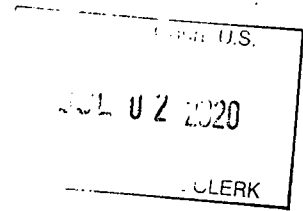


20.348
No. 20-

ORIGINAL

In The
Supreme Court of the United States



GREGORY S. MERCER,

Petitioner,

vs.

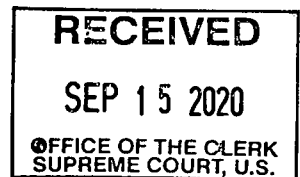
E. A. Vega, et al.

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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



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SUPREME COURT U.S.
POLICE OFFICE

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TB468

QUESTIONS PRESENTED FOR REVIEW

SCOTUS Rule 10(a) – Whether or not a **Circuit Split** has arisen between the Fourth Circuit and other Circuits over the interpretation of whether crimes allegedly “committed on occasions different from one another” [See 18 U.S.C. §924(e)(1)] become ***simultaneous*** crimes if the directly-associated arrest warrants for those ***sequential*** alleged crimes were sworn out and/or served ***simultaneously***.

SCOTUS Rule 10(a) – Whether or not a **Circuit Split** has arisen between the Fourth Circuit and both this SCOTUS and the Fourth Circuit itself over the Federal Court Practice (FRCP Rule 56; U.S. Amendment VII Right to Trial by Jury) of viewing all facts in a Summary Judgment Proceeding and drawing any justifiable inferences from those facts in the light most favorable to the non-moving party when deciding if there exists genuine issues as to any material fact requiring a Trial by Jury.

SCOTUS Rule 10(c) – [Petitioner] moves this [SCOTUS] as he did the [VAED & Fourth Circuit] for a Declaratory Judgment that Virginia is in violation of the U.S. Guarantee Clause so [the U.S.] Congress might act by applying the U.S. Guarantee Clause against Virginia’s 1971 Constitution of Virginia, Article VI which establishes an Unrepublican Form of Government because Sections 1 & 2 are in violation of the U.S. Supremacy Clause and Section 7 is in violation of *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891).

SUBSIDIARY QUESTIONS FAIRLY INCLUDED

(FOURTH CIRCUIT DOCUMENT #10 – Pgs. 1, 3)

SCOTUS Rule 14.1(a) – Whether or not the [VAED] Abused its Discretion in granting Summary Judgment on the entire case after discussing Summary Judgment on only one of the two police officers [VSP Trooper Houtz & VSP Sergeant Allander] and only one of the three [6/1/15 false] warrants.

SCOTUS Rule 14.1(a) – Whether or not an Evasive Defendant State Police Officer is unlawful using the County Criminal Justice System and his State Police Force to effect an advantage in a Federal Civil Action simply because [Plaintiff / Appellant] had him privately served a Summons with Complaint [in a 3/6/15-filed VAED Civil Action].

SCOTUS Rule 14.1(a) – [Plaintiff / Appellant] moves this [Fourth Circuit] as he did the [VAED] for a Declaratory Judgment that Virginia is in violation of the U.S. Guarantee Clause so [the U.S.] Congress might act by applying the U.S. Guarantee Clause against Virginia's 1971 Constitution of Virginia, Article VI which establishes an Unrepublican Form of Government because Sections 1 & 2 are in violation of the U.S. Supremacy Clause and Section 7 is in violation of Duncan v. McCall, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891).

SCOTUS Rule 14.1(a) – Whether or not the VAED's 5/24/19 Order was Unconstitutional because it annulled Appellant's *indefeasible* Constitution of

Virginia, Article I, Section 3 Right to reform, alter, or abolish the Virginia Government(s).

(VAED DOCUMENT #35 – Pages 5-6, 49)

SCOTUS Rule 14.1(a) – Plaintiff's 4/16/18 First Amended Complaint has two errors in Paragraph 16 which he moves this [VAED] for Leave to [C]orrect through Amendment herein which, also by Leave of [VAED], refers back to the original Complaint's 3/28/18 filing date:

“16. Defendant knew that Plaintiff's attempts to effect service on the elusive litigant in the unrelated previous civil matter were not violations of any law, nor could they reasonably be construed as such, and thus Defendant did not have probable cause to believe that Plaintiff [not ‘Defendant’] committed any criminal offense when Defendant [not ‘he’] made statements that probable cause existed for warrants on the above-referenced charges.”

SCOTUS Rule 14.1(a) – Plaintiff moves this [VAED] for a Declaratory Judgment that Virginia is in violation of the U.S. Guarantee Clause so [the U.S.] Congress might act by applying the U.S. Guarantee Clause against Virginia's 1971 Constitution of Virginia, Article VI which establishes an Unrepublican Form of Government because Sections 1 & 2 are in violation of the U.S. Supremacy Clause and Section 7 is in violation of Duncan v. McCall, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891).

SCOTUS Rule 14.1(a) – Plaintiff moves this [VAED] for Sanctions against defendant Vega in the amount of \$145,505.48 (Virginia Taxes paid since 12/03) or \$25,924.56 (Virginia Taxes paid since 6/1/15) at the [VAED's] discretion [add to each amount another year of Real Estate Taxes since 5/22/19 or \$5,887].

LIST OF PARTIES

- 1) Gregory Shawn Mercer, Petitioner, *pro se*, is a citizen and resident of Virginia living at 3114 Borge Street, Oakton, Virginia, 22124, gregorysmcercer@gmail.com, 202-431-9401.
- 2) Eliezel A. Vega, Respondent, is a citizen and resident of Virginia to the best information of Petitioner on or about 4/16/18 and is represented by the Virginia Attorney General. Herein, E.A. Vega is referred to as **“Respondent”** or **“Respondent Vega.”** E. A. Vega is a Respondent in his individual capacity based on serving as a Virginia State Police (herein and hereafter **“VSP”**) Special Agent on or about 6/1/15.

Respondent's Attorney in the VAED (after a 6/14/18 Appearance) and in the Fourth Circuit was Sandra Snead Gregor, Esquire (VSB No. 47421), Assistant Attorney General, Office of the Virginia Attorney General, 202 North 9th Street, Richmond, Virginia, 23219,

sgregor@oag.state.va.us, (804)-786-1586
(Telephone), (804)-371-2087 (Facsimile).

- 3) Dawson, P.L.C. Respondent, is the firm Petitioner contracted with for representation on 3/6/18 with what became VAED Case No. 1:18-cv-346-LO-TCB on and after 3/28/18. Herein, Dawson, P.L.C. is referred to as “**Dawson, P.L.C.**” Petitioner paid SW Dawson who works at Dawson, P.L.C. \$22,500 on 3/6/18 for Dawson, P.L.C. to “put forth its best effort for a successful resolution of [Petitioner’s] pending legal matters.” Herein, SW Dawson is referred to as “**SW Dawson.**” The Appendix has in Fourth Circuit DOCUMENT #10 on pages 66-73 an “Affidavit of Appellant Gregory Shawn Mercer” with attachments including the 3/6/18 “Fee Agreement” which further explain that Dawson, P.L.C. through SW Dawson did not “put forth its best effort for successful resolution of” VAED Case No. 1:18-cv-346-LO-TCB.

After losing in a Summary Judgment Proceeding on 4/24/19 where Petitioner’s *complete* Disputed Statement of Facts was not presently timely in the VAED by Dawson P.L.C., Petitioner was forced to ask SW Dawson to withdraw on 5/22/19 in order that Petitioner could file his *pro se* FRCP Rule 59 Motion that SW Dawson refused to file while representing Petitioner. SW Dawson described Petitioner’s FRCP Rule 59 Motion as “rife with irrelevant and demonstrably incorrect information” and

impeached it as “objectively frivolous” thus “not a pleading counsel would be ethically permitted to file.” SW Dawson encouraged Petitioner to file his FRCP Rule 59 Motion on the 29th day which would have been untimely by one day. Petitioner’s legal malpractice action against Dawson, P.L.C. with vicarious liability or other liability theory to reach SW Dawson accrues if Petitioner wins this appeal in the SCOTUS.

Justice demands SW Dawson explain himself to Petitioner or face Sanctions of some sort. Petitioner herein moves this SCOTUS for Sanctions against Dawson, P.L.C.. Petitioner paid \$7,000 (for a 7/5/07 Forensic Tape Examination Expert’s Report), \$2,625 (for a 5/4/16 Forensic Tape Examination Expert’s Certified Report); plus \$22,500 (for the 3/6/18 Fee Agreement); plus \$505 (5/24/19 Fourth Circuit fee); plus \$1,762.50 (August of 2019 Professional Investigation of the 3/26/07 to 3/27/07 Jury for Fairfax County Circuit Court Case No. MI-2006-2302); plus \$300 (SCOTUS fee); plus copying/printing fees still being determined (approximately \$2,500) or \$37,192.50. During the delay, experts have retired/died and been or might need to be replaced.

