ORIGINAL

21-7806

Record No. 22-A_____

In The
Supreme Court of the United States

IN RE: MAJOR MIKE WEBB,

Pro Se Applicant.

To the Honorable John Roberts, Chief Justice of the United States Supreme Court and Acting Circuit Justice for the Fourth Circuit

Application for Writ of Certiorari to Review a Case Before Judgment,
***In Re: Major Mike Webb*, Record No. 22-1422 (4th Cir. 2022)**

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I. QUESTIONS PRESENTED

The following questions are presented for decision to the Court:

1. Whether, pursuant to S.Ct.R. 11, *see also* 28 U.S.C. § 2101(e)[1], upon application for prejudgment relief, in "a case pending in a United States court of appeals, before judgment is entered in that court", a requester, may be granted a petition for writ of mandamus to compel the convening of a grand jury, in accordance with Fed.R.Crim.Pro. 6(a), "[w]hen the public interest so requires".
2. Whether, in accordance with S.Ct.R. 11, *see also* 28 U. S. C. § 2101(e), upon application for prejudgment relief, in "a case pending in a United States court of appeals, before judgment is entered in that court", a writ of mandamus can prevail over a presumptive assertion of executive privilege, *see generally U.S. v. Nixon*, 418 U.S. 683 (1974).
3. Whether, in accordance with S.Ct.R. 11, *see also* 28 U. S. C. § 2101(e), upon application for prejudgment relief, in "a case pending in a United States court of appeals, before judgment is entered in that court", a writ of mandamus can prevail over a presumptive *Glomar Response. See generally Phillippi v. CIA*, 546 F.2d 1009 (1976).

II. PARTIES AND RULE 29.6 STATEMENT

Applicant is MAJOR MIKE WEBB, and was the Petitioner in the United States District Court for the Eastern District of Virginia, in the matter, *Webb v. Northam*,

[1] "An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the court of appeals may be made at any time before judgment." *Id.*

Civil Action No. 3:2022-CV-00222 (E.D.Va. 2021), filed on April 13, 2022, a matter still pending before that Trial Court. Pursuant to Fed.R.Crim.Pro. 6(a), Applicant commenced an action at the Fourth Circuit on April 20, 2022, currently pending, on Petition for Writ of Mandamus, to compel the Trial Court to convene a grand jury, or grand juries, there having been presented a *prima facie* case for multiple actions of felonious character arising from an issue of great public interest, specifically the government response to the current public health crisis. Applicant has no parent corporation, and there is no publicly held corporation owning 10% of more of its stock.

Related parties to the current application include only RALPH SHEARER NORTHAM, M.D., the former Virginia Governor, hereinafter referred to as "NORTHAM", who had been responsible for the government response to the public health crisis from on or about March 15, 2020, marking the beginning of the first restrictions on nonessential social gatherings, to January 15, 2022, when GLENN YOUNGKIN began his first day as the successor to former Virginia Governor NORTHAM.

To date, consistent with a pattern of evasion that gave rise to the original legal action, NORTHAM, has yet to respond to the Complaint or enter an appearance, nor has a summons been issued, despite a duly filed praecipe to direct service of process to be perfected by the United States Marshal Service.

III. DECISIONS BELOW

All decisions in this case in the lower courts will be styled *In Re: Major Mike Webb*, for the pending action, and *Webb v. Northam* for the related matter; however, to date, no decisions have been issued by either the Trial Court or the Court of Appeals. Hence, no transcript record has been created. The Order to Amend has not been

designated for publication in the Federal Supplement. The docket number in the United States District Court for the Eastern District of Virginia, Richmond Division is Civil Action No. 3:2022-CV-00222, and the docket number at the Fourth Circuit Court of Appeals is Record No. 22-1422.

IV. JURISDICTION

Pursuant to S.Ct.R. 11, "[a] petition for a writ of certiorari to review a case pending in a United States court of appeals, before judgment is entered in that court, will be granted only upon a showing that the case is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court", *see also* 28 U. S. C. § 2101(e) , and satisfying the threshold, Applicant has a matter pending before the Fourth Circuit, namely, *In Re: Major Mike Webb*, Record No. 22-1422 (4th Cir. 2022).

A. A Case of Imperative Public Importance

"Globally, as of 7:46pm CEST, 2 May 2022, there have been 511,479,320 confirmed cases of COVID-19, including 6,238,832 deaths," Staff, "WHO Coronavirus (COVID-19) Dashboard," *WHO*, https://covid19.who.int/ (accessed May 2, 2022), and, in *U.S. v. Nixon*, 418 U.S. 683 (1974), this Court stated that "'[i]t is emphatically the province and duty of the judicial department to say what the law is', " *id.*, (quoting *Marbury v. Madison*, 1 Cranch 137 (1803)), which may be as is oft described by attorneys as a legal term of art, esoterica to laymen, while one political theorist had observed that, for a prince, "it is unnecessary for a prince to have all the good qualities I have enumerated, but it is very necessary to appear to have them." Niccolo Machiavelli, *The Prince*, The-Prince-by-Niccolo-Machiavelli-.pdf

(thefederalistpapers.org) (accessed May 2, 2022)[2].

During a time when this Court found that "[s]mallpox being prevalent and increasing at Cambridge", attorneys for defendant in error, found themselves, erringly, in detrimental reliance upon a primary source document of law, beginning with the words, "We, the People", and, properly, were met with sharp rebuff at the outset by this Court that passed "without extended discussion the suggestion that the particular section of the statute of Massachusetts now in question (§ 137, c. 75) is in derogation of rights secured by the *Preamble of the Constitution of the United States*." *Jacobson v. Massachusetts*, 197 U.S. 11 (1905).

Yet, during what the Virginia Governor had described as "not normal times", and during "what is normally a very busy period for our faith communities", finding "Easter, Passover, Ramadan, and other religious holidays fall[ing]", Opp. Brief, *Hughes v. Northam*, Civil Action No. CL20-415 (Russell Cy. Cir. 2020) (quoting Governor of Virginia Facebook Page, Apr. 3, 2020, Briefing at 18:00, https://www.facebook.com/GovernorVA/videos/298787587943167), it was deemed sufficient to state, in rebuttal to a claim that he had exceeded his lawful authority, that "[s]uch a ruling would seriously undermine the Commonwealth's efforts to slow the spread of a once-in-a-century pandemic and threaten irreparable harm to an unknown (and unknowable) number of people". *Id.* And, his argument thus primed for success on the merits, the Virginia Governor was enabled to persuasively argue to Reviewing

[2] "And I shall dare to say this also, that to have them and always to observe them is injurious, and that to appear to have them is useful; to appear merciful, faithful, humane, religious, upright, and to be so, but with a mind so framed that should you require not to be so, you may be able and know how to change to the opposite." *Id.*

Courts, which endorsed the proposition that "[d]ealing with . . . an emergency situation requires an immediacy of action that is not possible for judges." *Id.* (quoting *U.S. v. Chalk*, 441 F.2d 1277 (4th Cir. 1971).

