No. 20-

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

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, gregorysmercer@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 5/6/18 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 **J**3-4, 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 VAED Dkt. #35 on PAGES **L24-54**)
- ARGUMENT THAT VIRGINIA DOES NOT HAVE NEUTRAL NOR DETACHED MAGISTRATES ISSUING WARRANTS TO VIRGINIA POLICE BECAUSE VIRGINIA HAS A CONFEDERATE POLICE GOVERNMENT WHICH IS

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 CIA SOURCE WORKING FOR THE DEFENSE INTELLIGENCE AGENCY IN PARAPSYCHOLOGY AND MIND CONTROL (CORRECTED PAGES **L22-24**)
- DISPUTED STATEMENT OF FACTS (From VAED Dkt. #35 on PAGES **L24-54**)
- ARGUMENT THAT VIRGINIA DOES NOT HAVE NEUTRAL NOR DETACHED MAGISTRATES ISSUING WARRANTS TO VIRGINIA POLICE BECAUSE VIRGINIA HAS A CONFEDERATE

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 RE-APPLICATION 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 **O**11, 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 VAED ORDER AND MEMORANDUM OPINION (**RE: VAED #29 to #31**) (PAGES **O**11, 17, **19-24**, 27-29, 32, 35, 38-40, 43, 46-50)

- 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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"A" means **Appendix to this Petition** for Writ of Certiorari to the Fourth Circuit;

"B" means **4/16/18 VAED Document #4** – "First Amended Complaint;"

"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."

TABLE OF CITED AUTHORITIES

(SEE APPENDIX FOR FULL TEXT)

Court of Virginia, Record No. 090536 (9/22/09); **SCOTUS**, Case No. 09-8206, *certiorari denied* (6/7/10)
A110, H3, 9-15, 23, 26-29, 35, 37, 50-51, L9-10, 27-30, 36, 38-41, 43-44, 58-59, 61 O47-48

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) **A111**

Mercer v. Fairfax County Board of Supervisors, et al., **VAED**, Case No. 1:15-cv-302-LO-TCB (2/11/16); **Fourth Circuit**, Case No. 16-1138 (3/13/17); **SCOTUS**, Case No. 17-6071, *certiorari denied* (2/26/18) **A111, H4, 16-25, 27, 29-30, 50-52, J2, 5, 7, 15, 43, 45, 63, 67, L13-15, 19-20, 32-39, 43, 45, 61, O7-9, 15, 18, 23, 25, 48**

Mercer v. Powers, **Fairfax County, Virginia Circuit Court**, Case No. CL-2016-07197, (5/27/16); **Supreme Court of Virginia**, Record No. 161248 (3/24/17); **SCOTUS**, Case No. 17-6072, *certiorari denied* (2/26/18) **A111, H27, 30-31, 46, L39-41, 51**

Mercer v. Vega, **VAED**, Case No. 1:18-cv-346-LO-TCB (5/24/19);

OPINIONS AND ORDERS BELOW

(• - SEE APPENDIX FOR FULL TEXT)

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

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

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)

CONGRESSIONAL ACTS:

Act of 39th Congress, Session I,
Resolution 73, 7/24/1866
A67, H42, 46, 49, L48, 51, 54, O32-33

Act of 40th Congress, Session II,
Chapter 69, 6/22/1868
A68, H42, 46, 49, L48, 51, 54, O32-33

Act of 40th Congress, Session II,
Chapter 70, 6/25/1868
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Act of 41st Congress, Session II,
Chapter 10 & 12, 1/26/1870
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Act of 41st Congress, Session II,
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Act of 41st Congress, Session II,
Chapter 39, 3/30/1870
A79, H42, 46, 49, L48, 51, 54, O11, 32, 34

Act of 41st Congress, Session II,
Chapter 299, 7/15/1870
A81, H42, 46, 49, L12, 48, 51, 54, O32, 34

CONSTITUTIONAL PROVISIONS:

1215 Magna Carta **A625, L71**

1690 Natural Rights of Political Philosopher John Locke
A625, 629, L71-72, 74-75

1776 Const. of VA, Page 5 of 7 A191, H40, O29, 31

1830 Const. of VA, Art. V, Sect. 4
A192, H40, O29, 31

1850-51 Const. of VA, Art. VI, Sect. 6 & 10
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FRCP Rule 50(a)
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FRCP Rule 56 & 56(e)(1)
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FRCP Rule 59
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SCOTUS Rule 10(a, b & c)
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CONSICE STATEMENT OF THE CASE

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 hereat the following attached Appendix 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 16 of these 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**," 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 ten Documents: **B, D, E, G, H, I, J, K, L, O,** and **P**.

This is an appeal of a VAED Summary Judgment Proceeding between 3/15/19 and 5/24/19 which ruled against Petitioner. The Fourth Circuit affirmed the VAED Opinions and Orders on 2/3/20 [**P1**] creating two Circuit Splits (**SCOTUS Rule 10(a)**) over: **1)** 18 U.S.C. §924(e)(1) – "committed on occasions different from one another;" and **2)** FRCP Rule 56 and consistent with U.S. Amendment VII – In reviewing a summary judgment motion, the court must view all facts and draw any justifiable inferences from those facts in the light most favorable to the nonmoving party when determining if there exists genuine issues as to any material fact requiring a Trial by Jury.

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**].

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**].

Normally, 18 U.S.C. §924(e)(1) is appealed by convicted criminals alleging that the crimes of which they were convicted and which were judged by a Court to be ***sequential*** crimes three or more in number are argued by the convicted criminals to really be ***simultaneous*** or ***partially simultaneous*** crimes less than three in number.

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]**.

Herein, these roles get reversed. Petitioner is not a criminal and is/was suing Respondent Vega individually but who works as a Virginia State Police Officer in a 42 U.S.C. §1983 VAED Civil Action filed on 3/28/18 for three U.S. Amendment IV & XIV Rights violations. Upon Respondent's whim, Respondent swore out three 6/1/15 False Warrants against Petitioner without any Probable Cause alleging three sequential alleged crimes occurring 3/3/15, 5/15/15/ & 5/31/15 all which Petitioner was acquitted of on 3/31/16. Petitioner is arguing the three alleged Charges associated with the 6/1/15 False Warrants were ***sequential*** but were judged by the VAED to be ***simultaneous*** simply because Respondent Vega's three 6/1/15 False Warrants against Petitioner were sworn and/or served ***simultaneously***. Consequently, Petitioner's three Jury Questions concerning U.S. Amendment IV & XIV Rights violations were all eliminated in a Summary Judgment Proceeding when only one alleged Charge of the three ***simultaneous*** alleged Charges was judged by the VAED to have Probable Cause.

See 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**]).

Petitioner argues that the Probable Cause used by the Respondent Vega was knowingly-Fraudulent Probable Cause based on Respondent Vega's prior investigation with two of Petitioner's Federal Defendants (Houtz and Allander) in Petitioner's belated Disputed Statement of Facts filed on 5/22/19 [**A319-323, E15-18**]. Subsequently, Petitioner discovered relevant New Evidence on 8/26-29/19 while in the Fourth Circuit concerning this knowingly-Fraudulent Probable Cause that was judged earlier by the VAED to exist for the alleged Charge of Stalking [**A595-598, L22-24**]. But if the three alleged Charges had been judged to be ***sequential*** by the VAED, one alleged Charge of the three ***sequential*** alleged Charges judged to have Probable Cause would eliminate one and only one of Petitioner's three Jury Questions. This would have left at least two Jury Questions for a future VAED Trial so the grant of the Summary Judgment Motion against Petitioner by the VAED on 4/24/19 was inappropriate. See *Cooley v. Leung*, 637 Fed. Appx 1005 (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]**.

Attorney SW Dawson from Dawson, P.L.C. failed to present Petitioner's complete Disputed Statement of Facts in the VAED **[A286-293, D1-8]** on 3/27/19 then the VAED ruled against Petitioner **[A32-43, G1-9]** on 4/24/19 so Petitioner fired his attorney and filed a *pro se* FRCP Rule 59 Motion for New Trial; Altering or Amending a Judgment with four other Motions on 5/22/19 **[H1-53 with affidavits and other verified evidence in VAED Documents #35-1, #35-2, & #35-3 – A337-575]**. Petitioner's 5/22/19 FRCP Rule 59 Motion was timely and contained his belated but complete Disputed Statement of Facts including a Question of Exceptional Importance (Paragraph 188 – **SCOTUS Rule 10(c)**) where Petitioner invoked his Constitutional of Virginia, Article I, Section 3 *indubitable*, *inalienable*, and *indefeasible* Right to reform, alter, or abolish all Virginia Governments **[A397, H48, L53-54]**. The VAED reviewed Petitioner's 5/22/19 FRCP Rule 59 Motion for New Trial; Altering or Amending a Judgment with four other Motions then denied it in a 5/24/19 Order **(VAED Document #40 – [I1])**. Apparently, only Petitioner's Motion for New Trial was denied **[I1]**. Since this VAED Denial annulled Petitioner's *indefeasible* Right to reform, alter, or abolish Virginia Governments, Petitioner argued in the Fourth Circuit **[J3]** that **VAED Document #40 [I1]** filed just before

Petitioner's timely 5/24/19 Notice of Appeal was an Unconstitutional VAED Order [**J3**].