SW Dawson’s office appears on VAED DOCUMENT #27-1 as 999 Waterside Drive, Suite 2525, Norfolk, Virginia 23510 but DAWSON, P.L.C. has a P.O. Box, Norfolk, Virginia, 23501, swd@dawsonplc.com, 757.282.6601 (Telephone), and 757.282.6617

(Fax). Petitioner will have or already has served three copies of this Petition for Writ of Certiorari on Dawson, P.L.C. by Private Process Server on or about 7/2/20. If this SCOTUS dismisses this Respondent, Petitioner moves this SCOTUS dismiss “without prejudice” so that Petitioner doesn’t have issues pursuing any legal malpractice cause of action he has at the conclusion of this appeal in lieu of reasonable Sanctions herein moved which this SCOTUS may or may not grant.

- 4) The Honorable Mark Herring, Respondent, 202 North 9th Street, Richmond, Virginia, 23219, mailoag@oag.state.va.us, (804)-786-2071. In accordance to SCOTUS Rules 14.1(e)(v) & 29.4(c), Petitioner states, “**28 U.S.C. §2403(b) may apply.**” 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 that neither the U.S. District Court for the Eastern District of Virginia (herein and hereafter “VAED”) nor the U.S. Court of Appeals for the Fourth Circuit (herein and hereafter “**Fourth Circuit**”) *certified* to the Virginia Attorney General the fact that the constitutionality with respect to the Constitution of the United States of the 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 were drawn into question previously in either court for *Mercer v. Vega*, VAED, Case No. 1:18-cv-346-LO-TCB (5/24/19); **Fourth Circuit**, Case No. 19-1584 (2/3/20).

CORPORATE DISCLOSURE STATEMENT

Petitioner's previous **DOCUMENT #12** filed 7/22/19 (Disclosure of Corporate Affiliations) in *Mercer v. Vega*, **Fourth Circuit**, Case No. 19-1584 (2/3/20) stated that there is no parent corporation nor any publicly held company that owns 10% of anything associated with *pro se* Petitioner. But Petitioner has a mortgage. Petitioner spoke with a SCOTUS Clerk on 4/20/20 for further direction. Since Petitioner is not a corporation, he has no corporate disclosures to make.

DIRECTLY RELATED FEDERAL COURT INFORMATION

(• - SEE APPENDIX FOR FULL TEXT)

Gregory S. Mercer v. E. A. Vega, VAED,
CASE NO. 1:18-cv-346-LO-TCB (5/24/19)

DOCUMENT #1 filed 3/28/18:
COMPLAINT

•**DOCUMENT #3** filed 4/3/18:
ORDER (RE: Dismissed Dkt. #1 Without Prejudice)

•**DOCUMENT #4** filed 4/16/18:
FIRST AMENDED COMPLAINT (Filed within 30 days after Dkt. #3)

•**DOCUMENT #15** filed 7/16/18:
ORDER (Set Virginia Limitations Precedent)

DOCUMENT #19 filed 3/15/19:
MOTION for SUMMARY JUDGMENT (**MSJ**)

DOCUMENT #20 filed 3/15/19:

MEMORANDUM IN SUPPORT OF MSJ

• **DOCUMENTS #27** filed 3/27/19:

MEMORANDUM IN OPPOSITION TO MSJ

• **DOCUMENTS #27-1** filed 3/27/19:

12/12/18 DEPOSITION OF E.A. VEGA

DOCUMENT #28 filed 4/2/19:

REPLY BRIEF SUPPORTING MSJ

• **DOCUMENT #29** filed 4/24/19:

MEMORANDUM OPINION (RE: MSJ)

• **DOCUMENT #30** filed 4/24/19:

ORDER (RE: MSJ)

• **DOCUMENT #31** filed 4/25/19:

JUDGMENT (RE: #30)

• **DOCUMENT #34** filed 5/22/19:

ORDER GRANTING MOTION to WITHDRAW

DOCUMENTS #35, #35-1, #35-2, & #35-3 filed
5/22/19:

FRCP RULE 59 MOTION (RE: #29 to #31)

THREE ADDITIONAL MOTIONS

• CASE LAW CITED IN FRCP RULE 59

MOTION / THREE ADDITIONAL
MOTIONS

• DISPUTED STATEMENT OF FACTS

(VAED Dkt. #35 on PAGES H6-49)

• AFFIDAVITS AND OTHER VERIFIED

(*CERTIFIED*) EVIDENCE

DOCUMENT #39 filed 5/24/19:
MOTION/ERRATA SHEET (RE: #35)

•**DOCUMENT #40** filed 5/24/19:
ORDER (RE: #35)

DOCUMENT #41 filed 5/24/19:
NOTICE OF APPEAL (RE: #29 to #31)

DOCUMENT #48 filed 6/3/19:
AMENDED NOTICE OF APPEAL (RE: #40)

Gregory S. Mercer v. E. A. Vega, **FOURTH**
CIRCUIT, CASE NO. 19-1584 (2/3/20)

DOCUMENT #3 filed 5/31/19:
INFORMAL BRIEFING ORDER

DOCUMENT #8 filed 6/10/19:
MOTION to EXTEND DEADLINE / CLARIFY
IF ALL ISSUES IN VAED WERE COVERED
BY VAED'S FINAL ORDER (VAED Dkt. #40)

DOCUMENT #10 filed 7/15/19:
INFORMAL OPENING BRIEF & AFFIDAVIT

•CASE LAW USED FOR JUSTIFYING VAED
ORDER AND MEMORANDUM
OPINION (RE: VAED #29 to #31)
(PAGES J3-4, 17-18, 33-34, 36, 46-54,
62)

•AFFIDAVIT OF APPELLANT MERCER
(PAGES J66-73)

DOCUMENT #12 filed 7/22/19:

DISCLOSURE OF CORPORATE
AFFILIATIONS

DOCUMENT #13 filed 7/24/19:
ERRATA SHEET (**RE: #10**)

DOCUMENT #14 filed 7/30/19:
INFORMAL RESPONSE BRIEF

DOCUMENT #15 filed 8/1/19:
OBJECTION / MOTION for ENLARGEMENT
OF TIME

DOCUMENT #17 filed 8/30/19:
INFORMAL REPLY BRIEF (Restricted ??)

- CASE LAW CITED IN BRIEF
- NEWLY DISCOVERED AUGUST-OF-2019
EVIDENCE THAT HUSBAND OF
JUROR IN FCCC CASE NO. MI-2006-
2302 ON 3/26-27/2007 WAS A
CONGRESSIONALLY-RECOGNIZED
CIA SOURCE WORKING FOR THE
DEFENSE INTELLIGENCE AGENCY
IN PARAPSYCHOLOGY AND MIND
CONTROL (PAGES L22-24)
- DISPUTED STATEMENT OF FACTS (From
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- ARGUMENT THAT VIRGINIA DOES NOT
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MAGISTRATES ISSUING WARRANTS
TO VIRGINIA POLICE BECAUSE
VIRGINIA HAS A CONFEDERATE
POLICE GOVERNMENT WHICH IS

NOT A REPUBLICAN FORM OF
GOVERNMENT VIOLATING THE U.S.
GUARANTEE CLAUSE (PAGES L54-
61)

- ARGUMENT THAT VSP OFFICER'S HIGH
SCHOOL DIPLOMA REQUIREMENT
CLEARLY ESTABLISHES
PETITIONER'S U.S. AMENDMENT IV
& XIV RIGHTS BASED ON NATIONAL
AND VIRGINIA HIGH SCHOOL
DIPLOMA STANDARDS DESPITE
VIRGINIA'S SYSTEMATIC LACK OF
ENFORCEMENT OF STATE AND
FEDERAL CITIZENS' RIGHTS (PAGES
L62-77) INCLUDING:

America – Pathways to the Present by

Andrew Cayton, Elisabeth Israels
Perry, Linda Reed, and Alan M.
Winkler, Copyright 2005, Pearson
Prentice Hall, Pages 12-13, 120-
121, 161-162

Government in America – People,

Politics, and Policy by George C.
Edwards, III, Martin P.
Wattenberg, and Robert L.
Lineberry, AP Edition, Copyright
2011, Pearson Education, Inc.,
Pages 19, 32-33, 47-49

8/2/19 LETTER TO CONGRESS SEEKING
BILL SPONSORS TO VIRGINIA'S 13-
MEMBER CONGRESSIONAL

DELEGATION OF SENATORS AND
REPRESENTATIVES (LAST 23 OF 24
PAGES OF EXHIBITS IN
DOCUMENT L & See H49, L11, & L54)

- 8/7/19 LETTER FROM CONGRESSMAN
DENVER RIGGLEMAN TO
PETITIONER (LAST PAGE OF
EXHIBITS IN DOCUMENT L)

DOCUMENT #18 filed 9/10/19:
ERRATA SHEET (RE: #17)

DOCUMENT #19 filed 9/27/19:
INFORMAL REPLY BRIEF (Corrected)

