21-5428

No. ____

(Ref. Case No. 20-1705)

In the

SUPREME COURT OF THE UNITED STATES

Crystal VL Rivers,
Petitioner

v.

United States of America,
Respondent

ORIGINAL

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR A WRIT OF CERTIORARI

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Date: July 27, 2021

QUESTIONS PRESENTED

The Petitioner/Victim, Crystal VL Rivers, filed her Crime Victim Rights Act Petition to aid in the enforcement of the CVRA rights currently in place and afforded to her, in the district court after learning, for the first time, in 2019 after viewing a CNN News story relating to Jeffrey Eppstein and the high profile Crime Victims' Rights Act case (in re *Does v USA*, filed in the United States District Court for the Southern District of Florida and currently pending in the Eleventh Circuit Court of Appeals, Record No 19-13843). Victim-Petitioner had never been informed by the Government or their employees at any time since she reporting crimes committed against her, that she had any such rights. Additionally, Petitioner has never received a victim notification under the CVRA and the Government attorneys have not conferred with her about the status of the investigation, any court proceedings related to the matter or agreements with subject John Wynne and other non-indicted co-conspirators. Petitioner filed her Petition for Enforcement under the CVRA in her Civil RICO matter, *Crystal Rivers v USA* 6:18-cv-00061, filed with the Western District of Virginia soon after learning that she had rights under the CVRA and believed she still had rights under the CVRA because there had been no known indictment and the crimes were ongoing continuing to be committed against her and learned of as "newly discovered" in Circuit Court litigation upon discovery. Because the Government had not divulged the status of

their investigation including any identifying case numbers, Petitioner filed her underlying CVRA Petition in the District Court raising many issues in several years of on-going suffering and reporting state and federal crimes committed against her and other victims by Wynne (who operated an illegal banking enterprise ((Rivermont Banking Company Inc. between 2006 and 2014)). Wynne who was sued under RICO in the Western District Court of Virginia in 2012 ((in re: *CVLR Performance Horses Inc v Wynne* 6:11-cv-00035)) and the subject of grand jury investigation, prosecuted by the "Government", before, during, and after the Fourth Circuit's ruling in Record No. 12-1591.

In the Fourth Circuit's Opinion in *CVLR*, the Appeal's Court reversed the district court's dismissal of CVLR's complaint, finding that, "[t]he RICO conduct 'projected into the future with a threat of repetition, citing JJ Inc 492 US at 241, and there was no other indication that Wynne's conduct was to be limited to only the identified victims. Thus, the victim's discovery of the Appellees misconduct does not prevent CVLR from establishing open-ended continuity." Victim-Petitioner was not named as a defendant in *CVLR* but rather alluded to in the complaint with two other victims named. In sum, the Government's ongoing investigation has not yielded indictment to the best of Victim-Petitioner's knowledge, the criminal investigation is on-going, requests for status and case numbers have been refused, and no victim notices provided. The Government

continues to obtain additional facts relevant to criminal activity committed against the Victim-Petitioner filed in her pleadings in the District Court case in re: *Crystal VL Rivers v United States*, et al 6:18-cv-00061 and in correspondence sent to the "Government's" counsel. The Government continues to bolster their "newly discovered" ongoing investigation case for the IRS, with the assistance of the Virginia State Police and other investigative agencies assigned to the federal and grand jury investigations as "government" employees under Rule 6(e). Reports were made, investigations ensued, and evidence was gathered from the Petitioner which led to both the previous and the ongoing investigations, worked and prosecuted by federal and government employees and several attorneys employed by the "Government" and ultimately the Department of Justice. One such US Attorney, Thomas Cullen, is a party of interest and appointed Federal Judgeship for the Western District of Virginia after the filing of this matter.

