

No. 21-5850 ORIGINAL

FILED  
SEP 27 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

LAWRENCE E. MATTISON; PETITIONER

VS.

DENIS R. McDONOUGH, Secretary Department of Veterans Affairs;  
U.S. Department of Veterans Affairs

Petition for Writ of Certiorari to the  
FOURTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

Lawrence E. Mattison  
466 Fort Worth Street  
Hampton, Virginia 23669  
(757) 604-7894  
La7matt@yahoo.com

Federal Law, Federal Policy & Procedure prescribed for and by the Department of Veterans Affairs (“DVA”, “Federal employer”) makes clear that ALL permanent employees in competitive service of this Federal employer are prohibited from using State government processes for “On Property” employee allegations because it interferes with the operation of the DVA, Thereby “Placing ALL permanent competitive DVA employees similarly situated under these Federal Laws, Policy & Procedures regardless of Race, gender, national origin....etc.” 42 U.S.C. §2000e et seq (42 U.S.C. §1981)

**THE QUESTION(S) PRESENTED ARE:**

1. Whether, and in what circumstances, this Federal employer may use a Substantive Procedure contrary (repugnant) to Federal law and DVA Policy & Procedure allowing the use of State government processes against their employees.
2. Whether, and in what circumstances, this Federal employer that protects white male employees from State government processes under stated Federal law, Policy & Procedure must provide the same protection to black male employees (petitioner) when the white male and petitioner are similar in that ALL employees of this federal employer are protected under the same Federal Law, Policy & Procedure.

### **Related cases**

- Mattison v. Virginia, 138 S.Ct. 2689 (Mem), 201 L.Ed.2d 1082, 86 USLW 3641 (June 2018, case 17-8868)
- Mattison v. Janie Willis, et al, 140 S.Ct. 2683 (Mem), 206 L.Ed.2d 830S. (April 2020, case 19-7669)
- IN RE: Mattison (Habeas corpus), 140 S.Ct. 2758 (Mem), 206 L.Ed.2d 929 (May 2020, case 19-7509)

### **List of Parties**

Denis R. McDonough, Secretary Department of Veterans Affairs, Respondent  
Elizabeth B. Prelogar Solicitor General; United States Department of Justice  
Mr. Richard A. Sauber; General Counsel, Office of the General Counsel Department  
of Veterans Affairs

### **TABLE OF CONTENTS**

QUESTIONS PRESENTED .....	i
RELATED CAES/PARTIES .....	ii
TABLE OF AUTHORITIES .....	iii
FEDERAL LAWS, DVA POLCY & PROCEDURE .....	iv
OPINIONS .....	1
JURISDICTION .....	1
STATUTORY PROVISIONS INVOLVED .....	1
STATEMENT OF THE CASE .....	6
REASON FOR GRANTING THE PETITION .....	8
ARGUMENT .....	9

CONCLUSION .....	14
INDEX TO THE APPENDIX A .....	15
July 30, 2021 Unpublished ORDER of the 4th Circuit Appellate court Denying Rehearing .....	1a
March 5, 2021 Unpublished JUDGMENT ORDER of the 4 <sup>th</sup> Circuit Appellate court affirming the E.D. Va dismissal order .....	2a
February 10, 2020 Unpublished ORDER of the E. D. Va. court dismissing the complaint .....	5a
Petitioner's timely filed Informal Brief submitted March 10, 2020 .....	18a

#### TABLE OF AUTHORITIES CITED

##### **CASES**

<u>Maynard v. Bd. of Regents of Div. of Univs. of Fla. Dep't of Educ.</u> , 342 F.3d 1281, 1289 (11th Cir.2003) .....	9, 13
<u>McDonnell Douglas Corp. v. Green</u> , 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973) .....	6, 9, 12
<u>Montgomery v. Louisiana</u> , 136 S.Ct. 718 (2016), case No. 14-280 .....	8,
<u>Peggy Young v. United Parcel Service, Inc.</u> , 135 S.Ct. 1338, 191 L.Ed.2d 279 (2015), case No. 12-1226 .....	8, 13

##### **STATUTES**

<u>5 U.S. Code § 101</u> - Executive Departments .....	1, 9
<u>5 U.S. Code § 301</u> - Departmental Regulations .....	2, 9
<u>38 U.S. Code § 902</u> - Enforcement and arrest authority of Department police officers .....	2, 10
<u>38 C.F.R § 1.203</u> - Information to be reported to VA Police .....	3, 10