Further, the VAED did not in a Summary Judgment Proceeding view all Petitioner's belated but reviewed Disputed Facts and draw any justifiable inferences from those belated but reviewed Disputed Facts in the light most favorable to the Petitioner when deciding if there exists genuine issues as to any material fact requiring a Trial by Jury [**A58-59, 102-103, 157-158, D3, G5-6, H5, 32, 50, J40, L24, O23-24**]. Because Petitioner has a U.S. Amendment VII Right to a Jury Trial, in order for the VAED not to violate Petitioner's U.S. Amendment VII Right to a Jury Trial the VAED *must* view Petitioner's complete Disputed Facts and draw any justifiable inferences from those complete Disputed Facts in the light most favorable to the Petitioner when deciding if there could be a genuine issue of material fact for a Jury to consider in a Trial. But the fact that Petitioner's Disputed Statement of Facts was belated was reviewed by the Fourth Circuit and will be reviewed by this SCOTUS.

Petitioner argued in the Fourth Circuit beginning with his 7/15/19 "Informal Opening Brief and Affidavit" that the VAED committed an **ABUSE OF DISCRETION** [**J55-62**] when it ignored two of the 6/1/15 False Warrants admittedly sworn without Probable Cause by Respondent in his 12/12/18 Deposition Testimony [**A116-118, 332-335, 600-603, E27-30**] and when the VAED concluded the third ***simultaneous*** 6/1/15 Stalking Warrant had Probable Cause by way of the Totality of the Circumstances

[G6, A39]. See ***VAED Document #29, Page 8, Note 1*** **[G8, A42]**. After this **ABUSE OF DISCRETION**, it was appropriate for and incumbent on the VAED to review Petitioner's FRCP Rule 59 Motion for New Trial; *Altering or Amending a Judgment* with four other Motions containing Petitioner's belated but complete Disputed Statement of Facts invoking Petitioner's Constitution of Virginia, Article I, Section 3 *indefeasible* Right **[A339-399, H6-49]**. Because the VAED did not alter or amend its 4/24/19 rulings against Petitioner **[A32-45, G1-9, VAED Documents #30 & #31]** after reviewing Petitioner's belated but complete Disputed Statement of Facts and because the VAED annulled Petitioner's *indefeasible* Right, this became VAED **CLEAR ERROR** of law **[J62-65]** as the VAED had not viewed Petitioner's belated but reviewed complete Disputed Facts and drawn any justifiable inferences from those belated but reviewed complete Disputed Facts in the light most favorable to the Petitioner when deciding if there exists genuine issues as to any material fact requiring a Trial by Jury **[A58-59, 102-103, 157-158, D3, G5-6, H5, 32, 50, J40, L24, O23-24]**. The VAED reviewed Petitioner's belated Disputed Statement of Facts then issued a 5/24/19 Unconstitutional Order **VAED Document #40 [I1]** just before Petitioner read this Order and filed his 5/24/19 Notice of Appeal **(VAED Document #41)** 15 minutes before the VAED closed at 5:00 pm on 5/24/19. Petitioner paid his $505 fee for an appeal in the Fourth Circuit as he filed **VAED Document #41** on 5/24/19. Petitioner filed a 5/26/19, 6/3/19-Court-received "Motion for Leave of Court to File Amendment to Timely Notice of Appeal" adding the

VAED's last Order (**VAED Document #40 – [I1]**) to his Fourth circuit Appeal. In the Fourth Circuit, Petitioner's complete Disputed Statement of Facts [**A339-399, H6-49**] was reprinted in his 8/30/19-filed, 9/10/19-corrected, & 9/27/19-reprinted "Informal Reply Brief of Appellant ..." as [**A339-399, L24-54**]. See Petitioner's 5/22/19-filed, (8/30/19 & 9/27/19)-refiled complete Disputed Statement of Facts herein at [**A339-399**].

According to Respondent Vega in his 7/30/19 Fourth Circuit "Informal Response Brief of Appellee E.A. Vega" on page [**K28**]:

> "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)). Rule 59(e) motions "may not be used to relitigate old matters, or to raise arguments or present evidence that could have [been] raised prior to the entry of judgment. *Id.* (quoting *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 486 n. 5 (2008) (internal quotation marks omitted))."

Petitioner: **1)** discovered relevant New Evidence on 8/26-29/19 while in the Fourth Circuit concerning more 3/26-27/07 fraud which was not

available in the VAED because fraud is designed to deceive and Petitioner was deceived of the existence of this New Evidence before filing his 5/24/19 Notice of Appeal [**A595-598, L22-24**]; **2)** found **ABUSE OF DISCRETION** [**J55-62**] leading to **CLEAR ERROR** of law [**J62-65**] committed by the VAED concerning the two aforementioned Circuit Splits over 18 U.S.C. §924(e)(1) and FRCP Rule 56 which FRCP Rule is consistent with U.S. Amendment VII; and **3)** presented in the VAED [**A398-399, H49**] and in the Fourth Circuit [**A398-399, L54**] his Question of Exceptional Importance (**Paragraph #188 – SCOTUS Rule 10(c)**) as a Motion for Declaratory Judgment contained in Petitioner's complete Disputed Statement of Facts [**A339-399, H6-49, L24-54**] which Disputed Statement of Facts explained the Manifest Injustice created by Virginia's current Confederate Police Government [**A381-399, H39-52, L46-54**]. The Virginia Governments are contrary to the U.S. Guarantee Clause [**A218**]. Petitioner explains this Manifest Injustice by paraphrasing his 189 Paragraphs/Sections of his complete Disputed Statement of Fact to minimize going over his 9,000-word Word Limit (**SCOTUS Rule 33.1(g)**) below.

But first, Petitioner fired his attorney SW Dawson terminating representation by Dawson, P.L.C. on 5/21/19 without receiving any of his Fee Agreement's $22,500 back [See 3/6/18 "Fee Agreement" as the first Attachment to **Document J**] nor other related legal costs back which are jeopardized by the Judicial Delays of a Fourth Circuit and a SCOTUS appeals. Petitioner filed his *pro se* FRCP Rule 59 Motion for New Trial; Altering or

Amending a Judgment with four other Motions in the VAED on 5/22/19. SW Dawson had refused to file Petitioner's FRCP Rule 59 Motion in the VAED attacking it as: "rife with irrelevant and demonstrably incorrect information;" and if it were filed "would be objectively frivolous" and "thus not a pleading [SW Dawson] would be ethically permitted to file." Petitioner disagreed and still does disagree with his previous attorney believing SW Dawson was committing and has committed Legal Malpractice. Petitioner presented this belief of SW Dawson's Legal Malpractice in the Fourth Circuit. See "Affidavit of Appellant ... Mercer [**J66-73, A578-590**]" filed within Petitioner's Fourth Circuit "Informal Opening Brief and Affidavit [**J1-76**]" with 3/6/18 "Fee Agreement" attached.

Herein, Petitioner has named Dawson, P.L.C. as a Respondent. This makes sense to Petitioner based on what happened between 4/24/19 and 5/24/19 in the VAED with SW Dawson and is in the interest of both Justice and Closure. However, 28 U.S.C. §1367(a) (Supplemental jurisdiction) [**A225**] may be required to effect this Joinder. Any legal malpractice case accrues if and when the SCOTUS rules on this Petition/Case. Petitioner just wants his money back as outlined in the List of Parties above in order to prepare and improve his townhouse for his elderly Mother turning 90 on 7/3/2020; And COVID-19 is uncontrolled in Tucson, Arizona where she lives currently. Since 28 U.S.C. §1367(a) may be limited to action of the District Court only, any Joinder of or Sanctions against Dawson, P.L.C. might only be able to be granted by the VAED upon remand where

Petitioner believes the VAED is still obligated to rule on Petitioner's remaining three 5/22/19 Motions: **1)** Leave of Court to Amend paragraph 16 [**A290, B3-4**] of Petitioner's 4/16/18 "First Amended Complaint" [**H5-6**]; then **2 & 3)** from Petitioner's complete Disputed Statement of Facts Paragraph 188 for a Declaratory Judgment Petitioner would use to convince Congress to reapply the U.S. Guarantee Clause against Virginia [**A218, 398-399, H49, L54**] & Paragraph 189 for Sanctions against Respondent Vega [**A399, H49, L54**].

Petitioner's Disputed Statement of Facts [**A339-399**] from his "FRCP Rule 59 Motion for New Trial; Altering or Amending a Judgment / ... / Three Additional Motions on Page 5-6 and Paragraphs 188 & 189 [**A337-399**]" filed on 5/22/19 are adopted by reference and incorporated herein as if fully rewritten verbatim hereat again for certain consideration by this SCOTUS. These Disputed Statement of Facts [**A339-399, H6-49, L24-54**] contain 189 Paragraphs/Sections which include Petitioner's "Affidavit of Plaintiff ... Mercer [**A339-372**]" written within his 5/22/19 FRCP Rule 59 Motion. The 189 Paragraphs/Sections were first filed in the VAED on 5/22/19 [**A339-399, H6-49**] then filed in the Fourth Circuit in Petitioner's 8/30/19-filed, 9/10/19-corrected, and 9/27/19-refiled "Informal Reply Brief of Appellant ... [**A339-399, L24-54**]" See **A339** where it links **H6-49** and **L24-54** to **A339-399** in the interest of Preservation for this Court. 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**]).