However, to Applicant's limited understanding, that decision did not license a plenary power for Government, even though it acknowledged that "[a]ttempting to precisely define under what specific conditions each of the authorized restrictions might be imposed would destroy the 'broad discretion' necessary for the executive to deal with an emergency situation", *id.* (quoting *Sterling v. Constantin*, 287 U.S. 378 (1932). Rather, Applicant would argue that that Court had prudently recognized that "'[a]ll power may be abused if placed in unworthy hands'," *id.* (quoting *Luther v. Borden*, 48 U.S. (7 How.) 1 (1849)).

Applicant would respectfully contend that such had been previously recognized by the Founders who had noted that, '[i]f men were angels, no government would be necessary", James Madison, *Federalist No. 51*, February 6, 1788, and, in the referenced decision of the Court upon which the Virginia Governor had relied, it had emphasized the role of the Judiciary in ensuring the proper administration of justice, and protection against manifest injustice, stating that "[t]he courts cannot prevent abuse of power, but can sometimes correct it." *Chalk*, 441 F.2d, at 1277.

It is well-established under law in the Fourth Circuit that reversible or harmful error, as represented by infringement of substantive rights, constitutes irreparable harm. *Cohen v. Rosenstein*, 691 F. App'x 728, (Mem)–730 (4th Cir. 2017). Moreover, "[t]he due process clause requires that every man shall have the protection of his day in court," *Truax v. Corrigan*, 257 U.S. 312 (1921), and "[d]ue process is the process that

is due under particular circumstances and does not invariably mandate trial-type proceedings," *Sec'y of Labor v. T.P. Mining, Inc.*, 8 FMSHRC 687 (1986).

As this Court stated, "[t]he inescapable fact is that adjudication of substantive due process claims may call upon the Court in interpreting the *Constitution* to exercise that same capacity which by tradition courts always have exercised: reasoned judgment", and "[i]ts boundaries are not susceptible of expression as a simple rule." *Casey v. Planned Parenthood*, 505 U.S. 833 (1992). And that Court, interpreting at least the *Fourteenth Amendment*, explained:

> Although a literal reading of the *Clause* might suggest that it governs only the procedures by which a State may deprive persons of liberty, for at least 105 years, since *Mugler v. Kansas*, 123 U.S. 623, 660–661, 8 S.Ct. 273, 291, 31 L.Ed. 205 (1887), the *Clause* has been understood to contain a substantive component as well, one "barring certain government actions regardless of the fairness of the procedures used to implement them." *Daniels v. Williams*, 474 U.S. 327, 331, 106 S.Ct. 662, 665, 88 L.Ed.2d 662 (1986). As Justice Brandeis (joined by Justice Holmes) observed, "[d]espite arguments to the contrary which had seemed to me persuasive, it is settled that the due process clause of the *Fourteenth Amendment* applies to matters of substantive law as well as to matters of procedure. Thus all fundamental rights comprised within the term liberty are protected by the *Federal Constitution* from invasion by the States." *Whitney v. California*, 274 U.S. 357, 373, 47 S.Ct. 641, 647, 71 L.Ed. 1095 (1927) (concurring opinion). "[T]he guaranties of due process, though having their roots in *Magna Carta's 'per legem terrae'* and considered as procedural safeguards 'against executive usurpation and tyranny,' have in this country 'become bulwarks also against arbitrary legislation.' " *Poe v. Ullman*, 367 U.S. 497, 541, 81 S.Ct. 1752, 1776, 6 L.Ed.2d 989 (1961) (Harlan, J., dissenting from dismissal on jurisdictional grounds) (quoting *Hurtado v. California*, 110 U.S. 516, 532, 4 S.Ct. 111, 119, 28 L.Ed. 232 (1884)).

In *Owen v. City of Independence, Mo.*, 445 U.S. 622 (U.S. 1980), the plaintiff alleged that "he was discharged without notice of reasons and without a hearing in violation of his constitutional rights to procedural and substantive due process", and it is generally accepted decisions that are rendered arbitrarily and capriciously

constitute an abuse of discretion, *Azalea Corp. v. City of Richmond*, 201 Va. 636 (1960); *Dick's Inn LLC v. Virginia Alcoholic Beverage Control Bd.*, 60 Va. Cir. 407 (2002), and more so when such unreasonable decisions are willful and/or malicious. *Virginia Commonwealth Univ. v. Zhuo Cheng Su*, 283 Va. 446 (2012).

On application for prejudgment intervention, pursuant to S.Ct.R. 11, Applicant presents only one primary issue for decision, and two related, presumptive issues for decision, arising from an action initially commenced in the U.S. District Court, raising, *inter alia*, claims including violations of the *Freedom of Access to Clinic Entrances (FACE) Act*, 18 U.S.C. § 248(a)(2), seeking civil remedy under 18 U.S.C. § 248(c)(1)(A), as well as the *Racketeering Influenced and Corrupt Organizations (RICO) Act*, 18 U.S.C. §§ 1961 to 1968, seeking civil remedy under 18 U.S.C. § 1964.

The allegations arising under the *FACE Act*, implicate a derogation of substantive rights, triggering review under strict scrutiny for Applicant who is also a member of a suspect class, as an African American, under *Gray v. Commonwealth*, 274 Va. 290 (2007). *But see* Marianna Sotomayor and Mike Memoli, "Biden apologizes for saying African Americans 'ain't black' if they back Trump re-election," *NBC News*, May 22, 2020. However, certainly mindful that "historically epidemics are a time of fear, confusion and helplessness", Jeremy Howard, *et al.*, "Face Masks Against COVID-19: An Evidence Review," *Preprints*, doi:10.20944/preprints202004.0203.v2 (May 13, 2020), as a presidential candidate, Joe Biden had made it clear, during times "It's not about your rights." Naomi Lim, "'It's not about your rights': Biden calls for three-month, nationwide mask mandate," *Washington Examiner*, August 13, 2020.

