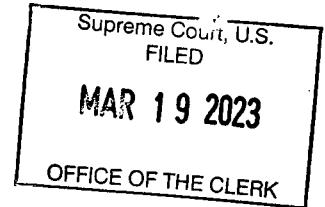


ORIGINAL

No.  
23-5643

IN THE  
SUPREME COURT OF THE UNITED STATES

IN RE: GREGORY SHAWN MERCER



ON PETITION FOR EXTRAORDINARY WRIT OF MANDAMUS TO  
THE CHIEF JUDGE OF THE SUPREME COURT OF VIRGINIA,  
S. BERNARD GOODWYN

PETITION FOR EXTRAORDINARY WRIT OF MANDAMUS TO  
THE CHIEF JUDGE OF THE SUPREME COURT OF VIRGINIA,  
S. BERNARD GOODWYN

SCOTUS RULE 29 CERTIFICATE OF SERVICE (at the End)  
(28 U.S.C. §2403(b) MAY APPLY)

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## QUESTIONS PRESENTED FOR REVIEW

- a) Whether or not the Court of Appeals of Virginia (“COAV”) impeded the Appellate Jurisdiction of the Supreme Court of Virginia (“SCV”) and/or the Appellate Jurisdiction Supreme Court of the United States (“SCOTUS”)?
- b) Whether or not the Supreme Court of Virginia is impeding the Appellate Jurisdiction of the Supreme Court of the United States?
- c) Whether or not this Supreme Court of the United States ought to issue a Extraordinary Writ of Mandamus to the Chief Judge of the Supreme Court of Virginia (S. Bernard Goodwyn) to aid the Appellate Jurisdiction of this Supreme Court of the United States by ordering the Supreme Court of Virginia to remand *Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax*, SCV Record No. 230354 (previously COAV Record No. 1193-21-4), back to the Court of Appeals of Virginia further ordering the Court of Appeals of Virginia to: a) compel *Appellee County of Fairfax* to appear in COAV Record No. 1193-21-4; b) compel *Appellee Commonwealth of Virginia* to file a Rules of the Supreme Court of Virginia (“RSCV”) Rules 5A:19(b)(2) & 5A:21 30-day “Brief of Appellee” responsive to Petitioner’s 5/25/2022 “Opening Brief of Appellant” in COAV Record No. 1193-21-4; c) compel *Appellee County of Fairfax* to file a RSCV Rules 5A:19(b)(2) & 5A:21 30-day “Brief of Appellee” responsive to Petitioner’s 5/25/2022 “Opening Brief of Appellant” in COAV Record No. 1193-21-4; d) provide Petitioner his RSCV Rules 5A:19(b)(3) & 5A:22 14-days to reply to each “Brief of Appellee” filed in COAV Record No. 1193-21-4; then e) return COAV Record No. 1193-21-4 from the Court of Appeals of Virginia back to the Supreme Court of Virginia as SCV Record No. 230354 for Supreme Court of Virginia expedited review before further Supreme Court of the United States review?

## QUESTIONS PRESENTED FOR REVIEW SIMULTANEOUSLY IN SCV

Assignments of Error of the Court of Appeals of Virginia (“COAV”), Circuit Court of Fairfax County (“FCCC”), & Fairfax County General District Court (“FCGDC”) based on COAV’s Failure to Rule on 3/28/2023. Standard of Review is “Clear Error” for all 13 these Assignments of Error of the COAV, FCCC, & FCGDC now before the SCV in Petitioner’s 5/23/2023 “SCV

**Corrected Petition for Appeal / ..." in *Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax*, SCV Record No. 230354**

- 1) Whether or not Judges of the COAV respect that they are bound by the **U.S. Supremacy Clause** including where violations of Petitioner's U.S. **Amendment V, VI, & XIV** Rights are alleged? [D14-16, D23-25, D27, D30, D35]
- 2) Based on two facts: 1) that the COAV failed to rule on Petitioner's 7/26/2022 "Pro se Appellant's Objection and Motion" arguing that the COAV Clerk misquoted RSCV Rule 5A:20(c) and to grammatically change five Assignment of Errors simply from Question Form (Whether or not the ... ? [Question Mark]) to Affirmative Statement Form (The ... . [Period]) in four copies of a 154-page, bound, 5/25/2022 "Opening Brief of Appellant" then to drive 2 miles round trip for Fairfax Commonwealth's Attorney's Office Stamps then 226 miles round trip to re-file and re-serve the document was "an overly burdensome and unnecessary requirement for a new father of his 16-month-old daughter struggling to get training in order to start a new job;" then 2) that the COAV ruled in its 3/28/2023 Memorandum Opinion "Because Mercer ... otherwise ignores the rules of this Court, we decline to consider the assignments of error;" whether or not this is an unconstitutional reason for COAV Judges to completely ignore an alleged violation of Petitioner's U.S. **Amendment V & XIV** Right which is the Supreme Law of the Land to which all COAV Judges are bound in accordance with the **U.S. Supremacy Clause**? [Doc. #2 – 31; Doc. #3 – 1-5; D25, D27, D30]
- 3) Whether or not the COAV failed intentionally or otherwise to correctly caption its Orders in Petitioner's COAV Appeal omitting **Appellee "County of Fairfax"** on all but the 8/9/2022 COAV Order after Petitioner timely filed a 11/4/2021 "FCCC to COAV Notice of Appeal [R59-62]" captioned "*Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax?*" [COAV Orders dated 1/24/2022, 5/3/2022, 6/23/2022, 8/9/2022 (D14-15), 8/22/2022, 3/21/2023, 3/28/2023, 4/18/2023]
- 4) Whether or not the COAV failed to rule on Petitioner's 11/5/2022 "Motion for Ruling" which moved the COAV to compel the appearance of **Appellee County of Fairfax** and to compel "Briefs of Appellee" from both **Appellee Commonwealth of Virginia** and **Appellee County of Fairfax** which "Briefs of Appellee" aid the appellate jurisdiction of the SCV and the

SCOTUS? [Docket Entry 11/9/2022 on COAV Record page 334 according to COAV Docket Entries on Appendix page (A2) was not ruled upon]

- 5) Whether or not the ***U.S. Supremacy Clause*** (which binds all State Judges to respect the Supreme Law of the Land) then the ***U.S. Amendment X & XIV/U.S. Privileges and Immunity Clause*** (which prohibits all bound State Judges the Power to impede the enforcement of the Supreme Law of the Land) required that the COAV Judges: 1) not have remanded to the FCCC for *nunc pro tunc* Orders trying to nullify Petitioner's ***U.S. Amendment V & XIV*** Right; 2) compel the appearance of ***Appellee County of Fairfax*** in the COAV; and/or 3) compel both ***Appellee Commonwealth of Virginia*** and ***Appellee County of Fairfax*** to file "Briefs of Appellee" in the COAV where violations of Petitioner's ***U.S. Amendments V, VI, & XIV*** Rights were alleged in order to aid the appellate jurisdiction of the SCV and the SCOTUS? [8/9/2022 COAV Order of Remand (D14-15); Docket Entry 11/9/2022 on COAV Record page 334 according to COAV Docket Entries on Appendix page (A2) was not ruled upon; SCV 5/3/2023 Dismissal of SCV Record No. 220746 as Moot (A3)]
- 6) Whether or not any Virginia State, County, or City Judges are COMPETENT (meaning – Independent, Impartial, Act with Propriety, Fair, and Act with Integrity) in Virginia's Government which refuses to enforce Federal or State Rights as Public Policy, prejudging cases or appeals, and blatantly disrespecting the ***U.S. Supremacy Clause*** with its Virginia State, County, and City Judges? [Doc. #11 – 15-19, 24-27]
- 7) Whether or not the current Judges of the COAV personify a violation of Petitioner's ***U.S. Amendment IX & XIV/U.S. Privileges and Immunity Clause*** Unenumerated Right as found in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) since Petitioner has not had the opportunity to choose any of these Judges on the COAV? [Doc. #2 – 25, 30-31, 44-46, 48, 65-68, 70; Apx 6, 8, 10-15; R57-58, R64-69, R91, R93, R95-98, R102-103, R120]
- 8) Whether or not the FCCC Trial Court [and COAV] erred by denying [Petitioner]'s invoked ***U.S. Amendment V, VI, and/or XIV*** Rights? [D25-35, R1-2, R55-58, R64-68, R75-91, R99-105, R107-119, Doc. #2 - 50-71]

9) Whether or not the FCCC Trial Court [and COAV] failed to rule on [Petitioner]’s **U.S. Amendment IX & XIV** argument raised in language from *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) [R64-67, R69, R95-98, R120] and/or [Petitioner]’s **U.S. Amendment X & XIV** argument raised in language within the *U.S. Supremacy Clause* [D25-35, R64-68, R81, R91-92, R102, Doc. #2 - 50-71]?

10) Whether or not the 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 are unconstitutional because they violate the *U.S. Supremacy Clause*? [R64-69, R91-99, R120]

11) Whether or not the 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 creates a State Government which is a clear and present danger to the health and/or continuance of the United States of America? [Raised in the COAV subsequent to intervening events in the Ukraine after 11/4/2021 and addressed in Doc. #2 - 69-70]

12) Whether or not the *Incorporation Doctrine* ought to be extended to make **U.S. Amendment IX** and/or **U.S. Amendment X** applicable to the States through **U.S. Amendment XIV** or the *Privileges and Immunities Clause* (U.S. Constitution, Article IV, Section 2)? [Raised in the COAV subsequent to the FCCC Judge’s 11/4/2021 Failure to Rule Error #9 above (D2-3, R57-58)]

13) Whether or not Former U.S. President Donald Trump committed Treason against the United States on 1/6/2021 when he aided and directed an armed group of White Supremacists and Trump Supporters to attack the U.S. Capitol? [Doc. #11 – 30; Raised in the COAV subsequent to intervening events when House January 6 Committee Report was released stating “The House select committee investigating the January 6, 2021, attack on the US Capitol has concluded that former President Donald Trump was ultimately responsible for the insurrection, laying out for the public and the Justice Department a trove of evidence for why he should be prosecuted for multiple crimes. ... obstruction of an official proceeding, conspiracy to defraud the United States, conspiracy to make false statements, assisting or aiding an insurrection, conspiring to injure or impede an officer, and seditious conspiracy.]

## LIST OF PARTIES

- 1) ***Petitioner/Appellant Gregory Shawn Mercer***, 3114 Borge Street, Oakton, Virginia, 22124, 202-431-9401, gregorysmercer@gmail.com.
- 2) **For 8/22/2023 “Petition for Extraordinary Writ of Mandamus to the Chief Judge of the SCV, S. Bernard Goodwyn” –**
  - a) ***Respondent Chief Judge of the SCV, S. Bernard Goodwyn*** whose counsel or person authorized to accept documents for the Chief Judge of the SCV is Joshua N. Lief, Senior Assistant Attorney General and Chief: Financial Law and Government Support, 202 North Ninth Street, Richmond, Virginia, 23219, 804-786-0067, jlief@oag.state.va.us; and
  - b) ***Respondent Virginia Attorney General Jason Miyares***, Attorney General of Virginia, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia, 23219, 804-786-2071 because **28 U.S.C. §2403(b) MAY APPLY**;
- 3) **For 5/23/2023 “SCV Corrected Petition for Appeal / ...” –**
  - c) ***Appellee/Prosecutor/Respondent Commonwealth of Virginia*** represented by Katerine Q. Adelfio (VSB No. 77214), Assistant Attorney General, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia, 23219, Phone: 804-786-2071, Facsimile: 804-371-0151, e-mail: [oagcriminallitigation@oag.state.va.us](mailto:oagcriminallitigation@oag.state.va.us) or [kadelfio@oag.state.va.us](mailto:kadelfio@oag.state.va.us); and
  - d) ***Appellee/Prosecutor/Respondent County of Fairfax*** represented by Steve Descano, Fairfax Commonwealth’s Attorney, 4110 Chain Bridge Road, Suite #114, Fairfax, Virginia, 22030, 703-246-2776.

## CORPORATE DISCLOSURE STATEMENT

There is no parent corporation nor any publicly held company that owns 10% of anything associated with *pro se* Petitioner. However, Petitioner has a mortgage and three IRA accounts. Since Petitioner is not a corporation, he has no corporate disclosures to make.

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**Document Abbreviations:**

- a) Doc. #1** – 11/4/2021 “FCCC to COAV Notice of Appeal” **[D4-7]**
- b) Doc. #2** – 5/25/2022 “Opening Brief of Appellant” and **Apx 1-78**
- c) Doc. #3** – 7/26/2022 “*Pro se* Appellant’s Objection and Motion” **[D8-13]**
- d) Doc. #4** – 7/14/2022 “Appellant’s Response to: Appellee Commonwealth of Virginia’s 7/12/2022 ‘Motion to Stay Briefing Schedule’”
- e) Doc. #5** – 7/29/2022 “Appellant’s Response to: Appellee Commonwealth of Virginia’s 7/21/2022 ‘Motion to Remand to Circuit Court to Resolve Ambiguity and to Suspend Briefing Schedule’” and **Apx 79**
- f) Doc. #6** – 8/10/2022-mailed “COAV to SCV Notice of Appeal”
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- i) Doc. #9** – 11/5/2022-mailed “Motion for Ruling” **[D17-22]**
- j) Doc. #10** – 2/24/2023-mailed “Supplement to 5/25/2022 Opening Brief of Appellant including a Sixth Assignment of Error”
- k) Doc. #11** – 4/3/2023-mailed “Petition for Rehearing En Banc, Objection, and RSCV Rule 5A:4A Letter to COAV Clerk”
- l) Doc. #12** – 5/8/2023 “COAV to SCV Notice of Appeal / Objection / Good Cause Motion for RSCV Rule 5:17(a)(2) Extension” **[D37-42]**
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**E) News Articles, Books, & People:**

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officials (8/2/2016 by THE SIBERIAN TIMES/An unidentified	
Siberian Times Reporter with pictures by Channel 1, Znak.com,	
Yamal Region, & Vesti Yamal)	<b>7, 40, Doc. #11 – 29-30</b>
<b>65) 1889 Russian Flu</b>	<b>6-7, 27-28, 40-42</b>

**66) 1918 Spanish Flu** **7, 28, 40, 42**

**67) 30,000-year-old giant virus ‘comes back to life,’ (3/4/2014 by BBC WORLD SERVICE/Rebecca Morelle)** **28, Apx - 29-30**

**68) A Kremlin Gathering of Tycoons most with Wealth Abroad (5/4/2022 by WASHINGTON POST/Peter Whoriskey)** **42, Apx - 72**

**69) America’s Only Successful Coup d’Etat Overthrew a Biracial Government in 1898 (10/7/2020 by HISTORY/Aaron Randle)** **40-41, Apx - 23**

**70) A new generation of white supremacist killer: shedding blood with internet winks, memes and livestreams (5/16/2022 by THE ASSOCIATED PRESS/Jenny Jarvie and Molly Hennessy-Fiske)** **40, Apx - 75-76**

**71) As the pandemic explodes, a researcher saw the danger. China’s leaders kept silent (4/24/2022 by THE WASHINGTON POST/Editorial Board, Page A26)** **40, 42, Apx - 37-38**