Petitioner rewrites his Disputed Statement of Facts again for brevity and in the interest of Justice while concerned about the 9,000-word-limit Word Count (**SCOTUS Rule 33.1(g)**) clarifying that the following is not exactly what the VAED nor Fourth Circuit considered. This Court ought to rely on [**A339-399**] to resolve all ambiguities.

PARAPHRASED DISPUTED FACTS

On 6/9/06, Petitioner was "stopped" by Virginia State Police Trooper Kenneth S. Houtz (hereafter "**Houtz**" or "**VSP Trooper Houtz**") for a routine traffic stop three-car-lengths into the beginning of HOV-2 (High Occupancy Vehicle 2) on the shoulder of I-66 Eastbound in Fairfax County, Virginia. Petitioner had voluntarily stopped earlier needing to make an emergency phone call to the new babysitter of his 18-month old daughter. Petitioner's daughter's pediatrician had ordered a diet restriction for Petitioner's daughter. This thought had just occurred to Petitioner. Traffic waiting to exit I-66 Eastbound on both the right and the left had blocked both shoulders of I-66 before HOV-2 began where Petitioner found an open shoulder for his phone call. After Petitioner stopped on the right shoulder of HOV-2, he could not find the piece of paper with the

babysitter's phone number finally concluding he had left the piece of paper in his daughter's diaper bag. Petitioner's emergency was over. Petitioner was thereafter waiting behind other stopped/parked vehicles without an emergency for the HOV-2 Restriction on I-66 to lift in exactly three minutes after his emergency had resolved itself [**A340-341, H6-7, L24-25**].

During the course of the arrest, Petitioner interrupted Houtz's Summons Explanation asking if his Summons was for a moving violation or was it for a parking ticket. The Summons Explanation then resumed to completion and while Petitioner was literally signing his Summons, Houtz exclaimed that Petitioner had "ripped the pen out of [Houtz's] hand" when Houtz had offered his pen and his Summons Book to Petitioner for Petitioner to read then sign his Summons "not as an admission of guilt but that [Petitioner] was going to come to Court" [**A341-343, H7-8, L25-26**].

Petitioner returned Houtz's pen and Summons Book after signing his Summons then exercised his U.S. Amendment I Right non-violently without raising his voice stating, "I think you are cruel, obnoxious, and an asshole." Eyewitness Jong P. Han (hereafter "**Eyewitness Han**") who was simultaneously "stopped" on 6/9/06 in directly in front of Petitioner testified in the Fairfax County Circuit Court (herein "**FCCC**") on 3/26/07 that he had been watching the entire interaction between Houtz and Petitioner through Eyewitness Han's rearview mirror where he was stopped/parked immediately in front of

Petitioner's stopped vehicle and saw no physical contact between Houtz and Petitioner [**A343-344, H9, L26**].

Petitioner was immediately rearrested after expressing his U.S. Amendment I opinion of Houtz on the charge of Felony Assault and Battery of a Law Enforcement Officer. Petitioner cooperated and was removed from his car. Petitioner's hands were then continuously immobilized on first the roof of his vehicle while he was frisked, second on the trunk of his vehicle while Houtz gave out three other Summons including one to Eyewitness Han, third on an I-66 guardrail support, then fourth in handcuffs continuously until Petitioner's copy of his *signed* Summons was separated from his Summons Packet in the Sully Port of the Fairfax County Police Station by Houtz while Petitioner still wore handcuffs. Houtz had Petitioner wait at the guardrail while he contacted his in-fact supervisor VSP Sergeant Kerry S. Allander (hereafter "**Allander**" or "**VSP Sergeant Allander**") to see if it was okay for Houtz to arrest Petitioner [**A345, H10-11, L27**].

Uninjured Houtz claimed Petitioner had struck him during the Summons Explanation Interruption about whether the Summons was a moving violation or a parking ticket after which Houtz, who testified he retained his pen and Summons Book "at all times," had backed up into a lane of I-66 traffic, placed his Summons Book on the ground, and ordered Petitioner out of his vehicle [**A343-344, 346, H9, 11-12, L26-28**].

If one believes Houtz's testimony, Petitioner was never asked at the end of his first arrest to sign

his Summons. So when did Petitioner sign his Summons? Houtz testified in the FCCC on 3/26/07 relative to when he backed up into the lane of I-66 traffic where he allegedly placed the Summons Book on the ground which was not run over (the Summons Book was actually in Petitioner's vehicle being signed) that Petitioner had signed his Summons before or after the point in time when Houtz had backed up into the lane of I-66 traffic [**A344-345, H10, L26-27**].

In the Fairfax County General District Court (herein "**FCGDC**") on 11/30/06, Petitioner with Counsel was convicted of Misdemeanor Assault and Battery. The alleged assault demonstration in the FCGDC was with right-handed Houtz holding his Summons Book in his right hand and horizontal from Houtz's **left to his right**. The testimony that Houtz had kept control of his pen "at all times" disappeared from the Court Reporter's Transcript. A CD copy of the FCGDC Court Reporter's Back-Up Tape had been edited with an approximately two-second repeat of the Prosecutor's words later in the Court testimony indicative that a section of the original FCGDC testimony had been moved forward to over-record the "at all times" section. This created a repeat later in the FCGDC testimony where the section of the original FCGDC testimony ended [**A346, H11-12, L27-28**].

On appeal in the FCCC for a two-day trial on 3/26/07 to 3/27/07, Petitioner with Counsel was convicted of Misdemeanor Assault and Battery again. Earlier and on 1/26/07, Petitioner's Brady Request [**A61**] for Exculpatory Evidence (the 6/9/06 Police

Report) to compare with Houtz's volunteered Summary Notes had been denied using VA Code §2.2-3706(F)(1) which is now VA Code §2.2-3706(B)(1 not 2) [**A233-242**]. Petitioner's 5/22/19 Disputed Statement of Facts Paragraph 33 or Section 33 misidentified the present VA Code as §2.2-3706(B)(2 not 1) [**A347**]. The alleged assault demonstration in the FCCC was diagonally downward from Houtz's **right to his left** [**A347-348, H12, L28**].

Newly discovered by Appellant after jurisdiction transferred from the VAED to the Fourth Circuit, one of the 3/26/07 to 3/27/07 Jurors (Esther S. Vorona) left the Courtroom on 3/26/07 with the names of the other six Jurors most probably to her husband (Dr. Jack Vorona) who worked for the Defense Intelligence Agency (DIA) as a CIA Source for psychic spying, psychokinesis, parapsychology, weapons research, and mind control. Dr. Jack Vorona was recognized by the U.S. House of Representatives on 10/11/2011 for "invaluable leadership in developing scientific and technical intelligence programs during the height of the Cold War [which] helped keep Americans safe ... [d]uring a 25 years career at the DIA." Dr. Jack Vorona was described, "DIA, TSS Head, Psi researcher, committee member managing UFO disinfo., member of the do-called Aviary." See [**A595-599, L22-24**].

Jumping forward to 2020 momentarily, George Floyd who was a 46-year-old black man in Minneapolis, Minnesota had his neck pinned under white Officer Derek Chauvin's knee for seven minutes 46 seconds [**A283-284**]. George Floyd needlessly died

on 5/25/20 for no apparent reason due to Police Misconduct. Rashard Brooks who was a 27-year-old black man asleep in a Wendy's parking lot was confronted by curious Officers Garrett Rolfe and Devin Brosnan. There was some struggle and Brooks obtained an officer's Taser then tried to flee. Pursued, Brooks turned while fleeing and pointed the Taser at the pursuing Officers. Officer Rolfe shot Brooks. While Brooks lay dying from Rolfe's bullet, Officer Rolfe was videoed kicking Brooks and Officer Brosnan was videoed stepping on Brooks [**A284-286**]. Riots have occurred across the country because of these two police misconduct incidents. The People protest for Justice, defunding Police, and the end to the choke-hold by Police. Petitioner personally witnessed boarded up buildings on 16th Street NW, Washington, D.C. immediately in front of the White House with nighttime protesters mainly African American protesting/loitering all around. "Black Lives Matter" was painted in huge yellow letters on 16th Street. Will there be a Dr. Jack Vorona or equivalent anywhere near the Grand Juries or Juries that will judge Police Officers Chauvin, Rolfe, and Brosnan?

These Jury Tampering Experts are the biggest threat to the U.S. Guarantee Clause [**A218, 381, H39, L46**] because they create Police Officers and Police Forces throughout the United States whose misconduct has minimal or no consequence. These Jury Tampering cases will most likely not appear before this SCOTUS at all or will not be "smoking gun" cases because some doubt will linger due to the nature of fraud inherent with Jury Tampering. However, if this SCOTUS is rendered powerless by this doubt

associated with catching these Jury Tampering cases, the Democracies or the Constitutional Republics of and within the United States are doomed to degenerate into authoritarian governments. Petitioner believes, when caught or when the likelihood of the existence of one of these Jury Tampered Police Misconduct cases arises, the associated State Government should be abolished or temporarily abolished (suspended) in order to remove all State/County/City Judges and Magistrates then retrain the Police at least from where the Jury Tampering case originated in a containment manner. Impeachment should not be an option as the Government is infected and cannot cure itself but the opportunity for Judges to resign should be extended. In Virginia, the People have no direct connection to electing/choosing State/County/City Judges [See *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) & Constitution of Virginia, Article VI, Section 7 – **A85, 211-212, 381-382, H39, L46**].