At least a century ago, this Court stated that "no power can be exerted to that

end by the United States unless, apart from the *Preamble*, it be found in some express delegation of power or in some power to be properly implied therefrom." *Jacobson*, 197 U.S., at 11 (citing 1 *Story's Const.* § 462.). And, at that time, this Court stated that, "if a statute purporting to have been enacted to protect the public health, the public morals, or the public safety has no real or substantial relation to those objects, or is, beyond all question, a plain, palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution." *Id.* (quoting *Mugler v. Kansas*, 123 U. S. 623 (1887); *Minnesota v. Barber*, 136 U. S. 313 (1890); *Atkin v. Kansas*, 191 U. S. 207 (1903).).

In accordance with Fed.R.Crim.Pro. 6(a), "[w]hen the public interest so requires, the court must order that one or more grand juries be summoned", and, this Court has stated that "[i]t is emphatically the province and duty of the judicial department to say what the law is." *Marbury*, 1 Cranch, at 137.

1. Claims Arising under the *FACE Act*

Although, under the *Seventh Amendment*, "[i]n suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law", recognizing the importance of the *Sixth Amendment*, this Court has stated that, where predicate offenses constitute criminal actions, the burden of proof, under the requirements of due process, requires a standard of "beyond a reasonable doubt of every fact necessary to constitute the crime. *In re Winship*, 397 U.S. 358 (1970). *See also U.S. v. Pelullo*, 14 F.3d 881 (3d Cir. 1994).

Under 18 U.S.C. § 248(a)(2), "[w]hoever, . . . by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the *First Amendment* right of religious freedom at a place of religious worship. . . shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c)", and, beyond a reasonable doubt, the former Virginia Governor has publicly "conceded that he could not legally limit in-person worship ceremonies, noting that the recent Supreme Court decision against the state of New York prevented him from doing that", and, preliminarily indicative as to whether such conduct was intentional, as required under the controlling statute, it, is of at least probative value that, at the time of this public admission, Northam "blamed churches for contributing to the spread of the virus, noting that some houses of worship were not social distancing or wearing masks", and stating that he had "heard reports." Charlie Spiering, "Gov. Ralph Northam Tightens Coronavirus Restrictions: You Don't Have to Sit In Church for God to Hear Your Prayers," *Breitbart*, December 10, 2020.

Accordingly, it is clear that this is truly "a case of imperative importance." S.Ct.R. 11, and it is clear that this decision "will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court", Sup.Ct.R. 20, are fully satisfied.

2. Claims Arising under the *RICO Act*

This Court has, in the past, even endorsed the proposition that "the complaint should not be dismissed for failure to state a claim unless it appears beyond doubt

that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief." *Conley v. Gibson*, 355 U.S. 41 (1957); *but see Webb v. Northam*, Record No. 21-6170 (U.S. 2021). And, considering *Battlefield Builders, Inc. v. Swango*, , 743 F.2d 1060 (4th Cir.1984), one Court had observed that that case did "not explore or address in a substantial way the question of whether a mere allegation of the requisite predicate acts is sufficient to maintain a *RICO* claim or whether a prior indictment or conviction is a prerequisite to establishing a viable civil claim under the *RICO* statute." FN*, *Spinelli, Kehiayan-Berkman, S.A. v. Imas Gruner, A.I.A., & Assocs.*, 602 F. Supp. 372 (D. Md. 1985). And, while some courts had accepted a bifurcated understanding of the burden of proof in a civil *RICO Act* claim, acknowledging that "the Government, in a criminal *RICO* prosecution, must prove each and every element of the charged offense beyond a reasonable doubt", *Eaby v. Richmond*, 561 F. Supp. 131 (E.D. Pa. 1983) (citing *U.S. v. Kopituk*, 690 F.2d 1289 (11th Cir.1982), while "civil RICO plaintiffs need only prove a violation by a preponderance of the evidence", *id.* (citing *Parnes v. Heinold Commodities, Inc.*, 487 F. Supp. 645 (N.D.Ill.1980), just as this Court had stated in *Sedima, S.P.R.L. v. Imrex Co., Inc.*, 473 U.S. 479 (1985): "We are not at all convinced that the predicate acts must be established beyond a reasonable doubt in a proceeding under § 1964(c)."

Applicant avers that a consistent approach, acknowledging the mandates of the *Sixth Amendment*, would warrant a burden of proof in civil *RICO* claims that is the same for the Government in criminal prosecutions for all elements of the predicate criminal offenses, and has presented in the related Complaint, *Webb v. Northam*, Civil Action No. 3:2022-CV-00222 (E.D.Va. 2021), allegations of predicate offenses that had

been committed, beyond a reasonable doubt in a pattern of racketeering activity. 18 U.S.C. § 1961(5).

Accordingly, it is clear that this is truly "a case of imperative importance." S.Ct.R. 11, and it is clear that this decision "will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court", Sup.Ct.R. 20, are fully satisfied.

B. **Requirement for Immediate Action**

In the proper administration of justice, "[t]he ultimate purpose of the judicial process is to determine the truth." *Caldor, Inc. v. Bowden*, 330 Md. 632 (1993), and it has been stated by the Courts of the Commonwealth that a court "must yield to the proper administration of justice, which requires that the law be applied in an objective fashion to the facts of each case", and, "[a]bove all things, the court must ensure that every phase of every trial is fair, impartial, and governed by the rule of law." *Commonwealth v. Long*, 2007 WL 2905354 (Orange Cy. Cir. 2007) (Trial Order). Moreover, " '[c]ertain implied powers must necessarily result to our Courts of justice from the nature of their institution," powers "which cannot be dispensed with in a Court, because they are necessary to the exercise of all others." *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991) (quoting *U.S. v. Hudson*, 7 Cranch 32, 11 U. S. 34 (1812) (additional citations omitted)

1. Writs of Mandamus

The bright line rule, stated by this Court, controlling a legal action brought on petition for writ of mandamus, there must exist a defendant, acting under color of law,

or "the authority of unconstitutional legislation by the state," and such "suits are authorized by law, and the act to be done or omitted is purely ministerial, in the performance or omission of which the plaintiff has a legal interest", *Ex Parte Ayers*, S.Ct. 164 (1887).