<u>38 C.F.R § 1.205</u> - Notification to the Attorney General or United States Attorney's Office .....	3, 10
<u>38 C.F.R §14.501</u> - Functions And Responsibilities Of Regional Counsels .....	4, 10
<u>38 C.F.R. § 14.560</u> - Procedure where violation of penal statutes is involved including those offenses coming within the purview of the Assimilative Crime Act (18 U.S.C. 13) .....	6, 10

## DVA POLICY & PROCEDURE

Department of Veterans Affairs, VA HANDBOOK 0730 (AUGUST 11, 2000) .....	7, 10
---	-------

**In the  
Supreme Court Of The United States  
Petition for writ of certiorari**

**Opinions below**

- The 4<sup>th</sup> Circuit Appellate court ORDER denying rehearing/rehearing en banc is Unpublished without opinion, dated 7/30/2021 (Case 20-1173) is at enclosed App 1a.
- The 4<sup>th</sup> Circuit Appellate Court Unpublished PER CURIAM OPINION, affirming the E.D. Va. court's Dismissal order is dated 05/05/2021 (case 20-1173) is at enclosed App 2a
- The E.D. Va. case 4:19-CV-18 OPINION and DISMISSAL ORDER is dated 2/10/2020 is unpublished/ unreported and is at enclosed App 5a.
- Petitioner's Informal Brief to the 4<sup>th</sup> Circuit Appellate court, dated March 10, 2020 is at enclosed App 18a.

**JURISDICTION**

The decision of the 4<sup>th</sup> Circuit Court of Appeals DENYING rehearing/rehearing en banc was issued July 30, 2021. Jurisdiction of this Court is proper pursuant to 28 U.S.C. §1254

**STATUTORY PROVISIONS /  
DEPARTMENT OF VETERANS AFFAIRS POLICY & PROCEDURE  
INVOLVED**

(1) 5 U.S. Code § 101 - Executive departments  
“.....The Department of Veterans Affairs.....”  
(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378; Pub. L. 89-670, § 10(b), Oct. 15, 1966, 80 Stat. 948; Pub. L. 91-375, § 6(c)(1), Aug. 12, 1970, 84 Stat. 775; Pub. L. 95-91, title VII, § 710(a), Aug. 4, 1977, 91 Stat. 609; Pub. L. 96-88, title V, § 508(b), Oct. 17, 1979, 93 Stat. 692; Pub. L. 100-527, § 13(b), Oct. 25, 1988,

102 Stat. 2643; Pub. L. 109-241, title IX, § 902(a)(1), July 11, 2006, 120 Stat. 566.)

(2) 5 U.S. Code § 301 - Departmental regulations

The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379.)

Id. 5 U.S.C. § 301

(3) 38 U.S. Code § 902 - Enforcement and arrest authority of Department police officers

(a)

(1) Employees of the Department who are Department police officers shall, with respect to acts occurring on Department property—

(A) enforce Federal laws;

(B) enforce the rules prescribed under section 901 of this title;

(C) enforce traffic and motor vehicle laws of a State or local government (by issuance of a citation for violation of such laws) within the jurisdiction of which such Department property is located as authorized by an express grant of authority under applicable State or local law;

(D) carry the appropriate Department-issued weapons, including firearms, while off Department property in an official capacity or while in an official travel status;

(E) conduct investigations, on and off Department property, of offenses that may have been committed on property under the original jurisdiction of Department, consistent with agreements or other consultation with affected Federal, State, or local law enforcement agencies; and

(F) carry out, as needed and appropriate, the duties described in subparagraphs (A) through (E) when engaged in duties authorized by other Federal statutes.

(2) Subject to regulations prescribed under subsection (b), a Department police officer may make arrests on Department property for a violation of a Federal law or any rule prescribed under section 901(a) of this title, and on any arrest warrant issued by competent judicial authority.

(b) The Secretary shall prescribe regulations with respect to Department police officers. Such regulations shall include—  
(1) policies with respect to the exercise by Department police officers of the enforcement and arrest authorities provided by this section;  
(2) the scope and duration of training that is required for Department police officers, with particular emphasis on dealing with situations involving patients; and  
(3) rules limiting the carrying and use of weapons by Department police officers.  
(c) The powers granted to Department police officers designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.  
(d) Rates of basic pay for Department police officers may be increased by the Secretary under section 7455 of this title.  
(Added Pub. L. 102-83, § 2(a), Aug. 6, 1991, 105 Stat. 397; amended Pub. L. 111-163, title X, § 1001, May 5, 2010, 124 Stat. 1181.)