These State/County/City Judges and Magistrates should be considered incompetent and not be eligible to serve as a Judge again for a period of at least five years. The State/County/City Police should be only allowed to resume work after they memorize verbatim both the U.S. Bill of Rights and all the State Citizens' Rights where they work then be orally examined on the same without multiple choice questions or any additional help. They could be trained once per day until they memorize these State and Federal Citizens' Rights. Thereafter, the dated "Oral Examination Certification of State and Federal Citizens' Rights Knowledge" needs to be filed with

Secretary of the Police Officer's State to be a Public Record available to anyone and everyone on demand, no exceptions. This will reasonably limit Qualified Immunity. Warrants sworn by Police Officers must have all the words used by the Police Officer (all of them) transcribed with the complete content of what was sworn by the Police Officer along with the Officer's and Magistrate's names reduced to a document which document would then be served with the Warrant on the Defendant, no exceptions. This will reasonably limit Magistrates from shielding the Police Officers from liability.

Virginia must have a Constitutional Convention to rewrite Article VI, Sections 1, 2, & 7 consistent with the content of this Petition. The Supreme Court of Virginia shall no longer be allowed to interpret the U.S. Bill of Rights and must always grant to a litigant who invokes a Federal Right that Federal Right within reason, very few exceptions here and these exceptions would be for clearly erroneous invocation of a Right that did not pass the laugh test. This is Petitioner's Constitution of Virginia, Article I, Section 3 *indubitable*, *inalienable*, and *indefeasible* Right to reform, alter, or abolish all Virginia Governments [**A397, H48, L53-54**].

Continuing with Petitioner's Disputed Statement of Facts, on 3/26/07 Eyewitness Han testified there was no physical contact between Petitioner and Houtz [**A344, H9, L26**]. Eyewitness Han was then impeached because ten years earlier he had been caught lying, cheating, or stealing in college [**A344, H9, J12, L26**]. Forensic Document Examiner

Ronald Morris verified that Petitioner's 6/9/06 Summons was signed:

> "**A[nswer of Forensic Document Examination Expert Ronald Morris]** The white document was presented to me as a certified copy of a Virginia uniform summons form as page 1. And I believe this particular document, the original of this is retained by the court system. I was ... asked to determine ... if the signatures on these two forms were written simultaneously. And by that I mean not as one person writing those two signatures one right after the other. ... But this particular document, the yellow copy is what is called a carbonless sheet, and the document that is white, in this case, the original of this, I understand – I have seen the original document, which is also white – were those documents packaged up so that the yellow copy was under the original white copy and then the signature that was signed in that block, did it go through all the copies, and particularly did it go through to the copy identified here as page 3. ... It was for these reasons and others that I concluded that the two signatures were written at the same time and that the packets were – the packet was one piece at the time the writing was done **[A348, 491-492, 500, H12-13, J12, L28, Q34-36]**.

Petitioner needs more letters for already adopted and incorporated as if rewritten verbatim VAED Documents (See Page 12 above):

"**Q**" means 5/22/19 VAED Document #35-1 –
"**R**" means 5/22/19 VAED Document #35-2 –
"**S**" means 5/22/19 VAED Document #35-3 –

These VAED Documents contain Attachments to Petitioner's FRCP Rule 59 Motion for New Trial; Altering or Amending a Judgment with four other Motions being VAED Documents with "**affidavits and other verified evidence**, that there exists a genuine dispute of material fact" [**G5, H5**] in accordance with *Matsushita Elec. Indus. Co. v, Zenith Radio Corp.*, 475 U.S. 574, 585-86 n. 10 & 11 and FRCP Rule 56(c) [**A102-103, 263-265, G5, H5**].

The 3/26-27/07 Jury convicted Petitioner of Misdemeanor Simple Assault and Battery beyond a reasonable doubt sentencing Petitioner to a $2,500 fine without any jail sentence (See Virginia Code §17.1-410 (A)(1) and (B)) [**A348, 649, H13, L28**]. Petitioner has been unable to find a job for 14 years due directly to his violent Criminal Record based on this false conviction [**A352, H15-16, L30**].

Before 4/11/07, Petitioner went to the Maryland Court Reporting Agency to retrieve transcripts of the 3/26-27/07 FCCC Trial (L.A.D. Reporting & Digital Videography). The 3/26/07 Transcript of Court Reporter Janie G. Arriaga had been edited with an unsigned Court Reporter's Certificate where the Case Number of the Transcript was not correctly MI-2006-2302 but the Nolle Prosequied MI-2006-2343 [**A348-349, 434-511, H13, J12, L28-29, Q21-38**]. Petitioner requested from the Court Reporting Agency that the Court Reporter check the 3/26/07 Transcript over for

errors then sign the Court Reporter's Certification. Without any other changes to the 3/26/07 Transcript, the signature "Janie Arriaga" was added to the Court Reporter's Certification dated 4/11/07 [**A349, 511-512, H13, J12, L29, Q39**]. Petitioner requested and received a CD copy of the Court Reporter's Back-Up Tape. There were approximately seven erasure episodes almost exclusively during Voir Dire, the Assault Demonstration, and Houtz's testimony (approximately 82% over-recorded with silence) but where there was audio on the CD copy it did not match the 3/26/07 Transcript [**A350, H14, L29**]. Petitioner prepared an "Affidavit of Corrections" with 143 corrections for Court Reporter Janie G. Arriaga to notarize documenting all the places where what was left of her 3/26/07 Back-Up Tape audio did not match the 3/26/07 Transcript. Petitioner received back from the Vice-President of the Court Reporting Agency a severely-shortened "Affidavit" with 60 corrections to the 3/26/07 Transcript signed "Janie Arriaga" and notarized by "Rebekah Jean Febus" on 6/8/07 [**A349-350, 512-518, H13-14, J12, L29, Q40-43**]. The Vice-President of the Maryland L.A.D. Reporting & Digital Videography refused to allow Petitioner to meet personally with Court Reporter Janie Arriaga [**A349, H14, L29**].

With a destroyed appellate record and without the support of Court Reporter Janie Arriaga, Petitioner paid Forensic Tape Examiner Steve Cain $7,000 to find and collect the original copy of Janie Arriaga's Back-Up Tape and write a 7/5/07 Expert Report which was filed in the FCCC together with a Motion to correct the Circuit Court Transcript.

Petitioner exited the FCCC on or about 7/16/07 with all post-sentencing Motions denied. Petitioner was estopped from further action with the Court Reporter's Certification that the 3/26/07 Transcript was accurate [**A350-351, 407-418, H14-15, J12, L29-30, Q10-13**]. Petitioner's appeal in the Court of Appeals of Virginia (hereafter "**COAV**"), Record No. 0828-07-4 was denied on 10/30/08 with rehearing denied on 2/18/09. Petitioner's appeal in the Supreme Court of Virginia (hereafter "**SCV**"), Record No. 090536 was dismissed via Virginia Code §17.1-410(A)(1) and (B) [**Ordinance is not in Appendix – Placed at the End of Appendix in Appendix of Injustice – A649**] being a Misdemeanor without incarceration on 5/6/09 with rehearing denied on 9/22/09. Petitioner's appeal in the SCOTUS (Case No. 09-8206) was denied on 4/19/10 with rehearing denied on 6/7/10 [**A351, H15, L30**]. Husband of 3/26-27/07 Juror Esther S. Vorona from FCCC Case No. MI-2006-2302 being Dr. Jack Vorona was recognized in the U.S. House of Representatives on 10/11/11 for his 25 years at the Defense Intelligence Agency (DIA) working as a CIA Source with accomplishments in psychic spying, psychokinesis, parapsychology, weapons research, and mind control [**A597, L23**].

On 3/6/2014, the Fairfax County Board of Supervisors (hereafter "**FCBoS**") acting as the Fairfax County Department of Code Compliance (hereafter "**FCDCC**") requested to inspect the inside of Petitioner's townhouse which Petitioner denied. The FCDCC then used the Fairfax County Board of Supervisors acting as the Fairfax County Child Protective Services (hereafter "**FCCPS**") to violate

Petitioner's U.S. Amendment IV & XIV Rights because Petitioner had denied the FCDCC Townhouse Inspection of his townhouse. After the FCCPS Inspection concluded without any problems identified, the FCCPS shared the results of its Inspection with the FCDCC unconstitutionally in a "grievous and oppressive" manner contrary to the Constitution of Virginia, Article I, Section 10 [**A352, 208, H16, L32**]. Petitioner went to the VSP Headquarters (Braddock Road in Fairfax, Virginia) on 3/3/15 and spoke with VSP Sergeant Kerry S. Allander claiming to be a George Mason University student writing a paper about previous events in order to learn Sergeant Allander's first name and middle initial. He was told "Terry" but had doubts and found the correct name "Kerry S. Allander" in a previous 11/28/07 COAV Filing (Record No. 0828-07-4) [**A352-355, H16-18, L32-33**]. Petitioner filed on 3/6/15 VAED Civil Action 1:15-cv-302 alleging a U.S. Amendment IV & XIV Rights violation and Fraud against **1)** FCDCC, **2)** FCCPS, **3)** FCDCC employee #1; **4)** FCDCC employee #2; **5)** FCDCC supervisor; **6)** FCCPS employee; **7)** FCCPS supervisor; **8)** FCCC Case No. MI-2006-2302 Judge; **9)** COAV Judge #1; **10)** COAV Judge #2; **11)** COAV Judge #3; **12)** SCV Judge #1 (The deceased previous Chief Justice); **13)** SCV Judge #2; **14)** SCV Judge #3; **15)** SCV Judge #4; **16)** SCV Judge #5; **17)** SCV Judge #6; **18)** SCV Judge #7; **19)** VSP Trooper Houtz; **20)** VSP Sergeant Allander; **21)** FCBoS Chairman; and **22)** FCBoS [**A355, H18, L33**].