In the Commonwealth, it has been determined that a plaintiff "must be able to demonstrate something more than a threat to a 'perceived public right,' but generally must show that they have a direct special or pecuniary interest in the subject matter of the litigation", *Goldman v. Landsidle*, 262 Va. 364 (2001), and "[m]andamus is awarded not as a matter of right, but only in the exercise of sound judicial discretion." *Id.* (citations omitted)

Applicant, on petition in the Trial Court as an individual, but also as a candidate committee, has been publicly acknowledged "a member of the Red Rose Rescue, a group aimed at defunding reproductive healthcare services", who "is also against current government efforts and recommendations for safety during the COVID-19 pandemic", Staff, "Democrat: Mary Kadera," *Progressive Voters Guide*, September 15, 2021, while this Court had once recognized that "closely allied to freedom of speech and a right which, like free speech, lies at the foundation of a free society", *Shelton v. Tucker*, 364 U. S. 479 (1960), that "it can hardly be doubted that the constitutional guarantee has its fullest and most urgent application precisely to the conduct of campaigns for political office", *Monitor Patriot Co. v. Roy*, 401 U. S. 265 (1971), and that "a candidate's expenditure of his personal funds directly facilitates his own political speech", n.58, *Buckley v. Valeo*, 424 U.S. 1 (1976).

Furthermore, regarding the propriety of actions commenced involving court officers, generally accorded judicial immunity, *see generally Battle v. Whitehurst*, 831 F. Supp. 522, (E.D. Va. 1993), *aff'd*, 36 F.3d 1091 (4th Cir. 1994):

> In relation to courts and judicial officers, [mandamus] cannot be made to perform the functions of a writ of error or appeal, or other legal proceeding to review or correct errors, or to anticipate and forestall judicial action. It may be appropriately used and is often used to compel courts to act [when] they refuse to act and ought to act, but not to direct and control the judicial discretion to be exercised in the performance of the act to be done; to compel courts to hear and decide where they have jurisdiction, but not to pre-determine the decision to be made; to require them to proceed to judgment, but not to fix and prescribe the judgment to be rendered. *Page v. Clopton*, 71 Va. (30 Gratt.) 415 (1878).

As the State Supreme Court explained in *Board of Supervisors v. Combs*, 160 Va. 487 (1933):

> "Mandamus is prospective merely.... It is not a preventive remedy; its purpose and object is to command performance, not desistance, and is a compulsory as distinguished from a revisory writ; it lies to compel, not to revise or correct action, however erroneous it may have been, and is not like a writ of error or appeal, a remedy for erroneous decisions." *In Re: Commonwealth of Virginia*, 278 Va. 1 (2009) (quoting *Bd. of Super.*, 160 Va., at 487 (citing *Harrison v. Barksdale*, 127 Va. 180 (1920)).

Under Fed.R.Crim.Pro. 6(a), there is nothing left to discretion for convening a grand jury, or grand juries, but this is yet contingent upon a determination, by the Trial Court, that a matter is deemed to be in the public interest, giving rise to the presumptive assertions raised in this matter involving executive privilege and a *Glomar Response*.

2. Presumptive Claim of Executive Privilege

Championing a perceived compelling State Interest, the Virginia Governor had prevailed in courts, while, in acting for and on behalf of the former Virginia Governor, Mark Herring, the State Attorney General made a conscious choice to publish a press

release in which he had announced during his 13th successful litigation challenge that "[s]cience has shown us that Virginia's COVID mitigation efforts are proven effective in preventing further spread of the virus and keeping Virginians safe," and that "[a]s we continue to see a surge of cases around the country, including certain areas of Virginia, we know that we must continue to adhere to these critical safety measures to keep Virginians healthy" noting that he was "pleased we were once again able to successfully defend these important COVID mitigation measures and. . . really proud of the hard work my team has done to keep their fellow Virginians safe during these unprecedented times." Lowell Feld, "AG Mark Herring Again Successfully Defense Virginia's COVID Safety Measures," *Blue Virginia*, July 30, 2020, at least debatable contentions about which Northam had elected a dubious right to remain silent by evading service of a summons and complaint in matters brought by Applicant in legal challenges.

Again, in August 2020, then boasting of "at least the 15th" successful litigation, the former State Attorney General issued a press release stating, "Over the past six months, the Commonwealth's COVID mitigation efforts have proven to be extremely effective in preventing further spread of the virus and keeping Virginians healthy." Lowell Feld, "AG Mark Herring Again Successfully Defends Virginia's COVID Safety Measures," *Blue Virginia*, August 24, 2020.

It is of at least probative value that not even during one of the weekly COVID-19 updates did the former Virginia Governor make mention of the litigations filed by Petitioner, *see U.S. v. Climico*, No. S2 11 CR. 974-08 CM, 2014 WL 4230320, at *1–7

(S.D.N.Y. Aug. 7, 2014)[3], and in April 2021, after Petitioner had submitted a request for documents under the *Virginia Freedom of Information Act*, Va. Code § 2.2-3700 *et seq.*, to determine if, at any point, the former Virginia Governor had attempted to determine whether the biological agent was from the beginning a biological weapon of terror, or that may have at some later point been weaponized, which he had denied had occurred, as in evidence at Exhibit **A**, the Attorney General, while conceding that he had received "at least 40 emails," as in evidence at Exhibit **B**, filed a motion to dismiss for failure to prosecute, dismissing the action in the Alexandria Circuit Court, and giving rise to an affidavit seeking an information to charge the Sheriff for failure to serve the summons and complaint, under Va. Code § 19.2-217, which provides, in relevant part that "[a]n information may be filed by the attorney for the Commonwealth based upon a complaint in writing verified by the oath of a competent witness," as in evidence at Exhibit **C**.

Yet, under the *Freedom of Information Act (FOIA)*, 5 U.S.C. § 552, it was President Obama who had "directed departments and agencies not to withhold information 'merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears'". *Department of Justice Guide to the Freedom of Information Act*, "President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines," *DoJ*, July 23, 2014 (citing to *Presidential Memorandum for Heads of Executive Departments*

[3] "The Government may prove the defendant's knowing participation in a conspiracy through circumstantial evidence, including: (1) the defendant's association with conspirators in furtherance of the conspiracy; (2) his or her presence at "critical stages of the conspiracy that cannot be explained by happenstance"; (3) his or her "possession of items that are of essential significance to the conspiracy"; and (4) acts that show a consciousness of guilt, including false exculpatory statements." *Id.* (citing *U.S. Anderson*, 747 F.3d 51, 60 (2d Cir.2014).

and Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 21, 2009)).

However, on March 7, 2022, upon a presumptive assertion of executive privilege, albeit "[a]bsent a claim of need to protect military, diplomatic, or sensitive national security secrets," once found by this Court "difficult to accept the argument that even the very important interest in confidentiality of Presidential communications is significantly diminished by production of such material for in camera inspection with all the protection that a district court will be obliged to provide", *Nixon*, 418 U.S., at 683, and with no substantive reply to any court having issued from the White House regarding their refusal to provide a response to a request for documents under the *FOIA*, acknowledged as accepted on March 23, 2021, as in evidence at Exhibit **D**, this Court granted the White House a dubious right to remain silent, as to whether certain standard metrics, *i.e.*, secondary attack rate and infectious dose, were classified information.

