NO. 21-6723

SUPREME COURT OF THE UNITED STATES

JEREMY LEE WATSON-BUISSON,

Petitioner,

versus

THE COMMONWEALTH OF VIRGINIA,

Respondent.

On Petition for a Writ of Certiorari to
The Supreme Court of Virginia

PETITION FOR A WRIT OF CERTIORARI

Jeremy Lee Watson-Buisson
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256 Bland Farm Road
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Petitioner, pro se

I. Questions Presented

1) Does the Petitioner lack standing to raise an Equal Protection challenge to Code of Va. § 9.1-902(F) (formerly effective 2018) where the Supreme Court of Virginia found that the statute under which he was convicted in Louisiana, Computer-Aided Solicitation of a Minor (LA R.S. 14:81.3), is facially comparable to Taking Indecent Liberties with Children (Code of Va. § 18.2-370), a "sexually violent offense," and thus, not treated differently, when the specific facts of the Petitioner's Louisiana conviction, under subsection (B)(1)(c) of LA R.S. 14:81.3, are more comparable to Use of Communications System to Solicit a Minor for Indecent Liberties (Code of Va. § 18.2-374.3), a nonviolent "sexual offense?"

2) By automatically requiring a person convicted of "any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted," to be classified as a "sexually violent offender" upon declaring residency or employment in Virginia, does Code of Va. § 9.1-902(F) (2018) violate the Petitioner's right to Equal Protection of the laws by treating him differently than a similarly situated person convicted of the Virginia equivalent of Computer-Aided Solicitation of a Minor in Louisiana (LA R.S. 14:81.3(B)(1)(c)(2010)), Use of Communications System to Solicit a Minor for Indecent Liberties (Code of Va. § 18.2-374.3), who is classified as a nonviolent "sexual offender?"

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IV. OPINIONS BELOW

The opinion of the Supreme Court of Virginia, dated October 7, 2021, is not yet reported, and is attached as Appendix A.

The opinion of the Court of Appeals of Virginia, dated May 14, 2020, is not published, and is attached as Appendix B.

A request for a rehearing was denied by the Court of Appeals of Virginia on June 29, 2020, and was also not published; it is attached as Appendix C.

V. JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a), and S.Ct. Rule 10(c).

Further, this "petition for a writ of certiorari to review a judgment [...] entered by a state court of last resort [...] is timely," as it is submitted "within 90 days after entry of the judgment," pursuant to S.Ct. Rule 13.1.

VI. PARTIES TO THE PROCEEDINGS

Jeremy Lee Watson-Buisson, the Petitioner, pro se, is listed as the Petitioner on the cover page. Jeremy Lee Watson-Buisson is the Petitioner's legal name. It is important to note, as during the course of litigation in this matter, the Petitioner was

erroneously named Jeremy Leigh Watson-Buisson in the charging documents. The Petitioner informed the trial court of this issue prior to jury selection, and the Respondent amended the charging documents to include both names, stating that the Petitioner was simultaneously known as (SKA) Jeremy Lee Watson-Buisson.

The Commonwealth of Virginia is the Respondent in this matter.

VII. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Below is a list of the constitutional and statutory provisions involved in this matter.

U.S. Const. Amend XIV, § I, in pertinent part, states:

> "No State [...] shall [...] deny to any person within its jurisdiction the equal protection of the laws."

Code of Va § 9.1-902 (2018), Offenses Requiring Registration, subsection (F) (formerly effective 2018), states:

> "Any offense listed in subsection B," "criminal homicide" as defined in this section, "murder" as defined in this section, and "sexually violent offense" as defined in this section includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof or (ii) any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

In 2020, the General Assembly amended Code of Va § 9.1-902 with Acts 389, 826, and 829. In particular, the Acts changed Virginia's registration scheme to mirror the three tier classification scheme of the Adam Walsh Act. The Acts rewrote most of the statute, removing subsection F, and making subsection C now address the issue out offenders with out of state convictions.