Petitioner could obviously not serve the SCV Judge **#12** and was unsuccessful serving the FCCC Case No. MI-2006-2302 Judge who was in Chicago, IL

[**A358-359, H19, 21, L33-34, J12, R51**]. The FCCPS Supervisor **#7** was served professionally an Amended Summons in Washington State [**A358-359, H19, 21, L33-34, J12, R50**]. The COAV and other SCV Judges waived Service of Summons. Petitioner was terrified trying to defend his Federal Rights in 2015.

Petitioner tried to serve everyone privately at first with Summons [**A356, H19, L33-34, J12, R12-15**]. That worked for Federal Defendants **#1-6** & **#21-22**. A Richmond Professional Process Server showed up at the residence and talked with the wife of a SCV Judge then Federal Defendants **#9-11** & **#13-18** waived Service of Summons. Summonses for **19)** VSP Trooper Houtz and **20)** VSP Sergeant Allander with an Amended Summons on 5/22/15 [**A, J12, R40-42**] and an Alias Second Amended Summons on 5/31/15 [**A, J12, R34-39, 43-46**] proceeded as follows.

All the following documents are Affidavits or VAED Certified Documents and filed in **VAED Documents R and S**. Petitioner hired Virginia Process Servers, Inc. on 5/19/15 [**A358, 556-557, H21, J12, L34-35, R47-55**] which ran "skip traces" on Houtz and his 6/9/06 in-fact VSP Supervisor Allander [**A358, H21, J12, L34-35, R43, 52-53**]. Petitioner had the VAED issue 5/21/15 Amended Summonses using the home addresses for Houtz and Allander [**A358-359, 524-527, 544-545, H21, L35, J12, R24-25, 40**]. Houtz was served by Professional Process Server Patricia Beard on 5/22/15 at 1:23 pm [**A359, 531-534, 544-549, H21, J12, L35, R32-33, 40-42**]: **1)** a Summons; **2)** a VAED Case No. 1:15-cv-302 Complaint with Amendments alleging Fraud; and **3)** a CD copy of

Court Reporter Janie G. Arriaga's 3/26/07 Back-Up Tape from FCCC Case No. MI-2006-2302 [**A359, 533-534, 546-549, H21, J12, L35, R33, 41-42**]. The 5/29/15 Proof of Service for Houtz had the erroneous date "1/22/15" [**A359, 533-534, H21, J12, L35, R33**]. The two 6/15/15 Amended Proofs of Service for Houtz [**A359, 546-549, H22, J12, L35, R40-42**] correctly dated "5/22/15" differed in the Professional Process Server Beard's address [**A359, 546-549, H22, J12, L35, R41-42**] and accompanied the 6/15/15 filing of Patricia Beard's Affidavit of Service [**A359, 556-557, H22, J12, L35, R47**]. Allander evaded service by Professional Process Server Patricia Beard on 5/27/15 pretending to be "Renter Greg" as documented in her 6/15/15 Affidavit [**A359-360, 550-555, H22, J12, L35-36, R43-46**] violating the Virginia Code §18.2-409 and/or §18.2-186.3(B1) [**A245-248, 360, H22-23, L36**]. Petitioner had the VAED issue an Alias Second Amended Summons with Allander's same home address on 5/29/15 [**A360, 527-531, H22, J12, L35-36, R30-31**]. Allander was served by Private Process Server James N. Powers on 5/31/15 at 8:25 pm [**A360, 535-538, H22-23, J12, L36, R34-35**]: **1)** a Summons; **2)** a VAED Case No. 1:15-cv-302 Complaint with Amendments alleging Fraud; and **3)** a CD copy of Court Reporter Janie G. Arriaga's 3/26/07 Back-Up Tape from FCCC Case No. MI-2006-2302 [**A360, 537-538, H22-23, J12, L36, R35**]. The 6/2/15 Proof of Service for Allander [**A360, 535-538, H22-23, J12, L36, R34-35**] accompanied James N. Powers' Affidavit of Service [**A360, 535-536, 538-544, H22-23, J12, L36, R34, 36-39**].

Petitioner had followed FRCP Rule 4(a-c & l-m) to serve now Federal Defendants **19)** VSP Trooper Houtz and **20)** VSP Sergeant Allander [**A360-361, H23, L36**]. Along the way, Respondent Vega points out that Petitioner was in communication with VSP Sergeant Jerry Fielder [**K7**], VSP First Sergeant Daniel Wilson [**K8**], VSP Sergeant Alvin Blankenship [**K9**], VSP Wesley Paul [**K10**], VSP First Sergeant J.C. Miers [**K10**], but VSP Officers/Federal Defendants Houtz and Allander never communicated with Petitioner personally providing Petitioner with the name(s) of Houtz's and Allander' attorney(s) despite Petitioner's e-mail attempt to extend to both Houtz and Allander the opportunity to Waive Service of Summons on 3/13/15 [**K8**]. FRCP 4(a-c & l-m) does not require Petitioner to listen to suggestions from other VSP Officers of how to serve VSP Trooper Houtz nor VSP Sergeant Allander. Petitioner believed all those suggestions were likely misinformation.

On 5/15/15, Petitioner had accompanied Private Process Server Ibrahim Fetterolf to attempt service on Allander with Ibrahim Fetterolf's request for Petitioner to help Fetterolf serve Allander. Petitioner represented himself as Ibrahim Fetterolf in Mr. Fetterolf's immediate presence without issue on 5/15/15 while Mr. Fetterolf had Court Documents in-hand to serve on Allander. On 5/15/15, Petitioner learned that Allander was not actively working as a VSP Officer which information is not sacred nor related to the 6/1/15 alleged Identity Theft Charge *with **Victim** Ibrahim Fetterolf* 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**].

Respondent Vega who works as a VSP Special Agent completed a hasty and incompetent investigation on 6/1/15 with Federal Defendants Houtz and Allander, their two Summonses, their two VAED Case No. 1:15-cv-302 Complaints with Amendments alleging Fraud, and their two CD copies of Court Reporter Janie G. Arriaga's 3/26/07 Back-Up Tape from FCCC Case No. MI-2006-2302 [**A321-327, E17-22**]. Petitioner alleges Respondent Vega made an attempt to intercept and seize what would become the 6/2/15 Proof of Service paperwork documenting Federal Defendant Allander's successful 5/31/15 Service of a Summons with Complaint before that VAED Proof of Service paperwork reached the VAED as noted by Petitioner in his 6/19/15 Affidavit [**A362, 557-572, H24, J12, L37, R56-58, S1-8**]. This Affidavit was attached to Petitioner's 6/16/15 VAED Motion for Sanctions on attachment page four [**A362, 564, H24, J12, L37, S2**]. This was a justifiable inference from the Disputed Facts in a Summary Judgment Proceeding [**A361, 378-379, H23, 37, L36, 44-45**] that there existed a genuine issue as to a material fact requiring a Trial by Jury concerning the 6/1/15 False Warrants. Respondent Vega knowingly swore out the three 6/1/15 False Warrants against Petitioner at issue herein without Probable Cause [**A116-118, 332-335, 600-603, E27-30**]. This was an unethical and vindictive use of the Fairfax County Criminal Justice System to effect an advantage in a Federal Civil Action simply because Petitioner had successfully

served a VAED Summons with Complaint on VSP Sergeant Allander on 5/31/15. Respondent Vega's 12/12/18 Deposition Testimony documents that he had no Probable Cause (Information Obtained nor Financial Loss of Victim) concerning the two Identity Theft Warrants for Victim Houtz nor Victim Private Process Server Ibrahim Fetterolf [**A116-118, 332-335, 600-603, E27-30**]. Sergeant Allander was not the alleged Victim of the Identity Theft Warrant with Victim Ibrahim Fetterolf. Therefore, the knowledge that Allander was not working on 5/15/15 was never an alleged crime committed by Petitioner [**A118, 333-334, 602, E27-28**]. See Virginia Code §18.2-186.3 as noted on the previous page [**A245-248**]. Since Respondent Vega's hasty and incompetent investigation involving Federal Defendants Houtz and Allander with two copies of Petitioner's VAED Case No. 1:15-cv-302 Complaint with Amendments alleging *Fraud* by Houtz and Allander [**A321-327, E17-22**], viewing all facts and drawing all justifiable inferences in the light most favorable to Petitioner during a Summary Judgment Proceeding informed Respondent Vega of the Fraudulent Nature of the Probable Cause he then used to knowingly swear out the 6/1/15 Stalking Warrant against Petitioner before Fairfax County Magistrate Wilson Talavera [**A37, G4-5**].