The facts are undisputed that during the criminal investigation of Wynne and Rivermont, additional banks, bank insiders, attorneys, Real Estate and Settlement agents, mortgage brokers, insurance companies, financiers, builders, buyers and sellers, and several other non-indicted co-conspirators, (now named as defendants in the Victim-Petitioner's District Court case) ongoing wrongdoing was reported to and evidence obtained by the "Government" and their SAC and SAA employees by the Victim-Petitioner. This fact alone is not considered "conferring" with the

"Government" about the status of the investigation or their case related to or relevant to the crimes committed against the Victim-Petition. The agents and Assistant United States Attorneys merely, less than a handful of times, purposely only spoke with the Victim-Petitioner to obtain the evidence of the unlawful conduct reported to them by her and, instead of notifying her of her rights under the CVRA or the status of the investigation or divulging to her that the very special agents and state agencies she reported additional state crimes to were in fact assigned to their federal and grand jury investigations as "government" employees under Rule 6(e). The Government has continued to fail to confer with the Petitioner and has not presented indictment, information or complaint against Wynne or the others in the Western or Eastern District Courts which charges could have resulted in "full restitution as provided in law" and tabled automatic rights under the CVRA to the Victim-Petitioner if a conviction would be obtained.

The Petitioner believes that the Government has re-victimized and prejudiced her by getting what amounted to restitution only for the Government, in furtherance of their enormous federal investigation of Wynne and the others, all in violation of 18 U.S.C. 3664(i) "[a]ll other victim(s) receive full restitution before the United States receives any restitution."

In the annual reports to Congress on the CVRA from the Administrative Office of US Courts, for fiscal years from 2014 to 2019, in the federal trial courts,

none of the cases involved decisions within the Fourth Circuit involving disputes over the CVRA's pre-charging application.

The authority in this matter lies in *Wild*. The Eleventh Circuit reversed the Fifth Circuit's ruling in re: *Wild* 9:08-cv-80736-KAM deepening a circuit conflict and endangering the livelihoods of the victims in this matter.

The questions presented are:

1. Whether the CVRA extends any rights to Crime Victim's named in the matter, before federal charges are formally filed in the "detection, investigation, or prosecution" of the crimes reported by the victim
2. Whether the CVRA extends any rights to Crime Victim's named in the matter, while prosecution and grand jury investigation of the crimes reported by the victim are underway

PARTIES TO THE PROCEEDING

The Respondent is the United States, "Government". The underlying "newly discovered" facts have been validated as an ongoing criminal investigation, relating to the "Government" employees and is believed to being used and negotiated, by attorneys for the United States Attorney's Office for the Western District of Virginia. The Government has been represented by Sara Bugbee, Assistant U.S. Attorney for the Western District of Virginia. Non-indicted co-conspirators, parties named defendant" within the Petitioners complaint are also part of the "newly discovered" ongoing investigation and are interested in this case.

Because this Petition relates to the original Petition filed under the Crime Victims' Rights Act, the United States District Court for the Western District of Virginia (Dillan, K) is technically a nominal respondent.[1] No corporate entities are party to the proceeding.

[1] An underlying issue of jurisdiction remains in this matter. In Mandamus Petition for Recusal was filed against Judge Dillan in the Fourth Circuit Record No. 21-1162,4th Cir. Dismissal judgment dated 5/17/21, pending Writ. Remedy of Writ to this Court is due to be filed accordingly

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Petition/Victim, Crystal VL Rivers, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINIONS BELOW

The opinions of the Fourth Circuit No. 20-1705 on petition for writ of mandamus and rehearing en banc filed under the Crime Victims' Rights Act, 18 USC Sect. 3771. (CVRA) attached as Appendix A and B

JURISDICTION

The Court of Appeals issued its judgment on December 29, 2020, and denied a timely petition for rehearing on March 2, 2021. This petition is timely filed within 150 days This Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT STATUTORY PROVISIONS

The provisions of rights set forth in under 18 U.S.C. § 3771; The Crime Victim Right's Act. The CVRA defines a "crime victim" in relevant part as "a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia." 18 U.S.C. § 3771(e).