**72) Austin’s assertion that US wants to ‘weaken’ Russia underlines Biden strategy shift (4/26/2022 by CNN/Natasha Bertrand, Kylie Atwood, Kevin Liptak and Alex Marquardt)** **Apx - 57-58**

**73) Austin: U.S. believes Ukraine ‘can win’ war against Russia (4/26/2022 by POLITICO/Quint Forgey)** **Apx - 56-57**

**74) Biden defeats Trump in an election he made about character of the nation and the President (11/7/2020 by CNN/Stephen Collinson and Maeve Reston)** **27, Apx - 42-43**

**75) Biden gives emotional speech after Buffalo shooting: ‘White supremacy is a**

poison' (5/17/2022 by CNN POLITICS/Maegan Vazquez and Kate Sullivan)

**Apx - 76-77**

**76) Biden uses call with Xi to lay out consequences for China if it supports Russia attack on Ukraine (3/18/2022 by CNN/Kevin Liptak) 7, 27-28, 40, Apx - 54-55**

**77) China doubles down on baseless 'US origins' Covid conspiracy as Delta outbreak worsens (8/6/2021 by CNN/Nectar Gan and Steve George) 7, 28, 40, Apx - 47-48**

**78) China's Zero COVID Policy is a double-edged sword (12/1/2022 by Carnegie Endowment for International Peace/Paul Haenle)**  
**7, 27-28, 40, Doc. #11 - 30**

**79) Crimea: Six years after illegal annexation (3/17/2020 by BROOKINGS/Steven Pifer) 7, 27-28, 40, Apx - 21-22**

**80) Thomas E. Dewey 26, Apx - 15**

**81) Tayyip Erdogan 27, Apx 40**

**82) Experts warn of threat of born-again smallpox from old Siberian graveyards (8/12/2016 by THE SIBERIAN TIMES/An unidentified Siberian Times Reporter with pictures by Emercom, A. Okladnikov, Sergey Kaarpukhin, & Vladislav Samoylik) Doc. #11 - 29**

**83) FBI report warned of "war" at Capitol, contradicting claims there was no indication of looming violence (1/12/2021 by THE WASHINGTON POST/Delvin Barrett and Matt Zapotosky) 27-28, Apx - 44-45**

**84) Final Report of the Select Committee to Investigate the January 6th Attack on the United States Capitol, 12/22/2022 (House Report 117-663) 29, Doc. #11 - 30**

85) Funding NATO – Direct funding of NATO (4/1/2022 from NORTH ATLANTIC  
TREATY ORGANIZATION) **27-28; Apx - 22**

86) GOP lawmaker: FBI has evidence Russian bots were fanning flames before  
Charlottesville violence (8/13/2018 by CNN/Ryan Nobles)  
**7, 27, 40, Apx - 33-35**

87) “Hang Mike Pence”: Assault on U.S. Capitol a more sinister attack than first  
appeared” (1/11/2021 by THE ASSOCIATED PRESS/Jay Reeves, Lisa Mascaro,  
and Calvin Woodward) **27-28, Apx - 45-47**

88) How Democracies Die, copyright 2018 by Steven Levitsky & Daniel Ziblatt,  
pages 51, 65-67. **29, Apx - 18-21**

89) General Secretary Xi Jinping **7, 28**

90) John F. Kennedy **26, Apx - 15**

91) Moskva sinking: What really happened to the pride of Russia’s fleet? (4/15/2022  
by CNN/Brad Lendon) **Apx - 55-56**

92) NAACP **25; Apx - 15**

93) Mike Pence **7, 27, 29, 40**

94) President Trump went to ‘extraordinary lengths’ to hide details of Putin  
meetings, report says (1/13/2019 by USA TODAY/William Cummings)  
**27, Apx - 35-37**

95) Putin finally recognizes that Biden won presidential election (12/15/2020 by  
NBC NEWS/Matthew Bodner) **27, Apx - 43-44**

96) Putin Moves to Heighten Russia’s Role After Suleimani Killing (1/8/2020 by

**97) Putin puts nuclear forces on high alert, escalating tensions (2/27/2022 by AP**

NEWS/Yuras Karmanau, Jim Heintz, Vladimir Isachenkov and Dasha Litvinova)  
**Apx - 50-51**

**98) Putin's Kleptocracy, copyright 2014 by Karen Dawisha.** **Apx - 18**

**99) Read Trump's phone conversation with Volodymyr Zelenskyy (9/26/2019 from  
CNN/Donald Trump and Volodymyr Zelenskyy)** **Apx - 21**

**100) Franklin D. Roosevelt** **25, Apx - 15**

**101) Russia has requested military and economic assistance from China, US  
officials say (Updated 3/14/2022 by CNN POLITICS/Jim Sciutto, Sam Fossum,  
Kaitlan Collins and Kylie Atwood)** **7, 28, Apx - 51-54**

**102) Russia, Iran aimed to sway 2020 election through covert campaigns, US  
intelligence reports (3/16/2021 by USA TODAY/Deirdre Shesgreen)**  
**27, Apx - 40-42**

**103) Russia – Permafrost Russia (2006 & 2019 from  
CLIMATECHANGEPOST/Anisimov and Selena; Streletskiy et al.)**  
**28, Apx - 18**

**104) Sanctions after Crimea: Have they worked? (7/13/2015 by NATO  
REVIEW/Edward Hunter Christie)** **27, Apx - 21-22**

**105) Major General Qassim Suleimani** **27**

**106) Sweden follows Finland in confirming it will apply to join NATO (5/16/2022 by**

**107) "The Deadliest Flu: The Complete Story of the Discovery and Reconstruction of the 1918 Pandemic Virus,"** (cdc.gov website/Douglas Jordan with contributions from Dr. Terrence Tumpey and Barbara Jester) **7, 28, 40, Apx - 31-32**

**108) The Man Without a Face – The Unlikely Rise of Vladimir Putin, copyright 2012 by Masha Gessen, pages 68-69.** **Apx - 18**

**109) The System of Putin – Putin's Early Years (7/30/2015 by CORRECTIV/ David Crawford and Marcus Bensmann)** **Apx - 17-18**

**110) The Two Reconstructions, copyright 2004 by Richard M. Valely**  
**24-25, Apx - 14-15**

**111) The unsolved mystery behind Vladimir Putin's reported \$200 billion wealth (3/24/2022 by MONEYCONTROL/Stella Dey)** **Apx - 18**

**112) 'They were furious': the Russian soldiers refusing to fight in Ukraine (5/12/2022 by THE GUARDIAN/Pjotr Sauer)** **Apx - 74-75**

**113) Harry S. Truman** **25-26, Apx - 15**  
**114) Trump Discussed Pulling U.S. From NATO, Aides Say Amid New Concerns Over Russia (1/14/2019 by THE NEW YORK TIMES/Julian E. Barnes and**

**Helene Cooper)** **28-29, Apx - 21**

**115) Trump, Putin met for nearly an hour in second G20 meeting (7/19/2017 by CNN/Eli Watkins and Jeremy Diamond)** **27, Apx - 35-37**

**116) Trump signals he won't run with Pence in 2024 (3/16/2022 by YAHOO!**

NEWS/Christopher Wilson)

**Apx - 49**

**117) United the Right Rally, August of 2017**

**6-7, 27, 40**

**118) U.S. Strike in Iraq Kills Qassim Suleimani, Commander of Iranian Forces**

(1/2/2020 by THE NEW YORK TIMES/Phil Helsel, Ken Dilanian, and Josh Lederman)

**27, Apx - 38-39**

**119) What's in the House January 6 Committee report summary**

(12/1/2022 by CNN/Tierney Sneed, Sara Murray, Zachary Cohen, Annie Grayer, and Marshall Cohen)

**28-29, Doc. #11 - 30**

**120) White Nationalist Rally in Charlottesville, Virginia Sparks Violent Clashes,**

*Turns Deadly. The national guard has been put on standby in lieu of the controversial event.* (8/13//2017 by ABCNEWS/Michael Edison Hayden)

**6-7, 27, 40, Apx - 33**

**121) WHO names researchers to reboot outbreak origin investigations (10/14/2021**

corrected 10/18/2021 by NATURE/Amy Maxmen)

**Apx - 48-49**

**122) Why has Russia invaded Ukraine and what does Putin want? (Updated**

4/17/2021 by BBC NEWS/Paul Kirby)

**6-7, 27-28, 40, Apx - 49-50**

**F) Rules of the SCOTUS & Supreme Court of Virginia:**

**123) RSCV Rule 5:17(a)(2) & (f)** **19-20**

**124) RSCV Rule 5:18(a)** **20**

<b>125) RSCV Rule 5A:1A</b>	<b>15</b>
<b>126) RSCV Rule 5A:4A</b>	<b>2, 18</b>
<b>127) RSCV Rule 5A:19(b)</b>	<b>i, 44</b>
<b>128) RSCV Rule 5A:20(c)</b>	<b>ii, 4-5, 13-15, 37</b>
<b>129) RSCV Rule 5A:21</b>	<b>i, 44</b>
<b>130) RSCV Rule 5A:22</b>	<b>i, 44</b>
<b>131) SCOTUS Rule 10(b)</b>	<b>41</b>
<b>132) SCOTUS Rule 20.1</b>	<b>41-44</b>
<b>133) SCOTUS Rule 29</b>	<b>45</b>

**G) Scientific Articles:**

**134) "Clinical evidence that the pandemic from 1889 to 1891 commonly called the Russian flu might have been an earlier coronavirus pandemic," (copyright 2021 by Department of Biosystems, Laboratory of Gene Technology, KU Leuven, Leuven, Belgium / Harald Brüssow and Lutz Brüssow, pages 1-2)**  
**7, 28, 40, Apx - 24-26**

**135) "What we can learn from the dynamics of the 1889 'Russian flu' pandemic for the future trajectory of COVID-19," (copyright 2021 by Department of Biosystems, Laboratory of Gene Technology, KU Leuven, Leuven, Belgium / Harald Brüssow, pages 2244 and 2251)**  
**28, Apx - 27-28**

## OPINIONS AND ORDERS BELOW

In previous litigation concerning a Fairfax County Parking Ticket in the FCGDC, FCCC, COAV, SCV, & SCOTUS, it was decided and is *Res Judicata* in cases involving *Petitioner* that *Prosecutor Commonwealth of Virginia* is *not* substitutable for *Prosecutor County of Fairfax*. [Appendix Apx is in COAV Doc. #2; Appendix A is in Doc. SCV; Appendices B, C, & D are attached to this SCOTUS Petition].

### Res Judicata:

- a) *County of Fairfax v. Gregory Shawn Mercer*,  
FCGDC Case No. GT18216359-00 (11/13/2018 – C2) C1-2, Apx – 60-61
- b) *Commonwealth of Virginia v. Gregory Shawn Mercer*,  
FCCC Case No. MI-2018-1766 (1/15/2019 – C3-4) C3-7, Apx – 62-66
- c) *Gregory Shawn Mercer v. Commonwealth of Virginia*,  
COAV Record No. 0135-19-4 (1/27/2020 – C8-12) C8-12, Apx – 67-71
- d) *Gregory Shawn Mercer v. Commonwealth of Virginia*,  
SCV Record No. 200331 (1/11/2021 – C13) C13, Apx – 79
- e) *Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax*,  
SCOTUS Case No. 20-1827  
(*certiorari denied* 10/4/2021; *rehearing denied* 12/6/2021)

### New Case:

- f) *County of Fairfax v. Gregory Shawn Mercer*,  
FCGDC Case No. GT20027665-00 (9/21/2021 – D1) R55, D1
- g) *Commonwealth of Virginia v. Gregory Shawn Mercer*,  
FCCC Case No. MI-2021-776 (11/4/2021 – D2-3) R57-62, D2-7
- h) *Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax*,  
COAV Record No. 1193-21-4 (4/18/2023 – D35)  
B1-2, D14-15, D25-35, D37-43
- i) *In Re: Gregory Shawn Mercer*,  
SCV Record No. 220746 (5/3/2023 – Moot after 4/18/2023) B3

j) Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax,  
SCV Record No. 230354 with 6/13/2023 Motion (Pending)

## JURISDICTION

The bases for jurisdiction in this SCOTUS for a Petition for Extraordinary Writ of Mandamus is **28 U.S.C. §1651(a) (Writs)**:

**28 U.S.C. §1651(a) (Writs)** - “The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.”

The COAV Order to be reviewed is 3/28/2023 “Memorandum Opinion Per Curiam [D25-34]” and Petitioner filed a 4/3/2023 “Petition for Rehearing *En Bank*, Objection, and RSCV Rule 5A:4A Letter to COAV Clerk [Doc. #11 – 1-33]” before a COAV 4/18/2023 “Final Order [D35].”

## CONSTITUTIONAL PROVISIONS INVOLVED\*

**U.S. Privileges and Immunities Clause (U.S. Constitution, Article IV, Section 2)** – “The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States. ...”

**U.S. Supremacy Clause (U.S. Constitution, Article VI, Clause 2)** – “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

**U.S. Amendment V** – “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

**U.S. Amendment VI** – “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been

previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.”

**U.S. Amendment IX** – “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

**U.S. Amendment X** – “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

**U.S. Amendment XIV, Section 1** – “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

\* - The ***U.S. Guarantee Clause*** (Quoted on page 22 below) and ***U.S. Treason Clause*** (Quoted on page 29 below) from the ***U.S. Constitution*** also appear, herein.

## CONSICE STATEMENT OF THE CASE

Petitioner adopts and incorporates Appendix Pages **B1-3, C1-13, & D1-43** herein as if they were fully rewritten verbatim hereat.

By *Res Judicata*, it has been decided between ***Petitioner, Prosecutor Commonwealth of Virginia, and Prosecutor County of Fairfax*** that these Prosecutors are two separate, distinct, and ***not*** substitutable Prosecuting Authorities [C1-13].

On 9/21/2021, ***Prosecutor County of Fairfax*** convicted Petitioner in ***County of Fairfax v. Gregory Shawn Mercer***, FCGDC Case No. GT20027665-00 of “Unlawful Passing on Right” being the Code of Virginia §46.2-841 adopted into Fairfax County by Ordinance §82-1-6. Petitioner had invoked his ***U.S. Amendment VI & XIV*** Right to a “Speedy and Public Trial” because the ***Prosecutor County of Fairfax*** had used five Continuances to Petitioner’s one Continuance delaying the FCGDC Trial by 593 days. On 7/13/2021 (Day 523), the Arresting Officer failed to appear in the FCGDC for Trial. Petitioner’s 7/13/2021 In-Court Motion to Dismiss was denied unreasonably and then the FCGDC Ordered a 70-day Continuance which actually prejudiced Petitioner. After conviction on 9/21/2021 [D1], Petitioner appealed *de novo* to the FCCC.

