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In The Supreme Court of The United States
John Bagin, Petitioner
vs.

Melissa Layman, Douglas Robben

via The Supreme Court of Virginia,

Timothy Fisher via Newport News Circuit Court order

Docket No: 21-2169

The petition for rehearing is briefly stating the grounds that The Supreme Court of Virginia order to deny the writ of mandamus/prohibition is contrary to the controlling Federal laws enforced by The United States Supreme Court decision in United States vs. Lee 106 U.S. 196 (1882). The Supreme Court of The United States Rule 10(c) confirms lower courts are not authorized to refuse to administer constitutional rules or laws established by The United States Supreme Court. Appellant jurisdiction is imbued with 28 U.S.C.S. 1257(a), 28 U.S.C.S. 1651(a), by 28 U.S.C.S. 1652 and 28 U.S.C.S. 2254(d)(1). A state rule of decision administered to decide the controversy is nullified as contrary to clearly established Federal laws by what The Constitution, Acts of Congress and the treaty made under the United States Authority has otherwise provided as a rule of decision, pursuant to 28 U.S.C.S. 1652.

Based on the United States Constitution's Article Three (3) Section Two (2), power to decide all cases arising under those precepts, that are not originated in The Supreme Court of United States. However, this court is constitutionally and statutorily authorized to provide the

(2)

appellant review of cases initiated in the state's highest court, which refuse to conform to decisions that are relevant, made by The United States Supreme Court concerning the Federal question. Are public officers creatures of the law and are bound by the mandates of The Supremacy Clause to obey and conform to the provisions of The United States Constitution's Fourteenth (14th) Amendment?

An established rule of constitutional law is created by The United States Constitution's Article Six (6), Paragraph Two (2) and enforced by the rule of decision in United States vs. Lee, 106 U.S. 196 (1882). Judges of every state are bound by the Constitution and laws made in the pursuance thereof, constitutional entitlements. The Supreme Court of The United States explained in the dictum of United States vs. Lee, 106 U.S. 196 (1882): There is no authority to deprive liberty, without due process of laws. Also, the Fourteenth (14th) Amendment is a law that prohibits the deprivation of liberty, without due process of laws. There is a ministerial duty to resolve the Federal question inside the complaint for an effective remedy as laws and justices required the Federal question to be adjudicated pursuant to the Federal statutory interests of 28 U.S.C. 2243.

When public officers of the state deprive liberty, without statutory due process entitlements, 14

constitutes a denial of equal protection of laws as decided in Ex Parte Commonwealth of Virginia 100 U.S. 339 (1860). Both decisions of The Supreme Court of The United States emphasized the same legal points and explained the procedure in Marbury vs. Madison 5 U.S. 137 (1803) and Ex Parte Commonwealth of Virginia 100 U.S. 339 (1860). A public Officer is required to act constitutionally, there is a duty and obligation to conform to Constitutional and Statutory Federal Laws. When a public Officer (refuses) or (fails) to administer clearly established Federal laws, he may be compelled to perform his duty. He can subject himself to indictment because the unconstitutional act, contrary to statute, constitutes a malfeasance. All Constitutional rules of law are attached to this petition pursuant to Rules of The Supreme Court of The United States (Rule 32).

Actual Innocence, is the primary intervening circumstances for the petitioner. (Factual) and (Legal) innocence, is a principle of law vindicated by the facts on record and applicable Constitutional laws. The petitioner has a legal right to invoke the presumption of Innocence, until proven guilty according to the laws. It's an established interests of The Universal Declaration of Human Rights Article Eleven (11) and The International Covenant on Civil and Political Rights, Article Fourteen (14), Sections One (1) and Sections Two (2). Both treaties create an interests

of the equal protection of laws as established with the United States Constitution's Fourteenth (14th) Amendment. The decision of The Supreme Court of The United States relevant to statutory interests is within North v. Seldin 422 U.S. 490 (1975);

The statute creates the interests, the deprivation of the "interests, constitutes an injury in fact to the petitioner John Rabin. The presumption of innocence is prima facie proof and is sufficient to constitute acquittal unless the government meets their burden to prove (every fact) necessary to constitute the accusation beyond a reasonable doubt. A principle of law explained in Coffin v. United States 156 U.S. 432 (1895). The Due process Clause of The United States protects us from a conviction, when the government fails in their burden as enforced with In Re Winship 397 U.S. 358 (1970).