But why Fairfax County Magistrate Wilson Talavera issued the three 6/1/15 Warrants to VSP Special Agent Vega when Respondent had no knowledge of any Probable Cause for these False Warrants is the gravamen of this appeal and proves Virginia has a Confederate Police Government and has since 1902 contrary to the ***U.S. Guarantee***

Clause **[A218]**. Additionally, this appeal distinguishes ***Messerschmidt v. Millender***, 565 U.S. 535, 546-47, 132 S.Ct. 1235, 182 L.Ed.2d 47 (2012) **[A112-120, G8-9, H39-49, J3, 30-31, 42, L53-57, O16-17, R6-11]** ("[T]he fact that a neutral magistrate had issued a warrant is the clearest indication that the officers acted in an objectively reasonable manner."). The assumption is that a Virginia Magistrate's Allegiance is to the *People* not to the *Virginia Police Officer* in a Virginia Confederate Police Government with 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7!

Petitioner filed a 6/28/20 Application to the Circuit Justice for the Fourth Circuit (Chief Justice John G. Roberts, Jr.) to exceed the Rule 33.1(g) 9,000-word Word Limit by an estimated 1,200 words based on Petitioner proceeding *pro se* in this SCOTUS after having been abandoned by his attorney in the VAED, having lost his $22,500 paid to his attorney who abandoned him in the VAED, and having three SCOTUS matters being *two* Circuit Splits with *one* Question of Exceptional Importance.

In a Democracy or Constitutional Republic, People are the Sovereign and they are protected from Government with ***Rights*** **[A383, H40, L47]**. Judges enforce these Rights so Judges' Allegiance to the People not to the Government (Police) is paramount in a Democracy or Constitutional Republic **[A383, H41, L47]**. People's right to choose their own Judges in a Democracy or Constitutional Republic was recognized in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) **[A381-382, H39, L46]**. Of the seven

Constitutions of Virginia (hereafter "**COV**"), only the 1850-51 COV allowed the People to elect State/County/City Judges. In all the of the other six COV's, the Virginia General Assembly chose all State/County/City Judges [**A382, 392, H40, 46, L46, 51**].

In a Confederacy, Government is the Sovereign and it is protected from the People by ***Denying Rights*** so Government tries to controls of the Judges [**A385, H42, L48**]. During the Civil War in order to remain in the Union, the 1863 West Virginia Constitution, Article I, Section 1 emphasized that West Virginia was unlike the Confederacy and respected the ***U.S. Supremacy Clause*** [**A383-384, 392, H43, 46, L48-49, 51**]. After the Civil War was lost by the Confederacy, Congress applied the ***U.S. Guarantee Clause*** against the 11 previous Confederate States changing at least "white male" voters to "male" voters [**A387, 392-393, 643-646, H43, 46, L49, 51**]. See *Hardeman v. Downer*, 39 Ga. 425. 443 (1869) [**A91, H43, J5, L49**]. The *unratified* 1864 COV was replaced with the 1870 ratified COV with Congressional Application of the ***U.S. Guarantee Clause*** [**A392-393, H46, L51**] and that 1870 COV contained a restatement of the ***U.S. Supremacy Clause*** as Article I, section 3 [**A392-393, H46, L51-52**].

The Two Reconstructions, the Struggle for Black Enfranchisement by Richard Valelly [**A147, 393-396 H46-47, L51-53, O29, 35, 38-40**] educates that between 1885 and 1908, the African American was re-disenfranchised in a color-blind way consistent with

U.S Amendments XIV & XV **[A214-216]** with Poll Taxes against the Poor and Literacy Tests against the Uneducated. But the 1902 *unratified* COV applied a third Confederate Way to disenfranchise: It got rid of the 1870 COV, Article I, Section 3 **[A195]** restatement of the ***U.S. Supremacy Clause*** **[A218]** and allowed the Supreme Court of Appeals of Virginia to interpret the Constitution of the United States with its U.S. Bill of Rights in 1902 COV, Article VI, Section 88 **[A203-205]** contrary to that ***U.S. Supremacy Clause*** **[A218]**. Since this SCOTUS has only reviewed such a small percentage of the cases filed at the SCOTUS (less than 1% currently **[A647]**), this made the Supreme Court of Appeals the Gatekeeper of Federal Rights in the U.S. Bill of Rights in Virginia **[A390-391, 647, H45, L50-51]**. With the Voter Registration drive of the 1960's, the new 1971 COV ended Poll Taxes and Literacy Tests but the Supreme Court of Virginia was still allowed to interpret the Constitution of the United States with its U.S. Bill of Rights in Article VI, Sections 1 & 2 **[A209-211, 389-390, 397, H44-45, 48, L50, 53]**. This 1971 COV was ***racially-inspired*** which may shed light on the venue for the Unite the Right Rally in Charlottesville, Virginia on 8/11-12/17 **[A281, 392, H46, L51, O52]**. This new Virginia Confederacy, at least today, allows the Virginia Police to endorse in General Elections the Virginia General Assembly Candidates as is evident from Virginia Chap Petersen's 2015 & 2019 Campaign Signs **[A383-384, 572-574, H41, J12, J(attachment), L47, L(attachment), S43-44]**. This Virginia Practice of the Virginia Police endorsing the Virginia General Assembly members is contrary to the 1971 COV,

Article I, Section 5 Right to have a separate and distinct Virginia Legislative, Executive, and Judicial Departments [**A384, H41, L47-48**].

The result is that in a Virginia County/City Courtroom today, there are the Judge, the Defendant, the Prosecution, and the Police Witness for the Prosecution. The Judge wants to keep his/her seat on his/her Bench or move up to a higher Bench. The Police Witness indirectly and the Police Lobby directly endorse that Judge's Electorate being the Virginia General Assembly Representatives by 1971 COV, Article VI, Section 7 [**A211-212**]. Instead of the Judge having an Allegiance to the People (Defendant) enforcing Federal and/or Virginia Rights in accordance with the 1971 COV, Article I, Section 2 (People the source of power) [**A206-207**], the Judge has a Conflict of Interest creating an Allegiance to the Police Witness for the Prosecution who, if upset or angry, might report back to the Police Lobby which, in turn, might influence Judicial Elections in the Virginia General Assembly. And when a VSP Special Agent requests Warrants sworn without Probable Cause from a Fairfax County Magistrate, that Magistrate will issue the False Warrants without hesitation which 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!

So, this Virginia Confederate Police Government does not enforce Federal nor Virginia Rights and Defendants have no "clearly established" Constitutional Rights in the Virginia Case Law to use to defeat a Virginia Police Officers Qualified Immunity [**A92, 124-126, L61-77, O27-43**]. Likewise, Virginia Magistrates issue False Warrants to Police Officers without consideration of the Rights of the Defendants where it is assumed the Magistrates are neutral having nothing but an Allegiance to the Defendants with their Federal and Virginia Rights. These Virginia Magistrates shield the Police Officers from liability because they are biased for the Virginia Police Officers [**A112-120**].

Picking up from Page 42 above, Petitioner ran from the VSP from 6/1/15 to 6/6/15 after three VSP Officers came to his front door while he was at Zinga Frozen Yogurt in Oakton Shopping Center in Virginia with his children [**A361-362, H24, L36-37**]. Petitioner's roommate alerted him to the presence of the three VSP Officers. After four and a half days avoiding the VSP and on 6/6/15, Petitioner was arrested AT GUNPOINT on the Washington, DC Beltway (roughly at I-395 & I-495). Petitioner's Vehicle was Unconstitutionally Searched contrary to U.S. Amendments IV & XIV [**A213-216**], his laptop was seized contrary to U.S. Amendments V & XIV [**A213-216**], he received no Inventory List which was in a Police Report in accordance with Virginia Code §2.2-3706(F)(1) [**A233-237**]. The VSP stole his laptop computer because he needed an Inventory List to effect that laptop computer's return later [**A363, 367, H25-28, L37, 39**]. Petitioner was Unlawfully

Imprisoned for three and a half days in the Fairfax County Adult Detention Center (hereafter "**FCADC**") in solitary confinement [**Affidavit – A362, 559-572, H24, J12, L37, R57-58, S1-8**] during which, on 6/8/15, the VSP Unconstitutionally Searched his townhouse contrary to U.S. Amendments IV & XIV seizing all the rest of Petitioner's and his roommate's computer's which the VSP stole contrary to U.S. Amendments V & XIV [**A363, H25, L37-38**].

Petitioner's attorney cost $5,250, the Bail Bondsman cost $800, releasing his vehicle from the towing lot cost $560 [**A363, H25, L37-38**]. VAED Case No. 1:15-cv-302 was lost in a Summary Judgment Proceeding on 12/17/15 while Petitioner was overwhelmed with the FCGDC criminal charges, Petitioner appealed to the Fourth Circuit Case No. 16-1138, and Petitioner was placed in a Supervised Release Program [**A363, H25, L37-38**] which fact prevented Petitioner from traveling to Spring, Texas to find Court Reporter Janie Arriaga where a skip trace indicated she lived [**A353, 365, H16-17, 26, L32, 38**]. This address turned out to be her son's address.