Perhaps because Petitioner had complained about **Prosecutor County of Fairfax** using five Continuances in the FCGDC, the FCCC Trial unconstitutionally switched to **Prosecutor Commonwealth of Virginia** with Petitioner notified by mail on 10/7/2021. On 11/4/2021 in the FCCC, Petitioner testified that **Prosecutor County of Fairfax** had appeared in improper person as **Prosecutor Commonwealth of Virginia** to no avail. On 11/4/2021, **Prosecutor Commonwealth of Virginia** convicted Petitioner in Commonwealth of Virginia v. Gregory Shawn Mercer, FCCC Case No. MI-2021-776 of "Unlawful Passing on Right" being the same Code of Virginia §46.2-841 as in the FCGDC [D2-3]. Petitioner had invoked in the FCCC his U.S. Amendment V, VI, & XIV Rights to a "Speedy and Public Trial" (593-day delay in the FCGDC) plus Protection from Double Jeopardy since these Prosecutors are two separate, distinct, and not substitutable Prosecuting Authorities by *Res Judicata* [C1-13]. Petitioner appealed to the COAV with a 11/4/2021 "FCCC to COAV Notice of Appeal" captioned Commonwealth of Virginia & County of Fairfax v. Gregory Shawn Mercer, FCCC Case No. MI-2021-776 [D4-7] based on his experience from 11/13/2018 to 10/4/2021 going through the FCGDC, FCCC, COAV, SCV, and SCOTUS in a Parking Ticket case where **Prosecutor Commonwealth of Virginia** had suddenly replaced **Prosecutor County of Fairfax** in a 1/15/2019 FCCC "Final Order [C1-13]".

Petitioner filed a timely COAV 5/25/2022 "Opening Brief of Appellant" after 23-day filing extension granted by the COAV [Doc. #2 – 48-49, Apx 78]. A COAV Deputy Clerk sent Petitioner an obscure 5/26/2023 e-mail Petitioner first read on 7/25/2022 about Assignments of Error could not be in Question Form but must be in Affirmative Statement Form according to RSCV Rule 5A:20(c) [D43]. After checking RSCV Rule 5A:20(c) which stated nothing about either Question Form or Affirmative Statement Form, Petitioner filed a 7/26/2022 "Pro se Appellant's Objection and Motion [D8-13, D25, D27, D30]." **Prosecutor County of Fairfax** impeded the Appellate Jurisdiction of the SCV and SCOTUS by failing to appear in the COAV. **Prosecutor Commonwealth of Virginia** impeded the Appellate Jurisdiction of the SCV and SCOTUS by failing to file a responsive "Brief of Appellee" to Petitioner's 5/25/2022 "Opening Brief of Appellant" and attempting to have the COAV nullify the 11/4/2021 violation of Petitioner's U.S. Amendment V & XIV Right as follows:

**Prosecutor Commonwealth of Virginia** by 7/21/2022 COAV Motion moved to remand back to the FCCC for *nunc pro tunc* Orders to change the 11/4/2021 FCCC Prosecutor from **Prosecutor Commonwealth of Virginia** to **Prosecutor County of Fairfax**. On 8/9/2022, the COAV remanded back to the FCCC after the fact that Petitioner's U.S. Amendment V & XIV Right to Protection from Double

Jeopardy had already been violated [D14-15]. The COAV disregarded that it is “bound” to respect the Supreme Law of the Land according to the ***U.S. Supremacy Clause***. The COAV actually tried to nullify Petitioner’s already violated Federal Right on 8/9/2022 with this remand for *nunc pro tunc* FCCC Orders. However, the FCCC did not issue any *nunc pro tunc* Orders on 8/12/2022 [D16]. This nullification attempt by the COAV furthers Petitioner’s argument that Virginia is a Renewed Confederacy because it disrespects the ***U.S. Supremacy Clause*** [R91-92; Doc. #2 – 39-40; Doc. SCV – 37, 45, A(26, 33)].

Petitioner filed an 11/5/2022-mailed COAV “Motion for Ruling [D17-22]:” 1) to compel the appearance of ***Appellee County of Fairfax*** in the COAV; and 2) to compel ***Appellee Commonwealth of Virginia*** and ***Appellee County of Fairfax*** to file responsive “Briefs of Appellee” to Petitioner’s 5/25/2022 “Opening Brief of Appellant” in the COAV (hereafter “**the two compelling reasons that would aid SCOTUS Appellate Jurisdiction**”). The COAV failed to rule [B2] on Petitioner’s 7/26/2022 “*Pro se* Appellant’s Objection and Motion [D8-13],” failed to rule [B2] on Petitioner’s 11/5/2022 “Motion for Ruling [D17-22],” then issued a 3/28/2023 “Memorandum Opinion Per Curiam [D25-34]” which declined to consider Petitioner’s Assignments of Error for reasons that were not the Supreme Law of the Land. Petitioner’s 4/3/2023 Rehearing *En Banc* was denied on 4/18/2023 [D35]. The COAV violated the ***U.S. Supremacy Clause*** ignoring the fact that Virginia had violated Petitioner’s U.S. Amendment V & XIV Right and Supreme Law of the Land. The COAV reason: Petitioner’s Assignments of Error were in Question Form not Affirmative Statement Form. The COAV should clarify RSCV Rule 5A:20(c) in Plain English if they expect *pro se* litigants to understand missing words. The COAV in a neutral fashion ought to have let ***Appellees Commonwealth of Virginia & County of Fairfax*** raise this unclarified RSCV Rule which still ignores the fact that the ***U.S. Supremacy Clause*** binds the COAV.

After the COAV’s attempt to nullify Petitioner’s U.S. Amendment V & XIV Right failed, the COAV granted “in effect” the ***Prosecutor Commonwealth of Virginia’s*** Motion to Suspend the Briefing Schedule by not ruling on that Motion for 190 days. Petitioner sought a Writ of Mandamus from the SCV to the Chief Judge of the COAV then sought a Writ of Mandamus from the SCV Circuit Justice (SCOTUS Chief Justice John G. Roberts, Jr.) to the Chief Judge of the SCV: 1) to compel the appearance of ***Appellee County of Fairfax*** in the COAV; and 2) to compel ***Appellee Commonwealth of Virginia*** and ***Appellee County of Fairfax*** to file responsive “Briefs of Appellee” to Petitioner’s 5/25/2022 “Opening Brief of Appellant” in the COAV. On 1/24/2023, Petitioner filed a “Petition for Writ of Certiorari to the COAV [D23]” in the SCV which the SCV treated as a “Motion for

Certification" denying it nine days after Petitioner filed it and **BEFORE** either ***Respondent Commonwealth of Virginia or Respondent County of Fairfax*** filed Responses [D24]. Petitioner's 1/24/2023 Petition treated as a Motion never received a SCV Record Number effectively hiding it from SCOTUS review. Petitioner believes this was indicative that the SCV working together with the COAV were attempting to impede the Appellate Jurisdiction of this SCOTUS.

Petitioner seeks Constitutional Changes in Virginia. The U.S. Congress eradicated State Confederate Governments between 1866 and 1870 by applying the ***U.S. Guarantee Clause***. Virginia brought Confederate Government back to the United States starting in 1902 by abandoning the 1870 Constitution of Virginia, Article I, Section 3 restatement of ***U.S. Supremacy Clause*** and adopting the 1902 Constitution of Virginia, Article VI, Section 88 permitting Virginia's highest Court's interpretation of the U.S. Constitution with its U.S. Bill of Rights. Confederate Governments do not respect the ***U.S. Supremacy Clause*** nor do they enforce State or Federal Rights (See Page 21 *et seq.* below). Virginia needs to have a Virginia Constitutional Convention to rewrite ***1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7***. The Citizens of Virginia need to elect all State, County, and City Judges so that these Judges have ALLEGIANCE to the PEOPLE not the ***racially-inspired*** 1971 Constitution of Virginia which continues without regard to race the 1902 discrimination against African American males by denying them Federal Rights found in the U.S. Bill of Rights being Constitutional Amendments. The current Virginia State, County, and City Judges ought to resign – they pre-judge every case where Defendants regardless of race invoke State or Federal Rights so as to deny those State of Federal Rights in a Confederate Manner. The Public Policy in Virginia – deny all invoked State and Federal Rights! Since this is Virginia Public Policy, all Virginia State, County, and City Judges are INCOMPETENT because they cannot be fair, impartial, nor act with integrity. A Virginia Judge is the personification of a violation of Petitioner's ***U.S. Amendment IX*** Right as found in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) which Petitioner expects SCOTUS will make applicable to the States via ***U.S. Amendment XIV*** and/or the ***U.S. Privileges and Immunity Clause*** (U.S. Constitution, Article IV, Section 2).

Since 1902 when Virginia had a White Supremacist Government with Poll Taxes and Literacy Tests which denied initially African American males their Federal Rights, Virginia State, County, and City Judges have added a seditious character to their rulings ignoring the ***U.S. Supremacy Clause*** as exhibited in this appeal. Virginia is unique. Based on an 8/13/2018 news report, the FBI reported to Republican Congressional Representatives that the White Supremacists' Unite the

Right Rally in Charlottesville, Virginia in August of 2017 attracted the interest of Russian President Vladimir Putin [Doc. #2 – 48-49, Apx 33-37, 44-47; Doc. SCV – 37, 51-52, A(38-39)]. Based on news articles used as authorities, Petitioner argues that Putin formed a White Supremacist Force built from the handling without their knowledge of the White Supremacists Leaders from the August of 2017 Charlottesville, Virginia Unite the Right Rally in order to attack the U.S. Capitol on 1/6/2021 with the intention of assassinating Vice-President Mike Pence. This was Putin's Second Act of levying War against the United States to destabilize this country before Putin's re-invasion of the Ukraine on 2/24/2022.

Putin had a first Act of War against NATO including the United States [Doc. #2 – 48-49, Apx 16-59, 72-77; Doc. #11 – 29-30; Doc. SCV – 37, 51-54, A(38-42)]. As microbiologists have reconstructed the 1918 Spanish Flu antigen from the lungs of a Spanish Flu victim frozen in the Alaskan Permafrost, Putin has reconstructed the 1889 Russian Flu antigen from the Russian Permafrost which Putin had released in Wuhan, Hubei Province, China in or about September of 2019 prior to the Russian re-invasion of the Ukraine on 2/24/2022. The U.S. blamed China for releasing COVID-19 from its Wuhan Virology Institute. China blamed the U.S. for developing COVID-19 in Maryland then planting it in Wuhan. While Sino-American relations collapsed, Putin improved his relationship with Chinese General Secretary Xi Jinping then asked Xi for economic and military help in the Ukraine.

Virginia White Supremacy and sedition has played a central part in endangering the health and continuance of the United States. But for Virginia's White Supremacy and sedition issues, Putin would not have gotten involved in increasing the tensions of both sides at the August of 2017 Charlottesville, Virginia United the Right Rally nor would Putin have released COVID-19 on the world then have the White Supremacist Force Putin created and Former President Donald Trump directed attack the U.S. Capitol on 1/6/2021. Former U.S. President Donald Trump committed an Act of Treason aiding and adhering to Putin by directing an armed group of White Supremacists and Trump Supporters chanting "Hang Mike Pence!" to attack the U.S. Capitol on 1/6/2021 [Doc. #11 – 30; Doc. SCV – 37, 51-54, A(38-42)].

#### STATEMENT OF FACTS (FCGDC, FCCC, COAV, SCV, SCOTUS)

In Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax, COAV Record No. 1193-21-4, no "Briefs of Appellee" were filed. On page one (1) of

its 3/28/2023 “Memorandum Opinion Per Curiam,” the COAV ruled, “... we decline to consider the assignments of error. ... [D25, D27, D30].” In the COAV, no FCCC issues were resolved and only COAV Assignments of Error were created. For Statement of Facts, Petitioner adopts and incorporates the preceding “Concise Statement of the Case” Section, Appendix Pages **B1-3, C1-13, & D1-43** herein as if these pages were fully rewritten verbatim hereat.

**RES JUDICATA:**

In prior litigation between ***Petitioner/Appellant Mercer*** (herein “**Petitioner**”), ***Prosecutor County of Fairfax***, and ***Prosecutor Commonwealth of Virginia***, it was decided and is *Res Judicata* that these Prosecutors are two separate, distinct, and not substitutable Prosecutorial Authorities [**C1-13 / R64-68, R85; Doc #2 – 48-49, Apx 60-71; Doc. #5 – 8, Apx 79; Doc. #7 – 3, 6; Doc. #11 – 23; Doc. SCV – 29, 37, 39-45, 50, A(4-6, 56-68)**]. Petitioner was convicted in County of Fairfax v. Gregory Shawn Mercer, FCGDC Case No. GT18216359-00 of “Maintenance of Vehicle Parked on Street” (Fairfax County Ordinance §82-5-43) by **Prosecutor County of Fairfax** on 11/13/2018 [**C1-2 / R64-68, R85; Doc. #2 – 48-49, Apx 60-61; Doc. SCV – 29, 37, 44-45, 50, A(4-6, 56-57)**]. Petitioner appealed *de novo* in the FCCC and was convicted of “Maintenance of a Vehicle Parked on Street” in the FCCC by **Prosecutor County of Fairfax** on 1/3/2019 [**C3 / R64-68, R85; Doc. #2 – 48-49, Apx 62 (First paragraph); Doc. SCV – 29, 37, 44-45, 50, A(4-6, 58(First Paragraph))**]. However, FCCC Judge Thomas P. Mann executed a 1/15/2019 “Final Order” captioned Commonwealth of Virginia v. Gregory Shawn Mercer, FCCC Case No. MI-2018-1766 changing the FCCC Prosecutor from **Prosecutor County of Fairfax** to **Prosecutor Commonwealth of Virginia** [**C3-4 / R64-68, R85; Doc. #2 – 48-49, Apx 62-63; Doc. SCV – 29, 37, 44-45, 50, A(4-6, 58-59)**]. Petitioner filed a 1/23/2019 FCCC to COAV “Notice of Appeal” [**C5-7 / R64-68, R85; Doc. #2 – 48-49, Apx 64-66; Doc. SCV – 29, 37, 44-45, 50, A(4-6, 60-62)**] likewise captioned Commonwealth of Virginia v. Gregory Shawn Mercer, FCCC Case No. MI-2018-1766 [**C5 / R64-68, R85; Doc. #2 – 48-49, Apx 64; Doc. SCV – 29, 37, 44-45, 50, A(4-6, 60)**] which attached Judge Mann’s 1/15/2019 “Final Order” [**C3-4 / R64-68, R85; Doc. #2 – 48-49, Apx 62-63; Doc. SCV – 29, 37, 44-45, 50, A(4-6, 58-59)**]. There was a 10/10/2019 “Opinion” in the COAV [**C8-11 / R64-68, R85; Doc. #2 – 48-49, Apx 67-70; Doc. SCV – 29, 37, 44-45, 50, A(4-6, 63-66)**] then a 1/27/2020 “Final Order” in the COAV [**C12 / R64-68, R85; Doc. #2 – 48-49, Apx 71; Doc. SCV – 29, 37, 44-45, 50, A(4-6, 67)**] faulting Petitioner for failing to name the necessary party “County of Fairfax” instead naming only “Commonwealth of Virginia” in the caption of his 1/23/2019 FCCC to COAV “Notice of Appeal” [**C5 /**

**R64-68, R85; Doc. #2 – 48-49, Apx 64; Doc. SCV – 29, 37, 44-45, 50, A(4-6, 60)].** There was a 1/11/2021 “Final Order” in *Gregory Shawn Mercer v. Commonwealth of Virginia*, SCV Record No. 200331 where the SCV “dismissed” the appeal stating “lack of jurisdiction” citing “Code [of Virginia] §17.1-410(A)(1) and (B)” [C13 / **R64-68, R85; Doc. #5 – 8, Apx 79; Doc. SCV – 29, 37, 44-45, 50, A(4-6, 68)]** as a result of Petitioner’s failure to name necessary party “County of Fairfax” in the COAV. Petitioner’s “Petition for Writ of Certiorari to the SCV,” SCOTUS Case No. 20-1827 was *certiorari denied* on 10/4/2021 and *rehearing denied* on 12/6/2021 [**R64-68, R85; Doc. #2 – 48-49, Apx 3; Doc. SCV – 29, 37, 44-45, 50, A(5-6)]**. By *Res Judicata*, this is now the Law of this new Case/Appeal concerning Petitioner’s “Improper Passing on Right” alleged on 2/6/2020 that **Prosecutor Commonwealth of Virginia** is separate, distinct, and not substitutable for **Prosecutor County of Fairfax**. What is *Res Judicata* between the **Petitioner, Appellee County of Fairfax, and Appellee Commonwealth of Virginia** is precluded from being relitigated.