- CASE LAW CITED IN BRIEF
- NEWLY DISCOVERED AUGUST-OF-2019
EVIDENCE THAT HUSBAND OF
JUROR IN FCCC CASE NO. MI-2006-
2302 ON 3/26-27/2007 WAS A
CONGRESSIONALLY-RECOGNIZED
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- ARGUMENT THAT VSP OFFICER'S HIGH SCHOOL DIPLOMA REQUIREMENT CLEARLY ESTABLISHES PETITIONER'S U.S. AMENDMENT IV & XIV RIGHTS BASED ON NATIONAL AND VIRGINIA HIGH SCHOOL DIPLOMA STANDARDS DESPITE VIRGINIA'S SYSTEMATIC LACK OF ENFORCEMENT OF STATE AND FEDERAL CITIZENS' RIGHTS (PAGES L62-77) INCLUDING:

America – Pathways to the Present by Andrew Cayton, Elisabeth Israels Perry, Linda Reed, and Alan M. Winkler, Copyright 2005, Pearson Prentice Hall, Pages 12-13, 120-121, 161-162

Government in America – People, Politics, and Policy by George C. Edwards, III, Martin P. Wattenberg, and Robert L. Lineberry, AP Edition, Copyright 2011, Pearson Education, Inc., Pages 19, 32-33, 47-49

8/2/19 LETTER TO CONGRESS SEEKING

BILL SPONSORS TO VIRGINIA'S 13-MEMBER CONGRESSIONAL DELEGATION OF SENATORS AND REPRESENTATIVES (LAST 23 OF 24 PAGES OF EXHIBITS IN DOCUMENT L & See H49, L11, & L54)

- 8/7/19 LETTER FROM CONGRESSMAN DENVER RIGGLEMAN TO PETITIONER (LAST PAGE OF EXHIBITS IN DOCUMENT L)

DOCUMENT #20 filed 10/30/19:
INFORMAL SUPPLEMENTAL BRIEF

10/29/19 10-PAGE E-MAIL TO THE 13-MEMBER VIRGINIA CONGRESSIONAL DELEGATION TITLED "A CASE FOR REAPPLICATION OF THE U.S. GUARANTEE CLAUSE AGAINST VIRGINIA

- DOCUMENT #21** filed 11/21/19:
UNPUBLISHED PER CURIUM OPINION

- DOCUMENT #22-1** filed 11/21/19:
NOTICE OF JUDGMENT

- DOCUMENT #22-2** filed 11/21/19:
JUDGMENT

DOCUMENT #23 filed 12/12/19:
PETITION FOR REHEARING (**Restricted**)

- CASE LAW USED FOR CONTRADICTING

VAED ORDER AND MEMORANDUM
OPINION (RE: VAED #29 to #31) (Dkt.
#26 on PAGES O11, 17, 19-24, 27-29, 32,
35, 38-40, 46-50)

- CONGRESSIONAL APPLICATION OF THE
U.S. GUARANTEE CLAUSE
FOLLOWING THE U.S. CIVIL WAR
BETWEEN 1866 AND 1870 (Dkt. #26 on
PAGES O33-34)

- SUPREME COURT OF THE UNITED
STATES CASELOADS, 1880-2015
GRAPH (LAST PAGE OF EXHIBITS
IN DOCUMENT O)

DOCUMENT #25 filed 12/16/19:

ERRATA SHEET (RE: #23)

DOCUMENT #26 filed 12/16/19:

PETITION FOR REHEARING (Corrected)

- CASE LAW USED FOR CONTRADICTING
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- CONGRESSIONAL APPLICATION OF THE
U.S. GUARANTEE CLAUSE
FOLLOWING THE U.S. CIVIL WAR
BETWEEN 1866 AND 1870 (PAGES
O33-34)

- SUPREME COURT OF THE UNITED

STATES CASELOADS, 1880-2015
GRAPH (PAGES O36-37 & **LAST PAGE**
OF EXHIBITS IN **DOCUMENT O**)

DOCUMENT #27 filed 12/26/19:
SUPPLEMENTAL ERRATA SHEET (**RE: #26**)

•**DOCUMENT #28** filed 2/3/20:
ORDER (**RE: #26 & #27**)

DOCUMENT #29 filed 2/11/20:
MANDATE [**SCOTUS Rule 13.1** begins 2/3/20]

SCOTUS COVID-19 EXTENSION (3/19/20):
[**SCOTUS Rule 13.5** has 7/2/20 Deadline]

SCOTUS COVID-19 FILINGS UPDATE (4/15/20):
Use 8½ x 11 inch Paper

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“C” means **3/15/19 VAED Document #20** –
“Defendant E. A. Vega’s Memorandum in
Support of Motion for Summary Judgment;”

“D” means **3/27/19 VAED Document #27** –
“Plaintiff’s Memorandum in Opposition to
Defendant’s Motion for Summary Judgment;”

“E” means **3/27/19 VAED Document #27-1** –
“12/12/18 Deposition of E. A. Vega;”

“F” means 4/2/19 VAED Document #28 – “Reply Brief in Support of Defendant E. A. Vega’s Motion for Summary Judgment;”

“G” means 4/24/19 VAED Document #29 – “Memorandum Opinion;”

“H” means 5/22/19 VAED Document #35 corrected with Document #39 – “FRCP Rule 59 Motion for New Trial; Altering or Amending a Judgment / Three Additional Motions on Pages 5-6 and Paragraphs 188 & 189;”

“I” means 5/24/19 VAED Document #40 – “Order;”

“J” means 7/15/19 Fourth Circuit Document #10 corrected with Document #13 – “Informal Opening Brief and Affidavit;”

“K” means 7/30/19 Fourth Circuit Document #14 – “Informal Response Brief of Appellee E. A. Vega;”

“L” means 8/30/19 Fourth Circuit Document #17 corrected with Document #18 and reprinted as Document #19 – “8/30/2019 Informal Reply Brief of Appellant to Response Brief of Appellee E. A. Vega with Errata Corrected for Congress on 9/26/2019;”

“M” means 10/30/19 Fourth Circuit Document #20 – “Informal Supplement to Informal Opening and Reply Briefs of Appellant: Argument for Congressional Re-Application of U.S. Guarantee Clause Against Virginia Being Distributed to 535 Members of the U.S. Congress;”

**“N” means 11/21/19 Fourth Circuit Document
#21 – “Unpublished Per Curium Opinion;”**

**“O” means 12/12/19 Fourth Circuit Document #23
corrected with Document #25 and
reprinted as Document #26 further
corrected with Document #27 –
“12/12/2019-Filed Informal Petition for
Rehearing with Errata Corrected;”**

**“P” means 2/3/20 Fourth Circuit Document #28 –
“Order.”**

**“Q,” “R,” & “S” are VAED Documents #35-1, #35-2,
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JURISDICTION

The bases for jurisdiction in this SCOTUS from **VAED DOCUMENT #4** filed 4/16/18 (First Amended Complaint, Paragraph 1) are pursuant to **28 U.S.C. §1331** (Federal Question) because it arises under the Constitution and laws of the United States and pursuant to **28 U.S.C. §1343(a)(3)** (Civil Rights and Elective Franchise) because the aforementioned Amended Complaint was a Civil Action against Respondent for Deprivation of Rights pursuant to **42 U.S.C. §1983** (Civil Action for Deprivation of Rights) alleging three violations of Petitioner's U.S. **Amendment IV & XIV** Rights under color of State law by Respondent, a VSP Special Agent on 6/1/15. Petitioner's aforementioned Amended Complaint had three potential Jury Questions. Because this is an appeal from the **U.S. Court of Appeals for the Fourth Circuit**, **28 U.S.C. §1254(1)** (Courts of Appeal; Certiorari; Certified Questions) is now included as a basis for jurisdiction.

Because there is simultaneously a pending case *Mercer v. Commonwealth of Virginia & County of Fairfax*, Fairfax County, Virginia Circuit Court, Case No. MI-2018-1766 (1/15/19); Court of Appeals of Virginia, Record No. 0135-19-4 (1/27/20), Supreme Court of Virginia, Record No. 200331 (Filed 2/26/20; Briefing Ended 3/21/20) in the **Supreme Court of Virginia** concerning the constitutionality with respect to the U.S. Guarantee Clause of the 1971 Constitution of Virginia, Article VI, Section 7 only (which overlaps the SCOTUS Rule 10(c) Question of Exceptional Importance above), 28 U.S.C §1257(a) (State Courts; Certiorari) and 28 U.S.C. §1367(a) (Supplemental Jurisdiction) are included as a bases for jurisdiction possibly expediting a decision in the Supreme Court of Virginia and/or for any possibility of the joinder of parties/cases. This case is a Parking Ticket Case involving an engine replacement alleging that Petitioner who is not a City resident cannot receive a fair and impartial trial for a Criminal Prosecution in a Virginia State or County Court because Virginia has a *racially-inspired* Confederate Police Government which does not enforce Virginia Rights nor Federal Rights. Virginia has an Unrepublican Form of Government.