Id. 38 U.S.C. §902

**(4) 38 C.F.R § 1.203 Information to be reported to VA Police.**

Information about actual or possible violations of criminal laws related to VA programs, operations, facilities, or involving VA employees, where the violation of criminal law occurs on VA premises, will be reported by VA management officials to the VA police component with responsibility for the VA station or facility in question. If there is no VA police component with jurisdiction over the offense, the information will be reported to Federal, state or local law enforcement officials, as appropriate.

(Authority: 38 U.S.C. 902)

AUTHORITY: 38 U.S.C. 501(a), and as noted in specific sections.

Id. 38 C.F.R. §1.203

**(5) 38 C.F.R § 1.205 Notification to the Attorney General or United States Attorney's Office.**

VA police and/or the OIG, whichever has primary responsibility within VA for investigation of the offense in question, will be responsible for notifying the appropriate United States Attorney's Office, pursuant to 28 U.S.C. 535.

(Authority: 5 U.S.C. App. 3, 38 U.S.C. 902)

AUTHORITY: 38 U.S.C. 501(a), and as noted in specific sections.

Id. 38 C.F.R. §1.205

**(6) 38 C.F.R § 14.501 Functions And Responsibilities Of Regional Counsels.**

- (a) Functions and responsibilities of the Regional Counsels are those set forth in this part and all other matters assigned by the General Counsel.
- (b) In any matter within the jurisdiction of the General Counsel, delegated or otherwise assigned, the Regional Counsel and designated staff attorneys are authorized to conduct investigations, examine witnesses, take affidavits, administer oaths and affirmations and certify copies of public or private documents.
- (c) The Regional Counsel is authorized to, and shall, under the guidance of the General Counsel, provide legal services, advice and assistance to Department of Veterans Affairs installations within the district assigned. In any area of regulatory, assigned or delegated responsibility, the Regional Counsel may delegate to staff members or other Department of Veterans Affairs attorneys authority to perform, to the extent specified, any legal function under the professional direction of the Regional Counsel. Conversely, the Regional Counsel may modify, suspend, or rescind any authority delegated hereunder.
- (d) The Regional Counsel is authorized to cooperate with affiliated organizations, legislative committees, and with local and State bar associations to the end that any State law deficiencies relating to Department of Veterans Affairs operations may be removed. No commitment as to proposed legislation will be made without the approval of the General Counsel.

Id. 38 C.F.R §501

**(7) Department of Veterans Affairs, VA HANDBOOK 0730 (AUGUST 11, 2000)**

**SECURITY AND LAW ENFORCEMENT**

Ch. 1. REASON FOR ISSUE: This handbook establishes procedures that implement the policies

contained in VA Directive 0730, Security and Law Enforcement.

**Ch. 7. LAW ENFORCEMENT PROCEDURES**

**b. Statutory Arrest Authority**

(1) Employees who are duly appointed as VA police officers will have the authority to enforce Federal laws and VA regulations with respect to acts occurring on Department property, to arrest persons on Department property for offenses committed on that property, and to make arrests on warrants issued by a proper Federal authority for those offenses.

(3) VA police may enforce the traffic and motor vehicle laws of the state or local government within the jurisdiction of which the VA property is located as authorized by an express grant of authority under the applicable state or local law. This enforcement is limited to the issuance of a citation.

(4) VA police officers will exercise arrest authority only following the issuance of VA Form 1479, Police Officer Appointment Card, and a police badge set.

(e) VA police officers will not be deputized or appointed as special police officers or otherwise empowered with law enforcement authority by state, municipal, county, or other nonVA agencies for the purpose of enforcing state laws and local ordinances on VA property.

(f) Any state or local law enforcement authority held by a VA police officer will not be exercised during scheduled tours of duty.

**c. Classification of Crimes**

(2) The Assimilative Crimes Act, Title 18 U.S.C. 9 13, will be used at facilities having exclusive or concurrent jurisdiction in those instances where a crime has been committed and no specific Federal law exists defining the offense. The local U.S. Attorney will be consulted when considering use of the Assimilative Crimes Act.