Code of Va. § 18.2-370 (2021), Taking Indecent Liberties with Children, in pertinent part states:

> A. Any person 18 years of age or over, who, with lascivious intent, shall knowingly and intentionally commit any of the following acts with any child under the age of 18 years is guilty of Class 5 felony:
>
> (1) Expose his sexual or genital parts to any child to whom he is not legally married or propose that any such child expose his sexual or genital parts to such person; or
>
> (2) [Repealed]
>
> (3) Propose that any such child feel or fondle his own sexual or genital parts or the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; or
>
> (4) Propose to such child the performance of an act of sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act constituting an offense under § 18.2-361; or
>
> (5) Entice, allure, persuade or invite any such child to enter any vehicle, room, house, or other place, for any purposes set forth in the proceeding subdivisions of this subsection.

Code of Va. § 18.2-370.5, Offenses Prohibiting Entry Onto School or Other Property (formerly effective 2018), in pertinent part, states:

> "Every adult who is convicted of a sexually violent offense, as defined in § 9.1-902, shall be prohibited from entering or being present (i) during school hours, and during school-related or school-sponsored activities upon property he knows or has reason to know is a public or private elementary or secondary school or child day care center property; (ii) on any school bus as defined in § 46.2-100; or (iii) upon any property, public or private, during hours when such property is solely being used by a public or private elementary or secondary school for a school-related or school-sponsored activity.

In 2020, the General Assembly additionally amended Code of Va § 18.2-370.5 with Act 829. In particular, the Act substituted the phase "sexually violent," with "Tier III."

Code of Va. § 18.2-374.3, Use of Communications System to Solicit a Minor for Indecent Liberties, in pertinent part, states:

A. As used in subsections C, D, and E, "use of a communications system" means making personal contact or direct contact through any agent or agency, any print medium, the United States mail, any common carrier or communication common carrier, any electronic communications system, the Internet, or any telecommunications, wire, computer network, or radio communications system.

C. It is unlawful for any person to use of a communications system, including but not limited to computers or computer networks or bulletin boards, or any other electronic means, for the purposes of soliciting, with lascivious intent, any person he knows or has reason to believe is a child younger than 15 years of age to knowingly and intentionally:

1. Expose his sexual or genital parts to any child to whom he is not legally married or propose that any such child expose his sexual or genital parts to such person.
2. Propose that any such child feel or fondle his own sexual or genital parts or the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child.
3. Propose to such child the performance of an act of sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus or any act constituting an offense under § 18.2-361; or
4. Entice, allure, persuade or invite any such child to enter any vehicle, room, house, or other place, for any purposes set forth in the proceeding subdivision.

LA R.S. 14:81.3, Computer-Aided Solicitation of a Minor (2010), in pertinent part, states:

A. (1) Computer-aided solicitation of a minor is committed when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with [...] a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger, for the purpose of or with the intent to persuade, induce, entice, or coerce the person to engage or participate in sexual conduct or a crime of violence as defined in LA R.S. 14:2(B), or with the intent to engage or participate in sexual conduct in the presence of the person who has not yet attained the age of seventeen or reasonably believed to have not yet attained the age of seventeen.

B. (1) (c) Whoever violates the provisions of this Section, when the victim is a person reasonably believed to have not yet attained the age of seventeen, shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than two nor more than ten years, without the benefit of probation, parole, or suspension of sentence.

I. A violation of the provisions of this Section shall be considered a sex offense as defined in LA R.S. 15:541(14.1). Whoever commits the crime of computer-aided solicitation of a minor shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

VIII. STATEMENT OF THE CASE

The Petitioner, having been previously convicted of Computer-Aided Solicitation of a Minor in Louisiana, pursuant to LA R.S. 14:81.3(B)(1)(c)(2010), is required to register as a sex offender in that jurisdiction, pursuant to LA R.S. 15:540 et seq. See State v. Buisson, 169 So.3d 381 (La. 2015), *rehearing denied*, 174 So.3d 1162 (La. 2015); Watson-Buisson v. Cain, 2:15-cv-02316-NJB (E.D. of La. September 1, 2016).