The petitioner is being deprived liberty without due process for several due process errors as decided by the Supreme Court of The United States. A conviction obtained by misrepresented facts is invalidated by The United States Constitution's Fourteenth (14th) Amendment as decided in Miller v. Pate 386 U.S. 1 (1967) cited in Cardner v. Ballard 112 F.Supp. 38925 (2016).

An act of Congress is violated by the trial courts refusal to allow the petitioner to proceed pro se pursuant

to 28 U.S.C.S 1654 during trial. It constitutes a second due process violation during trial as determined by the relevant decision in Pate v. California 432 U.S. 806 (1975). The Universal Declaration of Human Rights Articles One (1), through three (3), establishes the right to liberty as explained by the dictum of Meyer v. Nebraska 262 U.S. 390 (1923). We have a right not to be deprived liberty, without the equal protection of laws as declared by The Universal Declaration of Human Rights Article Seven (7), and inscribed in The International Covenant on Civil and Political Rights Article Fourteen (14), Section One (1). A state that fails to administer these entitlements, withholds the equal protection of laws as decided in the relevant decision of Ex Parte Commonwealth of Virginia 100 U.S. 339 (1880).

Timothy Fisher had a duty and obligation to conform to 28 U.S.C.S 144, 28 U.S.C.S 455 (a), 28 U.S.C.S 455 (b) (3) and 28 U.S.C.S 2243 per the decisions in relevant cases. All of the interests created by statutory interests were the right to a public hearing, the right to an impartial tribunal, and an effective remedy throughout the state habeas Corpus proceedings. The relevant decision of Tukey v. Ohio 273 U.S. 510 (1927) held it violates the due process clause of The Fourteenth (14th) Amendment

to subject a citizen's liberty, to a tribunal with a direct or personal interests in the outcome of the case or controversy. Timothy Fisher's acts created the errors during trial proceedings. When he acted to adjudicate the claims through Habeas Corpus, he violated the right to an impartial tribunal and the right to an effective remedy.

The Supreme Court of Virginia decision endorsed by Melissa Layman and Douglas Robelen, expressed Mr. Fisher was not being compelled to perform a ministerial duty. Rejection of decisions of The Supreme Court of The United States decided, there is no discretion to violate the Fourteenth (14th) Amendment and create unconstitutional acts. The Statutory codes were invoked to compel him to conform to The United States Constitution, Acts of Congress, and the treaties made by the authority of The United States. Mr. Fisher, was actually prohibited from depriving a right to an effective remedy, withholding the equal protection of laws and violating due process of laws by adjudging the claims in Habeas Corpus. Mr. Fisher, expressed his opinion on the merits of the Federal questions during trial. The State court's order was silent on these issues, in spite of Timothy Fisher's signature being on the order endorsed August 8, 2019 for relief to constitutional errors. Also, he deprived liberty, without

due process by the order endorsed on June 26th, 2014. Both acts endorsed by Timothy Fisher deprived liberty, without due process as demonstrated by relevant decisions of The Supreme Court of The United States.

The Supreme Court of Virginia interpreted and applied a state rule of decision; Indicating, mandamus and prohibition is not a substitute for appeal. Clearly, an unreasonable determination of the facts as expressed in 28 U.S.C. § 2254. When filing the complaint for mandamus and prohibition, the cause of action was based on the duty and obligation of the court to conform to the Acts of Congress applicable to the facts. Also, the United States Constitution's Fourteenth and Fourteenth Amendments prohibitions, not to deprive liberty without due process of law. Those Federal Constitutional and Federal Statutory violations, could not be proven by the facts (until) the order was endorsed on August 8, 2019.

The order of The Supreme Court of Virginia has unconstitutionally attempted to sanction the unconstitutionality of Mr. Fisher's Acts. Both orders can be demonstrated to be contrary to controlling Federal laws based on previous decisions of The Supreme Court of The United States.