**CONGRESSIONAL ACTS, CONSTITUTIONAL
PROVISIONS, STATUTES, ORDINANCES,
REGULATIONS, RULES, & RECENT NEWS**

(SEE APPENDIX FOR FULL TEXT)

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CONSCISE STATEMENT OF THE CASE

Petitioner's 6/28/20 "Application to the Circuit Justice (Chief Justice John G. Roberts, Jr.) for a Rule 33.1(d) Expansion of the Rule 33.1(g) Word Limit in Excess of 9,000 Words in a Petition for Writ of Certiorari Due on 7/2/20 in Compliance with Rule 33.1(d) Due to Hardship" was denied on 7/13/20. Petitioner was given 60 days to comply with the 9,000-Word Limit by 7/14/20 letter from the Clerk of the Court or until 9/12/20. Petitioner rewrites without new argument only *this Page 12 with Subsequent Pages 13 through 61* adding Documents: "Q" (means 5/22/19 VAED Document #35-1); "R" (means 5/22/19 VAED Document #35-2); and "S" (means 5/22/19 VAED Document #35-3) to the Tables of Contents on *Previous Pages xvii to xix* and also *Subsequent Pages A-1 to A-3* such that all other Roman Numeral

Pages and Appendix Pages with (A-#'s) at the top of the Appendix Pages remain unchanged. Petitioner's 9/12/20 Corrected Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit consists of Replacement Pages to his original 7/2/20 Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit already served on Respondents in triplicate but will be filed as one complete original copy in the SCOTUS on or before 9/12/20.

As Petitioner did in his 7/15/19 "Informal Opening Brief and Affidavit" on Page [J12], he adopts by reference and incorporates herein as if rewritten verbatim all Summary Judgment Proceeding Documents from VAED Case No. 1:18-cv-346 hereat: the following Appendix attached hereto in its entirety, U.S District Court for the Eastern District of Virginia (herein "VAED") Documents, and U.S. Court of Appeals for the Fourth Circuit (herein "**Fourth Circuit**") Documents. **VAED Documents:** #1, #3, #4, #15, #19, #20, #27, #27-1, #28, #29, #30, #31, #33, #34, #35, #35-1, #35-2, #35-3, #39, #40; **Fourth Circuit Documents:** #3, #8, #10, #12, #13, #14, #15, #17, #18, #19, #20, #21, #22-1, #22-2, #23, #25, #26, #27, #28, #29.

Petitioner assigns letter codes to 19 of these Appendix (is "A"), VAED, and Fourth Circuit Documents: **VAED Documents:** #4 is "B," #20 is "C," #27 is "D," #27-1 is "E," #28 is "F," #29 is "G," #35 is "H," #35-1 is "Q," #35-2 is "R," #35-3 is "S," and #40 is "I." **Fourth Circuit Documents:** #10 is "J," #14 is "K," #17-19 are "L," #20 is "M," #21 is "N," #23, 26-27

are “O,” and #28 is “P.” Petitioner thinks he only refers to thirteen Documents: D, E, G, H, I, J, K, L, O, Q, R, and S.

Life has a few bright lines that when crossed create new governments. U.S. Amendments IV & V were adopted in response to the abuse of the Writs of Assistance, a type of general Search Warrant issued by the British Government, and a major source of tension in pre-Revolutionary America.

History repeats itself. Herein, the Virginia State Police (herein and hereafter “VSP”) violated Petitioner’s U.S. Amendments IV, V, & XIV Rights with three 6/1/15 False Warrants associated with *sequential* alleged and false crimes assumed to occur on 3/3/15, 5/15/15, & 5/31/15 [A294-295, 308, 321, 324-328, 331-335, 353-364, C9, D1, E4, 17, 19-23, 26-30, H17-25, J30-32, L32-38, 55-57]. These three 6/1/15 False Warrants were sworn without Probable Cause in vindictive retaliation for Petitioner following FRCP Rule 4 during a 3/6/15-filed VAED Civil Action (VAED Case No. 1:15-cv-302) against two VSP Officers. These two VSP Officers (a Trooper and a Sergeant) were served Summonses with Complaints on 5/22/15 [A359, 531-534, 544-549, H21-22, L35, R32-33, 40-42] and 5/31/15 [A359-363, 528-531, 535-544, H22-24, L35-37, R30-31, 34-39]. The latter VSP Sergeant evaded a Professional Process Server on 5/27/15 contrary to Code of Virginia §18.2-409 so Petitioner accompanied a Private Process Server on 5/31/15 in order to identify this VSP Sergeant to the Private Process Server [A358-360, 550-557, 581-582, C9 (Paragraph 47), H3-5, 21-22, J68-69 (includes

Petitioner's e-mail for an adequate response to C9 Paragraph 47 sent by Petitioner to his attorney SW Dawson, Esquire working for Respondent Dawson, P.L.C.), L35-36, R43-47]. Petitioner had all these Summonses with his Complaints served in accordance with FRCP Rule 4 [A260-262]. Respondent Vega has argued that Petitioner did not serve the two VSP Officers in the specific manners preferred, suggested, or ordered by VSP Personnel which FRCP Rule 4 did/does not require of Petitioner when having his VSP Federal Defendants served Summonses with Complaints. The as-of-5/31/15 VSP Federal Defendants tried to intercept the Proof of Service Paperwork for the 5/31/15 Service of the evading VSP Sergeant before that VAED paperwork reached the VAED. The Private Process Server with his Private Process Server's Affidavit filed the VAED Proof of Service Paperwork in the VAED on 6/2/15 [A360-363, 535-544, H22-24, L36-37, R34-39].

After a hasty VSP investigation which included the same two VSP Trooper and Sergeant involved in both Fairfax County Case No. MI-2006-2302 (6/1/07) and VAED Case No. 1:15-cv-302 (2/11/16) [A296-297, 321-324, C10, D2-3, E17-19, H23, J16-17, 20-22, L36] and which included, by justifiable inference, physical possession of the two 5/22/15-served & 5/31/15-served Summonses with Petitioner's Complaints from the latter of the two cases alleging Fraud by the two VSP Officers in the first case, Respondent Vega swore three 6/1/15 False Warrants for Identity Theft (x2) [R6-9] and Stalking [R10-11] (the Fourth 6/1/15 False Warrant was later Nolle

Prosequied [R4-5]) without Probable Cause violating Petitioner's **U.S. Amendment IV & XIV Rights** in order to intercept the VAED Service Paperwork by Falsely Arresting then Unlawfully Imprisoning Petitioner from 6/6/15 to 6/9/15 in the Fairfax County Adult Detention Center (hereafter "**FCADC**"). Additionally, during Petitioner's false arrest and unlawful imprisonment, the VSP unconstitutionally seized Petitioner's phones/computers from his car on 6/6/15 and townhouse on 6/8/15 without supplying him with a necessary 6/6/15 Inventory List (Due Process) required for the return of his electronics in accordance with **U.S. Amendments V & XIV [A360-364, H23-25, L36-38]**.

Petitioner was tried in Fairfax County General District Court and was acquitted of the 3/3/15, 5/15/15, & 5/31/15 alleged crimes on 3/31/16. Petitioner sued Respondent Vega (**VAED Case No. 1:18-cv-346**), the VSP Special Agent who swore the three 6/1/15 False Warrants, in his individual capacity in a 3/28/18-filed VAED Civil Action alleging **U.S. Amendment IV & XIV Violations [A286-293, B1-6, H2]**. The VAED contrary to the Sixth, Seventh, Eighth, and Tenth Circuits made an **ABUSE OF DISCRETION** by treating the three *sequential* alleged crimes "committed on occasions different from one another (*See* 18 U.S.C. §924(e)(1) [A218-219])" associated with three 6/1/15 *simultaneously*-sworn then 6/6/15 *simultaneously*-served Warrants as *simultaneous* alleged crimes not *sequential* alleged crimes. Assumed Probable Cause for any one of the three alleged 3/3/15, 5/15/15, & 5/31/15 *simultaneous* crimes then destroyed all three of Petitioner's claims

and Potential Jury Questions of **U.S. Amendment IV & XIV Rights Violations**. This was not Equal Justice Under Law.

The VAED justified its erroneous 4/24/19 **GRANT** of Summary Judgment for the entire case [G1-9] as follows. *Smith v. McCluskey*, 126 F. App'x 89, 95 (4th Cir. 2005) (**Simultaneous** violation of a state statute prohibiting pedestrians from walking in a roadway where a sidewalk is provided and a Myrtle Beach disorderly conduct ordinance [A137-140, G6-7, J41, 46-47, 55-56, 60, L5-9, O14]); *Sturdivant v. Dale*, 2016 WL 11410292, at *4 n.5 (D.S.C. May 31, 2016), *report and recommendation adopted*, 2016 WL 3514451 (D.S.C. June 28, 2016) (**Simultaneous** violation of reckless driving, failure to give proper signal, and resisting arrest [A141-144, G7, J41, 48-49, 56-57, L6-9, O14]); *McMillian v. LeConey*, 2011 WL 2144628, at *8 (E.D.N.C. May 31, 2011), *aff'd*, 455 F. App'x 295 (4th Cir. 2011) (**Simultaneous** violation of unlawful begging, being intoxicated and disruptive, and unlawful resisting, delaying, or obstructing a police officer [A105-110, G7, J41, 49-52, 57-58, L6-9, O14-15]); see also *Wells v. Bonner*, 45 F.3d 90, 95 (5th Cir. 1995) (**Simultaneously** not following the directions of Officer Harris and resisting a search [A181-185, G7, J41, 52-54, 58-59, L7-9, O15]).