Upon relocation to Virginia in 2018, the Petitioner registered with the Virginia State Police (VSP) as a sex offender, pursuant to Code of Va. § 9.1-900 et seq. In 2018, Virginia employed a registration classification scheme, which designated offenders as either "sexual offender," or "sexually violent offender," based upon the offense they were convicted of. Based upon an administrative interpretation of Code of Va. § 9.1-902(F), VSP required the Petitioner to register as a non-violent "sexual offender", as they found that his Louisiana conviction was comparable to Use of Communications System to Solicit a Minor for Indecent Liberties, pursuant to Code of Va. § 18.2-374.3.

The Petitioner was later accused of an indecent exposure incident, and charged by the Norfolk Police Department with violating two counts of Code of Va. § 18.2-370.5, and one count of Obscene Sexual Display (Code of Va. § 18.2-387.1). At the preliminary in the General District Court of Norfolk, the Commonwealth of Virginia motioned the court for nolle prosse of one count of Code of Va. § 18.2-370.5, which was granted, and proceeded with the remaining counts. The court acquitted the Petitioner of Code of Va. § 18.2-387.1, and found probable cause to send the remaining count of Code of Va. § 18.2-370.5 to the Circuit Court of the City of Norfolk, to be reviewed by a grand jury for indictment.

At the grand jury proceedings on January 3, 2019, the Commonwealth brought back the one count of Code of Va. § 18.2-370.5, and additionally submitted two counts of Code of Va. § 18.2-370.2. The grand jury indicted the Petitioner on all four counts, and was originally scheduled for a bench trial by his court appointed counsel, Christopher M. Bettis, on February 20, 2019.

The Petitioner moved to dismiss Mr. Bettis as counsel on the grounds that certain defenses regarding his classification as a nonviolent "sexual offender" by VSP, among other things, were not raised at the preliminary hearing. On February 14, 2019, a hearing pursuant to Ferreta v. CA., 422 U.S. 806 (1975), was conducted to determine if the Petitioner could proceed pro se. The court granted the motion, and additionally appointed Mr. Bettis as stand-by counsel.

The Petitioner additionally motioned for dismissal of all four counts on the grounds that his conviction of LA R.S. 14:81.3(B)(1)(c)(2010) was not a prerequisite conviction for the purpose of those statutes. On February 20, 2019, the Petitioner's motion to dismiss heard by the court. The court decided that motion and its counter argument merited further consideration, and postponed the trial on its own motion so it could properly consider the motion.

On February 26, 2019, the court granted the Petitioner's motion in part, dismissing both counts of Code of Va. § 18.2-370.2, on the grounds that his conviction of LA R.S. 14:81.3(B)(1)(c)(2010) was not similar to Indecent Liberties (Code of Va. § 18.2-370). The motion was denied in part, in regards to the counts of Code of Va. § 18.2-370.5, as the court found that Code of Va. § 9.1-902(F) (2018) defined a "sexually violent offense" as "any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted."

The Petitioner then filed a second motion to dismiss, on the grounds that Code of Va. § 9.1-902(F) violated his constitutional right to Equal Protection of the laws. While that motion was pending, on April 11, 2019, the Supreme Court of Virginia, in Turner v. Commonwealth, 297 Va. 257, 826 S.E.2d 307 (2019), interpreted Code of Va. § 9.1-902(F) to define a "sexually violent offense" as "any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the

jurisdiction where the offender was convicted." The motion to dismiss on Equal Protection grounds was heard and denied on April 17, 2019.

The Petitioner also moved for a speedy trial, as his statutory right under Virginia law, if properly asserted limits the Commonwealth to 152 and a half days to bring a defendant to trial. This motion was heard on April 27, 2019, and the Commonwealth moved for the Petitioner to be permitted bail on personal recognizance. A jury trial was scheduled for July 1, 2019.

On July 1, 2019, prior to the commencement of trial, the Petitioner withdrew his waiver of counsel, and the court again appointed Mr. Bettis. The Petitioner was then convicted after a two-day jury trial, of all three counts of Code of Va. § 18.2-370.5, on July 2, 2019.