#### **FCGDC:**

On 2/6/2020, Petitioner received a Fairfax County Summons alleging “Unlawful Passing on Right” (Fairfax County Ordinance §82-1-6 adopting Code of Virginia §46.2-841) summoning Petitioner to appear in the FCGDC on 4/21/2020 for *County of Fairfax v. Gregory Shawn Mercer*, FCGDC Case No. GT20027665-00 [**R73-75, R107; Doc. #2 – 32, 48-49, Apx 4; Doc. SCV – 37, 42-43, A6]**. Beginning on 3/16/2020 and continuing through many SCV Orders while Petitioner was in the FCGDC and FCCC and which SCV Orders were not the Supreme Law of the Land according to the **U.S. Supremacy Clause** [**R81-83; Doc. #2 – 34-35, 48-49, Apx 6-7; Doc. SCV – 37, A26**], the SCV Declared a Judicial Emergency in Virginia due to COVID-19 [**R81-83 R90, R101, R111-112; Doc. #2 – 34-35, 48-49, Apx 7; Doc. SCV – 37, A6**]. **Prosecutor County of Fairfax** continued FCGDC Case No. GT20027665-00 five times (7/28/2020, 11/17/2020, 1/26/2021, 5/18/2021, and 6/29/2021) then Petitioner used his one allowed continuance (7/13/2021) [**R2, R55, R75-77, R80-81; Doc. #2 – 32, 48-49, Apx 4; Doc. SCV – 37, A(6-7)]**. The Arresting Officer failed to appear in the FCGDC on 7/13/2021 but the FCGDC Judge denied Petitioner’s In-Court Motion to Dismiss unreasonably [**R80-81; Doc. #2 – 33, 48-49, Apx 4-5; Doc. SCV – 37, A7**]. FCGDC Case No. GT20027665-00 was continued 70 days until 9/21/2021 [**R64-67, R81; Doc. #2 – 33, 48-49, Apx 4-5; Doc. SCV – 37, A7**]. In opposition to the SCV’s Orders declaring a Judicial Emergency which were not the Supreme Law of the Land [**R81-83; Doc. #2 – 35, 48-49, Apx 7; Doc. SCV – 37, A7**], Petitioner invoked his U.S. Amendment VI &

XIV "... right to a for a speedy and public trial, ... [R83, R86; Doc. #2 – 33, 48-49, Apx 4; Doc. SCV – 37, A7]" which *is* the Supreme Law of the Land [R81, R83-84; Doc. #2 – 34-35, 48-49, Apx 7; Doc. SCV – 37, A7] on his 593rd day (on 9/21/2021) after receiving his Summons [R86; Doc. #2 – 33-34, 48-49, Apx 4-5; Doc. SCV – 37, A7]. Petitioner was convicted [See attached 9/21/2021 FCGDC "Final Order" R55 at D1] by *Prosecutor County of Fairfax* in the FCGDC of "Improper Passing on Right" on 9/21/2021 [R1, R55; Doc. #2 – 33-34, 48-49, Apx 5; Doc. SCV – 37, A(7, 49)]. Petitioner filed a 9/21/2021 FCGDC to FCCC "Notice of Appeal – Criminal" for a *de novo* FCCC Trial of *County of Fairfax v. Gregory Shawn Mercer*, FCGDC Case No. GT20027665-00 for FCCC Trial on 11/4/2021 [R1, R82, R109; Doc. #2 – 34; Doc. SCV – 37, A(7-8)].

**FCCC:**

Petitioner received by mail a 10/7/2021 "Notice of Hearing Date" for *Commonwealth of Virginia v. Gregory Shawn Mercer*, FCCC Case No. MI-2021-776 scheduled for a FCCC Trial on 11/4/2021 [R56, R82, R110; Doc. #2 – 34; Doc. SCV – 37, A8]. Thereafter, Petitioner testified that *Prosecutor County of Fairfax* had appeared in "improper person" as *Prosecutor Commonwealth of Virginia* on 11/4/2021 to no avail [R64-68, R85; Doc. #2 – 35, 48-49, Apx 5; Doc. SCV – 37, A8]. Petitioner invoked his U.S. Amendment V, VI, & XIV Rights which *are* the Supreme Law of the Land [R81, R84-85; Doc. #2 – 34-35, 48-49, Apx 4-5; Doc. SCV – 37, A8] adding to his previous FCGDC "Speedy and Public Trial" Right a Protection from Double Jeopardy Right being "... nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; ... [R64-67, R78, R82-87, R90; Doc. #2 – 35; Doc. SCV – 37, A8]." Petitioner argued in the FCCC using the Barker-Doggett Four-Part Test [R64-68, R86-89, R115-119; Doc. #2 – 35-36, 48-49, Apx 4-5; Doc. SCV – 37, A8]. The 70-day delay [R75, R80-81; Doc. #2 – 36, 48-49, Apx 4; Doc. SCV – 37, A8] caused by the Arresting Officer's failure to appear in the FCGDC on 7/13/2021 and which appearance the Arresting Officer was unaware prior to 7/13/2021 [R76-77, R80; Doc. #2 – 36, 48-49, Apx 4; Doc. SCV – 37, A(8-9)] had prejudiced the Petitioner [R86, R88-89; Doc. #2 – 36-38, 48-49, Apx 4; Doc. SCV – 37, A9]. Petitioner was unable to withdraw a tax-free, 60-day rollover from his Individual Retirement Account (IRA) for a year after 10/26/2021 as a result because the 593-day delay had necessitated Petitioner borrowing money for his mortgage from his IRA on 9/14/2021 [R88-89, R118-119; Doc. #2 – 38, 48-49, Apx 4-5; Doc. SCV – 37, A9]. The FCCC Trial Judge denied Petitioner's U.S. Amendment V, VI, and XIV Rights which is Public Policy in Virginia since Virginia has been a renewed Confederacy since 1902 which does not

enforce State or Federal Rights [R64-69, R91-98; Doc. #2 – 39-49, Apx 4-15; Doc. SCV – 37, A9]. Petitioner was convicted [See attached 11/9/2021 FCCC “Final Order” R57-58 at D2-3] by *Prosecutor Commonwealth of Virginia* in the FCCC of “Improper Passing on Right” (Code of Virginia §46.2-841) on 11/4/2021 [R57-58, R102-103; Doc. #2 – 38, 48-49, Apx 5; Doc. SCV – 37, A(9, 50-51)]. After violating Petitioner’s U.S. Amendment V, VI, & XIV Rights and Supreme Law of the Land, the FCCC Trial Judge amended the charge of conviction to “Failure to Pay Full Time and Attention” (Fairfax County Ordinance §82-4-24) suspending the \$20 fine [R57, R104; Doc. #2 – 38, 48-49, Apx 5; Doc. SCV – 37, A9]. Petitioner filed an 11/4/2021 “FCCC to COAV Notice of Appeal” this time captioned *Commonwealth of Virginia & County of Fairfax v. Gregory Shawn Mercer*, FCCC Case No. MI-2021-776 in the FCCC and COAV with his \$50 COAV fee [R59-62; Doc. #1 – 1-4, Doc. #2 – 38; Doc. SCV – 37, A(9-10, 52-55)].

Petitioner presented the fact that the method by which all Virginia State, County, and City Judges are chosen by Virginia General Assembly Representatives according to *1971 Constitution of Virginia, Article VI, Section 7* [R96; Doc. #2 – 44, 48-49, Apx 10-11; Doc. SCV – 37, A10] is contrary to the Supreme Law of the Land (*U.S. Supremacy Clause*) found in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) [R98; Doc. #2 – 44-45, 48-49, Apx 6; Doc. SCV – 37, A10] in FCCC testimony on 11/4/2021 [R64-69, R96-97; Doc. #2 – 44-46, 48-49, Apx 6; Doc. SCV – 37, A10]. *Duncan* read in FCCC testimony on 11/4/2021 [R98 (See *Duncan* below)] makes it an Unenumerated Right protected by U.S. Amendment IX [R64-67, R69, R95-98, R102, R120; Doc. #2 – 24, 26, 30-31, 44, 48-49, 51, 66, 71, Apx 6, 8, 13; Doc. SCV – 37, A(10, 97); D36] that the Virginia Citizens have the Right to choose their own Virginia State, County, and City Judges [R98, R120; Doc. #2 – 44-45, 48-49, Apx 6; Doc. SCV – 37, A(10, 97); D36]. Petitioner expects that the SCOTUS will make U.S. Amendments IX & X applicable to the States via U.S. Amendment XIV and/or the *U.S. Privileges and Immunity Clause* (U.S. Constitution, Article IV, Section 2) [R64-69, R81, R91-92, R95-98, R102, R120; Doc. #2 – 31, 64-65, 67, 71; Doc. SCV – 37, 53, A(18, 97); D36]. When the Virginia Police endorse for Office the Virginia General Assembly Representatives [D36 / R95-96, R120; Doc. #2 – 45, 48-49, Apx 11; Doc. SCV – 37, A(10, 97)] who choose all the Virginia State, County, and City Judges contrary to the *1971 Constitution of Virginia, Article I, Section 5* [R64-69, R96-98; Doc. #2 – 44, 48-49, 69, Apx 10-12; Doc. SCV – 37, A(10-11)], a CONFLICT OF INTEREST arises where these Virginia Judges stop enforcing State and Federal Rights ignoring the *1971 Constitution of Virginia, Article I, Section 2* [R64-69, R96-98; Doc. #2 – 45-46, 48-49, 67, Apx 12, 14; Doc. SCV – 37, A11].

**1971 Constitution of Virginia, Article I, Section 2** - "That all power is vested in, and consequently derived from, the people, that magistrates are their trustees and servants, and at all times amenable to them. [R64-67, R69, R97; Doc. #2 – 45-46, 48-49, 67, Apx 12, 14; Doc. SCV – 37, A(11, 30)]"

**1971 Constitution of Virginia, Article I, Section 5** - "That the legislative, executive, and judicial departments of the Commonwealth should be separate and distinct; ... [R64-67, R69, R96-97; Doc. #2 – 48-49, 69, Apx 11-12, 14; Doc. SCV – 37, A(11, 30)]"

These Virginia Judges fear that upsetting or angering the Police Witness for the Prosecution will cause that Officer to contact his/her Police Lobby which will interfere in that Judge's next Judicial Election in the Virginia General Assembly such that the Judge will not be allowed to keep his/her Bench nor move up to a higher Appellate Bench [R64-69, R96-97; Doc. #2 – 45-46, 48-49, Apx 12-13; Doc. SCV – 37, A11]. Since a Defendant's State Rights merely complicate the enforcement duties of the Police Witness for the Prosecution, these Virginia Rights are the first to be denied by the Virginia Judges [R64-69, R97; Doc. #2 – 45-46, 48-49, Apx 12-13; Doc. SCV – 37, A(11-12)] while a Defendant's Federal Rights are denied by interpretation of the U.S. Bill of Rights in the SCV in accordance with the ***1971 Constitution of Virginia, Article VI, Sections 1 & 2*** [R98; Doc. #2 – 41-42, 46-49, Apx 13; Doc. SCV – 37, A12] which is contrary to the ***U.S. Supremacy Clause*** [R81; Doc. #2 – 34-35, 44-49, Apx 6-7; Doc. SCV – 37, A12]. Virginia must have a Virginia Constitutional Convention to rewrite the ***1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7*** because Virginia has continued from 1902 as a renewed Confederate Police Government which does not enforce State or Federal Rights as Public Policy [R64-69, R96-98; Doc. #2 – 41, 43-49, 69, Apx 8-11, 14; Doc. SCV – 37, A12].

Petitioner presented the fact that despite what is stated in the ***U.S. Supremacy Clause*** read in FCCC testimony on 11/4/2021 [R81 (See ***Supremacy Clause*** below)], Virginia prioritizes SCV Orders including Declarations of Virginia Judicial Emergency [R64-67, R81-84, R101; Doc. #2 – 34-35, 48-49, Apx 6-8; Doc. SCV – 37, A12] over the Supreme Law of the Land and the enforcement of Federal Rights like Petitioner's U.S. Amendments V, VI, & XIV Rights herein [R64-69, R93-105; Doc. #2 – 45-49, Apx 10-13; Doc. SCV – 37, A12]. But State Judges are "bound" by the Supreme Law of the Land according to the ***U.S. Supremacy Clause*** [R81; Doc. #2 – 34-35, 48-49, Apx 6-7; Doc. SCV – 37, A(12-13)] meaning that U.S. Amendment X prohibits State Judges the POWER to impeding the

enforcement of Petitioner's U.S Amendment V, VI, & XIV Rights [R64-68, R81-82, R91-92, R99-102; Doc. #2 – 24, 26, 29, 31, 48-49, 51, 57-58, 64-65, 71, Apx 6-8, 13; Doc. SCV – 37, A13]. Petitioner expects that the SCOTUS will make U.S. Amendments IX & X applicable to the States via U.S. Amendment XIV and/or the *U.S. Privileges and Immunity Clause* (U.S. Constitution, Article IV, Section 2) [R64-69, R81, R91-92, R95-98, R102, R120; Doc. #2 – 31, 64-65, 67, 71; Doc. SCV – 37, 53, A(18, 97); D36].