The CVRA's passage in 2004 significantly expanded the rights of federal crime victims and places an explicit duty on federal courts to ensure that victims are afforded those rights. The court must additionally take up and decide any motion asserting a victims' rights forthwith.

INTRODUCTION

This Court should consider this matter in session with their upcoming decision in *Wild,* resolving the circuit split and posed questions over the CVRA and matters relating to the facts herein relevant to the Government's violations of Petitioner's CVRA rights.

Since the original filing of Petitioner's Mandamus under the CVRA, "newly discovered" facts have been uncovered that were not available to the Petitioner relating to her CVRA rights. Petitioner remains a victim and the "Government" has violated several of her rights under the CVRA as pled in her Petition, not merely the issue of "conferring". Petitioner requested by motion to this Court that this matter be stayed because it is affected as well as will all CVRA cases going forward in the future, in *Courtney Wild v USA,* pending in the Eleventh Circuit; Case No. 19-13843. The majority in *Wild* considered an issue of first impression: "[W]hether the CVRA extends any rights to crime victims before the Government elects to formally file criminal charges". As previously argued, the same issue arose in this matter, was presented to this Court and as in *Wild,* brought against the

backdrop of underlying facts that, overlooked by this Court in this matter, but acknowledged by the Eleventh Circuit majority, "[a]re beyond scandalous – they tell a tale of national disgrace." Despite the majority elaborating, the majority reluctantly refused to grant any relief to Ms. Wild. Petitioner asks to be reheard because *Wild* remains the leading authority pending after *en banc* review and is a candidate, ultimately, for U.S. Supreme Court review. This Court has misconstrued the facts relating to "conferring", plead by Petitioner who stated at length the facts surrounding this matter, also overlooked by this Court, relating to the "Government's" violations of her rights including failure to ever --confer with her. Petitioner has rights and asks the Court to respectfully preserve her rights under the CVRA while and until after *Wild* is litigated to a final decision.

STATEMENT OF THE CASE

The Petitioner filed her RICO Racketeering action on May 25, 2018, against non-indicted co-conspirators of subject Wynne and the illegal banking enterprise of Rivermont Banking Company, alleging additional "newly discovered" on-going criminal activity she had obtained from discovery. She filed her Emergency Petition to Enforce her CVRA rights on July 15, 2019 (DE 18) after viewing the *Jane Doe's v Jeffrey Epstein*, matter on the television CNN Network. Petitioner amended her complaint to add yet additional "newly discovered" facts and circumstances and provided copies of all pleadings to the "Government".

Petitioner has since repeatedly asked the "Government" to provide her with the status of their investigation and the "Government" has not contacted her to confer whatsoever, to provide status or notice of the investigation as provided by law in the CVRA. The "Government" is aware of Petitioner's rights under the CVRA and stipulated in District Court filings that the scope of the federal agent's employment was the investigation relating to and alleged in the Petitioner's RICO complaint against the non-indicted co-conspirators of Wynne which also included PETITION TO ENFORCE CRIME VICTIM'S RIGHTS.

The Court is incorrect in its March 2, 2021, denial of rehearing of the December 29, 2020, ruling, basing their decision on the Eleventh Circuit opinion reversing *Wild* and overlooking the other appeals court decisions and facts pled by Petitioner, stating "[c}oncluding among other things, that Rivers own submissions demonstrated that she had received ample opportunities to speak with Government counsel about the alleged fraud." Petitioner argued and maintains that all the while she was unaware that she was a federal crime victim with rights under the CVRA, she was also not notified of that fact and as alleged by her, any contact with the "Government" was to inform, not to discuss what she did not or could not have known. This Court incorrectly ruled based on the District Court's opinion, that, "[H]aving reviewed the record and the Petition before [us, we] agree that Rivers

has failed to identify a CVRA violation." That is not what Petitioner has alleged and she has not waived nor will she waive her rights under the CVRA.