Sentencing was originally scheduled for September 19, 2019. However, on that date, the sentencing hearing was postponed by the court on its own motion, when it found that the Petitioner's previously denied pro se motion to dismiss on Equal Protection grounds had merit. The court order both parties submit additional post-verdict motions on the issue of Equal Protection, to be heard before sentencing, now scheduled for October 25, 2019.

The Petitioner was sentenced on October 25, 2019, and timely filed for notice of appeal. The petition for appeal was filed with the Court of Appeals of Virginia on February 6, 2020.

The court denied the Petitioner's appeal, per curiam, on May 14, 2020, finding that by "[c]lassifying as sexually violent all out-of-state offenders required to register in their state of conviction provides a further level of protection for Virginia residents, especially children, from the danger of recidivism among sexual offenders. In this way, the classification furthers the purpose of Virginia's sex offender registry. Accordingly, a rational basis exists for the classification created by Code of Va. § 9.1-902(F)(ii). Appellant failed to carry his burden to negate every rational basis for the classification, the trial court did not err in rejecting appellant's equal protection claim." Watson-Buisson v. Commonwealth, Appendix B.

A motion for reconsideration by a three judge panel was filed on May 20, 2020. The court affirmed the denial on June 29, 2020. See Appendix C.

The Petitioner filed for notice of appeal on July 28, 2020. The Supreme Court of Virginia awarded the Petitioner's appeal from the judgment of the Court of Appeals of Virginia, on April 26, 2021.

The Supreme Court of Virginia, on October 7, 2021, affirmed the Petitioner's conviction, finding that the statute under which he was convicted, Computer-Aided Solicitation of a Minor (LA R.S. 14:81.3), was facially comparable to Taking Indecent Liberties with Children (Code of Va. § 18.2-370), a "sexually violent offense," and as such, Petitioner lacked standing to raise an Equal Protection claim. Watson-Buisson v. Commonwealth, Appendix A.

This case is ripe for review by this Honorable Court.

IX. STANDING.

Before moving on to the reasons for granting the writ, a brief discussing on standing is required in this particular matter. The United States Constitution ArtIII.S2.C1.2.5.1 commands that a litigant must have standing to invoke the power of a federal court. Warth v. Seldin, 422 U.S. 490, 498 (1975). To establish standing, the Petitioner must demonstrate the "irreducible constitutional minimum of standing," which is informed by three elements: (1) that he personally some actual or threatened "injury in fact"; (2) that is "fairly traceable" to the challenged action; (3) that likely "would be redressed" by a favorable decision from this Court. Lujan v. Department of Wildlife, 504 U.S. 555, 560-61 (1992).

a. Actual Injury

The actual injury requirement ensures that issue will be resolved "not in the rarified atmosphere of a debating society, but in a concrete factual context." Valley Forge

Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464, 472 (1982).

In this case, the Petitioner suffers actual injury, where the State court interpretation of Code of Va § 9.1-902(F) (2018) in Turner v. Commonwealth, 297 Va. 257, 826 S.E.2d 307, makes Code of Va § 18.2-370.5 (2018) applicable to him for the purpose of a felony criminal conviction.

The Petitioner was denied Equal Protection of the laws, where his conviction of LA R.S. 14:81.3(B)(1)(c)(2010), as an out of state conviction, automatically classifies him a sexually violent offender in Virginia under Code of Va § 9.1-902(F) (2018), while a similarly situated person convicted of the equivalent Virginia offense, Code of Va. § 18.2-374.3, is classified as a nonviolent "sexual offender," where such person could not be convicted of violating Code of Va. § 18.2-370.5. While the Supreme Court of Virginia found that the Petitioner lacked standing, by finding his Louisiana conviction comparable to Code of Virginia § 18.2-370, this petition will additionally argue where the State court's interpretation of these statutes contravened the Petitioner's constitutional right to Equal Protection, to reestablish standing.

b. Traceability

During the pretrial litigation of this matter, the Petitioner, proceeding pro se, motioned for a dismissal of all counts of Code of Va § 18.2-370.5 (2018) arguing that

the statutory interpretation of Code of Va § 9.1-902(F) (2018), in arbitrarily classifying all persons convicted of "any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted," as "sexually violent offenders," deprived him of his constitutional right to Equal Protection, by treating him differently than a similarly situated person convicted of the equivalent Virginia offense.