**COAV:**

Petitioner had filed a timely 11/4/2021 “FCCC to COAV Notice of Appeal [Doc. #1 – 1-4 / See attached Notice at D4-7 (Doc. SCV – 37, A(13, 52-55)].” Petitioner filed his timely-after-extension 5/25/2022 “Opening Brief of Appellant” with five Assignments of Error (Adding a Sixth Assignment of Error on 4/3/2023 [Doc. #11 – 29-30]) in the COAV [Doc. #2 – 1-74, Apx 1-78 emphasizing Apx 31 & 78; Doc. #5 – 8, Apx 79; Doc. SCV – 37, A13] in *Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax*, COAV Record No. 1193-21-4 [See attached COAV Docket Entries on Appendix pages B1-2]. COAV Deputy Clerk Tori J. Cotman (804-786-5661) sent Petitioner a 5/26/2022 e-mail stating “... submit an amended opening brief in compliance with the cited rule [RSCV Rule 5A:20(c)]. ... Failure to comply *may* result in dismissal of this appeal [D43 / Doc. #3 – 1-2; Doc. SCV – 37, A13].” The issue was “... Assignments of error cannot be stated in question form; they must be stated in the affirmative. ... [D43 / Doc. #3 – 2; Doc. SCV – 37, A(13-14)].” However, RSCV Rule 5A:20(c) states no such thing [Doc. #3 – 2; Doc. SCV – 37, A14]. Petitioner first saw the 5/26/2022 e-mail from Deputy Clerk Cotman on 7/25/2022. Petitioner filed a 7/26/2022 “*Pro se* Appellant’s Objection and Motion [Doc. #3 – 1; Doc. SCV – 37, A14 / See attached “*Pro Se Appellant’s Objection and Motion (Doc. #3)*” at D8-13 (Doc. SCV – 37, A(69-74))” moving the COAV for

“... a Waiver or Exception to his Assignments of Error [not] being submitted in Affirmative Statement [Form] for environmental reasons sparing the 154 pages times four of paper, the 2-mile round trip to the Fairfax County Courthouse collecting a Fairfax Commonwealth’s Attorney’s Office Stamp, and the 224-mile round trip to Richmond to file an ‘Amended Opening Brief of Appellant.’ ... This ‘Amended Opening Brief of Appellant’ is an overly burdensome and unnecessary requirement for a new father of his 16-month-old daughter struggling to get training in order to start a new job [D11 / Doc. #3 – 4; Doc. SCV – 37, A(14, 72)].”

RSCV Rule 5A:20(c) states nothing specifically about Assignments of Error being in Question Form nor requiring them to be in Affirmative Statement Form [Doc. SCV – 37, A14] (In COAV Deputy Clerk Tori J. Cotman's 5/26/2022 e-mail [D43], it stated, "... it appears that the brief is not in compliance with the following Rules: 5A:20(c): The brief does not contain 'assignments of error.' ... Assignments of error cannot be stated in question form; they must be stated in the affirmative. ... Accordingly, you must submit an amended opening brief in compliance with the cited rules via VACES within 10 days of the date of this notification [this e-mail first seen by Petitioner 60 days later on 7/25/2022]. ... Failure to comply may [emphasized by Petitioner] result in dismissal of the appeal [emphasized by Petitioner]. ... [D43 (Not Petitioner-provided to SCV yet but there is still time)]") However, the COAV chose not to dismiss Petitioner's COAV Appeal but rather failed to rule on Petitioner's 7/26/2022 "*Pro Se* Appellant's Objection and Motion [D8-13 / Doc. #3 – 1-6; Doc. SCV – 37, A(69-74)]" then opined in the COAV 3/28/2023 "Memorandum Opinion per Curium [D25-34 / Doc. SCV – 37, A(86-95)]" that the COAV "... decline[d] to consider the assignments of error [D25 / Doc. SCV – 37, A86] ..." also stating, "... Because the assignments of error in Mercer's opening brief were stated as questions rather than in the affirmative, this Court's clerk's office advised Mercer by e-mail in May 2022 that he should file an amended brief within ten days. Mercer objected to this notice, several months later, arguing he had not read the prior email [D27 / Doc. SCV – 37, A88] ..." Meanwhile, Petitioner's [Mercer's] COAV Appeal concerned a violation of his U.S. Amendments V and XIV Right which is the Supreme Law of the Land contrary to RSCV Rule 5A:20(c) which is not the Supreme Law of the Land "... and the Judges of every State shall be bound thereby ..." in accordance with the *U.S. Supremacy Clause* [(See below) / R81, Doc. #2 – 34-35, Doc. SCV – 37, A26]. This denial of a Federal Right is happening while Petitioner is arguing that Virginia in a "Renewed Confederacy" since 1902 that has as Public Policy the denial of all State and Federal Rights with the hallmark that Virginia disrespects the *U.S. Supremacy Clause* in a Confederate Manner which is clearly illustrated in Petitioner's COAV Appeal just recently concluding on 4/18/2023 [D35 / Doc. SCV – 37, A96]):

**RSCV Rule 5A:20(c)** – "(c) Under a heading entitled 'Assignments of Error,' the brief must list, clearly and concisely and without extraneous argument, the specific errors in the rulings below-or the issue(s) on which the tribunal or court appealed from failed to rule-upon which the party intends to rely, or the specific existing case law that should be overturned, extended, modified or reversed. An exact reference to the page(s) of the record or appendix where

the alleged error has been preserved in the trial court or other tribunal from which the appeal is taken must be included with each assignment of error but is not part of the assignment of error. If the error relates to failure of the tribunal or court below to rule on any issue, error must be assigned to such failure to rule, providing an exact reference to the page(s) of the record or appendix where the alleged error has been preserved in the tribunal below, and specifying the opportunity that was provided to the tribunal or court to rule on the issue(s).

**(1) Effect of Failure to Assign Error.** Only assignments of error listed in the brief will be noticed by this Court. If the brief does not contain assignments of error, the appeal will be dismissed.

**(2) Insufficient Assignments of Error.** An assignment of error that does not address the findings, rulings, or failures to rule on issues in the trial court or other tribunal from which an appeal is taken, or which merely states that the judgment or award is contrary to the law and the evidence, is not sufficient. If the assignments of error are insufficient, the appeal will be dismissed.

**(3) Effect of Failure to Use Separate Heading or Include Preservation Reference.** If the brief contains assignments of error, but the assignments of error are not set forth under a separate heading as provided in subparagraph (c) of this Rule, a rule to show cause will issue pursuant to Rule 5A:1A. If there is a deficiency in the reference to the page(s) of the record or appendix where the alleged error has been preserved in the trial court or other tribunal from which the appeal is taken-including, with respect to error assigned to failure of such tribunal to rule on an issue, an exact reference to the page(s) where the issue was preserved in such tribunal, specifying the opportunity that was provided to the tribunal to rule on the issue(s)-a rule to show cause will issue pursuant to Rule 5A:1A [Doc. #3 – 2; Doc. SCV – 37, A14-16].”

[D9; Doc. SCV – 37, A70 / The above is noted as specifically not stating anywhere, “... Assignments of error cannot be stated in question form; they must be stated in the affirmative ...” as alleged by COAV Deputy Clerk Tori Cotman Doc. #3 – 1-2; Doc. SCV – 37, A(69-70) – COAV ignored U.S. Supremacy Clause].

*Appellee County of Fairfax* never appeared in the COAV [Doc. #9 – 4-5; Doc. #11 – 27-28; Doc. SCV – 37, A16]. Petitioner continuously maintained service of all his COAV-filed documents in *Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax*, COAV Record No. 1193-21-4 on both *Appellee Commonwealth of Virginia* and *Appellee County of Fairfax* in the COAV continuing to present [Doc. #1\* – 3-4; Doc. #2\* – 72-74 plus Process Server on 1/26/2023; Doc. #3\* – 5-6; Doc. #4\* – 10; Doc. #5\* – 14-15; Doc. #6 – 3-4; Doc. #7 – 14; Doc. #8 – 11; Doc. #9 – 5-6; Doc. #10 – 6; Doc. #11 – 32-33; Doc. #12\* – 5-6; Doc. SCV\* – 62-63] where an asterisk after document number above signifies Petitioner hand-delivered that document to *Appellee County of Fairfax*.

*Appellee Commonwealth of Virginia* filed three Motions to Stay or Suspend the Briefing Schedule (on 7/12/2022, on 7/21/2022, & on 9/19/2022) including one Motion (on 7/21/2022) moving for remand back to the FCCC seeking *nunc pro tunc* FCCC Orders in order to nullify the fact that Petitioner's U.S. Amendment V & XIV Rights had *already been violated* on 11/4/2021 [Petitioner Responses: Doc. #4, Doc. #5, & Doc. #8; Doc. SCV – 37, A(16-17)]. The *nunc pro tunc* FCCC Orders would have switched the 11/4/2021 FCCC Prosecutor from *Prosecutor Commonwealth of Virginia* to *Prosecutor County of Fairfax* which remand is a prohibited POWER of either the COAV or SCV by the U.S. *Supremacy Clause*'s prohibition on State Judges' interference in the enforcement of the Supreme Law of the Land which is addressed in U.S. Amendment X [Doc. #2 – 29, 34-35; Doc. #5 – 4-6, 12-13; Doc. #6 – 2-3; Doc. #7 – 6-13; Doc. SCV – 37, A17]. Petitioner expects that the SCOTUS will make U.S. Amendments IX & X applicable to the States via U.S. Amendment XIV and/or the *U.S. Privileges and Immunity Clause* (U.S. Constitution, Article IV, Section 2) [R64-69, R81, R91-92, R95-98, R102, R120; Doc. #2 – 31, 64-65, 67, 71; Doc. SCV – 37, 53, A(18, 97); D36]:

Doc. #5 – 4-6; Doc. SCV – 37, A17-18 – “For the Court to ‘STAY’ or ‘REMAND TO THE FCCC’ would be contrary to Federal Case Law *Ableman v. Booth*, 62 U.S. 506 (1859) and *Cooper v. Aaron*, 358 U.S. 1 (1958) because a State Court cannot nullify and/or render unenforceable Federal Laws or *already violated* Appellant Federal Rights which are the Supreme Law of the Land. The *U.S. Supremacy Clause* (United States Constitution, Article VI, Clause 2) states:

***U.S. Supremacy Clause*** - ‘This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the

United States, shall be *the supreme Law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the Contrary notwithstanding.* [R81].'

... Because the ***U.S. Supremacy Clause*** prohibits any power over the Supreme Law of the Land to the States, by **U.S. Amendment X & XIV** and/or the **[U.S.] Privileges and Immunities Clause** (Constitution of the United States, Article IV, Section 2) no Judge on any State Court nor specifically on this [COAV] or on an FCCC Court or on [an] FCGDC Court may interpret **U.S. Amendment V & XIV** (Appellant's Federal Rights):

**U.S. Amendment X** – 'The powers not delegated to the United States by the Constitution, *nor prohibited by it to the States* [emphasis added], are reserved to the States respectively, or to the people."

**Doc. #5 – 12-13; Doc. SCV – 37, A18** – "In ***Ableman v. Booth***, 62 U.S. 506 (1859), Sherman Booth was convicted of violating the Fugitive Slave Act of 1850 in the United States District Court for the District of Wisconsin. Booth petitioned the Supreme Court of Wisconsin for release from Federal jail via a writ of *habeas corpus*. The Supreme Court of Wisconsin released Booth. The Supreme Court of the United States reversed the Supreme Court of Wisconsin. In ***Cooper v. Aaron*** 358 U.S. 1 (1958), the Governor and Legislature of Arkansas openly resisted the U.S. Supreme Court's decision in ***Brown v. Board of Education***. The United States District Court for the Eastern District of Arkansas granted the school board's request to continue State segregated school/busing. The Supreme Court reversed the United States District Court."

Unconstitutionally, the COAV granted ***Appellee Commonwealth of Virginia's*** Motion that attempted to nullify Petitioner's U.S. Amendment V & XIV Right so the COAV remanded back to the FCCC for *nunc pro tunc* Orders on 8/9/2022 contrary to the ***U.S. Supremacy Clause*** and **U.S. Amendment X** [See attached 8/9/2022 COAV Order at D14-15; Doc. SCV – 37, A(18-19, 75-76)] (By the way, this was the *only* COAV Order by its caption properly identifying that "County of Fairfax" was an Appellee). But the FCCC denied the issuance of any *nunc pro tunc* Orders on 8/12/2022 [See attached 8/12/2022 FCCC Order at D16; Doc. SCV – 37, A(19, 77)]. Thereafter, the COAV refused to rule on ***Appellee Commonwealth of Virginia's*** third Motion to Suspend the Briefing Schedule for 190 days (9/19/2022 to 3/28/2023) creating an "In-Effect" Suspension of the Briefing Schedule. Petitioner filed a 11/5/2022 "Motion for Ruling" [See attached Motion

(Doc. #9 – 1-6 at 4-5) being D17-22 at D20-21; Doc. SCV – 37, A(19, 78-83 at 81-82)] moving the COAV: 1) to compel the appearance *Appellee County of Fairfax* in the COAV; 2) to compel *Appellee Commonwealth of Virginia* and *Appellee County of Fairfax* to file “Briefs of Appellee” in the COAV; and 3) for a COAV Ruling on *Appellee Commonwealth of Virginia’s* Third Motion being its 9/19/2022 “Motion to Amend Style of Case, to Suspend Briefing Schedule, and for Withdrawal of Counsel.”

The COAV failed to rule on Petitioner’s 7/26/2022 “*Pro se* Appellant’s Objection and Motion [See attached **Objection and Motion D8-13 / Doc. #3 – 1-6; Doc. SCV – 37, A(19. 69-74)**]” about a Waiver or Exception to Petitioner’s Assignment of Errors being in Question Form, failed to rule on Petitioner’s 11/5/2022 “Motion for Ruling [See attached **Motion (Doc. #9) at D17-22; Doc. SCV – 37, A(19-20, 78-83)**],” then issued a 3/28/2022 “Memorandum Opinion Per Curium” stating, “Because Mercer does not identify any way that he preserved any of these issues for appellate review and because he otherwise ignores the rules of this Court, we decline to consider the assignments of error [See attached 3/28/2023 COAV “Memorandum Opinion Per Curium,” 1; Doc. SCV – 37, A(20, 86)].” The 3/28/2023 “Memorandum Opinion Per Curium [Doc. SCV – 37, A(86-95)]” violated the *U.S. Supremacy Clause* with State Judges ignoring the Supreme Law of the Land being the violation of Petitioner’s **U.S. Amendment V & XIV Right**. Petitioner filed a 4/3/2023 “Petition for Rehearing, Objection, and RSCV Rule 5A:4A Letter to COAV Clerk [Doc. #11 – 16-18; Doc. SCV – 37, A20]” identifying that all Virginia State, County, and City Judges were, in fact, INCOMPETENT due to the CONFLICT OF INTEREST to which Petitioner had testified in the FCCC on 11/4/2021 [R64-69, R95-98; Doc. #2 – 44-46, 48-49, 69, Apx 10-14; Doc. SCV – 37, A20] with the Police Endorsing for Office the Virginia General Assembly Representatives [D36 and R120] who choose all the State, County, and City Judges (violation of the *1971 Constitution of Virginia, Article I, Section 5* [R64-69, R95-98; Doc. #2 – 44-46, 48-49, 69, Apx 10-14; Doc. SCV – 37, A(20-21)]).

The COAV issued a “Final Order” on 4/18/2023 [See attached **4/18/2023 COAV “Final Order” at D35; Doc. SCV – 37, A(21, 96)**] again totally ignoring the fact that the COAV had violated the *U.S. Supremacy Clause* by *refusing to be bound by the Supreme Law of the Land and addressing Petitioner’s U.S. Amendment V & XIV Right violation* where *Appellee County of Fairfax* tried and convicted Petitioner in the FCGDC on 9/21/2021 then *Appellee Commonwealth of Virginia* tried and convicted Petitioner in the FCCC on 11/4/2021 for the same charge. This was Double Jeopardy by *Res Judicata* since

these Prosecutors are two separate, distinct, and not substitutable Prosecutorial Authorities [Doc. SCV – 37, A21]. Petitioner filed a 5/8/2023 “COAV to SCV Notice of Appeal / Objection / Good Cause Motion for RSCV Rule 5:17(a)(2) Extension” simultaneously in the COAV and SCV transferring Jurisdiction to the SCV which SCV Motion for Extension was denied by the SCV on 5/11/2023 [See attached Notice and Objection D37-42 / Doc. #12 – 1-6; Doc. SCV – 37, A21].