Pursuant to the Rules of The Supreme Court of The United States Ten (10)(c) The court

has jurisdiction to consider the Federal question and is authorized to grant the writ, when the state courts decide contrary to relevant decisions of this court.

(1) Relevant decisions of Marbury vs. Madison 5 U.S. 135 (1803) enforces the constitutional rule of law; All governmental acts repugnant to the constitution are a nullity and void.

(2) Relevant decisions of Ex parte Commonwealth of Virginia 100 U.S. 339 (1880) enforces the constitutional rule of law; All public officers who deprive liberty, without the due process of clearly established statutory laws, violates The United States Constitution's Fourteenth (14th) Amendment.

(3) Relevant decisions of United States vs Lee 106 U.S. 196 (1892) enforces the constitutional rule of law; Public Officers are bound to obey the law. There is no authority, to deprive liberty, without due process of laws. The Fourteenth (14th) Amendment prohibits, the deprivation of liberty, without due process of laws.

The enforcement of the orders created by The Supreme Court of Virginia and The Newport News Circuit court there are the subjects of this complaint.

constitutes ongoing Federal violations of controlling laws established by this court. There is an established rule of constitutional law enforced by the decision of Verizon vs. Maryland, Inc vs. Public Service Comm of Maryland 535 U.S. 635 (2002). The Federal courts have authority to issue injunctions to stop the enforcement of unconstitutional orders made contrary to controlling Federal laws.

There's the exceptional circumstances of (Actual Innocence), helps create the authorization to grant the injunctive relief to prevent further immediate and irreparable harm. Additional circumstances are the petitioner is being harassed, suffered assaults, and was recently attacked by several individuals for defending his innocence amidst their false allegations of the unconstitutional convictions. Proof of these factors and constitutional grounds were not presented to the court prior to the February 4th, 2022 order.

These are elements that warrant expediate Federal intervention in the state court process per the Dictum of Mitchum vs. Foster 407 U.S. 225 (1972).

The Supreme Court of Virginia and The Newport News Circuit Court are required to obey 28 U.S.C. 1652.

A rule of decision provided by The Constitution and Acts of Congress nullifies a state rule of decision throughout facts of civil proceedings in the court.

There is a ministerial duty to administer constitutional decisions and conform to The Supreme Court of The United States judgements concerning the Federal questions of relevant decisions. (28 U.S.C.S 453) The decisions that conflict with statutory due process are violations of The United States Constitution Fourteenth (14th) Amendment. All The Supreme Court of Virginia decisions and The Newport News Circuit Court decisions contrary to the Constitution are an illegality and should not be enforced per se Marbury vs. Madison 5 U.S 137 (1803)

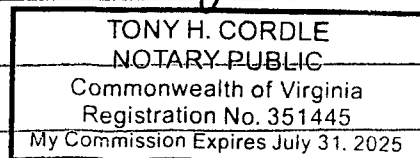
The prayer is extended for an effective remedy, to compel all the public officials included by orders in the complaint, to fulfill their ministerial duty to guard, enforce and protect constitutional rights. The Federal Statutes 28 U.S.C.S 1251(a) clarifies the unconstitutional decisions can be reviewed with appellate jurisdiction under these terms.

Final judgements or decrees rendered by the highest state court, which a decision could be had, may be reviewed by The Supreme Court by writ of certiorari where any (title), (right), (privilege) or immunity is specially set up or claimed under the Constitution, or the treaties, or statutes of or of any commission held or authority exercised under the United States.

The petitioner has set up (titles) (rights) and privileges guaranteed by the laws of the land. The Supreme Court of The United States will be administering justice for complete miscarriages of justice at every stage of the proceedings in the state court process. The court is authorized to paint the constitutional errors by an effective remedy for prospective relief. Praying, the court rehears the Federal question, consider the intervening circumstances with the controlling effect from relevant decisions of this court. Along with the grounds now previously presented as (proof) for the pleadings. Swearing, I am acting in good faith of controlling Federal laws, they substantiate the court's jurisdiction on this 15th, day of February, 2022.