That motion was denied, and the Petitioner was convicted of all three counts of Code of Va § 18.2-370.5 (2018). This issue was raised on direct appeal to the Court of Appeals of Virginia, and to the Supreme Court of Virginia.

c. Redressability

"[A] plaintiff satisfies the redressability requirement when he shows that a favorable decision will relieve a discrete injury to himself. He need not show that a favorable decision will relieve his every injury." Larson v. Valente, 456 U.S. 228, 243 n. 15 (1982).

The Petitioner respectfully presents that a favorable ruling, declaring Code of Virginia § 9.1-902(F) (2018) unconstitutional for violating the Equal Protection Clause of the Fourteenth Amendment would relieve his every injury, as it would

dismiss all three of convictions for violating Code of Virginia § 18.2-370.5 (2018), releasing him from custody.

X. REASONS FOR GRANTING THE WRIT.

As the Supreme Court of Virginia ruled that the Petitioner lacked standing to raise an Equal Protection challenge to Code of Va. § 9.1-902(F) (2018), the first question must be answered to address the matter of standing.

In finding that LA R.S. 14:81.3 (2010) is comparable to Indecent Liberties (Code of Va. § 18.2-374.3), Supreme Court of Virginia ruled that,

> Although both statutes contain multiple subparts, the mental state and actions required for conviction under both statutes are highly similar. The Louisiana statute allows conviction when an adult targets a minor to engage in either sexual conduct or a "crime of violence." La. Stat. Ann. § 14:81.3(A)(1). The indecent liberties statute, Code § 18.2-370, does not reference a "crime of violence." For purpose of equal protection review, however, "similarly situated does not mean identical." Dalton v. Reynolds, 2 F.4th 1300, 1310 (10th Cir. 2021). Our comparison of the Louisiana statute under which Watson-Buisson was convicted and Code § 18.2-370 leads us to conclude that the statutes are indeed similar. Therefore, Watson-Buisson was not treated differently than a Virginia defendant who is convicted of a similar crime in Virginia. Consequently, he suffered no "as applied" equal protection violation. His Louisiana conviction of "computer-aided solicitation of a minor" in violation of La. Stat. Ann. 14:81.3 constituted a proper predicate "sexually violent offense" for conviction.
>
> Watson-Buisson v. Commonwealth, Appendix A, pg. 7.

"It is well established that a state court's interpretation of its statutes binding on the federal courts unless a state law is inconsistent with the federal Constitution." Hangarter v. Provident Life & Accident Insurance Co., 373 F.3d 998 (9th Cir. 2004);

see also Lundy v. MI. State Prison Bd., 181 F.2d 772, 773 (6th Cir. 1950) ("Interpretation of a state statute by the highest court of a state is binding upon United States, unless in contravention of the Constitution of the United States or of some federal statute.").

The Petitioner respectfully presents that the Supreme Court of Virginia, in finding that Computer-Aided Solicitation of a Minor (LA R.S. 14:81.3(B)(1)(c)(2010)) is facially comparable to Indecent Liberties (Code of Va. § 18.2-370) contravened his constitutional right to Equal Protection of the laws, where the conduct of the specific subsection under which the Petitioner was convicted, contacting "a person reasonably believed to be under the age of seventeen," is only comparable to Use of a Communications System to Solicit a Minor (Code of Va. § 18.2-374.3).

The Petitioner's conviction of LA R.S. 14:81.3(B)(1)(c)(2010) stems from an internet conversation with investigators from the Louisiana Attorney General's High Technology Crimes Unit conducting an undercover operation posing a person under the age of seventeen.