Under Executive Order 12,958, Part I, Sec. 1.2(a)(2), "[i]nformation may be originally classified under the terms of this order only if, in relevant part, "the information is owned by, produced by or for, or is under the control of the United States Government". Furthermore, under Executive Order 12958, Part I, Section 1.1(b), "'[i]nformation' means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that is *owned by, produced by or for, or is under the control of the United States Government.*" (emphasis added)

See also Executive Order No. 12,356, *National Security Information*, Section 6.1(b)[4].

Such information would resolve the unanswered question regarding the zoonotic or laboratory origins of a novel coronavirus, since, in accordance with the holdings of this Honorable Court in *Association for Molecular Pathology v. Myriad Genetics*, Docket No. 12-398, 566 U.S. ___ (2013) and *Diamond v. Chakrabarty*, 447 U. S. 303 (1980), the Government could only possess a proprietary or ownership interest in these metrics if the biological causative agent for COVID-19 had been cultivated or manipulated in a laboratory, and "[m]eans of knowledge, with the duty of using them, are, in equity, equivalent to knowledge itself." *Cordova v. Hood*, 84 U.S. 1 (1873).

As stated in *Attorney General of Israel v. Eichmann*, 36 I.L.R. 5 (Supreme Court of Israel, 1961), "Article 6 of the *Charter of the Nuremberg Tribunal* provides, *inter alia*:

> 'The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:
>
> > (c) Crimes against humanity: namely murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connexion with any crime within the jurisdiction of the Tribunal whether or not in violation of the domestic law of the country where perpetrated.'" *Id.*

At least according to that tribunal, considering allegations of crimes against humanity, in violation of Section 1(b) of the Israeli Law and Article 6 of the *Charter of the Nuremberg Tribunal*, described by that court as "catastrophe which recently befell the Jewish People - the massacre of millions of Jews in Europe", dispositive was the

[4] "'Information' means may information or material, regardless of its physical form or characteristics, *that is owned by, produced by or for, or is under the control of the United States Government.*" *Id.*

fact that, "undoubtedly the accused knew the value of the tale about 'administration of tonics,' to which he put his signature." *Eichmann*, 36 I.L.R., at 5.

On the first day of the new Virginia Governor's administration, there were 3,867 residents hospitalized with COVID-19, and a total of 84,202 had been hospitalized and discharged since the beginning of the public health crisis, Web Staff, "Virginia COVID-19 hospitalizations top 3,860 Saturday; 500+ more patients discharged," *WTVR*, January 15, 2022, and "January 2022 was the month with the highest average cases, while February 2022 was the month with the highest average deaths in Virginia." Newsroom, "Tracking Coronavirus in Virginia: Latest Map and Case Count," *The New York Times*, May 2, 2022.

By January 15, 2021, as "[n]ew COVID-19 cases over past 10 days hit [a] record high", there had been 422,634 cases of infection, 19,741 hospitalizations and 5,656 attributed fatalities to COVID-19. Lowell Feld, "Friday (1/15) Virginia Data on COVID-19 Finds +4,795 Confirmed/Probable Cases (to 422,634), +146 Hospitalizations (to 19,741), +30 Deaths (to 5,656)," *Blue Virginia*, January 15, 2021.

On January 15, 2022, when the new Virginia Governor had "On his first day in office, . . . signed 11 executive orders and now overall, he has issued 17 executive orders and signed 700 bills", Bill Fitzgerald, "Gov. Youngkin looks back on first 100 days in office," *WTVR*, April 28, 2022, it was reported that "[t]he US federal government will no longer require hospitals to report the number of people who die from COVID-19 every day, according to new guidelines from the US Department of Health and Human Services (HHS)." Andre Damon, "US government moves to end daily COVID-19 death reporting by hospitals," *World Socialist Web Site*, January 15, 2022.

On the last full day of Virginia Governor Ralph Northam's administration, there had been "15,803 deaths from the coronavirus in Virginia," Newsroom, "Virginia sees 17,219 new coronavirus cases Friday, 130,381 new cases in the last week," *WSLS*, January 14, 2022, and today, according to official reports, there have been 1,701,352 cases of infection, a total of 49,962 hospitalizations and a total of 20,236 fatalities associated with COVID-19 infections. Staff, "COVID-19 Cases & Testing Dashboards: COVID-19 in Virginia: Summary," *VDH*, April 29, 2022.

Under 18 U.S.C. § 1961(1)(A), "'racketeering activity' means. . . any act or threat *involving murder*, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the *Controlled Substances Act*), *which is chargeable under State law and punishable by imprisonment for more than one year*." (emphasis added)

Accordingly, it is clear that this is truly "a case of imperative importance", compelling immediate action, as required under S.Ct.R. 11, just as it is clear that this decision "will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court", as required under S.Ct.R. 20.

3. Presumptive *Glomar Response*

On March 7, 2022, essentially, in legal effect, with the sanctioned imprimatur of the nation's highest court, the White House has officially neither confirmed nor denied that the infectious dose and/or secondary attack rate for COVID-19 is classified information, and, further, consequently, neither confirmed nor denied that the

causative biological agent is the property of the government that had been cultivated or developed in a laboratory.

In the matter, *Phillippi v CIA*, 546 F.2d 1009 (1976), "Plaintiff requested all records relating to the Director's or any other agency personnel's attempts to persuade any media personnel not to broadcast, write, publish, or in any other way make public the events relating to the activities of the Glomar Explorer, including, but not limited to, files, documents, letters, memoranda, travel logs, telephone logs or records of calls made, records of personal visits, or any other records of any kind of communications", and the dissent correctly argued that "[b]y statute the CIA is specifically exempt from 'any other law' which would require it to disclose any of the 'functions . . . of (its) personnel", and that "[t]he *Freedom of Information Act* recognizes this special statute when it provides that its general requirements that certain agencies make available to the public certain information: does not apply to matters that are. . . (3) specifically exempted from disclosure by statute." *Id.* (citing 50 U.S.C. § 403(d)(3))[5]. Yet, nonetheless, that Court resolved that:

> It is clear that the *FOIA* contemplates that the courts will resolve fundamental issues in contested cases on the basis of *in camera* examinations of the relevant documents. *See Department of the Air Force v. Rose*, 425 U.S. 352, 378, 96 S.Ct. 1592, 1607, 48 L.Ed.2d 11 (1976); 5 U.S.C. § 552(a)(4)(B), as amended (Supp. V 1975). Appellant maintains that this authority does not extend to *in camera* examination of affidavits, the procedure used below. In the peculiar context of this case we must reject this contention. When the Agency's position is that it can neither confirm nor deny the existence of the requested records, there are no relevant documents for the court to examine other than the affidavits which explain the Agency's refusal. Therefore, to fulfill its congressionally imposed obligation to make a *de novo* determination of the propriety of a refusal to provide information in response to a *FOIA* request the District Court may have