Since the filing of the original Petition, crimes have continued to be committed against the Petitioner, are amended in Court filings and provided to the "Government". The Government has failed to confer with the Petitioner or provide the status of the investigation to her. Petitioner has filed Amended Emergency Petitions (DE 224, 230 and 305) and requested limited discovery. As was previously argued, the district court ordered the Government, on or before January 10, 2020, to "[f]ile a brief more fully addressing 'Rivers' (the Petitioner) arguments that she is entitled to the relief sought under 18 U.S.C. §3771." The Petitioner has filed timely Motions to Reconsider and the Government has filed timely responsive pleadings. The district court record spans nearly 535 docket entries, the case has been egregiously delayed with no scheduling order or hearings set to manage the case. The Court stated that it has "[p]urposely delayed the case due to [n]ot knowing the scope of the case".

The majority opinions made in re: *Wild*, "[I]n fact, the majority acknowledged that "[u]nder our reading, the CVRA will not prevent federal prosecutors from negotiating 'secret' plea and non-prosecution agreements, without ever notifying or conferring with victims, provided that they do so before instituting criminal proceedings. We can only hope that in light of the protections

provided by other statutes – and even more so in the wake of the public outcry over federal prosecutors' handling of the Epstein case – they will not do so." (Op at 52-53), have come to light in the Fourth Circuit and full circle in this matter.

Judge Hull's 60 page disssent was that, "[t]his perverse result would not occur if this Court were to "enforce the plain and unambiguous text of the CVRA…" Id at 60 (Hull, J., dissenting). *Wild* argued at length that the "Majority's contorted statutory interpretation materially revises the statute's plain text and guts victims' rights under the CVRA." Id Dissent 62

The Court denied Petitioner's Mandamus Petition because it was of the opinion that the "Government" did not violate Petitioner's rights under the CVRA because they "conferred" with Petitioner. However, the Court did not provide a legal basis at law or refer to or deny the Petition as to additional violations complained of or her argument of the opinions of the *Wild* majority. The Court did not consider the incorrect definitions of the CVRA in the Department of Justice and Attorney General's Guidelines, the IRS and FEI and US Attorney's manuals or the written response from the Ombudsman's office sent to the Petitioner which included the similar phrasing used by the *Wild* majority, argued by the Government in that case and by the "Government" in this matter, in that "the victim is not a crime victim unless there is a federal charge by complaint, information or indictment." That statement is incorrect as written and as argued by the

"Government" in both cases and in Wild. The CVRA §3771 (b)(2)(D) published "definition" of 'crime victim' means the person against whom the state offense is committed or, if that person is killed or incapacitated, that persons family member or other lawful representative; 3771(d)(5)(c) published "definition" of 'crime victim' means a [p]erson directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia].

The "Guidelines" as they are referred to by US Attorneys in pleadings, are used as evidence of "best practices" and against crime victims when it best suits their litigation. The definition of 'crime victim', found in the manual in Article III (C)(1) is the same definition found in the CVRA. 18 U.S.C. §3771 (e):

> "For the purposes of this chapter, the term "crime victim" means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victims estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative."
> However.....

The Petitioner was and remains a "person directly and proximately harmed as a result of the commission(s) of on-going federal offenses with rights to file motions before charging, "[t]hat the term motion in the CVRA refers to (among other things) a pre-charging CVRA enforcement action. Fed. R. Crim. P. 41(g) "Search and Seizure" provides the federal rules regulating searches during investigations,

under which third parties may file "motions" to enforce their rights even before a prosecution is initiated. " Under this rule, a "motion" for return of property may be filed against the United States "in the district where the property was seized," a motion which is then litigated separately from any prosecution—as a separate enforcement action. …Any third parties who are not defendants in any criminal case can take advantage of this rule and file "a motion" regarding the Government's actions in a criminal investigation. "This authority supports [Petitioner's] position that the term "motion" in the CVRA, 18 USC Sect. 3771(d)(3), similarly encompasses a crime victim's CVRA motion to enforce the victim's rights before the formal filing of criminal charges." *See Wild*, Ltr. December 11, 2020, supplemented authority provided under Fed. R. App. P. 28(j)

The rights under the CVRA should not be stripped from the Petitioner if, as "newly discovered", the investigation of the matters reported to the Government are ongoing and if there have been no formal federal charges filed.