Id. Handbook 0730(h) can be found at the Hampton Veterans Affairs Medical Center police services,

see Fed. R. Evid.  
901(a)(b)(7)

(8) **38 C.F.R. § 14.560 Procedure where violation of penal statutes is involved including those offenses coming within the purview of the Assimilative Crime Act (18 U.S.C. 13).**

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

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

Credits

[43 FR 39365, Sept. 5, 1978; 50 FR 24767, June 13, 1985; 54 FR 34982, Aug. 23, 1989; 68 FR 17551, April 10, 2003]

Id. 38 C.F.R. §14.560

#### **STATEMENT OF THE CASE**

On February 12, 2020 Petitioner (plaintiff in the initial action) requested Appellate review (case 20-1173) of Eastern District of Virginia (“E.D. Va.”) dismissal order case 4:19-CV-18, a race/sex discrimination, hostile work environment claim under Title VII of the civil rights Act as amended 1964 (42 U.S.C.A. § 2000e et seq.); 42 U.S.C. §1981. Petitioner’s pleadings and E.D. Va. dismissal Order was based on the burden-shifting framework set forth in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973) and the fourth element (“4<sup>th</sup>

element") in a Federal Employment Termination action where the Department of Veterans Affairs ("DVA") is the ("Federal employer").

In this Petition, the 4<sup>th</sup> circuit appellate court condoned a substantive procedural violation by the E.D.Va. court, which condoned an unlawful pretext by the Federal employer related to the use of a State government process against petitioner but intervened in a State government process for a white male. Petitioner made clear that the lack of intervention is contrary (repugnant) to Federal Law, therefore a pretext for race/sex discrimination. The 4<sup>th</sup> Circuit appellate court sanctioned the unlawful pretext. *See App 2a*

Petitioner claimed that the use of a State government process against him (a black male) was racially discriminatory vs. the intervention of a State government process in favor of a white male, when both persons were similarly protected by Federal Law and this Federal employer's policy & procedure from State government processes for "on property" allegations. *See App 5a-7a*

The 4<sup>th</sup> Circuit Appellate court sanctioned the E.D. Va. court by "inferring without saying" that this Federal Employer is "somehow authorized" to use State government process against their employees. Petitioner countered with Federal Law, Policy & Procedure created by this Federal employer, under the authority of the U.S. Congress, proving ALL DVA employees are similar and protected from State government process for "on property" allegations, specifically those allegations that could affect the terms and conditions of employment. *See Informal brief@ App 18a-30a*

THEREFORE, the stated reason for termination by the Federal employer was Pretext for race/sex discrimination, and allowing their employees to use the State processes against each other created and perpetuated a Hostile work environment.

### **REASON(S) FOR GRANTING THIS PETITION**

The E.D. Va. Order, sanctioned by the 4th Circuit Appellate Court., is an order contrary (repugnant) to Federal Laws related to the substantive procedure created by this Federal Employer for ALL its employees. *See App 23a.* Based on this court's holding in *Young v. United Parcel Service, Inc.*, 135 S.Ct. 1338, 191 L.Ed.2d 279 (2015), case No. 12-1226 (holding that a company policy disparately applied to similarly situated persons may constitute discrimination under title VII); and *Montgomery v. Louisiana*, 136 S.Ct. 718 (2016), case No. 14-280 (Holding: A conviction or sentence imposed in violation of a substantive rule is not just erroneous but contrary to law and, as a result, void) *Id.* @ 731. The 4th Circuit Appellate court sanctioned the substantive procedural violations and the legal anomaly created by the E. D. Va. Court's Order dismissing petitioner's Title VII complaint.

This Petition seeks this court's supervisory powers and requests the Hon. Justice John Roberts uses his supreme authority over the 4<sup>th</sup> Circuit to submit a written Instruction to the 4<sup>th</sup> Circuit appellate court, without the need for additional briefs or hearing, REMANDING this case back the 4<sup>th</sup> Circuit with instruction to: '(1) determine whether the petitioner's claim that respondent's use of a State government process is contrary to Federal Law; (2) if contrary to federal

law, REMAND the case back to the E. D. Va. court with instruction. (3) If Not contrary to Federal Law, state this position clearly. Petitioner's Informal Brief to the 4<sup>th</sup> Circuit Appellate Ct. had all the information and requested either written instruction but the Lower Appellate court did not. *See App 18a -30a*

## ARGUMENT

For a Federal Employment termination claim based on race/sex discrimination, petitioner and the E.D. Va. Order relied on the burden-shifting framework set forth in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L.Ed.2d 668 (1973) and the fourth element ("the comparator employee") *see App 10a-13a* : That Petitioner was "treated less favorably than a similarly situated individual outside his protected class." *Id*; Maynard v. Bd. of Regents of Div. of Univs. of Fla. Dep't of Educ., 342 F.3d 1281, 1289 (11th Cir.2003). Petitioner 's complaint made clear that [H]e is a Black male, with an excellent work history, suffered the adverse employment action of termination..... and treated differently than a similarly situated white male. *Id*