Compare *U.S. v. Hudspeth*, 42 F.3d 1015, 1023-24 (7th Cir., 1994); 1994 WL 592706, 10/28/1994 ("Hudspeth committed three separate crimes, at three separate times [over approximately 35 minutes], against three separate victims, in three separate locations. Under the plain language of § 924(e)(1) . . . ,

Hudspeth committed his crimes on three ‘occasions different from one another.’”) [A165-167, O6, 19-20, 26]. *U.S. v. Brady*, 988 F.2d 664, 668-69 (*en banc*), *cert. denied* 510 U.S. 857, 114 S.Ct. 166, 126 L.Ed.2d 126 (1993)(from 6th Cir.) (“ . . . Consistent with the holdings of our sister circuits, we believe that offenses committed by a defendant at different times and places and against different victims, although committed within less than an hour of each other, are separate and distinct criminal episodes and that convictions for those crimes should be counted as separate predicate convictions under § 924(e)(1). . . . Thus, seen from either an objective or subjective point of view, defendant Brady's crimes were separate episodes. Therefore, he was properly taxed with both at his sentencing.”) [A154-157, O21]. *U.S. v. Elliott*, 703 F.3d 378, 383-84, 388 (7th Cir., 2012) (“Therefore, we concluded, a court's inquiry as to the timing of the prior offenses ‘is simple: were the crimes *simultaneous* or were they *sequential*?’ *Id.* at 1021 (emphasis in original).”) [A158-161, O6, 20-21, 26]. *U.S. v. Petty*, 828 F.2d 2 *after remand from SCOTUS*, 481 U.S. 1034, 107 S.Ct. 1968, 95 L.Ed.2d 810 (1987) (from 8th Cir.) (“six counts of armed robbery in New York stemming from his simultaneous robbery of six individuals at a restaurant . . . characterization of Petty's convictions in New York as more than one conviction, for purposes of the enhanced sentencing statute, was error.”) [A172-173, O20]. *U.S. v. Tisdale*, 921 F.2d 1095, 1099 (10th Cir., 1990), *cert. denied*, 502 U.S. 986, 112 S.Ct. 596, 116 L.Ed.2d 619 (1991) (“Defendant contends that his three burglary convictions arose out of a single criminal episode . . . burglarizing three separate

businesses inside the mall, on the same night, . . . we find that the trial court properly enhanced the defendant's penalty under Sec. 924(e) (1).” [A177-180, O21]. *U.S. v. Van*, 543 F.3d 963, 966 (2008); 2008 WL 4445756, (8th Cir., 10/3/2008) (“ . . . convictions for separate drug transactions on separate days are multiple ACCA predicate offenses, even if the transactions were sales to the same victim or informant. *Id.* at 1058 . . .”) [A180, O6, 19, 25-26].

Petitioner presented the fact that “... *on more than one occasion [one] engages in conduct ...* [A242-245]” is language found in the Virginia Stalking Ordinance (Code of Virginia, §60.3) chosen by Respondent Vega for an alleged charge against Petitioner. Similar language is found in 18 U.S.C. §924(e)(1) “... *committed on occasions different from one another ...* [A218-219].” Petitioner presented on Pleading Page [D7] the following: “On this evidence alone, [a] prudent person would not have believed that Plaintiff had committed or was committing a violation of [the Code of Virginia, §] 18.2-60.3, as this code section clearly states that, “on more than one occasion [one] engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury.’ Va. Code Ann. 18.2-60.3 [A242-245].”

This ABUSE OF DISCRETION by the VAED led the VAED to accept Respondent’s Totality of the Circumstances Argument based on Fraudulent Probable Cause [A340-352, 364-371, 400-518, H6-16,

26-31, L24-30, 38-41, Q4-43] for one of the three 6/1/15 False Warrant (the False Stalking Warrant) then **GRANT** Respondent's Motion for Summary Judgment (herein and hereafter "**MSJ**") on all three of Petitioner's potential Jury Questions concerning U.S. **Amendment IV & XIV** Violations [A32-45, G1-9 and specifically G6]. The Footnote 1 on Page G8 states, "Because the analysis may end after determining there was probable cause to support the stalking charge, this Court does not reach the merits of probable cause on the other charges [A42, G8]." But these three *sequential* alleged crimes were separable alleged crimes concerning three (not one) Potential Jury Questions. If one Jury Question failed, the other two Jury Questions still needed to be decided at a Trial by a Jury. In *Cooley v. Leung*, 637 Fed. Appx 1005 (9th Cir., 2/4/2016) ("Jury question existed as to whether police officers reasonably believed motorist, . . . , could have been armed and dangerous, as would justify pat search, precluding summary judgment in favor of officers on basis of qualified immunity with respect to pat search in motorist's § 1983 action.") [A83]. The VAED's 4/24/19 Memorandum Opinion [G1-9] was not equal Justice Under Law.

After initiating this first "**Circuit Split**," the VAED contrary to the SCOTUS and Fourth Circuit made **CLEAR ERROR** by failing to view Petitioner's complete, belated, *fairly-presented-as-an-Affidavit-of-Plaintiff-Gregory-Shawn-Mercer* Disputed Statement of Facts in Petitioner's *pro se* "FRCP Rule 59 Motion for New Trial; ***Altering or Amending a Judgment*** / / Three Additional Motions on Pages 5-6 and Paragraphs 188 & 189 [VAED Document #35 –

A339-399, H6-49, L24-54]” then drawing any justifiable inferences from those facts in the light most favorable to the Petitioner in the 2019 Summary Judgment Proceeding when deciding if there existed genuine issues as to any material fact requiring a Trial by Jury. The VAED had denied Petitioner’s U.S. **Amendment VII Right** to a Trial by *Jury* (not *Bench*) initiating the second “**Circuit Split**” in an act of *Manifest Injustice* which accepted the VSP’s Fraudulent Probable Cause used against Petitioner for one of the three 6/1/15 False Warrants, the False Stalking Warrant. The VAED had even footnoted its Erroneous Judgment [A42, G8] that made three *sequential* alleged crimes sworn/served with three *simultaneous* Warrants into three *simultaneous* alleged crimes ignoring the *sequential* nature of two of those alleged crimes. The VAED’s **ABUSE OF DISCRETION** clearly justified review of Petitioner’s FRCP Rule 59 Motion for New Trial; Altering or Amending a Judgment because it might have corrected the VAED’s Abuse of Discretion. The VAED even reviewed then **DENIED** that FRCP Rule 59 Motion on 5/24/19 [A188-189, I1] just before Petitioner filed his 5/24/19 Notice of Appeal [VAED Document #41]. Petitioner had to file his 6/3/19 Amended Notice of Appeal [VAED Document #48] to include this 5/24/19 VAED Order [VAED Document #40 – I1] in his Fourth Circuit Appeal. This was not Equal Justice Under Law.

The Fourth Circuit and this SCOTUS have already ruled about procedures in Summary Judgment Proceedings. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248-49, 106 S.Ct 2505, 91 L.Ed.2d

202 (1986) (“A fact is material when proof of its existence or nonexistence would affect the outcome of the case, and an issue is genuine if a reasonable jury might return a verdict in favor of the nonmoving party on the basis of such an issue.”) [A58-59, D3, O24]. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 585-88 n. 10 & 11, 586-87, 106 S.Ct 1348, 89 L.Ed.2d 538 (1986) “A party moving for summary judgment has the initial burden of establishing the basis for its motion and identifying the evidence which demonstrates the absence of a genuine issue of material fact. *Id.* Once the moving party satisfies its initial burden, the opposite party may show, by means of affidavits or other verified evidence, that there exists a genuine dispute of material fact.” [A102-103, D3, G5, H5, J40, O23-24]. U.S. v. Carolina Transformer Co., 978 F.2d 832, 835 (4th Cir., 1992) (“In reviewing a summary judgment motion, the court must “draw all justifiable inferences in favor of the nonmoving party.”) [A157-158, G5-6, H5, 32, 50, J40, L42, O24].