SCV:

Petitioner commenced *In Re: Gregory Shawn Mercer*, SCV Record No. 220746 [See attached SCV Docket Entries on Appendix page B3] by filing 11/15/2022- mailed “Corrected Petition for Writ of Mandamus to the Chief Judge of the COAV, Marla Decker.” **Respondent COAV Chief Judge Decker** through counsel Christopher P. Bernhardt responded on 1/9/2023 to which Petitioner replied on 1/16/2023 by mail to the COAV. Ultimately, this case became moot when the COAV issued its 4/18/2023 “Final Order.” The COAV never ruled on whether: 1) to compel the appearance *Appellee County of Fairfax* in the COAV; nor 2) to compel *Appellee Commonwealth of Virginia* and *Appellee County of Fairfax* to file “Briefs of Appellee” in the COAV which were the point of Petitioner’s 11/5/2022 “Motion for Ruling [Doc. #9]” in *Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax*, COAV Record No. 1193-21-4 [Doc. SCV – 37, A22].

Petitioner filed a 1/24/2023 “Petition for Writ of Certiorari to the COAV [D23 / Doc. SCV – 37, A(22, 84)]” in the SCV paying a \$50 fee which fee was finally returned to Petitioner. The SCV treated this Petition for Writ of Certiorari as a “Motion for Certification” without giving it a case number then denied the Motion on 2/2/2023 [D24 / Doc. SCV – 37, A(22, 85)] being nine days after it was filed and **BEFORE Respondents Commonwealth of Virginia or Respondent County of Fairfax** responded. This is indicative that the SCV was acting together with the COAV to impede the Appellate Jurisdiction of the SCOTUS by preventing any **Prosecutor Commonwealth of Virginia or Prosecutor County of Fairfax** Response to Petitioner’s 5/25/2022 “Opening Brief of Appellant” which argued that Petitioner’s U.S. Amendment V & XIV Right had been violated in Virginia through trials in the FCGDC on 9/21/2021 then in the FCCC on 11/4/2021 for the same charge using different Prosecutorial Authorities which were not substitutable by *Res Judicata* [Doc. SCV – 37, A(22-23)].

Petitioner filed a 5/8/2023 “COAV to SCV Notice of Appeal / Objection / Good Cause Motion for RSCV Rule 5:17(a)(2) Extension” simultaneously in the SCV and COAV transferring Jurisdiction to the SCV which SCV Motion for Extension was

denied by the SCV on 5/11/2023 [See attached Notice and Objection D37-42 / Doc. #12 – 1-6; Doc. SCV – 37, A21]. However, Petitioner mailed and hand-delivered a 5/18/2023 “SCV Petition for Appeal / ...” to the SCV which had too many words violating RSCV Rule 5:17(f) then filed a 5/23/2023 “SCV Corrected Petition for Appeal / SCOTUS Petition for Extraordinary Writ of Mandamus to the Chief Judge of the SCV, S. Bernard Goodwyn” Joint Petition which was hand-delivered to **Prosecutor County of Fairfax** on 5/23/2023 and received via USPS by **Prosecutor Commonwealth of Virginia** on 5/25/2023. A SCV Clerk docketed Gregory Shawn Mercer v. Commonwealth of Virginia & Fairfax County as SCV Record No. 230354. SCOTUS Deputy Clerk Redmond K. Barnes did not docket the SCV/SCOTUS Joint Petition in the SCOTUS on either 5/26/2023 nor 6/16/2023. In accordance with RSCV Rule 5:18(a), **Prosecutor County of Fairfax** had until 6/13/2023 and **Prosecutor Commonwealth of Virginia** had until 6/15/2023 to file electronically any “Brief in Opposition.” Petitioner filed a 6/13/2023 “SCV Motion to Compel Respondent Commonwealth of Virginia and Respondent County of Fairfax to Appear in the SCV and File Responsive SCV ‘Briefs in Opposition’ in Accordance with RSCV Rule 5:18(a).” As of 8/25/2023 when Petitioner checked, neither **Prosecutor County of Fairfax** nor **Prosecutor Commonwealth of Virginia** had filed Briefs in Opposition in SCV Record No. 230354 and Petitioner’s 6/13/2023 Motion was still pending without SCV decision.

#### **VIRGINIA’S CONFEDERATE HISTORY:**

**U.S. Supremacy Clause (U.S. Constitution, Article VI, Clause 2)** – “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding [R81, R84; Doc. #2 – 34-35, Apx 7; Doc. SCV – 37, A26].”

**1863 Constitution of West Virginia, Article I, Section 1** – “The State of West Virginia shall be and remain one of the United States of America. The Constitution of the United States, and the laws and treaties made in pursuance thereof, shall be the supreme law of the land [R64-68, R91-92; Doc. #2 – 39-40, Apx 8-9; Doc. SCV – 37, A26].”

Petitioner testified in the FCCC about the history of Virginia and that it has become a renewed Confederacy since 1902 after the U.S. Congress had eradicated all Confederacies from the Union [Doc. #2 – 48-49, Apx 9] between 1866 and 1870

[R64-69, R91-98; Doc. #2 – 39-49, Apx 4-15; Doc. SCV – 37, A26]. A Confederacy is defined by the 1863 Constitution of West Virginia, Article I, Section 1 (a restatement of the **U.S. Supremacy Clause**) as West Virginia broke away from Confederate Virginia and tried to remain in the Union [R64-68, R91-92; Doc. #2 – 39-40, 48-49, Apx 8-9; Doc. SCV – 37, A26]. A Confederacy simply did not respect the **U.S. Supremacy Clause** (U.S. Constitution, Article VI, Clause 2) and was not a Republican Form of Government in accordance with the **U.S. Guarantee Clause** (U.S. Constitution, Article IV, Section 4) [R92; Doc. #2 – 40, 48-49, Apx 9; Doc. SCV – 37, A26-27]. When Virginia was readmitted back to representation in the U.S. Congress after Congressional application of the **U.S. Guarantee Clause**, the 1870 Constitution of Virginia, Article I, Section 3 was a restatement of the **U.S. Supremacy Clause** [R92; Doc. #2 – 40-41, 48-49, Apx 9-10; Doc. SCV – 37, A27]:

**1870 Constitution of Virginia, Article I, Section 3** - "That the Constitution of the United States, and the laws of Congress passed in pursuance thereof, constitute the supreme law of the land, to which paramount allegiance and obedience are due from every citizen, anything in the constitution, ordinances, or laws of any State to the contrary notwithstanding [R92; Doc. #2 – 40-41, 48-49, Apx 10; Doc. SCV – 37, A27]."

However, Virginia abandoned the 1870 Constitution of Virginia Article I, Section 3 restatement of the **U.S. Supremacy Clause** when it adopted the 1902 Constitution of Virginia, Article VI, Section 88 empowering the Supreme Court [of Appeals] of Virginia with the ability to interpret the U.S. Constitution with its U.S. Bill of Rights contrary to the **U.S. Supremacy Clause** [R64-69, R93; Doc. #2 – 41, 48-49, Apx 10; Doc. SCV – 37, A27]. Since SCOTUS only grants certiorari to the State Courts of Last-Resort less than 1% of the time, when the SCV denies a Federal Right it is FINAL making the SCV the Gatekeeper of Federal Rights in Virginia [R64-68, R93; Doc. #2 – 41-42, 48-49, Apx 13; Doc. SCV – 37, A27]. The 1902 Constitution of Virginia, Article VI, Section 88 became the current **1971 Constitution of Virginia, Article VI, Sections 1 & 2** empowering the now Supreme Court of Virginia with the ability to interpret the U.S. Constitution with its U.S. Bill of Rights contrary to the **U.S. Supremacy Clause** [R95; Doc. #2 – 43, 48-49, Apx 13; Doc. SCV – 37, A(27-28)]. Virginia has a Public Policy to not enforce State or Federal Rights because it became a renewed Confederacy in and after 1902.

#### **VIRGINIA JUDGES' CONFLICT OF INTEREST TO DENY ALL RIGHTS:**

In a Democracy, PEOPLE are protected from Government with **Rights**. If one does not respect another's Rights, another can sue the one where a Judge decides whether or not to enforce another's Rights. So in a Democracy or Constitutional Republic, the connection between the PEOPLE and their Judges is paramount to protecting the Rights of the PEOPLE [R96-97; Doc. #2 – 44, 48-49, Apx 10; Doc. SCV – 37, A28].

In a Confederacy, Government is protected from the PEOPLE by **Denying Rights**. Government selects its own Judges in a Confederacy [R96; Doc. #2 – 44, 48-49, Apx 10; Doc. SCV – 37, A28] to be able to ensure State and Federal Rights are denied. Currently, the Virginia General Assembly selects all Virginia State, County, and City Judges through the unconstitutional-with-respect-to-the-U.S.-Supremacy-Clause, **1971 Constitution of Virginia, Article VI, Section 7** [R96-97; Doc. #2 – 44, 48-49, Apx 10; Doc. SCV – 37, A(28-29)].

However, having the Virginia General Assembly choosing all Virginia's State, County, and City Judges is contrary to the Supreme law of the Land found in **Duncan v. McCall**, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) [R98; Doc. #2 – 44-45, 48-49, Apx 6; Doc. SCV – 37, A29] which makes it an **Unenumerated Right** protected by U.S. Amendment IX for the PEOPLE to choose their own Judges and which **Unenumerated Right** Petitioner read to the FCCC Judge during his testimony on 11/4/2021 [R98]:

**U.S. Guarantee Clause** (U.S. Constitution, Article IV, Section 4) - “The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence [“**domestic Violence**” historically means Civil War – R98; Doc. #2 – 44-45, 48-49, 65-66, Apx 9; Doc. SCV – 37, A29].”

**Duncan v. McCall**, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) - “By the constitution, a republican form of government is guarantied [sic. – ‘guaranteed’] to every state in the Union, and the **distinguishing feature of that form is the right of the people to choose their own officers for governmental administration, ...** [R98; Doc. #2 – 44-45, 48-49, 65-66, Apx 6; Doc. SCV – 37, A29].”

Contrary to the **1971 Constitution of Virginia, Article I, Section 5** (See Page 12 above), the Virginia “Police Endorse” for Office the Virginia General Assembly Representatives who choose all the Virginia State, County, and City

Judges [D36 / R95-96, R120; Doc. #2 – 45, 48-49, Apx 11; Doc. SCV – 37, A(30, 97)]. This creates a CONFLICT OF INTEREST for Virginia State, County, and City Judges [R96-97; Doc. #2 – 46, 48-49, Apx 11-13; Doc. SCV – 37, A30]. This CONFLICT OF INTEREST makes laughable the 1971 Constitution of Virginia, Article I, Section 2 (See Page 12 above).

In a Virginia Courtroom, there are the County or City Judge, the Defendant, the Prosecutor, and the Police Witness for the Prosecution. The County or City Judge is worried that upsetting or angering the Police Witness for the Prosecution might cause that Police Witness to go to the Police Lobby which, in turn, would lobby the Virginia General Assembly Representatives interfering in that County or City Judge's next Judicial Election [R97; Doc. #2 – 45, 48-49, Apx 12-13; Doc. SCV – 37, A(30-31)]. The County or City Judge is no longer interested in enforcing the Defendant's State Rights [R97; Doc. #2 – 45-46, 48-49, Apx 12; Doc. SCV – 37, A31]. The County or City Judge wants to please the Police Witness so that the County or City Judge can continue on his or her Bench or move up to an Appellate Bench [R97; Doc. #2 – 46, 48-49, Apx 12-13; Doc. SCV – 37, A31]. The Police Witness for his or her part does not like a Defendant's State Rights which merely complicate that Police Witness' job of enforcement [R97; Doc. #2 – 46, 48-49, Apx 13; Doc. SCV – 37, A31]. The Police Witness wants to go into a Defendant's house to figure out what crimes that Defendant is doing so that the Police Witness could put that Defendant in jail [R97; Doc. #2 – 46, 48-49, Apx 13; Doc. SCV – 37, A31].

#### **NON-TRANSPARENT VIRGINIA POLICE REPORTS:**

This Injustice is compounded by the fact that Virginia practices non-transparency concerning Virginia Police Reports. The Code of Virginia, §2.2-3706(B)(1) makes the disclosure of Virginia Police Reports to the PEOPLE and/or the Accused at the Discretion of the Police Custodian of Records [Doc. #2 – 48-49, Apx 12; Doc. SCV – 37, A31]. Allegations of Virginia Police Misconduct are met with non-transparency so that no Virginia Police Report can be reviewed by the PEOPLE and/or the Accused again making the 1971 Constitution of Virginia, Article I, Section 2 laughable (See Page 12 above).

#### **APPELLANT'S QUESTION TO THE FCCC:**

Petitioner asked the Trial Court the following legal question [R97-98]: "Whether or not the 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 are unconstitutional because they violate the U.S. Supremacy Clause [D36 /

**R64-69, R91-99, R120; Doc. #2 – 31, 39-47, 48-49, Apx 8; Doc. SCV – 37, A(32, 97)].**

Answering this legal question has a huge impact on the health and continuance of the United States because the 1971 Constitution of Virginia is a ***racially-inspired*** document based on White Supremacy which denies Federal Rights in the U.S. Bill of Rights now without regard to race but which targeted denial of African Americans' and/or Blacks' Federal Rights between 1902 to 1971. Virginia has attracting the interest of Russian President Vladimir Putin [Doc. #2 – 31, 16-59, 72-77, Apx 8, 16-59, 72-77; Doc. #11 – 29-31; Doc. SCV – 37, A32].

#### **VIRGINIA HAS HISTORICALLY HAD WHITE SUPREMACY:**

After the Confederacy lost the U.S. Civil War on 4/9/1865, Congress applied the ***U.S. Guarantee Clause*** (U.S. Constitution, Article IV, Section 4) against the 11 previously Confederate States to make them ratify new State Constitutions which agreed with U.S. **Amendment XV** where "white male" voters had to change to "male" voters (Women got suffrage through the 1920-ratified U.S. **Amendment XIX**) [R92; Doc. #2 – 40, 48-49, Apx 9; Doc. SCV – 37, A(32-33)]. An Act of Congress readmitted each of these 11 previously Confederate States back to representation in the Congress: TN (Act of the 39th Congress, Session I, Resolution 73, 7/24/1866); AR (Act of the 40th Congress, Session II, Chapter 69, 6/22/1868); NC, SC, LA, GA, AL, & FL (Act of the 40th Congress, Session II, Chapter 70, 6/25/1868); VA (Act of the 41st Congress, Session II, Chapters 10 & 12, 1/26/1870 & 2/1/1870); MS (Act of the 41st Congress, Session II, Chapter 19, 2/23/1870); TX (Act of the 41st Congress, Session II, Chapter 39, 3/30/1870); and GA for a 2nd time (Act of the 41st Congress, Session II, Chapter 299, 7/15/1870). The 1870 Constitution of Virginia, Article I, Section 3 **ADOPTED** a restatement of the ***U.S. Supremacy Clause*** within the State of Virginia Constitution like West Virginia had in 1863 making this 1870 Constitution of Virginia Non-Confederate [Doc. #2 – 40, 48-49, Apx 9-10; Doc. SCV – 37, A33].