Respectfully requesting, the issuance of the writ. This 15th day of February, 2022 I, [Signature], swear all facts and relevant decisions constitute the relief via the court's discretion to choose liberally to proceed coming. [Signature]

John Kabin #1355505 B-4-443
 Xeen Mountain Correctional Center
 P.O. Box 660
 Oak Wood, VA 24631



My Commission Expires: 7-31-25

This matter is sworn before me this 15 day of February, 2022 to be accurate and true. Notary Public: Tony H. Cordle

U.S. Supreme Court

Marbury v. Madison, 5 U.S. 1 Cranch 137 137 (1803)

Marbury v. Madison

5 U.S. (1 Cranch) 137

Syllabus

(A specific duty is Assigned By Law?)

The clerks of the Department of State of the United States may be called upon to give evidence of transactions in the Department which are not of a confidential character.

The Secretary of State cannot be called upon as a witness to state transactions of a confidential nature which may have occurred in his Department. But he may be called upon to give testimony of circumstances which were not of that character.

Clerks in the Department of State were directed to be sworn, subject to objections to questions upon confidential matters.

Some point of time must be taken when the power of the Executive over an officer, not removable at his will, must cease. That point of time must be when the constitutional power of appointment has been exercised. And the power has been exercised when the last act required from the person possessing the power has been performed. This last act is the signature of the commission.

If the act of livery be necessary to give validity to the commission of an officer, it has been delivered when executed, and given to the Secretary of State for the purpose of being sealed, recorded, and transmitted to the party.

In cases of commissions to public officers, the law orders the Secretary of State to record them. When, therefore, they are signed and sealed, the order for their being recorded is given, and, whether inserted into the book or not, they are recorded.

When the heads of the departments of the Government are the political or confidential officers of the Executive, merely to execute the will of the President, or rather to act in cases in which the Executive possesses a constitutional or legal discretion, nothing can be more perfectly clear than that their acts are only politically examinable. But where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured has a right to resort to the laws of his country for a remedy.

The President of the United States, by signing the commission, appointed Mr. Marbury a justice of the peace for the County of Washington, in the District of Columbia, and the seal of the United States, affixed thereto by the Secretary of State, is conclusive testimony of the verity of the signature, and of the completion of the appointment; and the appointment conferred on him a legal right to the office for the space of five years. Having this legal right to the office, he has a consequent right to the commission, a refusal to deliver which is a plain violation of that right for which the laws of the country afford him a remedy.

To render a mandamus a proper remedy, the officer to whom it is directed must be one to whom, on legal principles, such writ must be directed, and the person applying for it must be without any other specific remedy.

U.S. Supreme Court

Ex Parte Virginia, 100 U.S. 339 (1879)

Ex Parte Virginia

100 U.S. 339

SECOND (2nd)
Legal Exhibit ~~100 U.S. 339~~

Pursuant to Rule 32, the legal exhibit is entered into the court's custody.

1. A., a judge of a county court in Virginia, charged by the law of that State with the selection of jurors to serve for the year 1878 in the circuit and county courts of his county, was, in the District Court of the United States for the Western District of Virginia, indicted for excluding and failing to select as grand jurors and petit jurors certain citizens of his county of African race and black color, who, possessing all other qualifications prescribed by law, were excluded from the jury lists made out by him as such officer, on account of their race, color, and previous condition of servitude, and for no other reason, against the peace, &c., of the United States, and against the form of the statute in such case made and provided. Being in custody under that indictment, he presented to this court his petition for a writ of habeas corpus and a writ of certiorari to bring up the record of the inferior court, that he might be discharged, averring that the finding of the indictment, and his arrest and imprisonment thereunder, were unwarranted by the Constitution of the United States, in violation of his rights and the rights of the State of Virginia, whose judicial officer he is, and that the inferior court had no jurisdiction to proceed against him. A similar petition was presented by Virginia. Held, that, while a writ of habeas corpus cannot generally be made to subserve the purposes of a writ of error, yet when a prisoner is held without any lawful authority, and by an order which an inferior court of the United States had no jurisdiction to make, this court will, in favor of liberty, grant the writ, not to review the whole case, but to examine the authority of the court below to act at all.