In the Fourth Circuit and in August of 2019, Petitioner investigated the Jury from Mercer v. Commonwealth of Virginia, Fairfax County Circuit Court Case No. MI-2006-2302, which is the basis of Respondent Vega’s Fraudulent Probable Cause used to justify the third 6/1/15 False Warrant (the False Stalking Warrant). This Fairfax County Circuit Court Case Falsely Convicted Petitioner on 3/27/07 of Assaulting and Battering one of the two VSP Officers and the VSP Trooper which Petitioner sued in his 3/6/2015-filed VAED Case No. 1:15-cv-302. In the two-day Fairfax County Circuit Court Jury Trial with

seven Jurors beginning on 3/26/07, Juror Esther S. Verona (after learning the full names of the other six Jurors) went home to her husband Dr. Jack Verona who on 10/11/11 was recognized in the U.S. House of Representatives by Representative Gerry Connolly for his work in the DIA (Defense Intelligence Agency) as a CIA Source for psychic spying, psychokinesis, parapsychology, weapons research, and mind control [A594-598, L22-24]. Dr. Jack Verona had been used as a Jury Tampering Expert against Petitioner on 3/26/07 & 3/27/07. This New Evidence of a Jury Tampering Expert used against Petitioner in his Fairfax County Circuit Court Case along with the Edited and Obstructed 3/26/07 Appellate Record from that *Mercer v. Commonwealth of Virginia*, Fairfax County Circuit Court Case No. MI-2006-2302 being relied upon by Petitioner in his subsequent appeals was an act of ***Manifest Injustice*** against Petitioner furthered in his failed appeals to the **Court of Appeals of Virginia**, Record No. 0828-07-4 (decided 2/18/09); **Supreme Court of Virginia**, Record No. 090536 (decided 9/22/09); and **SCOTUS**, Case No. 09-8206, *certiorari denied* (decided 6/7/10).

Respondent Vega has pled in the Fourth Circuit and Petitioner fully accepts, “A Rule 59(e) motion [the denial of which is reviewed for abuse of discretion] may only be granted in three situations: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” *Melendez v. Sebelius*, 611 Fed. App’x. 762 (4th Cir. 2015) (quoting *Mayfield v. Nat’l Ass’n for Stock Car Auto Racing, Inc.*, 674 F.3d 369,

378 (4th Cir. 2012) (internal quotation marks omitted)) [K28].” Herein, Petitioner has pled: (1) New Evidence; (2) Clear Error; and (3) Preventing a *Manifest Injustice* when moving the VAED, Fourth Circuit, and/or now the SCOTUS to **GRANT** his 5/24/19 FRCP Rule 59 Motion for New Trial; Altering or Amending a Judgment // Three Additional Motions on Pages 5-6 and Paragraphs 188 & 189 [VAED Document #35 – A337-574, H1-53, Q1-43, R1-58, S1-44].” The use of Jury Tampering Experts is an authoritarian act when perpetrated by the Fairfax County and/or Virginia governments. The criminal trials of the Officers who through Police Misconduct killed George Floyd [A283-284] and Rayshard Brooks [A284-286] along with more recent deaths involving Police Misconduct depend on this SCOTUS to prevent Jury Tampering Experts like Dr. Jack Verona from succeeding in perpetrating this kind of *Manifest Injustice*. There must be Equal Justice Under Law.

Please note the following typos were found in Petitioner’s Disputed Statement of Facts [VAED Document #35 – A339-399, H6-49, L24-54]. There were three minor corrections made to Petitioner’s Disputed Statement of Facts as it moved through the Fourth Circuit and arrived in the SCOTUS which are identified in Paragraphs/Sections 33, 120, & 134. See [A347, 369, & 374] for details. Also “Posequied” became P[r]osequied (Paragraph #38 on [A349]) and “Sergeznt” became Serge[a]nt (Paragraph #137 on [A374]).

Question of Exceptional Importance

Life has a few bright lines that when crossed create new governments. This Petition presents just this situation. A Police Officer swears out a Warrant before a Magistrate who, in turn, decides if Probable Cause exists then, if so, issues the Police Officer a Warrant to be served on the Defendant. It is implied that the Magistrate is a Judge acting with the interest of protecting the Civil Rights of that Defendant. However, Respondent Vega swore out 6/1/15 Warrants against Petitioner two of which were for Identity Theft Warrants for violating the Code of Virginia, § 18.2-186.3 [A245-248]. He extremely clearly was without Probable Cause. This needs further analysis.

To have Probable Cause for one of these Identity Theft Warrant against Petitioner, Respondent Vega had to swear before the Fairfax County Magistrate that Petitioner gained Identifying Information about the specific Victim of the Identity Theft and that this Victim suffered a financial loss as a result of that Identity Theft. Fairfax County Magistrate Wilson Talavera issued Respondent Vega two 6/1/15 Identity Theft Warrants to be served on Petitioner. However, Respondent Vega was subsequently deposed on 12/12/18 about what Probable Cause he had presented to Fairfax County Magistrate Wilson Talavera on 6/1/15 in order to be issued the two 6/1/15 Identity Theft Warrants against Petitioner by Fairfax County Magistrate Wilson Talavera [A598-607, L54-61].

What becomes quickly apparent after reading the pages referred to in [A598-607, L54-61] is that Fairfax County Magistrate Wilson Talavera never

heard Respondent Vega swear sufficient Probable Cause for these two 6/1/15 Identity Theft Warrants because Respondent Vega never had any Probable Cause for these two Identity Theft Warrants. Here is how extremely clearly Respondent Vega described his Probable Cause for the Identity Theft Warrant with Victim VSP Trooper Houtz and for which Fairfax County Magistrate Wilson Talavera issued a Warrant to Respondent Vega to serve on Petitioner which occurred 6/6/15:

Respondent Vega – “For that one, it would have been trooper Houtz.”

SW Dawson – “And what was Trooper Houtz’s financial loss as a result of that?”

Respondent Vega – “I don’t believe he suffered any.”

SW Dawson – “And what information did Mr. Mercer obtain in that event?”

Respondent Vega – “None.”

SW Dawson – “He obtained no information?”

Respondent Vega – “Correct.”

For the second Identity Theft Warrant with Victim Ibrahim Fetterolf, Respondent Vega testified, **“He did. What he obtained was that Sergeant Allander wasn’t working at the time”** Knowing information about VSP Sergeant Allander for an Identity Theft Charge with Victim Private Process Server Fetterolf is not valid for Probable Cause. In accordance with Virginia Code §18.2-186.3 (“It shall

be unlawful for any person, without the authorization or permission of the person or persons who are the subjects of the identifying information") [A245-248]. Fairfax County Magistrate Wilson Talavera issued two 6/1/15 Identity Theft Warrants to Respondent Vega against Petitioner simply because Respondent Vega was a VSP Special Agent and Respondent Vega as a Police Officer requested these 6/1/15 Identity Theft Warrants. This is what demonstrates that Virginia and Fairfax County have Unrepublican Governments! History explains more about this Virginia Unrepublican Form of Government.

Virginia has a Confederate Police Government which can be traced back through history [A381-399, H39-49, L46-54]. There have been seven Constitutions of Virginia (1776, 1830, 1850, unratified 1864, 1870, unratified 1902, and 1971) [A212]. Only one of these Constitutions allowed the People to elect State, County, and City Judges, the 1850 Constitution of Virginia. This is important. In a **Democracy**, People are protected from Government with Rights. When one Person violates another Person's Rights in a Democracy, the second Person can sue the first Person in a Court of Law where a Judge decides whether or not to enforce the specified Right. Judges protect Rights in a Democracy or Constitutional Republic and the People's ability to select their own Judges is paramount to protecting the Democracy or Constitutional Republic. Otherwise, Government is protected from the People by Denying Rights which is a **Confederacy**.

This was decided by the SCOTUS in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891). “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, ... [A85-86].” With the exception of the 1850 Constitution of Virginia, the Virginia General Assembly has always chosen Virginia State, County, and City Judges. Virginia has become Unrepublican in Form as will be further explained.

When the U.S. Civil War broke out in 1861, Virginia’s western 50 counties separated to become West Virginia whose **1863 Constitution of West Virginia, Article I, Section 1** stated, “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 [A193].” West Virginia defined what a Confederacy in America is by its lack of respect for the **U.S. Supremacy Clause**.

American Confederacies do not respect the **U.S. Supremacy Clause** (Compare the following with the previous paragraph), “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges of every State shall be bound thereby, any

Thing in the Constitution or Laws of any State to the Contrary notwithstanding [A218].”

The 1864 Constitution of Virginia was not ratified by the People. Virginia lost the U.S. Civil War on 4/9/1865. The U.S. Congress applied the **U.S. Guarantee Clause** to the 11 previously Confederate States so at least all males could vote instead of all white males could vote [A643-646]. The **U.S. Guarantee Clause** states, “The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence [A217-218].”

Lincoln Emancipated the African American Slaves in a Proclamation made on 1/1/1863 [A193-194], **U.S. Amendment XIV** was ratified on 7/28/1868 [A214-216], and **U.S. Amendment XV** was ratified on 2/3/1870 which states, “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude [A216].”

The **1870 Constitution of Virginia** was not Confederate because it had a restatement of the U.S. Supremacy Clause as **Article I, Section 3**, “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 [A646-647].”