The victim – Petitioner's fate should not lie in the term "timing" used in the Guidelines.

> "Timing: CVRA rights attach when criminal proceedings are initiated by complaint, information, or indictment, If the defendant is convicted, CVRA rights continue through any period of incarceration and any term of supervised release, probation, community correction, alternatives to incarceration, or parole Absent a conviction a victims CVRA rights cease when charges pertaining to that victim are dismissed either voluntarily or on the merits, or if the government declines to bring formal charges after filing a complaint.

It appears that the Victim's Rights Ombudsman's Office, and the attorneys employed by the U.S. Attorney's office, refer to Article III (C) (4)Timing for its definition of "[federal]crime victim" instead of the true Congressional definition passed into law in 2004, when determining if a "crime victim" is a 'crime victim." It appears that they chose to do so in this case. Petitioner has asked, repeatedly, that she be given the status of the investigations into the crimes committed against her that she reported to the FBI and IRS and that were referred to the AUSA. The definition of "crime victim" they refer to is found in the "Guidelines" which have published a false definition of crime victim, captioned, 'terms', in the Articles relating to and defining the basic definition in the CVRA. The "Guidelines" primarily address the victim's rights provisions contained in the CVRA, however, the paragraphs listed in the Articles as Victims Rights under the CVRA, are not all contained in the CVRA, they are made up, authored and published by someone other than Congress and the sponsors and co-sponsors of the Crime Victim's Rights Act of 2004. The "crime victim" can only be a "federal crime victim," mainly because 'state crime victim's' are not afforded rights under the CVRA.

Petitioner filed leave to file third amended complaint including amending the Petition for Enforcement of CVRA for violations learned from the Ombudsman's Office in late March 2020 that the Government has not formally charged the putative defendants.

Petitioner argues the Government never brought the case and the IRS continues to investigate. They continue to use the information of on-going criminal violations (money laundering, illegal banking, fraud, extortion, forgery, tax fraud, mail and wire fraud, among others) which Petitioner presented in 2018, and instead of providing the Petitioner and other victims and the district court with the status of the investigation, or clarify the closing of the investigations and the reasoning for either, continue with facilitating a non-criminal consensual agreement of sorts, between the putative defendants and the Government (units of the Treasury Department) warranting the silence of the investigation, has or continues to result in thousands of dollars going to Department of Treasury due to these violations, which is evidence that a viable criminal case was presented, or else the Government would divulge the closing status of the case and no such moneys would have been paid.

The Department of Justice Ombudsman's Office mailed a responsive letter to Petitioner on March 26, 2020 definitively informing the Petitioner that "[n]o charges were initiated relating to her complaint filed with their office and that no federal charges were brough by complaint, information or indictment". The DOJ Whistle Blower Department sent a letter to the Petitioner stating that the federal investigation was not related to tax evasion!

The Government gained leverage with Petitioner's reported suffrage, and their interest in her statutorily superior interest in recouping her losses, which is a right she possesses both under the CVRA and elsewhere, i.e., "[t]o obtain full restitution before the United States could get any restitution" under 18 U.S.C. 3664(i), and 18 U.S.C. 3771 (a)(6).