To be sure, the Petitioner respectfully presents that in a 28 U.S.C. § 2254 proceeding challenging this Louisiana conviction, the Eastern District of Louisiana, in its report and recommendation, detailed these facts in the procedural and factual history.

> The Petitioner, Jeremy Lee Watson-Buisson, is incarcerated at the Avoyelles Correctional in Cottonport, Louisiana. On May 20, 2010, Watson-Buisson was

> charged by bill of information with one count of computer aided solicitation of a minor, pursuant to La. Rev. Stat. 14:81.3. According to the police report, investigators from the Louisiana Attorney General's High Technology Crimes Unit conducted undercover operations in online chat rooms in February 2010. The officers used a screen name, "stacy tibs" to pose as a thirteen-year-old girl, and exchanged messages with a subject using the screen name "countjeremy." The subject sent lewd and lascivious messages during the exchange. The officers issued subpoenas to Yahoo! and T-Mobile to identify the subject, who had given them a phone number to contact him. The number was traced back to Watson-Buisson, whom the investigators met on March 23, 2010. At that time, he was in the custody of Orleans Parish Prison on other charges, and he detectives spoke with him at the prison. He admitted that the screen name "countjeremy" belonged to him and that he had exchanged messages with "stacy_tibs."
>
> On November 10, 2010, Watson-Buisson pleaded guilty to the charge. On December 6, 2010, he was sentenced to five years at hard labor. The State then filed a multiple bill, and he pleaded guilty as a second offender. The court then vacated his sentence and resentenced him to five years at hard labor.
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> Watson-Buisson v. Cain, 2:15-cv-02316-NJB (E.D. of La. 11/4/15) (report and recommendation).

The starting point of statutory interpretation is "the language [of the statute] itself." Blue Chips Stamps v. Manor Drug Stores, 421 U.S. 723, 756 (1975) (Powell, J., concurring). This Court must "assume that the legislative purpose is expressed by the ordinary meaning of the words used." American Tobacco Co. v. Patterson, 456 U.S. 63, 68 (1982). It is, however, a cardinal principle of statutory construction that this Court must "'give effect if possible, to every clause and word of a statute.'" U.S. v. Menasche, 348 U.S. 528, 538-39 (1955) (quoting Montclair v. Ramsdell, 107 U.S. 147, 152 (1883)); see also Williams v. Taylor, 529 U.S. 362, 404 (1999) (O'Connor, J., concurring).

> "Computer-aided solicitation of a minor is committed when a person seventeen years of age or older knowingly contacts or communicates, through the use of

> electronic textual communication, with [...] *a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger*, for the purpose of or with the intent to persuade, induce, entice, or coerce the person to engage or participate in sexual conduct or a crime of violence as defined in R.S. 14:2(B), or with the intent to engage or participate in sexual conduct in the presence of the person who has not yet attained the age of seventeen or reasonably believed to have not yet attained the age of seventeen." LA R.S. 14:81.3(A)(1).

Whoever violates the provisions of this Section, w*hen the victim is a person reasonably believed to have not yet attained the age of seventeen*, shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than two nor more than ten years, without the benefit of probation, parole, or suspension of sentence. LA R.S.14:81.3(B)(1)(c).

Nowhere in the Taking Indecent Liberties with Children statute is there a reference to "a person reasonably believed to have not yet attained the age of seventeen." LA R.S.14:81.3; Code of Va. § 18.2-370. The statute for Use of a Communications System to Solicit a Minor for Indecent Liberties, however, does address communication with "any person he knows or has reason to believe is a child younger than 15 years of age." Code of Va. § 18.2-374.3(C).

The absence of any language referencing "a person reasonably believed to have not yet attained the age of seventeen," or "any person he knows or has reason to believe is a child younger than 15 years of age," in the Taking Indecent Liberties with Children statute is evidence that the statute is not comparable to the Petitioner's

Louisiana conviction of LA R.S.14:81.3(B)(1)(c). Code of Va. § 18.2-370; Code of Va. § 18.2-374.3(C). Rather, the Petitioner's Louisiana conviction of LA R.S.14:81.3(B)(1)(c) is more comparable to Code of Va. § 18.2-374.3(C), a nonviolent "sexual offense".