Federal Law 5 U.S.C. §101@ paragraph ("¶") 1 makes clear the Department of Veterans Affairs is an executive branch federal agency. 5 U.S.C. §301 @ ¶2 makes clear the U.S. Congress authorized executive agencies the authority to promulgate laws, rules & policies governing the operation of their respective agencies including their Employees, Federal police force and Regional Counsel Attorneys. 38 U.S.C. §902 @ ¶3; 38 C.F.R. §1.203 @ App 26a; 38 C.F.R. §1.205 @ App 27a; 38 C.F.R. §14.501 @ ¶6; DVA Policy & Procedure 0730 @ ¶7 and 38 C.F.R. §14.560 @

App 28a are [ALL] written by and for The Department of Veterans Affairs. [ALL] are written to channel “on property” employee allegations to a Federal process to include allegations of a criminal nature, THEREBY placing ALL this Federal employers employees similar under these Laws, policies & procedures, including prohibiting DVA Regional counsel Attorney employees and DVA police officer employees from using State government processes for “on property” allegations. *See App 7a (this Federal employer’s removal allegations consisted of “on Property” allegations) §14.560 @ App 28a* makes clear “on property” allegations of a criminal nature are exclusively under Federal authority.

1. **Whether, and in what circumstances, this Federal employer may use a Substantive Procedure contrary (repugnant) to Federal law and DVA Policy & Procedure allowing the use of State government processes against their employees.**

Here, the 4th Circuit Appellate court sanctioned a ruling contrary (repugnant) to Federal Law. Federal Law for this Federal employer sets up non-discretionary substantive procedure that ANY “On Property” employee allegation is exclusively under a Federal process to include Administrative and/or criminal issues. *See App 26a-30a Meaning:* it doesn’t matter the circumstance, or what “on property” allegation an employee faces, the merits of the allegation are exclusive to the federal process to determine the truthfulness of any alleged conduct or whether any alleged conduct rises to a criminal act or should affect the terms and conditions of employment. *See 14.560 @ App 28a,* THEREFORE, the 4<sup>th</sup> Circuit was required by Federal Law to REMAND this case back to the E. D. Va. court based on Petitioner’s Informal Brief. *see App 18a-30a*

2. **Whether, and it what circumstances, this Federal employer that protects white male employees from State government processes under stated Federal law, Policy & Procedure must provide the same protection to black male employees (petitioner) when the white male and petitioner are similar in that ALL employees of this federal employer are protected under the same Federal Law, Policy & Procedure.**

Here, the 4th Circuit condoned a contradiction to Federal Law and the legal anomaly created by the E. D. Va. alleging that Hendley and Petitioner were not similarly situated. In the Hendley case, a black male ("Porter") filed a state criminal complaint against a white male ("Hendley") alleging assault & battery while on DVA property. The respondent intervened pursuant to 38 C.F.R. §14.501(d) @ ¶ 6. No state prosecutor prosecuted the case, Only Federal interests were presented. At a Hampton Virginia "trial" Porter, Hendley and employees from the DVA presented non-criminal statements to a "judge", the state judge dismissed the charge claiming "insufficient evidence" but did not clarify that the allegations presented were Federal interests not within the State's authority. Porter and Hendley were employees of this federal employer, similarly covered under the same Federal Law, policy & procedure, see App 26a-30a.

Here, a DVA police officer filed a State criminal complaint against Petitioner (a black male) Alleging stalking a white female employee while on DVA property. The Respondent Did Not intervene as required by §14.501, Only Federal interests were presented (emphasis). At a Hampton Virginia "trial" petitioner, the DVA police officer and employees from this Federal employer presented non-criminal statements to a "judge", petitioner was found "guilty". Petitioner's filer was a DVA

police officer J. Willis (“Willis”), Hendley’s filer was Porter. Both Willis and Porter were on equal footing, prohibited from filing “on property” allegations to the State government. Hendley and Petitioner were similar in that Both are protected from State government interference where the respondent had a legal obligation to intervene regardless of the “on property” allegations used to gain criminal charges, see §14.501(d) @ ¶ 6 (emphasis). THEREFORE, the 4<sup>th</sup> circuit sanctioned a substantive procedural violation created by the E.D. Va. court by ignoring the substantive procedural processes created by this Federal employer.