After further research, Petitioner found Court Reporter Janie Arriaga in Woodbridge, Virginia on 3/17/16 as the wife of Alan Beni. A meeting was set up with the Court Reporter for 3/19/16 when Petitioner could bring a copy of her FCCC MI-2006-2302 Transcript, which had been edited to read MI-2006-2343 erroneously, for Court Reporter Janie Arriaga to review [**A364, H26, L38**]. On 3/19/16, Court Reporter Janie Arriaga excitedly uttered that her signatures had been forged on both the 4/11/07

Certificate and 6/8/07 notarized Affidavit [of Correction]. Court Reporter Janie Arriaga noted an edit in her 3/26/07 Transcript where "No." was used as an abbreviation for "Number" which she never did in order to avoid confusion with the opposite of "Yes." She qualified the forgeries by stating that she had given written permission for the Court Reporting Agency to sign on her behalf in certain situations [**A364-365, H26, L38**]. Petitioner made Federal Rule of Evidence, Rule 803(1 & 2) Hearsay Exception Notes on 3/19/16 of Court Reporter Janie Arriaga's Excited Utterances [**A365, H26-27, L38-39**]. Petitioner found where notary Rebekah Jean Febus worked and confirmed she had forged Janie Arriaga's names on both the 4/11/07 Certificate and 6/8/07 Affidavit [of Corrections] by the written agreement of Court Reporter Janie Arriaga [**A366, H27, L39**]. Petitioner had the FCGDC issue a Subpoena for Court Reporter Janie Arriaga in time for his 3/31/16 Criminal Trial when Petitioner was acquitted of all charges associated with Respondent Vega's 6/1/15 False Warrants [**A366, H27-28, L39**]. Court Reporter Janie Arriaga appeared but was not called to testify in Petitioner's Criminal Trial. However, outside the Courtroom she examined the cassette tape Petitioner showed her on 3/31/16 that Petitioner understood was her 3/26/07 Back-Up Tape from FCCC Case No. MI-2006-2302 to which she stated without a cassette tape player available that it "could be" her 3/26/07 Back-Up as opposed to definitely was not her 3/26/07 Back-Up Tape which Petitioner noted on his 3/19/16 Federal Rules of Evidence, Rule 803(1 & 2) Hearsay Exception Notes [**A366, H27, L39**].

With the 3/19/16 Federal Hearsay Exception Evidence where the Court Reporter had identified edits in her Transcript, this new evidence of constructive fraud no longer estopped Petitioner from pursuing a Fraud claim against Houtz and Allander [**A, H29, L40**]. See *In re: Patricia Susan Pfister, Debtor, Robert F. Anderson, Plaintiff Appellant v. Architectural Glass Construction, Inc., Debtor Appellee*, Case No. 12-2465 (4th Cir. 2014) [**A93-95**]. Petitioner hired Forensic Tape Examination Expert Barry G. Dickey, DABRE, FACFE to document the edits to the FCCC 3/26/07 Case No. MI-2006-2302 Transcript based on the audible portions of Court Reporter Janie Arriaga's 3/26/07 Back-Up Tape. Expert Barry G. Dickey DABRE, FACFE wrote a 4/27/16 Expert Report which he certified on 5/4/16 and in which he identified numerous significant edits to the FCCC 3/26/07 Case No. MI-2006-2302 Transcript [**A368-369, H29, L40**].

Petitioner hired Dawson, P.L.C. on 3/6/18 to represent him on or before 3/19/18 in the FCGDC suing Houtz and Allander for Fraud and on or before 3/31/18 in the VAED suing Respondent Vega for U.S. Amendment IV & XIV Violations. FCGDC Case No. GV18005652 was filed 3/19/18 then non-suited on 7/12/18 on advice of Dawson, P.L.C. because there was no evidence to link Houtz and/or Allander directly to the edits in the FCCC 3/26/07 Case No. MI-2005-2302 Transcript. The VAED Case No. 1:18-cv-346 was filed 3/28/18. Petitioner paid Dawson, P. L. C. $22,500 on 3/6/18 signing a Fee Agreement where "It [was] agreed that the Firm will put forth its best efforts for a successful resolution of Client's pending legal matters." See [**J(attachment)**]. Petitioner awaits

this SCOTUS's ruling on this Petition for Writ of Certiorari to determine if Dawson, P.L.C. has put forth its best effort.

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. This case is complex due to its length and VSP deception. *Pro se* Petitioner struggles to properly separate the Statement of the Case from the Argument which overlap in his mind. Inexperience complicates Petitioner's separation efforts so this paragraph resolves Petitioner's concerns.

Rule 33.1(d) requires Petitioner to have "***most extraordinary circumstances***" to exceed 9,000 words in this Petition. In addition to being forced into *pro se* advocacy by Dawson. P.L.C. which took all Petitioner's funds for Competent Council then abandoned him in the VAED, Petitioner has experienced a Manifest Injustice as described above. "Manifest" is defined by USLegal, Inc. as "readily perceived by the senses and/or easily understood or recognized by the mind; obvious." This Manifest Injustice further helps Petitioner's "***most extraordinary circumstances***" argument for more than 9,000 words in this Petition plus further justifies granting Petitioner's VAED 5/22/19 FRCP Rule 59 Motion for New Trial; Altering or Amending a Judgment with four other Motions after remand to the VAED as Respondent Vega pointed out on page 21

above from [**K28**]. More concisely, Petitioner argues the following Manifest Injustice:

Petitioner was accused of allegedly assaulting and battering VSP Trooper Houtz on 6/9/06 which was cruel and false, Petitioner was forced to rely for his FCCC Defense on Houtz's lies contained in Houtz's volunteered 6/9/06 Summary Notes without the ability to compare those 6/9/06 Summary Notes with Houtz's 6/9/06 Police Report withheld by Virginia Code §2.2-3706(F)(1). Houtz's 6/9/06 Police Report had not been turned over as Exculpatory Evidence on 1/26/07 nor in Trial on 3/27/07. Despite Petitioner having Eyewitness Han seeing no physical contact and a Forensic Document Expert's testimony he signed his Summons which Houtz could not explain assuming the assault had actually occurred, Petitioner was falsely convicted of Assault and Battery of Houtz on 3/27/07. Petitioner's FCCC 3/26/07 Appellate Record of his false conviction was maliciously edited and destroyed. Petitioner's subsequent three appeals to the Virginia appellate courts then even to this SCOTUS were denied. Petitioner could not secure a job due to his false criminal record reporting him as a violent criminal for the next 13 years. The Constructive Fraud of Court Reporter Janie Arriaga's 4/11/07 & 6/8/07 certifying signatures estopped Petitioner.

On 3/6/14, the FCBoS unconstitutionally searched Petitioner's townhouse so Petitioner filed a 3/6/15 VAED Civil Action alleging a U.S. Amendments IV & XIV Rights Violation against the FCBoS and sued Houtz and Allander for Fraud as well. After

successful May of 2015 service of Summonses with Complaints on then Federal Defendants Houtz and Allander in this VAED Civil Action for Fraud, Petitioner (the Federal Plaintiff) was vindictively arrested in retaliation on 6/6/15 using 6/1/15 False Warrants sworn without Probable Cause. Respondent Vega had unethically used the Fairfax County Criminal Justice System to effect an advantage in a VAED Civil Action. Petitioner was Unlawfully Imprisoned in the FCADC for three and a half days with all his computers stolen by the VSP. His 3/6/15 VAED Civil Action was defeated in a Summary Judgment Proceeding on 12/17/15 while he fought 6/1/15 False Charges for Stalking and Identity Theft in the FCGDC.

Nine years after his FCCC 3/27/07 False Conviction, Court Reporter Janie Arriaga excitedly exclaimed to Petitioner that her 3/26/07 Transcript-Certifying signatures were both forged and that there were edits in her 3/26/07 Transcript. Petitioner was no longer estopped. The 3/19/16 Federal Hearsay Exception Evidence concerning Court Reporter Janie Arriaga led to a 5/4/16 Certified Forensic Tape Expert's Report by Barry G. Dickey DABRE, FACFE identifying the edits made to the 3/26/07 Transcript. Petitioner is acquitted of the False Charges for Stalking and Identity Theft in the FCGDC on 3/31/16.

Petitioner tried to sue Houtz and Allander in the FCGDC on 3/19/18 with the New Evidence he had discovered about Court Reporter Janie Arriaga's forged signatures and 3/26/07 Transcript edits then abandoned that suit without enough evidence linking

Houtz and Allander to the 3/26/07 Transcript edits. Petitioner sued Respondent Vega in a 3/28/18 VAED Civil Action for U.S. Amendment IV & XIV Violations associated with his 6/1/15 False Warrants against Petitioner. Petitioner's expensive attorney from Dawson, P.L.C. fails to present Petitioner's complete Disputed Statement of Facts in a Summary Judgment Proceeding then mysteriously abandoned Petitioner when Petitioner lost the Summary Judgment on 5/24/19 in the VAED. Petitioner was forced to proceed *pro se* through the Fourth Circuit. In the Fourth Circuit, Petitioner discovered that the FCCC 3/26-27/07 Case No. MI-2006-2302 Jury likely had been influenced by a Jury Tampering Expert by the name on Dr. Jack Vorona via his wife Esther S. Vorona who was a Juror in FCCC Case No. MI-2006-2302 Trial.