The CVRA, specifically 18 U.S.C. 3771 (a) and (b)(1) and (c)(1), and the provisions of 18 U.S.C. 3664(i) require the Court "to ensure" that crime victims are "treated with fairness and respect." That did not occur here and still is not occurring here. Petitioner waited in vain for years to see if the Government would act in a fashion that might indict the putative defendants for crimes under 18 U.S.C. that would result in her being able to recoup her losses through restitution. Instead, the officials acted upon her information to enrich the Government's coffers, to her disadvantage. No evidence has been presented to prove the enrichment has stopped. This the Government does not have the right to do, even under any prosecutorial discretion it may have, and the victim's rights to have her losses made whole by restitution after they have been presented in good faith to the Government, or else no defrauded victims will ever come forward. Government's conduct also violates 3771(a)(8) and it provides the contest for and supports the Petitioner's claims under Bivens

In 2015, Congress specifically added language to the CVRA's appellate provisions, providing that "[i]n deciding such [CVRA] applications, the court of appeals shall apply ordinary standards of appellate review." 18 U.S.C. §3771(d)(3) (added by Pub L. 114-22, Title I, §1123(c)(2), May 29 2015); *see also* H.R. Rep 114-7, at 8 (2015). This Court's decision to deny Mandamus is the result of its "incorrect" interpretation of Petitioners argument specifically the meaning of "confer" under the CVRA. Petitioner's argument, interpretation of the CVRA and findings of the Fifth Circuit adopted in re *Does v USA (Wild)*, is not implausible. The Government has not conferred with the Petitioner of crimes reported to them and filed within her RICO pleadings filed in the Western District Court and is continuing to violate the Petitioner's CVRA rights. Denying to enforce the Petitioner's rights in this matter is improper. The Petitioner has the right to be heard, treated fairly and to limited discovery. The Court must enforce the plain and unambiguous text of the CVRA.

Consequently, the parts of the Petitioner's facially valid claim, stand unrebutted by the defendants, should not be dismissed mainly because the Government has **conceded** in its Certification of Scope of the Employment (DE 294-1) that, "[t]he agents were acting within the scope of their employment as employees of the IRS at the time of the incidents out of which the suit arose." The

Government failed to deny or argue that the defendants named in the Petitioner's RICO case were not included in the scope of the investigation.

These Government violations of Petitioner rights is the reason the Crime Victim's Rights Act was established, to protect federal crime victims. The Eleventh Circuit's decision in re *Wild* will dictate how all future crime victim's Petitions will proceed before the Courts, including this case currently before you.

In Petitioner's judgment, one or more of the following situations exist:

1. The Opinion is in conflict with a decision of another Court of Appeals and the conflict is not addressed in the Opinion.
2. A material factual or legal matter was overlooked in the decision.

While Petitioner was being duped by subject John Wynne and his illegal banking enterprise, Rivermont Banking Company Inc, beginning in 2007, the federal and grand jury investigations ensued defining the Petitioner as the victim, the "federal nexus". The IRS was defined as the "lead agency". These facts were not divulged or "conferred" to the Petitioner by the Government, or any investigative agency assigned to the matter by the DOJ. Portions of the facts have come to the surface only upon litigation defending Petitioners claims since 2014 and against the Virginia State Police under Petition for VAFOIA in July 2020.

The Government has not argued that Petitione is not a victim, on the contrary, the Government has admitted that Petitioner was the victim and offered in Certification that "[t]he scope of the employment of the IRS agents named defendant in the matter was to investigate the matters alleged [in Petitioner's Civil RICO complaint]" The matters alleged in the RICO complaint are directly related to the Petitioner's CVRA rights and the crimes Petitioner reported as the named victim. The federal nexus still exists and the CVRA Petition is not a separate civil matter.

The Government has not produced any notification to Petitioner or the Court relating to the status of their investigation of the crimes reported, the court proceedings, any agreements, or any sealed or unsealed cases relating to the matter.