[5]"[T]he Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." *Id.*

to examine classified affidavits *in camera* and without participation by plaintiff's counsel." *Id.*

However, the *Phillippi* Court had advised that "[b]efore adopting such a procedure, however, the District Court should attempt to create as complete a public record as is possible", and that:

> That justification must be accompanied by an index which correlates the asserted justifications with the contents of the withheld document. The detailed justification and index can then be subjected to criticism by the party seeking the document. If *in camera* examination of the document is still necessary, the court will at least have the benefit of being able to focus on the issues identified and clarified by the adversary process. *See id.*, 157 U.S.App.D.C. at 346-348, 484 F.2d at 826-828. Congress has specifically approved these procedures. S.Rep. No. 93-854, 93d Cong., 2d Sess. 14-15 (1974). *Id.*

Regarding the current matter, there was no attempt to create a public record, by this Court, even in the sparsely worded opinion that had declined oral argument, avoiding any specifics, on a matter that has even escaped reference by news content providers on either ideological and political echo chambers.

The Department of Justice (DoJ) has stated as policy that "[t]he application of 'Glomarization' in the privacy context is appropriate because disclosure of the mere fact that an individual is mentioned in an agency's law enforcement files carries a stigmatizing connotation, one certainly cognizable under *FOIA* Exemption 7(C), 5 U.S.C. § 552(b)(7)(C)." DoJ, *FOIA Update: OIP Guidance*, Vol. VII, No. 1, January 1, 1986 (citing *Fund for Constitutional Government v. National Archives & Records Service*, 656 F.2d 856, 865 (D.C. Cir. 1981). *But see New York Times v. Sullivan*, 376 U.S. 254 (1964); *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46 (1988). And, at DoJ, "[a]nalytically, though, use of the 'Glomarization' approach under Exemption 7(C) is justified only when it is determined that there is a cognizable privacy interest at stake

and that there is insufficient public interest in disclosure to outweigh it." DoJ, *FOIA Update: OIP Guidance*, *supra*, (citing *Common Cause v. National Archives & Records Service*, 628 F.2d 179 (D.C. Cir. 1980).

If there is a privacy interest asserted by the White House, such has yet to be articulated, and, nonetheless, under Executive Order 12,958, Section 1.8(a), it is abundantly clear that, "[i]n no case shall information be classified in order to: (1) conceal violations of law, inefficiency, or administrative error; (2) prevent embarrassment to a person, organization, or agency; (3) restrain competition; or (4) prevent or delay the release of information that does not require protection in the interest of national security."

Accordingly, it is clear that this is truly "a case of imperative importance", compelling immediate action, as required under S.Ct.R. 11, just as it is clear that this decision "will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court", as required under Sup.Ct.R. 20.

V. CONTENTS

VI. TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

Rules

No table of authorities entries found.

VII. TO THE HONORABLE JOHN ROBERTS, CHIEF JUSTICE OF THE SUPREME COURT AND ACTING CIRCUIT JUSTICE FOR THE FOURTH CIRCUIT

Pursuant to Rule 11 of the Rules of this Court, incorporating Rules 10-14, 29, 30, 33.2, 34 and 39 for *pro se* filers *in forma pauperis*, Guidance Concerning Clerk's Office Operations, dated November 13, 2020 and 28 U.S.C. § 1651, Applicant Major Mike Webb, a/k/a Michael D. Webb, ("Applicant" or "Webb") respectfully requests prejudgment relief arising from a Petition for Writ of Mandamus, filed on April 20, 2022, in the matter *In Re: Major Mike Webb*, Record No. 22-1422 (4th Cir. 2022), related to the matter, *Webb v. Northam*, Civil Action No. 3:2022-CV-00222 (E.D.Va. 2021), filed on April 13, 2022.

on application for a prejudgment decision, Applicant brings this matter before this Honorable Court.

VIII. STATEMENT OF THE CASE

A. A Pneumonia of Unknown Etiology

In early January 2020, it was reported that "[r]esearchers in China have 'initially identified' the new virus, a coronavirus, as the pathogen behind a mysterious, pneumonialike illness that has sickened 59 people in the city of Wuhan and caused a panic in the central Chinese region, the state broadcaster, China Central Television, said" and that "[t]hey detected this virus in 15 of the people who fell ill." Sui-Lee Wee & Donald G. McNeil Jr., "From Jan. 2020: China Identifies New Virus Causing Pneumonialike Illness," *The New York Times*, January 8, 2020, *updated* January 8, 2021. And, beyond a reasonable doubt, as established in the Affidavit in the Appendix of Authorities, this biological agent had been cultivated in a laboratory, a fact that the

Governor of Virginia, beyond a reasonable doubt, was aware from the beginning, prompting his evasion from litigation initiated by Applicant.

IX. REASONS FOR GRANTING THE APPLICATION

"'A statute challenged on equal protection grounds is evaluated under 'strict scrutiny' if it interferes with a 'fundamental right' or discriminates against a 'suspect class.'" *Gray v. Commonwealth*, 274 Va. 290 (2007) (quoting *Kadrmas v. Dickinson Public Schools*, 487 U.S. 450 (1988), that "[t]he requirement of this Canon is clear; a judge must diligently avoid not only impropriety but a reasonable appearance of impropriety as well", *Justus v. Commonwealth*, 222 Va. 667, 673, 283 S.E.2d 905, 908 (1981), *cert. denied*, 455 U.S. 983, 102 S.Ct. 1491, 71 L.Ed.2d 693 (1982), that rights guaranteed under the *Fourteenth Amendment* provide that "[t]he fundamental requisite of due process of law is the opportunity to be heard", *Grannis v. Ordean*, 234 U.S. 385 (1914), and that such should occur "at a meaningful time and in a meaningful manner", *Armstrong v. Manzo*, 380 U.S. 545 (1965)[6], and that "[j]udicial review of agency action. . . is limited to 'the grounds that the agency *invoked when it took the action*,'" *DHS v. Regents of the University of California*, 591 U.S. ___ (2020) (quoting

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[6] In multiple opinions by the state court of last resort in the Commonwealth, their lower courts have been warned against short-circuiting litigation, *see Government Strategy & Tech., LLC v. O'Donnell*, 84 Va. Cir. 223 (2012) (holding that "dismissing this case without affording the plaintiff the opportunity to put on evidence would be improper"); *Realstar Realtors, L.L.C. v. Glenn*, 53 Va. Cir. 177 (2000) (stating that to sustain a demurrer would "incorrectly have short-circuited litigation pretrial"), and in *Government Strategy & Tech., LLC v. O'Donnell*, 84 Va. Cir. 223 (2012) (holding that "dismissing this case without affording the plaintiff the opportunity to put on evidence would be improper"). *See also Narayanswarup, Inc. v. Doswell Hosp., LLC*, 80 Va. Cir. 650 (2010).