Now Petitioner appeals to this SCOTUS for **Equal Justice Under Law** about his timely-filed 5/22/19 FRCP Rule 59 Motion containing his belated but complete Disputed Statement of Facts in the 3/15/19 to 5/24/19 VAED Summary Judgment Proceeding that Petitioner lost. Petitioner had and has invoked his Constitution of Virginia, Article I, Section 3 *indubitable*, *inalienable*, and *indefeasible* right to reform, alter, or abolish Virginia Governments having an appropriate Question of Exceptional Importance for this SCOTUS. But, the VAED Judge had treated three ***sequential*** alleged crimes (allegedly committed 3/6/15, 5/15/15, & 5/31/15) with served by ***simultaneous*** 6/1/15 Warrants as ***simultaneous*** alleged crimes contrary to the way the Sixth, Seventh, Eighth, & Tenth Circuits had interpreted 18 U.S.C. §924(e)(1) or the Armed Career

Criminal Act (ACCA). This created a potential Circuit Split. It was appropriate and incumbent on the VAED Judge to alter or amend his 4/24/19 Opinion and Order after reviewing Petitioner's 5/22/19 FRCP Rule 59 Motion for New Trial; *Altering or Amending a Judgment* with four other Motions. The VAED Judge reviewed Petitioner's FRCP Rule 59 Motion on 5/24/19 then denied apparently only the Motion for New Trial. This created a second potential Circuit Split between this SCOTUS and the Fourth Circuit itself because the VAED had not viewed all Petitioner's belated but reviewed complete Disputed Facts drawing any justifiable inferences from those belated but reviewed complete Disputed Facts in the light most favorable to the nonmoving party being the Petitioner.

See above pages 13-15 for this SCOTUS' and the other Circuit's earlier interpretation of 18 U.S.C. §924(e)(1) being the Sixth, Seventh, Eighth, & Tenth Circuits: U.S. v. *Hudspeth*, 42 F.3d 1015, 1023-24 (7th Cir., 1994); 1994 WL 592706, 10/28/1994; 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.); U.S. v. *Elliott*, 703 F.3d 378, 383-84, 388 (7th Cir., 2012); 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); 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); and U.S. v. *Van*, 543 F.3d 963, 966 (2008); 2008 WL 4445756, (8th Cir., 10/3/2008).

See above pages 13-14 for this SCOTUS' and the Fourth Circuit's earlier interpretation of FRCP Rule

56: *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-49, 106 S.Ct 2505, 91 L.Ed.2d 202 (1986); *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); and *U.S. v. Carolina Transformer Co.*, 978 F.2d 832, 835 (4th Cir., 1992).

Petitioner argues the VAED has violated Petitioner's U.S. Amendment VII Right to a Jury Trial and Unconstitutionally annulled his Constitution of Virginia, Article I, section 3 *indefeasible* Right to reform, alter, or abolish Virginia Governments since it failed to consider Petitioner's Question of Exceptional Importance which in his Disputed Statement of Facts, Paragraph 188. The Fourth Circuit affirmed the VAED on 2/3/20 despite Respondent Vega's use of Fraudulent Probable Cause concerning the False Stalking Charge. This Fourth Circuit Affirmation of the VAED created two Circuit Splits over the "ACCA" (18 U.S.C. §924(e)(1)) and FRCP Rule 56.

Petitioner's argument about separate arrests concerning ***sequential*** alleged crimes each with a separate Jury Question and the ACCA's (18 U.S.C. §924(e)(1)) crimes "***committed on occasions different from one another***" was raised by Petitioner in the VAED on 3/27/19 in his "Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment" on [**D6-7**]:

> "As Defendant's deposition clearly shows, Defendant did not have any evidence at the time he took warrants out against [Plaintiff] that Plaintiff obtained, recorded, or accessed an[y] identifying information of either alleged

victim which is not available to the general public. Without such evidence, a prudent person would not have believed that Plaintiff had committed or was committing a violation of 18.2-186.3. Further, as Defendant's deposition also clearly shows, Defendant had no evidence that at the time he took out a stalking warrant against Plaintiff that Plaintiff had ever been in the presence of Sergeant Allander, save for one occasion on which he was merely present as Plaintiff's process server attempted to serve Sergeant Allander with a lawsuit. On this evidence alone, [a] prudent person would not have believed that Plaintiff had committed or was committing a violation of 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 reasonable 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.

The Court should deny Defendant's motion because the facts alleged by Plaintiff show the Defendant violated Plaintiff's constitutional rights to be free from unreasonable seizure of his person when Defendant took out criminal warrants against Plaintiff without probable cause of criminal wrongdoing."

CONCLUSION

Due to: **1)** a Circuit Split created between the Fourth Circuit and other Circuit Courts over the interpretation of ***sequential*** crimes (allegedly committed on 3/6/15, 5/15/15, & 5/31/15) with Warrants sworn and/or served ***simultaneously*** (on 6/1/15) as being ***simultaneous*** crimes contrary to the language "committed on occasions different from one another" found in 18 U.S.C. §924(e)(1); **2)** a Circuit Split created 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 and drawing any justifiable inferences from those facts in the light most favorable to the nonmoving party when deciding if there exists genuine issues as to any material fact requiring a Trial by Jury during a Summary Judgment Proceeding; **3)** New Evidence discovered by Petitioner while litigating in the Fourth Circuit (on 8/26-29/19) concerning Jury Tampering or Potential Jury Tampering in Virginia Courtrooms (and specifically during FCCC Case No. MI-2006-2302 alleging Police Misconduct); **4)** Manifest Injustice occurring during the prosecution of Virginia Criminal Cases (and specifically FCCC Case No. MI-2006-2302); and **5)** a Question of Exceptional Importance concerning the Virginia Government - Petitioner's 5/22/19 "FRCP Rule 59 Motion for New Trial; Altering or Amending a Judgment / [Motion now Moot] / Three Additional Motions on Page 5-6 and Paragraphs 188 & 189" ought to be granted then remanded back to the VAED. While at the VAED, if necessary, Dawson, P.L.C.

ought to be added as a party to this case using Supplemental Jurisdiction (28 U.S.C. §1367(a)) and ought to be ordered to pay Petitioner Sanctions. Respondent Vega should be ordered to pay Petitioner Sanctions, too.

Further, Petitioner's Constitution of Virginia, Article I, Section 3 *indubitable, inalienable,* and *indefeasible* right to reform, alter, or abolish the Virginia Government ought to be granted. All Virginia State/County/City Judges should be extended the opportunity to resign over the next six months in lieu of abolishing the Virginia Government. A Virginia Constitutional Convention ought to be organized for the purpose of rewriting the Constitution of Virginia, Article VI, Sections 1, 2, & 7 to allow the Virginia People to more directly elect all Virginia State/County/City Judges perhaps by Government Appointment, Virginia Senate Confirmation, then bi-annual Judicial Continuance in Office General Elections. No Virginia State/County/City Judge ought to interpret the Constitution of the United States which is a violation of the ***U.S. Supremacy Clause***. This SCOTUS ought to issue a Declaratory Judgment that Virginia is in violation of the U.S. Guarantee Clause having a Confederate Police Government as it did during the U.S. Civil War suggesting to Congress that a Virginia Constitutional Convention ought to be mandatory in order to rewrite the 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7. The Virginia Government should be abolished if any current State/County/City Judge remains after six months

and any such Judge who resigns ought to be ineligible to serve as a Virginia Judge for a period of five years.

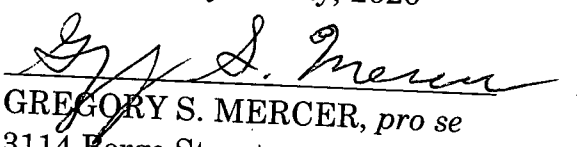
All Virginia Police Officers over the next three months ought to memorize the U.S. Bill of Rights and all Rights of the Virginia Declaration of Rights verbatim, submit themselves to an Oral Examination of same, receive an annual Certificate of Verbatim Rights Knowledge when they pass the examination with a score of 95% or better, and have a copy of such Certificate filed with the Secretary of the Commonwealth to forever remain a free Public Document but for reasonable copying and certifying costs. Police Officer ought to be retested every year and be recertified. After three months, no Police Officer without a Certificate of Verbatim Rights Knowledge ought to be permitted to serve the Public. Anytime a Virginia Police Officer swears out a Warrant, the verbatim content of what the Police Officer swears must be reduced to a written document and be attached in full to the copy of the Warrant served on the Defendant. There cannot be any exceptions to this Transparency.

Within reason, when a Federal Right of the U.S. Bill of Rights is invoked/demanded by any person in Virginia, it ought to be enforced. Petitioner's Virginia Criminal Record which is false and bogus ought to be expunged so he can be employed.

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 1st day of July, 2020



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