As presented in The Two Reconstructions by Richard M. Valelly [A147-153, 392-396, H46-48, L51-53], the previously Confederate States re-disenfranchised African American males without the words “black” or “white” in new State Constitutions ratified between 1885 and 1908 using Poll Taxes against the Poor and Literacy Tests against the Uneducated. The *racially-discriminatory* 1902 Constitution of Virginia which was not ratified by the People abandoned the 1870 Constitution of Virginia, Article I, Section 3 restatement of the U.S. Supremacy Clause [A646-647] and empowered the Supreme Court of Appeals of Virginia with the ability to interpret the Constitution of the United States with its U.S. Bill of Rights [A217] containing the Federal Rights of the People (1902 Constitution of Virginia, Article VI, Section 88 [A203-205]). Also, the Virginia General Assembly chose all Virginia State, County, and City Judges (1902 Constitution of Virginia, Article VI, Sections 91, 96, & 99 [A205-206]).

The NAACP was founded in 1908 and helped elect Truman (1948) and Kennedy (1960). Kennedy’s Voter Registration Campaign of the 1960’s meant the end of Poll Taxes and Literacy Tests in State Constitutions. The *racially-inspired* 1971 Constitution of Virginia abandoned Poll Taxes and Literacy Tests but the Supreme Court of Virginia was still empowered with the ability to interpret the Constitution of the United States with its U.S. Bill of

Rights containing the Federal Rights of the People (1971 Constitution of Virginia, Article VI, Sections 1 & 2 [A209-211]). The Virginia General Assembly chose all Virginia State, County, and City Judges (1971 Constitution of Virginia, Article VI, Section 7 [A211-212])

After 1902, the Supreme Court of Appeals of Virginia (1902-1971) then the Supreme Court of Virginia (after 1971) became the Gatekeeper of Federal Rights of People in Virginia because the SCOTUS reviewed less than 1% of cases from Virginia's highest court [A647, O35-37]. Meanwhile, the Virginia Police currently endorse Virginia General Assembly Representatives in General Elections [A573-574] contrary to the 1971 Constitution of Virginia, Article I, Section 5 [A207-208]. These General Assembly Representatives choose all Virginia State, County, and City Judges in accordance to the 1971 Constitution of Virginia, Article VI, Section 7 [A211-212].

Today in a Virginia Courtroom, there are the Defendant, Judge, Prosecutor, and Police Witness for the Prosecution. The Judge is supposed to have ALLEGIANCE to the Defendant protecting the Defendant's Virginia and Federal Rights. The 1971 Constitution of Virginia, Article I, Section 2 states, "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 [A206-207]." But the Police Witness if angered might go to his Police Lobby which, in turn, lobbies the Virginia General Assembly Representatives who, in

turn, consider the re-election of the Judge to the same Bench or to a higher Bench.

The ALLEGIANCE of the Virginia Judges changed to the Virginia Government and the Virginia Police. And a Magistrate is a Judge. Fairfax County Magistrate Wilson Talavera issued the two 6/1/15 Identity Theft Warrants to Respondent Vega without examining Respondent Vega's Probable Cause because Respondent Vega was a VSP Special Agent and moreover a Virginia Police Officer requesting from a Virginia Magistrate Warrants against Petitioner. This case distinguishes Messerschmidt v. Millender, 565 U.S. 535, 546-47, 132 S.Ct. 1235, 182 L.Ed.2d 47 (2012) ("[T]he fact that a neutral magistrate had issued a warrant is the clearest indication that the officers acted in an objectively reasonable manner.") [A112-120, G8-9, H39-49, J3, 30-31, 42, L53-57, O16-17, R6-11]. Magistrates are not neutral in Virginia!

There is no consequence for Police Misconduct in Virginia. Virginia Rights complicate the enforcement actions of the Virginia Police. Virginia Judges do not enforce Virginia Rights because Virginia Judges' ALLEGIANCE is to the Virginia Police. Federal Rights are denied by the Gatekeeper of Federal Rights in Virginia, the Supreme Court of Virginia, with little fear that SCOTUS will overturn the Supreme Court of Virginia.

What can one expect in a State with a *racially-inspired* Constitution? On 8/11/17 to 8/12/17, Unite the Right held a Rally in Charlottesville, Virginia which attracted White Supremacists [A281-282].

Virginia needs a Constitutional Convention to rewrite the 1971 Constitution of Virginia, Article VI, Sections 1, 2, and 7 at a minimum so that the People elect their own Judges and the Supreme Court of Virginia **ALWAYS** (within reason) enforces Virginia and Federal Rights. The current Virginia Judicial Branch ought to be decapitated for gross incompetence. Likewise, the current Virginia Police Forces ought to be decapitated for incompetence and abuse of the People. Virginia Judicial General Elections should be held as soon as possible. The SCOTUS should grant Petitioner a Declaratory Judgment for Congress via his Question of Exceptional Importance. Luther v. Borden, 48 U.S. (7 How.) 1, 45, 12 L.Ed. 581 (1849) states, “Unquestionably a military [or police] government, established a[s] the permanent government of the State, would not be a republican government, and it would be the duty of Congress to overthrow it [A96].”

Alternatively, the SCOTUS could enforce Petitioner’s **1971 Constitution of Virginia, Article I, Section 3** *indubitable, inalienable, and indefeasible* right to reform alter, or abolish the Virginia Governments [A207] which Petitioner invoked [A397, H48, L53-54]. How is Petitioner supposed to prove that U.S. Amendments IV, V, & XIV are “clearly established” in Virginia where Virginia and Federal Rights are unenforced? Pearson v. Callahan, 555 U.S. 223, 231, 129 S.Ct. 808, 815 (2009) (quoting Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982). Petitioner has written the Police Officer Education Requirements Defense complete with the **Magna Carta** [A607-635].

The above analysis of the Virginia Confederate Police Government is consistent with the fact that Virginia Police Reports are not Public Documents provided to the Accused when Police Misconduct is alleged in accordance with Code of Virginia, § 2.2-3706(B)(1):

Disclosure of law enforcement and criminal records; limitations

“B. Discretionary releases. The following records are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law: ...

- 1. Criminal investigative files, defined as any documents and information, including ... reports [A237-242].”**

DIRECT AND CONCISE ARGUMENT FOR GRANTING WRIT

Petitioner adopts and incorporates the entire previous Concise Statement of the Case Section herein as if rewritten verbatim hereat.

U.S. Amendment XIV [A214-216] gives Petitioner who was born in Houston, Texas and a U.S. Citizen “equal protection of the laws.” Because Petitioner is a U.S. Citizen, the argument that follows does not have to figure out how non-Citizens are entitled to equal protection of the laws but Petitioner recognizes there is likely such argument. Petitioner’s equal protection of the law is regardless of his race

(U.S. Amendment XV [A216]) or his sex (U.S. Amendment XIX [A217]). By the Constitution of the United States, the U.S. Congress makes Federal Laws (Article I, Section 7) for every Citizen in the United States. By the Constitution of the United States, the U.S. President is tasked with enforcing the Federal Laws (Article II, Section 3) on every Citizen in the U.S. Federal Laws are enforced in Federal Courts inferior to the SCOTUS established by the U.S. Congress (Article I, Section 8). The SCOTUS has appellate jurisdiction over all inferior Federal Courts (Article III, Section 2). By the Constitution of the United States inclusive of U.S. Amendment XIV, the SCOTUS interprets all Federal Laws equally for every Citizen in the United States (Article III, Section 2). When two inferior Federal Courts interpret a Federal Law in conflicting fashions, the SCOTUS is required at its discretion to resolve the conflict. See Supreme Court Rule 10 [A267-268].

The Sixth, Seventh, Eighth, and Tenth Circuits in *U.S. v. Brady* [A154-157], *U.S. v. Hudspeth* [A165-167], *U.S. v. Elliott* [A158-161], *U.S. v. Petty* [A172-173], *U.S. v. Van* [A180], and *U.S. v. Tisdale* [A177-180] on pages 17-19 above have interpreted that **sequential** crimes are separable and distinct criminal episodes while **simultaneous** crimes are a single criminal episode. The Ninth Circuit in *Cooley v. Leung* [A83] on page 20 above has interpreted that each separable episodes of conduct creates a Potential Jury Question.

The VAED affirmed by the Fourth Circuit interpreted three **sequential** alleged crimes that

“occurred” on 3/3/15, 5/15/15, and 5/31/15 as *simultaneous* crimes that are a single criminal episode because Respondent Vega swore and served Warrants for these three alleged crimes *simultaneously*. Footnote 1 on Page G8 states, “Because the analysis may end after determining there was probable cause to support the stalking charge, this Court does not reach the merits of probable cause on the other charges [A42, G8].” The VAED affirmed by the Fourth Circuit interpreted three *sequential*, separable, and distinct episodes of conduct as *simultaneous* creating only one Jury Question that was defeated in a Summary Judgment Proceeding by what Petitioner argues with affidavits and verified certified evidence was Fraudulent Probable Cause.