According to the **Two Reconstructions** by Richard M. Varely, Copyright 2004, between 1885 and 1908 the previously Confederate States re-disenfranchised the African-American male [R64-68, R92-93; Doc. #2 – 41, 48-49, Apx 14; Doc. SCV – 37, A34]. Southern African American males joined Lincoln's Republican Party after 1865 [R94; Doc. #2 – 42, 48-49, Apx 14; Doc. SCV – 37, A34]. Hundreds of newspapers companies sprang up to educate the new Southern African American male voters and each of these companies fought for circulation most going out of business [R94; Doc. #2 – 42, 48-49, Apx 14; Doc. SCV – 37, A34]. There were

many lynchings in the South [R94; Doc. #2 – 42, 48-49, Apx 14; Doc. SCV – 37, A34]. The Northern Republican Party worked with the growing Western Republican Party but did not help the Southern Republican Party due to the chaos in the South [R64-69, R94; Doc. #2 – 42, 48-49, Apx 14; Doc. SCV – 37, A34]. Many previously Confederate States adopted Constitutions with Poll Taxes and Literacy Tests to prevent African-American males from voting including the 1902 Constitution of Virginia, Article II, Sections 18-23 & 38 (this 1902 Virginia Constitution was not ratified by the PEOPLE) [R64-68, R93; Doc. #2 – 41, 43, 48-49, Apx 10, 14-16; Doc. SCV – 37, A34]. However, this 1902 Constitution disenfranchised in a third way by ABANDONING the 1870 Article I, Section 3 restatement of the U.S. Supremacy Clause [R64-69, R93; Doc. #2 – 41; Doc. SCV – 37, A(34-35)] while ADOPTING the 1902 Constitution of Virginia, Article VI, Section 88 to become a Renewed Confederacy which empowered the 1902 to 1971 Supreme Court [of Appeals] of Virginia with the ability to interpret the U.S. Constitution with its U.S. Bill of Rights contrary to the U.S. Supremacy Clause [R93; Doc. #2 – 41, 48-49, Apx 13, 15; Doc. SCV – 37, A35]. While the intent of this Constitutional Section together with the newly-added Poll Taxes and Literacy Tests was designed to deprive the African-American and/or the Black male of any of his Federal Rights, 1902 Constitution of Virginia, Article VI, Section 88 was not restricted to any specified race [R64-68, R93; Doc. #2 – 41, 48-49, Apx 15; Doc. SCV – 37, A35].

On 2/12/1909, the NAACP was founded [R94; Doc. #2 – 43; 48-49, Apx 15; Doc. SCV – 37, A35]. On page 144 of The Two Reconstructions by Richard M. Valelly [R64-69, R93-94; Doc. #2 – 42, 48-49, Apx 15; Doc. SCV – 37, A35]:

The Two Reconstructions by Richard M. Valelly, P. 144 – ‘The national rate of lynchings dropped as the disenfranchisement process rolled to a finish. But as late as 1922 a lynching occurred, on average, every week. Lynchings indeed became legitimate popular entertainment for whites, with railroads running excursions to a ‘lynching bee,’ hotels advertising rooms with a good view, photographers printing postcards for spectators, children being let out of school, and body parts actually offered for sale. The North had its boardwalks; the South had its lynchings. Prominent national, state, and local politicians from the South proudly noted their direct involvement (See endnote 49 on page 289) [R64-69, R94; Doc. #2 – 42, 48-49, Apx 15; Doc. SCV – 37, A(35-36)].’

On 4/12/1945, Vice-President Harry S. Truman became the U.S. President after Franklin D. Roosevelt died in office [R94; Doc. #2 – 43, 48-49, Apx 15; Doc.

**SCV – 37, A36].** President Truman's first Presidential Election victory (49.6%) over Thomas E. Dewey (45.1%) in 1948 was attributed to African-American voters [R95; Doc. #2 – 43, 48-49, Apx 15; Doc. SCV – 37, A36]. A majority of African-American's had transitioned from Lincoln's Republican Party to the Democratic Party [Doc. #2 – 43, 48-49, Apx 15; Doc. SCV – 37, A36]. During President John F. Kennedy's Presidency, Southern Racial Violence was countered with a large-scale voter registration project in 1962 [R64-69, R95; Doc. #2 – 43, 48-49, Apx 15; Doc. SCV – 37, A36]. Poll Taxes and Literacy Tests in the States that had them were identified as counter-productive to Kennedy's voter registration project [R64-69, R95; Doc. #2 – 43, 48-49, Apx 15; Doc. SCV – 37, A36]. Therefore, the 1971 Constitution of Virginia abandoned Poll Taxes and Literacy Tests [R95; Doc. #2 – 43, 48-49, Apx 15; Doc. SCV – 37, A36] but continued the 1971 to present Supreme Court of Virginia's empowerment to interpret the U.S. Constitution with its U.S. Bill of Rights contrary to the *U.S. Supremacy Clause* in 1971 Constitution of Virginia, Article VI, Sections 1 & 2 [R64-69, R95-98; Doc. #2 – 43, 48-49, Apx 15; Doc. SCV – 37, A(36-37)]. The 1971 Constitution of Virginia is **RACIALLY-INSPIRED** without specifying a race [R95; Doc. #2 – 43, 48-49, Apx 15; Doc. SCV – 37, A37]. All the Constitutions of Virginia in and after 1864 (this 1864 Virginia Constitution was also not ratified by the PEOPLE) empowered the Virginia General Assembly with choosing all Virginia State, County, and City Judges which is now 1971 Constitution of Virginia, Article VI, Section 7 [D36 / R96, R120; Doc. #2 – 39, 48-49, Apx 15; Doc. SCV – 37, A(37, 97)].

#### **VIRGINIA JUDGES' CONFEDERATE OATH:**

The Virginia Judge's CONFLICT OF INTEREST where Virginia's Confederate Police Government denies State and Federal Rights as Public Policy is additionally compounded by the fact that all Virginia State, County, and City Judges take an Oath to support this Confederate, *racially-inspired* 1971 Constitution of Virginia. Code of Virginia, §16.1-69.17 requires Judges to take such an oath [R64-69, R96; Doc. #2 – 66; Doc. SCV – 37, A(37-38)]:

**Code of Virginia, §49-1 (Form of General Oath Required of Officers)** – "Every person before entering upon the discharge of any function as an officer of this Commonwealth shall take and subscribe the following oath: 'I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon

me as \_\_\_\_\_ according to the best of my ability, (so help me God) [R64-69, R96; Doc. #2 – 66; Doc. SCV – 37, A(37-38)].”

### **PUTIN LEVIES WAR AGAINST UNITED STATES IN TWO ACTS:**

Russian President Vladimir Putin was a KGB Agent from 1975 to 1991 who handled White Supremacists in West Germany from Dresden, East Germany including Rainer Sonntag [Doc. #2 – 69-70, Apx 17-18; Doc. SCV – 37, A38]. Putin knew that the United States had a weakness if a current U.S. President ran for Re-election and lost after which the U.S. Vice President failed to certify the Presidential Election Results two months later in early January. The Lame Duck President who is still Commander-in Chief of the U.S. Military could lead the United States beyond January 20th and make the U.S. Democracy into a Dictatorship [Doc. #2 – 69-70, Apx 16-17; Doc. SCV – 37, A38]. Putin invaded the Ukraine unsuccessfully in 2014 gaining Crimea with contested control of the Donbas Region after which NATO sanctioned Russia [Doc. #2 – 69-70, Apx 21-22; Doc. SCV – 37, A38]. But for Virginia’s Confederate Police Government’s connection with White Supremacy, Putin would not have been enticed to silently levy war against the United States [Doc. #2 – 69-70, Apx 23-24, 33-37, 58-59; Doc. SCV – 37, A(38-39)]. Putin helped Donald Trump win the U.S. Presidency by meddling in the 2016 U.S. General Election [Doc. #2 – 69-70, Apx 18-21, 36; Doc. SCV – 37, A39]. Putin met with Trump twice at the July of 2017 Group of 20 Summit in Hamburg, Germany where Trump’s translator was silenced [Doc. #2 – 69-70, Apx 35-37; Doc. SCV – 37, A39]. Russia fanned both sides of the August of 2017 Unite the Right Rally in Charlottesville, Virginia in order to identify White Supremacist Leaders in the United States [Doc. #2 – 69-70, Apx 33-35; Doc. SCV – 37, A39]. Putin handled these White Supremacists without their knowledge to build a Force to attack the U.S. Capitol on 1/6/2021 with the intent to assassinate U.S. Vice President Mike Pence. Putin communicated with Trump that the Commander of Iranian Forces was in Baghdad, Iraq then Trump assassinated Major General Qassim Suleimani with a drone missile strike [Doc. #2 – 69-70, Apx 38-39; Doc. SCV – 37, A39]. Putin quickly met with Turkish President Recep Tayyip Erdogan making contact with Iran [Doc. #2 – 69-70, Apx 39-40; Doc. SCV – 37, A39]. Iran meddled in the 2020 U.S. General Election not to help Trump but to help Joseph Biden win the U.S. Presidency [Doc. #2 – 69-70, Apx 40-44; Doc. SCV – 37, A39]. The Norfolk, Virginia FBI issued an explicit warning that extremists were preparing to travel to Washington, DC [Doc. #2 – 69-70, Apx 44-45; Doc. SCV – 37, A(39-40)]. On 1/6/2021, U.S. President Donald Trump sent a

crowd of armed White Supremacists and Trump Supporters toward the U.S Capitol chanting, “Hang Mike Pence!” and the mob built a gallows outside the U.S. Capitol **FOR MIKE PENCE** [Doc. #2 – 69-70, Apx 45-47; Doc. SCV – 37, A40]!

A pandemic cannot be controlled in Free Societies [Doc. #2 – 69-70, Apx 23; Doc. SCV – 37, A40] whereas Chinese General Secretary Xi Jingping was able to control COVID-19 with his Zero COVID Policy [Doc. #2 – 69-70, Doc. #11 – 30; Doc. SCV – 37, A40]. NATO is made up of Free Societies and NATO is led significantly by the United States [Doc. #2 – 69-70, Apx 23; Doc. SCV – 37, A40]. A good weapon against NATO is a pandemic [Doc. #2 – 69-70, Apx 23; Doc. SCV – 37, A40]. After the Permafrost released a 30,000-year-old virus that could still reinfect [Doc. #2 – 69-70, Apx 29-31; Doc. SCV – 37, A40], America recreated the 1918 Spanish Flu Antigen from the Alaskan Permafrost in 2005 [Doc. #2 – 69-70, Apx 31-32; Doc. SCV – 37, A40]. Scientific Articles by Harald Brüssow concluded that the 1889 Russian Flu was COVID-19 both of which were coronaviruses causing victims to lose their sense of taste and smell among other symptoms [Doc. #2 – 69-70, Apx 24-27; Doc. SCV – 37, A40]. The infectious “waves” of the 1889 Russian Flu lasted a decade [Doc. #2 – 69-70, Apx 27-29; Doc. SCV – 37, A40]. Putin retrieved the 1889 Russian Flu Antigen from the 65% of Russia that is permafrost [Doc. #2 – 69-70, Apx 23; Doc. #11 – 29-30; Doc. SCV – 37, A(40-41)]. The proof that the Russian Flu is COVID-19 still lies buried in the Permafrost to be confirmed as the U.S. Congress unanimously sent a bill to President Biden’s desk to declassify the origins of COVID-19 on 3/10/2023. The Russian Flu was released in Wuhan, Hubei Province, China in September to November of 2019 [Doc. #2 – 69-70, Apx 37-38; Doc. SCV – 37, A41] because of its proximity to the Chinese Wuhan Virology Institute [Doc. #2 – 69-70, Apx 23; Doc. SCV – 37, A41]. Predictably, the United States blamed China perhaps with Russian Help then China blamed the United States destroying Sino-American relations [Doc. #2 – 69-70, Apx 23, 47-48; Doc. SCV – 37, A41]. The World Health Organization (WHO) could not determine the origins of COVID-19 [Doc. #2 – 69-70, Apx 48-49; Doc. SCV – 37, A41]. Putin reinvaded the Ukraine having difficulties then asks Chinese General Secretary Xi for military and economic support [Doc. #2 – 69-70, Apx 48-58, 72-77; Doc. SCV – 37, A41].

#### **TRUMP ADHERES TO AND AIDS PUTIN (ACT OF TREASON):**

Treason is defined in the Constitution of the United States, Article III, Section 3, Clause 1:

**U.S. Treason Clause (U.S. Constitution, Article III, Section 3, Clause 1) –**  
“Treason against the United States, shall consist only of levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court [Doc. #2 – 31, 69-70; Doc. #10 – 4-6; Doc. #11 – 29-30; Doc. SCV – 37, A42].”

The House Select Committee Investigating the January 6, 2021 Attack on the U.S. Capitol found that Former U.S. President Donald Trump might be guilty of multiple crimes (obstruction of an official proceeding, conspiracy to defraud the United States, conspiracy to make false statements, assisting or aiding an insurrection, conspiring to injure or impede an officer, and seditious conspiracy) [Doc. #2 – 31, 69-70; Doc. #11 – 29-30; Doc. SCV – 37, A42]. Petitioner is a Witness against Former U.S. President Donald Trump [Doc. #10 – 4-6; Doc. SCV – 37, A42] by disclosing two acts of war by Putin against NATO including the United States and against the United States directly the latter of which occurred because Former U.S. President Donald Trump adhered to Putin giving him aid on 1/6/2021 through the act of directing an armed mob toward the U.S. Capitol to assassinate the U.S. Vice-President [Doc. #2 – 69-70, Apx 49; Doc. SCV – 37, A42].

**PROSECUTOR COMMONWEALTH OF VIRGINIA (ARTICLE V, SECTION 15) AND PROSECUTOR COUNTY OF FAIRFAX (ARTICLE VII, SECTION 2) ARE BOTH CREATED FROM THE BY THE SAME VIRGINIA SOVEREIGN VIA THE CONSTITUTION OF VIRGINIA:**

The Party *Appellee/Prosecutor Commonwealth of Virginia* is overseen by the *Attorney General of Virginia* in the State of Virginia Government created by the 1971 Constitution of Virginia. The 1971 Constitution of Virginia creates the Virginia General Assembly as the Legislature of Virginia making the “Code of Virginia.” The Party *Appellee County of Fairfax* is a Board Form of Local Government with a Fairfax County Board of Supervisors making the “Ordinances of Fairfax County.” The “Code of Virginia” is more authoritative than the “Ordinances of Fairfax County.” *Party Appellee/Prosecutor County of Fairfax* is overseen by the Fairfax [County] Commonwealth’s Attorney or the Fairfax County *Attorney for the Commonwealth* [Doc. SCV – 37, A43].