2. The section of the act entitled "An Act to protect all citizens in their civil and legal rights," approved March 1, 1876 (18 Stat., part 3, 336), which enacts that

"no citizen, possessing all other qualifications which are or may be prescribed by law, shall be disqualified from service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servitude; and any officer or other person, charged with any duty in the selection or summoning of jurors, who shall exclude or fail to summon any citizen for the cause aforesaid, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than \$5,000,"

examined, and held to be authorized by the Thirteenth and Fourteenth Amendments of the Constitution.

Resistant to inhibition, etc.

3. The inhibition contained in the Fourteenth Amendment means that no agency of the State, or of the officers or agents by whom her powers are exerted, shall deny to any person within her jurisdiction the equal protection of the laws. Whoever by virtue of his public position, under a State government deprives another of life, liberty, or property, without due process of law, or denies or takes away the equal protection of the laws, violates that inhibition; and as he acts in the name of and for the State, and is clothed with her power, his act is her act. Otherwise, the inhibition has no meaning, and the State has clothed one of her agents with power to annul or evade it.

4. That amendment was ordained to secure equal rights to all persons. To render its purpose effectual, Congress is vested with power to enforce its

Page 100 U. S. 340 (Judicial Notes). The petitioner is being held without lawful authority. (In favor of liberty, writ granted)

LEGAL EXAMINER - 100 (10) Paragraph ONE (Right Column)
United States vs. Lee 106 US 108 Feb 1882 held
Officers of the Government are creatures of the law
United States v. Lee

And bound to obey the law.

Supreme Court of the United States

December 4, 1882, Decided

The commission is required to give the owner notice, and
No Number in Original
Reporter A Fair opportunity to pay the taxes before a tax certificate
106 U.S. 196; 1 S. Ct. 240; 27 L. Ed. 771; 1882 U.S. LEXIS 1534; 16 Otto 196

sale is made to divest the
UNITED STATES v. LEE; KAUFMAN v. LEE.
Legal title to land & property

Prior History: [****1] ERROR to the Circuit Court of
the United States for the Eastern District of Virginia.

The facts are stated in the opinion of the court.

Core Terms LEGAL EXHIBIT
THREE CS

sovereign, ejectment, certificate, exemption, military,
occupied, Prerog, injunction, mandamus, decree,
seized, cemetery, belonging, steward, advertisement,
impleaded, servants, admiralty, Treasury, deprived,
tribunal, vessel, bid, afterwards, libellants, appointed,
condemned, soldiers, assise, suable

The judgement could be
properly rendered as to residue
Case Summary to fail to follow
as details are a violation of
the 5th Amendment

Procedural Posture
Defendants sought review of the judgment of the Circuit
Court of the United States for the Eastern District of
Virginia holding in favor of plaintiff United States in the
government's action to eject defendants from land in
which government claimed title.

People can make sales based
on a tax sale certificate

Overview
The government sought to eject defendants from land in
which the government asserted title. Defendants
asserted title to the land under a tax-sale certificate
issued by tax commissioners pursuant to the Act of
Congress of June 7, 1862, ch. 98. The district court
found in favor of the government. Defendants sought

review, asserting title to the property. If the government
was found to have title to the land, defendants
requested that judgment in the government's favor not
be rendered, as defendants held the property as officers
of the United States. The United States Supreme Court
held that defendants acquired no title under the tax-sale
proceedings by the government's failure to pay the
taxes on the property. This was true because the tax
commissioners refused to receive the taxes, and refusal
was the equivalent of payment. The Court held that
judgment against defendants, as officers of the United
States, could be properly rendered as the failure to do
so would result in a deprivation of the government's
property without due process in violation of the Fifth
Amendment, and because defendants, as officers of the
government, were creatures of the law and were bound
to obey the law.

Held: Officers of the government are
creatures of the law and were bound
to obey it. (Judicial Notes)

Outcome
The Court affirmed the judgment for the government as
defendants did not acquire title to the land at issue by
virtue of the government's failure to pay taxes on that
property.

A Failure to pay taxes on
the property does not help
a person to own a Right to
Syllabus title to a tax certificate sale

1. The doctrine that, except where Congress has provided, the United States cannot be sued, examined and reaffirmed.
2. That doctrine has no application to officers and agents of the United States who, when as such holding for public uses possession of property, are sued therefor by a person claiming to be the owner thereof or entitled thereto; but the lawfulness of that possession and the

The judgement against the defendants could be properly
held, in failure to pay taxes on the property.

