, that the U.S. Congress has failing miserably at this Duty of Care to the States, and that empowering a Commission to thoroughly investigate the Causes of the 1/6/2021 Insurrection have been a good idea in order to exercise the derelict U.S. Guarantee Clause which ultimately has to save the Union. For these reasons, I say that **but for the procedural filibuster** [A323], there would be a Commission to investigate the Causes of the of the 1/6/2021 Riots and the U.S. Guarantee Clause would

exercised as it is the Duty of the U.S. Congress. Whether or not the filibuster is constitutional is submitted for review?

## CONCLUSION

Petitioner's 1/23/2019 FCCC to COAV "Notice of Appeal" vested jurisdiction in the COAV because it vested Jurisdiction in similar cases of Iowa and Wisconsin as determined by these State Courts of Last Resort. Petitioner has a right to "Equal Justice Under Law." This appeal ought to be granted and his case ought to be remanded back to the FCCC where that Court should enter an Amended Final Order giving Petitioner 30 days to file an Amended Notice of Appeal in accordance with RSCV Rule 5A:6(a) [A180, A388, P23]. However, the current Constitution of Virginia adopted in 1971 is in violation of the U.S. Supremacy Clause in Article VI, Sections 1, 2, & 7 and then with regard to the necessity of impeachment as the removal method of Virginia State, County, and City Judges. This SCOTUS ought to enforce Petitioner's Constitution of Virginia, Article I, Section 3 *indubitable, inalienable, and indefeasible* Right to reform, alter, or abolish Virginia Governments: 1) The Virginia General Assembly ought to be ordered to dismiss all Virginia State, County, and City Judges as illegitimate and incompetent for failure to enforce Constitution of Virginia, Article I, Section 2; 2) The Virginia General Assembly ought to organize General



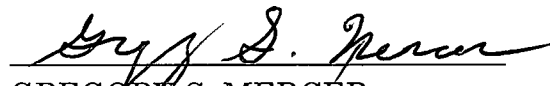
Elections for all Judicial Vacancies created by the previous statement; 3) The General Assembly ought to organize a Virginia Constitutional Convention to draft a new Constitution of Virginia abandoning current Article VI, Sections 1, 2, & 7 with replacement consistent with the U.S. Supremacy Clause, the U.S. Guarantee Clause, and the Supreme Law of the Land found in Duncan v. McCall, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) with that new Constitution submitted to the Citizens of Virginia for ratification; 4) Petitioner's Virginia Criminal Record ought to be expunged based on Petitioner's oath that it contains False Convictions; 5) Petitioner ought to be refunded all Virginia Taxes he has paid to Virginia since 2003 which updated figure can be found on [A130-31, C15 - \$164,628.61]; 6) Virginia Police Reports ought to be disclosed to the Public on demand; 7) Virginia Police Officers ought to memorize verbatim all Federal and State Rights for the jurisdiction wherein they will enforce the law with periodically recertification of their Rights' knowledge and with Certification Records available for Public Inspections; 8) any remands of Petitioner's appeal ought to be stayed until current Fairfax County Judges are replaced with Generally Elected Judges; 9) Virginia Statute §17.1-410(A)(1) & (B) ought to be declared unconstitutional with respect to the Federal Due Process Rights of U.S. Amendments V & XIV; 10) Virginia Statute §2.2-3706(A)(1) & (B)(1) ought to be declared unconstitutional with respect to the U.S. Guarantee Clause; 10) Virginia ought to be ordered to adopt a

doctrine of Pure Comparative Negligence due simply to the enforcement herein of Petitioner's Constitution of Virginia, Article I, Section 3 *indubitable, inalienable*, and *indefeasible* Right to reform alter, or abolish Virginia Governments; 11) Fairfax County Code §82-5-43 ought to be declared unconstitutional with respect to the Constitution of Virginia, Article I, Section 3; and 12) the U.S. Congress ought to be advised that Congressional use of the filibuster is unconstitutionally interfering with Congress's Duty of Care to the States with respect to the U.S. Guarantee Clause.

### 28 U.S.C. §1746 DECLARATION / SIGNED

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Respectfully Submitted,  
On the 10th day of June, 2021

  
GREGORY S. MERCER, *pro se*  
3114 Borge Street  
Oakton, Virginia 22124  
202-431-9401

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