There exists a “First Circuit Split” herein that the SCOTUS ought to resolve in accordance with Supreme Court Rule 10(a) and in the interest of Equal Justice Under Law between the Sixth through Eighth & Tenth Circuits versus the Fourth Circuit as to whether or not there was **ABUSE OF DISCRETION** by the VAED when it interpreted whether crimes allegedly “committed on occasions different from one another” [See 18 U.S.C. §924(e)(1)] become *simultaneous* crimes if the directly-associated arrest warrants for those *sequential* alleged crimes were sworn out and/or served *simultaneously*.

This is a new case for the SCOTUS where roles are reversed from those in U.S. v. Petty [A172-173]. The VAED ruled the alleged crimes were

simultaneous while the Petitioner argues the alleged crimes were *sequential*.

Petitioner has presented affidavits and other verified, certified evidence in VAED Documents #35, #35-1, #35-2, #35-3, with Fourth Circuit Documents #17, #18, & #19 that his 3/26/07 to 3/27/07 Criminal Trial which left him Falsely Convicted was controlled by a Jury Tampering Expert working for the Commonwealth of Virginia against the interests of the Petitioner leaving Petitioner with a 3/26/07 Edited Appellate Record that Obstructed Petitioner's subsequent three appeals including an appeal to this SCOTUS. This was a *Manifest Injustice* involving New Evidence of a Jury Tampering Expert where *Manifest* is defined by FindLaw Legal Dictionary and in the light most favorable to the Petitioner being truthful as clearly evident, obvious, and indisputable. Petitioner's affidavits and other verified, certified evidence presented to the VAED and Fourth Circuit via a FRCP Rule 59 Motion with attachments was in accordance with *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 585-88 n. 10 & 11, 586-87, 106 S.Ct 1348, 89 L.Ed.2d 538 (1986) "A party moving for summary judgment has the initial burden of establishing the basis for its motion and identifying the evidence which demonstrates the absence of a genuine issue of material fact. *Id.* Once the moving party satisfies its initial burden, the opposite party may show, by means of *affidavits or other verified evidence*, that there exists a genuine dispute of material fact.") [A102-103, D3, G5, H5, J40, O23-24].

This SCOTUS ought to **GRANT** Petitioner's 5/22/19 "FRCP Rule 59 Motion for New Trial; ***Altering or Amending a Judgment*** / / Three Additional Motions on Pages 5-6 and Paragraphs 188 & 189 (VAED Documents #35, #35-1, #35-2, and #35-3) " because the VAED's 4/24/19 Memorandum Opinion, 4/24/19 Order, and 4/25/19 Judgment (VAED Documents #29, #30, and #31) were erroneous not being Equal Justice Under Law.

Petitioner presented his complete Disputed Statement of Facts in the VAED Summary Judgment Proceeding begun on 3/15/19 via his 5/22/19 FRCP Rule 59 Motion for New Trial; Altering or Amending a Judgement (VAED Document #35). Therein, Petitioner made the Justifiable Inference that Respondent Vega had "sworn" the three 6/1/15 False Warrants in a vindictive attempt to intercept 5/31/15 Proof of Service Paperwork heading to the VAED concerning the VSP Sergeant who had previously evaded Service on 5/27/15 and before that Paperwork was filed in the VAED which it was on 6/2/15. In Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 585-88 n. 10 & 11, 586-87, 106 S.Ct 1348, 89 L.Ed.2d 538 (1986) (See previous page 37). In U.S. v. Carolina Transformer Co., 978 F.2d 832, 835 (4th Cir., 1992) ("In reviewing a summary judgment motion, the court must "draw all justifiable inferences in favor of the nonmoving party.") [A157-158, G5-6, H5, 32, 50, J40, L42, O24]. In Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248-49, 106 S.Ct 2505, 91 L.Ed.2d 202 (1986) ("A fact is material when proof of its existence or nonexistence would affect the outcome of the case, and an issue is genuine if a reasonable jury

might return a verdict in favor of the nonmoving party on the basis of such an issue.”) [A58-59, D3, O24]. The VAED affirmed by the Fourth Circuit **GRANTED** Respondent Vega’s 3/15/19 Summary Judgment Motion concerning *sequential* alleged crimes treated as *simultaneous* alleged crimes without drawing all justifiable inferences in the light most favorable to the Petitioner where there existed a justifiable inference that was a genuine issue and material fact.

There exists a “**Second Circuit Split**” herein that the SCOTUS ought to resolve in accordance with Supreme Court Rule 10(a) and in the interest of Equal Justice Under Law between the SCOTUS & Fourth Circuit versus the Fourth Circuit itself as to whether or not there was **CLEAR ERROR** by the VAED over the Federal Court Practice (FRCP Rule 56; U.S. Amendment VII Right to Trial by Jury) when it failed to view all facts in a Summary Judgment Proceeding and draw any justifiable inferences from those facts in the light most favorable to the Petitioner when deciding if there existed genuine issues as to any material fact requiring a Trial by Jury.

The 1971 Constitution of Virginia, Article VI, Sections 1, 2, and 7 together with the Code of Virginia, § 2.2-3706(B)(1) [A237-242] and similar Code Sections have created the Virginia Confederate Police Governments which are historically Unrepublican Forms of Government in violation to the U.S. **Guarantee Clause** [A217-218] by allowing the Virginia General Assembly endorsed for Public Office by the Virginia Police [A573-574] to elect/choose all Virginia State, County, and City Judges [A211-212]

contrary to *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) [A85-86].

The U.S. Supremacy Clause states, “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; *and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.* [A218].”

The 1971 Constitution of Virginia, Article VI, Section 1 states, “... *the Supreme Court shall, by virtue of this Constitution, have appellate jurisdiction in cases involving the constitutionality of a law under this Constitution or the Constitution of the United States and in cases involving the life or liberty of any person.* ... [A209-211].”

The 1971 Constitution of Virginia, Article VI, Section 2 states, “... *no law shall be declared unconstitutional under either this Constitution or the Constitution of the United States except on the concurrence of at least a majority of all justices of the Supreme Court [of Virginia].* [A211].”

The 1971 Constitution of Virginia, Article VI, Sections 1 & 2 violate the U.S. Supremacy Clause as the 1902 Constitution of Virginia, Article VI, Section 88 did, “... *The assent of at least three of the judges shall be required for the court to determine that any law is, or is not, repugnant*

to the Constitution of this State or of the United States; ... [A203-205].”

This SCOTUS ought to issue a Declaratory Judgment that Virginia is in violation of the **U.S. Guarantee Clause**, **U.S. Supremacy Clause**, and *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) [A85-86] and that Virginia has been in violation of these three Clauses/Case Law since 1902. In the wise words on U.S. President Donald Trump, this SCOTUS ought to “Make America Great Again.”

See cases related to the **U.S. Supremacy Clause**: *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, 5 L.Ed. 257 (1821) [A66-67]; *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct. 1401, 3 L.Ed.2d 5 (1958) [A83-85]; *Edgar v. MITE Corp.*, 457 U.S. 624, 102 S.Ct. 2629, 73 L.Ed.2d 269 (1982) [A86-87]; *Marbury v. Madison*, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60 (1803) [A98-100]; *Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304 (1816) [A100-102]; *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819) [A103-105]; *Obergefell v. Hodges*, 576 U.S. 644, 125 S.Ct. 2584 (2015) [A120-124]; “Restrictions on the Authority of the Several States,” Federalist Papers, No. 44, 1/25/1788 [A128-132]; *Texas v. White*, 74 U.S. (7 Wall.) 700 (1869) [A144-145]; *U.S. v. Peters*, 9 U.S. (5 Cranch) 115 (1809) [A170-172]; and *Ware v. Hylton*, 3 U.S. 199, 3 Dall. 199, 1 L.Ed. 568 (1796) [A180-182].

CONCLUSION

Petitioner seeks **Equal Justice Under Law** appealing with two Circuit Splits and a Question of Exceptional Importance. While *Luther v. Borden*, 48 U.S. (7 How.) 1, 45, 12 L.Ed. 581 (1849) [H48-49, J4,

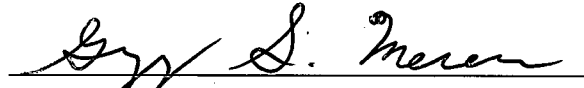
L54, O42-43] states, "Unquestionably a military [or police] government, established a[s] the permanent government of the State, would not be a republican government, and it would be the duty of Congress to overthrow it," Petitioner has invoked his Constitution of Virginia, Article I, Section 3 *indubitable*, *inalienable*, and *indefeasible* right to reform, alter or abolish all Virginia Governments [**A397, H48, L53-54**] without requiring the U.S. Congress to reform, alter, or abolish.

Legal Costs: Respondent Vega's 6/1/15 False Warrants cost Petitioner \$6,610 and Respondent Dawson, P.L.C.'s malpractice, which was not fatal due to the VAED's 4/24/19 Erroneous Judgment, cost Petitioner \$37,192.50.

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 September, 2020



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This odd-numbered ending page matches Petitioner's previous 7/2/20 Petition for Writ of Certiorari which ended with page 61.