REASONS FOR GRANTING THE WRIT

I. **The Fourth Circuit's ruling is unpersuasive and did not address the conflict of the Circuit's and failed to wait to issue their opinion until after the decision in *Wild* which will determine the issue of whether the formal filing of federal charges by complaint, information or indictment is necessary before federal crime victims CVRA rights apply.**

This issue is pending *in Wild* in the Eleventh Circuit and warrants *en banc* review after the *Wild* case is finalized. Indeed, "[w]hen Congress enacted the

CVRA, it intended to protect crime victims throughout the criminal justice process—from the investigative phases to the final conclusion of a case." 157 CONG. REC. S3607 (June 8, 2011)(statement of Sen. Kyl)(quoting letter to Attorney General Holder). While "[t]he criminal justice system, has long functioned on the assumption that crime victims should behave like good Victorian children—seen but not heard," the CVRA worked a dramatic change "by making victims independent participants in the criminal justice process." *Kenna v US Dist. Court for CD of Cal.* 435 F 3d 1011, 1013 (9th Cir. 2006)(quoting in re *Wild)*

The CVRA instructs the DOJ and "other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime" to "make their best efforts to see that crime victims are…accorded the rights described in the CVRA." 18 USC Sect. 3771(c)(1). The Eleventh Circuit dissent *in Wild* stated that "[l]ogically, there would be no reason to mandate that federal agencies involved in crime 'detection' or 'investigation' see that victims are accorded their CVRA rights if those rights did not exist pre-charge. Indeed, the use of disjunctive wording—the 'or'—indicates agencies that fit either description must comply…" Dissent 90-91 (quoting in re Wild)

The CVRA Venue provision provides that crime victims can assert their CVRA rights "in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the

crime occurred." 18 USC Sect. 3771 (d)(3). This venue provision provides that, if a prosecution is underway, victims may assert their rights in the ongoing criminal action. If however, 'no prosecution is underway,' victims may assert their rights in the district court in which the crime occurred." *Frank v United States*, No 19-10151, 789 Fed. App. (177 11th Cir. 2019) "Prosecution" describes events that happen after the filing of a complaint, information or indictment. If the transfer on a complaint ultimately leads to a not quality plea, then the "clerk must return the papers to the court where the prosecution began..." Rule 20(c); Fed. R. Crim. P 58(b) & (c). Before the Government has filed a sworn complaint "written statement of the essential facts constitution the offense charged." Fed. R. Crim. P. 3—than a "prosecution" has begun. Before then, no prosecution is "underway," and victims assert their CVRA rights in the district where the crime was committed." *Id.*

II. **The DOJ provides pre-charging notifications to crime victims but failed to do so in this matter.**

Congress requires all Justice Department agencies engaged in "the detection, investigation, or prosecution of crime" to "[i]dentify the victim or victims of a crime" at "the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation..." 34 USC Sect. 2014(b). That did not happen in this matter.

The DOJ's investigative agencies "provide [service referrals, reasonable protection, and notice concerning the status of the investigation] to thousands of victims every year, whether or not the investigation results in a federal prosecution." Ltr. Ronald Weich, Asst. Attorney General to Jon Kyl, US Senator (Nov. 3, 2011), cited in *Cassell et al., supra.* 104 J. CRIM. L. & CRIMINOLOGY at 96.

III. **Material facts and legal matters were overlooked by the Fourth Circuit relating to the "definition" of confer under the CVRA.**

As in 34 USC Sect. 2014(c)(3), [Petitioner has requested and the Government has refused].. to provide her with "the earliest possible notice of....the status of the investigation of the crimes [that she reported], to the extent it is appropriate to inform [her] the victim and to the extent that it will not interfere with the investigation."

Congress amended the CVRA in 2015 adding, "the right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990..."(VRRA) 18 USC Sect. 3771(a)(10). Under 18 USC Sect. 3771(a)(5), Petitioner believes the CVRA's "reasonable" right to "confer with the attorney for the Government in this case applies pre-charging without creating any administrative difficulties and is

"confer" is defined as *being informed of the rights under 503(c), 18 USC Sect. 3771 and the rights to be informed of the status of the investigation pre-charge and thereafter.*

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted, "*veritas*"

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