3. **Federal Law makes clear in this case, the respondent’s use of a State government process against petitioner, a black male, for “on Property” employee relation is contrary (repugnant) to that law, desperate and a pretext for race/sex discrimination.**

Here, Petitioner filed his race/sex discrimination complaint (4:19-CV-18) making clear a substantive due process violation occurred based on a racially discriminatory 2-step process that lead to petitioner’s termination: (1) the failure to intervene as required by federal law and (2) the use of the state “conviction” against Petitioner’s employment. Petitioner filed his federal claim under the framework created in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). Under that framework, the petitioner has “the initial burden” of “establishing a prima facie case” of discrimination. Id., at 802, 93 S.Ct. 1817. If he carries his burden, the employer must have an opportunity “to articulate some legitimate, non-discriminatory reason[s] for” the difference in treatment. *ibid.* If the employer articulates such reasons, the plaintiff then has “an opportunity to prove by a preponderance of the evidence that the reasons ... were a pretext for

discrimination.” *Ibid.* *Peggy Young v. United Parcel Service, Inc.*, 135 S.Ct. 1338, 1341(2015). To set out a *prima facie* case for disparate treatment in a race or sex discrimination case, the plaintiff may show that: (1) he is a member of a protected class; (2) he was qualified for the position; (3) he suffered an adverse action; and (4) he was treated less favorably than a similarly situated individual outside his protected class. *Maynard v. Bd. of Regents of Div. of Univs. of Fla. Dep’t of Educ.*, 342 F.3d 1281, 1289 (11th Cir.2003) The 4<sup>th</sup> Circuit condoned the E.D. Va. court’ order which acknowledged that Petitioner satisfied the first three elements. *See App 2a; see App 11a-13a.* Petitioner’s position related to the 4<sup>th</sup> element is that the substantive procedural violation taken by this federal employer was an unlawful pretext, motivated by race/sex discrimination.

A. Failure to intervene by this Federal employer, the first step, conveyed to Virginia by meeting of the minds or direct communication, a false belief this respondent could “pick-and-choose” between Federal and State processes. Intervention under 38 C.F.R §14.501(d)@ ¶6 is non-discretionary and requires Federal interest be placed under a Federal process. This Federal employer has acknowledged intervention for same race/same sex employee issues. The failure to intervene was used by the Virginia court as “authority to find petitioner guilty”, there was no presumption of innocence, see *Mattison v. Janie Willis et al*, 140 S.Ct. 2683(April 2020, case 19-7669, merits were not decided) in this case the 4<sup>th</sup> circuit appellate court condoned violations of the exclusive criminal authority of the DVA and the Federal supremacy clause under Article VI, §2 @ 774 Fed. Appx. 800.; see in

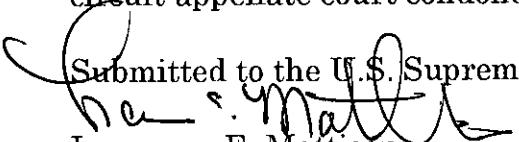
re Mattison, 140 S. Ct. 2758 (May 2020, Habeas corpus case No. 19-7509, merits were not decided) in this case a violation of the Supremacy clause was ignored@ 140 S.Ct. 1249; see Mattison v. Virginia, 138 S. Ct. 2689 (June 2018, case No. 17-8868, merits were not decided) in this case Virginia sanctioned and condoned a violation of the exclusive criminal authority to the DVA;

B. Termination of Federal employment, the second step in this race/sex discrimination case. This Federal employer had All the necessary information that their removal allegations @ *App 7a* were “on Property” Federal interests but false when authored. This federal employer knew and should have known Federal Law prohibits State court interference in on-property employee allegations.

THEREFORE, Petitioner’s initial complaint made out a prima facie case of race/sex discrimination and hostile work environment and Petitioner’s response to this employer’s stated reason for termination made a claim of unlawful pretext consistent with the framework under *McDonnell Douglas Corp. v. Green*.

#### CONCLUSION

This petition should be GRANTED with the requested instruction because the 4<sup>th</sup> circuit appellate court condoned substantive due process violations of Federal Law.

  
Submitted to the U.S. Supreme court by

Lawrence E. Mattison  
466 Fort Worth St.  
Hampton, Va. 23669  
(757) 265-8788  
[La7matt@yahoo.com](mailto:La7matt@yahoo.com)

On September 27, 2021