In accordance with due process, "[t]he due process clause (*sic*) requires that every man shall have the protection of his day in court," *Truax v. Corrigan*, 257 U.S. 312, 42 S.Ct. 124, 66 L.Ed. 254 (1921), and "[d]ue process is the process that is due under particular circumstances and does not invariably mandate trial-type proceedings," *Sec'y of Labor v. T.P. Mining, Inc.*, 8 FMSHRC 687 (1986), rendering a denial of Appellant's rights to a day in court a derogation of his rights not only to due process, but also equal protection, as guaranteed to every citizen under the *Fourteenth Amendment*.

from *Michigan v. EPA*, 576 U. S. 743 (2015)) (emphasis added), matters, as noted, now, after two years, again on petition before the nation's highest court.

A. **Whether, pursuant to S.Ct.R. 11, see also 28 U. S. C. § 2101(e) , upon application for prejudgment relief, in "a case pending in a United States court of appeals, before judgment is entered in that court", a requester, may be granted a petition for writ of mandamus to compel the convening of a grand jury, in accordance with Fed.R.Crim.Pro. 6(a), "[w]hen the public interest so requires".**

Under Fed.R.Crim.Pro. 6(a), "[w]hen the public interest so requires, the court must order that one or more grand juries be summoned". That "[n]o person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury" is a right guaranteed under the *Fifth Amendment*. "[N]or shall [any person] be compelled in any criminal case to be a witness against himself". *Id.* And the "purpose and object" of mandamus is "to compel, not to revise or correct action, however erroneous it may have been", *In Re: Commonwealth of Virginia*, 278 Va., at 1. (citations omitted).

In ordinary times, under the controlling rule, it is within the discretion of the trial court to determine what constitutes that which is within the public interest, but even the Virginia Governor has conceded that these are "not normal times", a finding he had deemed sufficient to disrupt "what is normally a very busy period for our faith communities", finding "Easter, Passover, Ramadan, and other religious holidays fall[ing]", Opp. Brief, *Hughes*, Civil Action No. CL20-415, *supra* (quoting Governor of Virginia Facebook Page, Apr. 3, 2020, Briefing at 18:00, *supra*)—actions later admitted as having been completed in abuse of discretion and exceeding his lawful authority. Charlie Spiering, "Gov. Ralph Northam Tightens Coronavirus Restrictions: You Don't

Have to Sit In Church for God to Hear Your Prayers," *supra.*

The Fourth Circuit has acknowledged that "[d]ealing with . . . an emergency situation requires an immediacy of action that is not possible for judges." *Chalk*, 441 F.2d, at 1277, but also prudently recognized that "'[a]ll power may be abused if placed in unworthy hands'," *id.* (quoting *Luther*, 48 U.S. (7 How.), at 1).

However, to Applicant's limited understanding, that decision did not license a plenary power for Government, even though it acknowledged that "[a]ttempting to precisely define under what specific conditions each of the authorized restrictions might be imposed would destroy the 'broad discretion' necessary for the executive to deal with an emergency situation", *id.* (quoting *Sterling v. Constantin*, 287 U.S. 378 (1932). Moreover, Applicant would respectfully contend that such had been previously recognized by the Founders who had noted that, '[i]f men were angels, no government would be necessary", James Madison, *Federalist No. 51*, February 6, 1788, and, in the referenced decision of the Court upon which the Virginia Governor had relied, it had emphasized the role of the Judiciary in ensuring the proper administration of justice, and protection against manifest injustice, stating that "[t]he courts cannot prevent abuse of power, but can sometimes correct it." *Chalk*, 441 F.2d, at 1277.

The Virginia Governor, over the past two years, has had more than ample opportunity to provide an answer and reply to the allegations raised by Applicant, and "he knew that this decision closed against him completely the very point for which he was laboring." *U.S. v. Burr*, 25 F. Cas. 55 (C.C.D. Va. 1807). "We who are seeking truth and not victory, whether right or wrong, have no reason to turn our eyes from any source of light which presents itself, and least of all from a source so high and so

respectable as the decision of the supreme court of the United States." *Id.*

Where a defendant has publicly acknowledged exceeding his lawful authority, under color of law, and has, of judicial record, engaged in a pattern of evasion, establishing a pattern of racketeering activity, with impunity, clearly there is a requirement for immediate action in a case of imperative public importance, and well within a self-evident public interest when the total fatalities in the nation is approaching one million (993,341), Staff, "COVID Data Tracker, *CDC*, May 4, 2022, https://covid.cdc.gov/covid-data-tracker/#datatracker-home (accessed May 5, 2022), and has exceeded six million worldwide. Robert Hart, "More Than 6 Million People Have Now Died With Covid," *Forbes*, March 7, 2022.

Accordingly, a grant of certiorari on the matter to issue a writ of mandamus to compel the Trial Court to convene a grand jury, as required, under Fed.R.Crim.Pro. 6(a), would be proper.

B. **Whether, in accordance with S.Ct.R. 11, see also 28 U. S. C. § 2101(e), upon application for prejudgment relief, in "a case pending in a United States court of appeals, before judgment is entered in that court", a writ of mandamus can prevail over a presumptive assertion of executive privilege, *see generally U.S. v. Nixon*, 418 U.S. 683 (1974).**

As of March 7, 2022, this Court has implicitly acknowledged a presumptive assertion of executive privilege regarding the ownership and origins of a novel coronavirus, in declining to proceed to oral argument in *Webb v. Fauci*, Record No. 21-6868, which, "[a]bsent a claim of need to protect military, diplomatic, or sensitive national security secrets," in the past this Court would not accept, *U.S. v. Nixon*, 418 U.S. 683 (1974), which bears direct relation to the allegations raised in the Original Complaint and the matter raised on application for issue of a writ of mandamus.