For these reasons, the Supreme Court of Virginia's interpretation of these statutes contravened the Petitioner's constitutional right to Equal Protection of the laws. As such, the Petitioner has standing to raise an Equal Protection challenge to Code of Va. § 9.1-902(F) (2018).

We now can move on to the second question asked by the Petitioner.

It is Supreme Court of Virginia's interpretation of Code of Va. § 9.1-902(F) (2018), requiring all persons convicted of "any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted," to be classified as a "sexually violent offender," where a similarly situated person convicted of an equivalent Virginia offense can be classified as a nonviolent "sexual offender," that gives rise to the Petitioner's Equal Protection challenge. They held:

> The plain import of subpart (ii) is to place within the definition of "'any offense listed in subsection B," "criminal homicide' as defined in this section, 'murder' as defined in this section, and 'sexually violent offense' as defined in this section" *all persons* convicted of "any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted."
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> Turner, 297 Va. at 257, 826 S.E.2d at 307. (*emphasis* in original).

"Ratified in 1868 in the wake of the Civil War, the Equal Protection Clause of the Fourteenth Amendment provides that no State shall 'deny to any person within its jurisdiction the equal protection of the laws.'" Flowers v. MS., 139 S.Ct. 2228, 2238 (2018) (quoting U.S. Const. Amend. XIV, § 1). This is "essentially a direction that all persons similarly situated should be treated alike." City of Cleburne, TX. v. Cleburne Living Center, 473 U.S. 432, 440 (1985). "'The purpose of equal protection clause of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.'" Sioux City Bridge Co. v. Dakota County, 260 U.S. 441, 455 (1923) (quoting Sunday Lake Iron Co. v. Township of Wakefield, 247 U.S. 350, 352 (1918)); see also Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000).

> "The idea was to distinguish between legislation for the common benefit and legislation that benefitted or burdened the few [...]. It was an appeal to notions of reciprocity in governance: law's generality was important, not simply in a formal sense but because it forced lawmakers to stand in the shoes of those they represented. The principle of class legislation was terraced in both directions - it not only aimed to prevent class legislation but also invidious oppression."
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> V.F. Nourse and Sarah A. Maguire, The Lost History of Governance and Equal Protection, 58 Duke L.J. 955, 968 (2009).
>
> "[N]othing opens the door to arbitrary action so effectively as to allow [government] officials to pick and choose only a few to whom they will apply legislation and thus to escape he political retribution that might be visited upon them if larger numbers were affected. Courts can take no better measure to assure that the laws will be just than to require that laws be equal in operation." Ry. Express Agency v. NY., 336 U.S. 106, 112-13 (1949).

By automatically requiring a person convicted of "any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted," to be classified as a "sexually violent offender" upon declaring residency or employment in Virginia, Code of Va. § 9.1-902(F) (2018) violates the Petitioner's right to Equal Protection of the laws by treating him differently than a similarly situated person convicted of the Virginia equivalent of Computer-Aided Solicitation of a Minor in Louisiana (LA R.S. 14:81.3(B)(1)(c)(2010)), Use of Communications System to Solicit a Minor for Indecent Liberties (Code of Va. § 18.2-374.3), who is classified as a nonviolent "sexual offender."

"When the law lays an unequal hand upon those who have committed intrinsically the same quality of offense [...] it has made an invidious a discrimination as if it had selected a particular race or nationality for oppressive treatment." Skinner v. OK. ex rel. Williamson, 316 U.S. 535, 542 (1942).

For these reasons, this Honorable Court should grant the writ.

XI. CONCLUSION

"The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right." Marbury v. Madison, 5 U.S. (1 Cranch) 137, 163 (1803)

"The law must provide explicit standards for those who apply them or it will amount to an impermissible delegation of basic policy matters by the legislative branch to policemen, judges, and juries for resolution on an ad hoc and subjective basis." Grayned v. City of Rockford, 408 U.S. 104 (1972).

DATED this 9th day of December, 2021.

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