(32)

The courts are obliged to extend the writ to individuals who have been wronged by public officers.

The independence was recognized by the court
106 U.S. 196, 196; 1 S. Ct. 240, **240; 27 L. Ed. 171, ***171, 1882 U.S. LEXIS 1534, ****1
One Federal Government has power to prosecute

right or title of the United States to the property may, by a court of competent jurisdiction, be the subject-matter of inquiry, and adjudged accordingly.

3. The constitutional provisions that no person shall be deprived of life, liberty, or property without due process of law, nor private property taken for public use without just compensation, relate to those rights whose protection is peculiarly within the province of the judicial branch of the government. Cases examined which show that the courts extend protection when the rights of property are unlawfully invaded by public officers.

4. In ejectment, the title relied on by the defence was [****2] a certificate of sale of the demanded premises to the United States by the commissioners under the act of Congress for the collection of direct taxes. The certificate was impeached on the ground of the refusal of the commissioners to permit the owner to pay the tax with interest and costs, before the day of sale by an agent or in any other way than by payment in person. Held, that when the commissioners had established a uniform rule that they would receive such taxes from no one but the owner in person, it avoids such sale, and a tender is unnecessary, since it would be of no avail.

5. Bennett v. Hunter, 9 Wall. 324, Tacey v. Irwin, 18 id. 549, and Atwood v. Weems, 99 U.S. 183, re-examined, and the principle they establish held to apply to a purchase at such a tax sale by the United States as well as by a private person.

Counsel: The cases were argued by the Solicitor-General and Mr. Westell Willoughby for the plaintiffs in error, and by Mr. William D. Shipman, Mr. A. Ferguson Beach, and Mr. William J. Robertson, with whom were Mr. Leigh R. Page and Mr. Francis L. Smith, for the defendant in error.

*It is a uniform rule
there is no exception*
Opinion by: MILLER

*to the constitution is void
it has no legal force.*
Opinion

[*196] [**241] [***173] MR. JUSTICE MILLER delivered [****3] the opinion of the court.

These are two writs of error to the same judgment: one

prosecuted by the United States, eo nomine; and the other by the [*197] Attorney-General of the United States, in the names of Frederick Kaufman and Richard P. Strong, the defendants against whom judgment was rendered in the Circuit Court.

The action was originally commenced in the Circuit Court for the county of Alexandria, in the State of Virginia, by George W.P.C. Lee, against Kaufman and Strong and a great number of others, to recover possession of a parcel of land of about eleven hundred acres, known as the Arlington estate. It was in the form prescribed by the statutes of Virginia under which the pleadings are in the names of the real parties, plaintiff and defendant.

As soon as the declaration was filed the case was, by writ of certiorari, removed into the Circuit Court of the United States, where all the subsequent proceedings took place. It was tried by a jury and during its progress an order was made at the request of the plaintiff dismissing the suit as to all of the defendants except Kaufman and Strong. Against each of these a judgment was rendered for separate parcels of the [****4] land in controversy; namely, against Kaufman for about two hundred acres of it, constituting the National Cemetery and included within its walls, and against Strong for the remainder of the tract, except seventeen acres in the possession of Maria Syphax.

As the United States was not a party to the suit below, and, while defending the action by its proper law officers, expressly declined to submit itself as a defendant to the jurisdiction of the court, there may exist some doubt whether it has a right to prosecute the writ of error in its own name; but as the judgment against Kaufman and Strong is here on their writ of error, under which all the questions [***174] are raised which could be raised under the other, their writ being prosecuted in the interest of the United States, and argued here by the Solicitor-General, the point is immaterial, and the question has not been mooted.

The first step [**242] taken in the case after it came into the Circuit Court of the United States was the filing in the clerk's office of that court of the following paper by the Attorney-General: --

[*198] "GEORGE W. P. C. LEE v. FREDERICK KAUFMAN, R. P. STRONG, AND OTHERS.

In ejectment.

[****5] "And now comes the Attorney-General of the

The courts are obliged to extend the writ to individuals who have been wronged by public officers.
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