Under Executive Order 12,958, Section 1.8(a), it is abundantly clear that, "[i]n no case shall information be classified in order to: (1) conceal violations of law, inefficiency, or administrative error; (2) prevent embarrassment to a person, organization, or agency; (3) restrain competition; or (4) prevent or delay the release of information that does not require protection in the interest of national security", and that "[i]t is emphatically the province and duty of the judicial department to say what the law is." *Marbury*, 1 Cranch, at 137.

Accordingly, a grant of certiorari on the matter to issue a writ of mandamus to compel the Trial Court to convene a grand jury, as required, under Fed.R.Crim.Pro. 6(a), would be proper.

C. **Whether, in accordance with S.Ct.R. 11, see also 28 U. S. C. § 2101(e), upon application for prejudgment relief, in "a case pending in a United States court of appeals, before judgment is entered in that court", a writ of mandamus can prevail over a presumptive *Glomar Response. See generally Phillippi v. CIA*, 546 F.2d 1009 (1976).**

In effect, since March 7, 2022, this Court has permitted what amounts to a *Glomar Response* regarding the biological causative agent for COVID-19, absent the public record requirements contemplated under *Phillippi v. CIA*, 546 F.2d 1009 (1976), and condoning serious misconduct that is at issue in Applicant's Original Complaint, and at issue in his application for prejudgment relief, representing as to Applicant, a deprivation of procedural and substantive due process.

Accordingly, a grant of certiorari on the matter to issue a writ of mandamus to compel the Trial Court to convene a grand jury, as required, under Fed.R.Crim.Pro. 6(a), would be proper.

X. CONCLUSION

For the reasons stated in this application, Applicant respectfully requests that the Circuit Justice or the Court compel the Trial Court to abide with the requirements under Fed.R.Crim.Pro. 6(a), and convene a grand jury or grand juries on the matters raised in the public interest, in acknowledgement of Applicant's rights to substantive and procedural due process, and to grant such other relief as deemed proper by this Honorable Court.

I declare under penalty of perjury that the foregoing is true and correct.

Name of Party (Print or Type): Major Mike Webb, 955 S. Columbus Street, Unit # 426, Arlington, Virginia 22204, GiveFaithATry@gmail.com, 856-220-1354.

Signature of Party Executed on: 5-5-22
(Date)

Subscribed, acknowledged and sworn to before me, the undersigned Notary Public in the County of Fairfax, in the Commonwealth of Virginia, this 05 day of May, 2022.

NOTARY PUBLIC

My commission expires: 01/31/2024 Registration Number: 7887625

ANGELA GUTIERREZ MENDOZA
NOTARY PUBLIC
REG. #7887625
MY COMMISSION EXPIRES
01/31/2024
COMMONWEALTH OF VIRGINIA

Record No. 22-A_____

In The
Supreme Court of the United States

IN RE: MAJOR MIKE WEBB,

Pro Se Applicant.

To the Honorable John Roberts, Chief Justice of the United States Supreme Court and Acting Circuit Justice for the Fourth Circuit

Appendix: Rule 33.1 Certification on Word Limitations

MAJOR MIKE WEBB, *PRO SE*
Counsel of Record
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(856) 220-1354
GiveFaithATry@gmail.com

RULE 33.1 CERTIFICATION ON WORD LIMITATIONS

Pursuant to Rule 33(1)(h), Major Mike Webb, the Affiant, certifies that the document filed with this certification (Application for Petition for Certiorari for Review Before Judgment) contains exactly 1,961 words, excluding document parts exempted by Rule 33.1(d), according to the word-count function of the word-processing program used to prepare it, and, further, is duly authorized to make this statement upon his own behalf, and in accordance with 28 U.S.C. § 1746(2).

Pursuant to Rule 33(1)(h), Major Mike Webb, the Affiant, is duly authorized to make this statement upon his own behalf, and in accordance with 28 U.S.C. § 1746(2), I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Name of Party (Print or Type): Major Mike Webb, 955 S. Columbus Street, Unit # 426, Arlington, Virginia 22204, GiveFaithATry@gmail.com, 856-220-1354.

Mr CC

Signature of Party

Executed on: 5-5-22

(Date)

Subscribed, acknowledged and sworn to before me, the undersigned Notary Public in the County of Fairfax, in the Commonwealth of Virginia, this 05 day of May, 2022.

NOTARY PUBLIC

ANGELA GUTIERREZ MENDOZA
NOTARY PUBLIC
REG. #7887625
MY COMMISSION EXPIRES
01/31/2024
COMMONWEALTH OF VIRGINIA

My commission expires: 01/31/2024 Registration Number: 7887625

Record No. 22-A_____

In The
Supreme Court of the United States

IN RE: MAJOR MIKE WEBB,

Pro Se Applicant.

To the Honorable John Roberts, Chief Justice of the United States Supreme Court and Acting Circuit Justice for the Fourth Circuit

Appendix: Proof of Service

***In Re: Major Mike Webb*, Record No. 22-1422 (4th Cir. 2022)**

MAJOR MIKE WEBB, *PRO SE*
Counsel of Record
955 S. Columbus Street
Apartment 426
Arlington, Virginia
(856) 220-1354
GiveFaithATry@gmail.com

PROOF OF SERVICE

I, Major Mike Webb, do swear or declare that on this date, May 5, 2022, as required by Supreme Court Rule 29, I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR CERTIOARI FOR REVIEW BEFORE JUDGMENT and RULE 33.1 STATEMENT on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Ralph Shearer Northam, M.D.
Respondent
Children's Hospital of The King's Daughters
601 Childrens Lane
Norfolk, Virginia 23507
Telephone: (757) 668-7000

Hon. David J. Novack
Presiding Judge
Chambers
U.S. District Court for
Eastern District of Virginia
701 E. Broad Street
Richmond, Virginia 23219
Telephone: (804) 916-2220

Chambers
Fourth Circuit Court of Appeal
1100 E. Main Street, Suite 501
Richmond, Virginia 23219

I declare under penalty of perjury that the foregoing is true and correct.

Name of Party (Print or Type): Major Mike Webb, 955 S. Columbus Street, Unit # 426, Arlington, Virginia 22204, GiveFaithATry@gmail.com, 856-220-1354.

Signature of Party

Executed on: 5-5-22
(Date)

Subscribed, acknowledged and sworn to before me, the undersigned Notary Public in the County of Fairfax, in the Commonwealth of Virginia, this 05 day of May, 2022

NOTARY PUBLIC

ANGELA GUTIERREZ MENDOZA
NOTARY PUBLIC
REG. #7887625
MY COMMISSION EXPIRES
01/31/2024
COMMONWEALTH OF VIRGINIA

My commission expires: 01/31/2024 Registration Number: 7887625