Starting with the 1971 Constitution of Virginia, Article V (“Executive”), Section 15 (“Attorney General”) creates Party *Appellee/Prosecutor Commonwealth of Virginia* overseen by the *Attorney General of Virginia* and states [Doc. SCV – 37, A43]:

**1971 Constitution of Virginia, Article V, Section 15** - “An Attorney General shall be elected by the qualified voters of the Commonwealth at the same time and for the same term as the Governor; and the fact of his election shall be ascertained in the same manner. No person shall be eligible for election or appointment to the office of Attorney General unless he is a citizen of the United States, has attained the age of thirty years, and has the qualifications required for a judge of a court of record. He shall perform such duties and receive such compensation as may be prescribed by law, which compensation shall neither be increased nor diminished during the period for which he shall have been elected. There shall be no limit on the terms of the Attorney General [Doc. SCV – 37, A44].”

The 1971 Constitution of Virginia, Article IV (“Legislature”), Section 1 (“Legislative power”) states [Doc. SCV – 37, A44]:

**1971 Constitution of Virginia, Article IV, Section 1** - “The legislative power of the Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Delegates [Doc. SCV – 37, A44].”

The two Houses of the Virginia General Assembly make the laws of Virginia in the 1971 Constitution of Virginia, Article IV (“Legislature”), Section 11 (“Enactment of laws”) which states in relevant part [Doc. SCV – 37, A44]:

**1971 Constitution of Virginia, Article IV, Section 11** - “No law shall be enacted except by bill. A bill may originate in either house, may be approved or rejected by the other, or may be amended by either, with the concurrence of the other. No bill shall become law unless, prior to passage: (a) ...; (b) ...; (c) ...; and (d) upon its final passage a vote has been taken thereon in each house, ... [Doc. SCV – 37, A(44-45)]”

“Justia US Law” has a web site (law.justia.com) which defines “Code of Virginia” as [Doc. SCV – 37, A45]:

**Code of Virginia** - “The laws in the Code of Virginia are passed by the Virginia General Assembly, which consists of the Virginia House of Delegates and the Virginia Senate. The House of Delegates contains 100 members, while the Senate contains 40 members. The members of the House of Delegates serve two-year terms, while the members of the Senate serve four-year terms. The members of each chamber are not subject to any term limits [Doc. SCV – 37, A45].”

The 1971 Constitution of Virginia, Article VII ("Local Government"), Section 2 ("Organization and government") in relevant part states [Doc. SCV – 37, A45]:

**1971 Constitution of Virginia, Article VII, Section 2** - "The General Assembly shall provide by general law for the organization, government, powers, change of boundaries, consolidation, and dissolution of counties, cities, towns, and regional governments. The General Assembly may also provide by general law optional plans of government for counties, cities, or towns to be effective if approved by a majority vote of the qualified voters voting on any such plan in any such county, city, or town. ... [Doc. SCV – 37, A45]"

Then the "Code of Virginia," Title 15.2 (Counties, Cities, and Towns) creates Party **Appellee/Prosecutor County of Fairfax** overseen by the **Fairfax County Attorney for the Commonwealth** and states [Doc. SCV – 37, A46]:

**Code of Virginia, Title 15.2, §301(A)** (Counties, Cities, and Towns; Petition or resolution asking for referendum; notice; conduct of election): "A county may adopt one of the optional forms of government provided for in Chapters 4 through 8 of this title only after approval by voter referendum. The referendum shall be initiated by (i) a petition filed with the circuit court for the county signed by at least ten percent of the voters of the county, asking that a referendum be held on the question of adopting one of the forms of government or (ii) a resolution passed by the board of supervisors and filed with the circuit court asking for a referendum. The petition or resolution shall specify which of the forms of government provided for in Chapters 4 through 8 is to be placed on the ballot for consideration. Only one form may be placed on the ballot for consideration [Doc. SCV – 37, A46]."

**Code of Virginia, Title 15.2, §401** (Counties, Cities, and Towns; Adoption of county board form): "Any county may adopt the county board form of government in accordance with the provisions of Chapter 3 (§ 15.2-300 et seq.) of this title [Doc. SCV – 37, A46]."

**Code of Virginia, Title 15.2, §402(A)** (Counties, Cities, and Towns; Board of county supervisors; election; terms; chairman; vacancies): "The powers and duties of the county as a body politic and corporate shall be vested in a board of county supervisors ("the board") [Doc. SCV – 37, A46]."

**Code of Virginia, Title 15.2, §408** (Counties, Cities, and Towns;): "A. The **attorney for the Commonwealth**, the county clerk, the sheriff, the commissioner of the revenue and the treasurer of the county in office

immediately prior to the day upon which the county board form becomes effective in the county shall continue, unless sooner removed, as attorney for the Commonwealth, county clerk, sheriff, commissioner of the revenue and treasurer, respectively, of the county until the expiration of their respective terms of office and until their successors have qualified. Thereafter, such officers shall be elected in such manner and for such terms as provided by general law.

B. When any vacancy occurs in any office named in subsection A, the vacancy shall be filled as provided by general law.

C. Each officer named in subsection A of this section may appoint such deputies, assistants and employees as he may require in the exercise of the powers conferred and in the performance of the duties imposed upon him by law.

D. Each officer, except the attorney for the Commonwealth, named in subsection A shall, except as otherwise provided in this chapter, exercise all the powers conferred and perform all the duties imposed upon such officer by general law. He shall be accountable to the board in all matters affecting the county and shall perform such duties, not inconsistent with his office, as the board directs [Doc. SCV – 37, A47].”

Finally, the Fairfax County Courts (FCGDC and FCCC) are created by the Virginia General Assembly in the 1971 Constitution of Virginia, Article VI (“Judiciary”), Section 1 (“Judicial power; jurisdiction”) which in relevant part states [Doc. SCV – 37, A47]:

**1971 Constitution of Virginia, Article VI, Section 1** - “The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish. Trial courts of general jurisdiction, appellate courts, and such other courts as shall be so designated by the General Assembly shall be known as courts of record. ... [Doc. SCV – 37, A48]”

U.S. Amendment XIV establishes that there are two Sovereigns for every citizen which includes Petitioner and the above is the method by which the two Parties who unconstitutionally prosecuted Petitioner were created out of the same Virginia Sovereign. However (by *Res Judicata* involving Petitioner), ***Prosecutor Commonwealth of Virginia*** and ***Prosecutor County of Fairfax*** are two separate, distinct, and ***not*** substitutable Prosecutorial Authorities [Doc #2 – 48-49],

**Apx 60-71; Doc. #5 – 8, Apx 79; Doc. #7 – 3, 6; Doc. #11 – 23; Doc. SCV – 37, A48]:**

**U.S. Amendment XIV, Section 1** – “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws [Doc. SCV – 37, A48].”

## **REASONS FOR GRANTING THE EXTRAORDINARY WRIT**

Petitioner adopts and incorporates all previous Petition Sections herein including Appendix Pages **B1-3, C1-13, & D1-43** as if these previous Petition Sections were fully rewritten verbatim hereat.

### **Relevant Federal Case Law:**

In Klopfer v. North Carolina, 386 U.S. 213, 87 S.Ct. 988, 18 L.Ed.2d 1 (1967), SCOTUS decided that the State of North Carolina cannot “nolle prosequi with leave” a charge indefinitely for a possible future trial. It violated Peter Klopfer’s right to a speedy trial. The Due Process Clause of U.S. Amendment XIV made U.S. Amendment VI applicable to all the States. (There is an error in Petitioner’s COAV 5/25/2022 “Opening Brief of Appellant” on page “54 of 74” where Petitioner erroneously stated that Klopfer (supra) overturned Palko v. Connecticut, 302 U.S. 319, 58 S.Ct. 149, 82 L.Ed. 288 (1937) which leads into the next paragraphs):

In Palko (supra), Frank Palko was tried for murder in the first degree in Fairfield County, Connecticut but a jury found him guilty of murder in the second degree. The State of Connecticut appealed and won a new trial in the Connecticut Supreme Court of Errors. Upon retrial, Palko argued he was being subjected to Double Jeopardy in violation of U.S. Amendment XIV. He was subsequently convicted of murder in the first degree and sentenced to death. The Connecticut Supreme Court of Errors and SCOTUS affirmed the conviction.

In Benton v. Maryland, 395 U.S. 784, 89 S.Ct. 2056, 23 L.Ed.2d 707 (1969), John Dalmer Benton was tried for burglary and larceny by grand and petit juries who were required to swear their belief in the existence of God. He was acquitted of larceny, found guilty of burglary, and sentenced to ten years. He filed a notice of

appeal in the Court of Appeals of Maryland shortly before that Court struck down a section of the State Constitution requiring jurors to swear their belief in the existence of God. Benton was given the option of re-indictment and retrial. This Benton chose. At the second trial, he objected to the larceny count based on Double Jeopardy but was convicted of both burglary and larceny. He was sentenced to 15 years for burglary and five years for larceny with the sentences concurrent. The SCOTUS heard Oral Arguments but because of the “concurrent sentence doctrine” SCOTUS had to add an issue for a second Oral Argument. It was decided that the Double Jeopardy Clause of the **Fifth Amendment** is applicable to the States through the **Fourteenth Amendment**. *Palko* was overruled and Benton’s larceny conviction was reversed:

“[395 U.S. 794] … Only last Term, we found that the right to trial by jury in criminal cases was ‘fundamental to the American scheme of justice,’ *Duncan v. Louisiana*, 391 U.S. 145, 391 U.S. 149 (1968), and held the Sixth Amendment right to a jury trial was applicable to the States through the Fourteenth Amendment. [Footnote 13] For the same reason, we today find that the double jeopardy prohibition of the Fifth Amendment represents a fundamental ideal in our constitutional heritage, and that it should apply to the States through the Fourteenth Amendment. Insofar as it is inconsistent with this holding, *Palko v. Connecticut* is overruled.”

“[395 U.S. 795] The fundamental nature of the guarantee against double jeopardy can hardly be doubted. Its origins can be traced to Greek and Roman times, and it became established in the common law of England long before this Nation’s Independence. [Footnote 14] See *Bartkus v. Illinois*, 359 U.S. 121, 359 U.S. 151-155 (1959) (BLACK, J., dissenting). As with many other elements of the common law, it was carried into the jurisprudence of this Country through the medium of Blackstone, who codified the doctrine in his Commentaries. ‘[T]he plea of autrefois acquit, or a formal acquittal,’ he wrote,

‘is grounded on the universal maxim of the common law of England that no man is to be brought into jeopardy of his life more than once for the same offence. [Footnote 15]’

In *Waller v. Florida*, 397 U.S. 387, 90 S.Ct. 1184, 25 L.Ed.2d 435 (1970), Joseph Waller, Jr. removed a canvas mural from the wall inside the City Hall of Saint Petersburg, Florida and carried the mural through the city streets causing it to be damaged. He was charged with destruction of city property and disorderly breach of the peace in Saint Petersburg Municipal Court. Saint Petersburg

Municipal Court convicted him of these charges and sentenced him to 180 days in jail. Based on the “same transactions of occurrences,” Waller was charged with grand larceny by the State of Florida. Waller’s Petition for Writ of Prohibition to the Supreme Court of Florida to prevent the second trial based on Double Jeopardy was denied. Waller was tried and convicted of the felony Grand Larceny and sentenced to six months to five years less 170 days previously served. The District Court of Appeal (Second District) affirmed the second conviction acknowledging that the charge on which the state court action rested “was based on the same acts of the appellant as were involved in the violation of the two city ordinances.” The District Court of Appeal held there would be no bar to the prosecution in the state court “even if a person has been tried in a municipal court for the identical offense with which he is charged in the state court.” Waller’s Petition for Writ of Certiorari filed in the Supreme Court of Florida was denied. The SCOTUS granted certiorari based on the District Courts of Appeals’ ruling, “even if a person has been tried in a municipal court for the identical offense with which he is charged in the state court.”

“Political subdivisions of State counties, cities, or whatever – never were and never have been considered as sovereign entities. Rather, they have been traditionally regarded as subordinate governmental instrumentalities created by the State to assist in the carrying out of state government functions.” *Reynolds v. Sims*, 377 U.S. 533, 575, 84 S.Ct. 1362, 1388 (1964).

The Constitution of Florida, Article VIII, Section 2 (1968 revision) stated: “(a) *Establishment*. Municipalities may be established or abolished and their charters amended pursuant to general or special law ... (b) *Powers*. Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services. ...” The Constitution of Florida, Article V, Section 1 (1885 which was not changed in the 1968 revision) stated: “[T]he judicial power of the State of Florida is vested in a supreme court ... and such other courts, *including municipal courts* ... as the legislature may from time to time ordain and establish.” The organic law which created the Saint Petersburg Municipal Court where Waller was tried and convicted on the first two charges is the same organic law that created the state court where Waller was tried and convicted of the second felony charge which “was based on the same acts of the appellant as were involved in the violation of the two city ordinances.”

The State of Florida and its municipalities are not separate sovereign entities each entitled to impose punishment for the same alleged crime, as the judicial

power of the municipal courts and the state courts of general jurisdiction springs from the same organic law. The SCOTUS vacated and remanded to the District Court of Appeals.

**Sovereign Virginia Subjected Petitioner to Double Jeopardy:**

**U.S. Amendment XIV** clarifies that Petitioner was under two Sovereigns when he was tried in the FCGDC on 9/21/2021 and the FCCC on 11/4/2021, namely Virginia and the United States: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. ... [B24-25].”

As in *Waller* where the Constitution of Florida, Article VIII, Section 2 established the municipalities and the Constitution of Florida, Article V, Section 1 created the Municipal Courts, both the County of Fairfax Commonwealth’s Attorney (**Prosecutor County of Fairfax**) and Fairfax County Courts (**FCGDC & FCCC**) are created out of the 1971 Constitution of Virginia which also creates the Attorney General of Virginia (**Prosecutor Commonwealth of Virginia**). **Prosecutor County of Fairfax** is created from the 1971 Constitution of Virginia, Article IV (Sections 1 & 11) and Article VII (Section 2) with Code of Virginia, Title 15.2 (Sections 301(A), 401, 402(A), & 408). The Fairfax County Courts (**FCGDC & FCCC**) are created from the 1971 Constitution of Virginia, Article VI (Section 1). **Prosecutor Commonwealth of Virginia** is created from the 1971 Constitution of Virginia, Article V (Section 15).

Therefore, when Petitioner was tried in the FCGDC by **Prosecutor County of Fairfax** on 9/21/2021 for violation of the Code of Virginia §46.2-841 adopted into Fairfax County by Ordinance §82-1-6 then tried in the FCCC by **Prosecutor Commonwealth of Virginia** on 11/4/2021 for violation of the same Code of Virginia §46.2-841, these two trials were for the same charge by the same Sovereign being Petitioner’s Virginia Sovereign. But by *Res Judicata* [C1-13] these two Prosecutors were not the same but were separate, distinct, and not substitutable. Virginia violated Petitioner’s **U.S. Amendment V & XIV** Right, “...; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb [by the same Sovereign]; ...” What is *Res Judicata* between the Petitioner, **Prosecutor County of Fairfax**, and **Prosecutor Commonwealth of Virginia** is precluded from being relitigated.

**The 13 Assignments of Error Answered:**

(1) Having clarified that Petitioner's U.S. Amendment V & XIV Right was violated by *Prosecutor Commonwealth of Virginia* on 11/4/2021 in the FCCC because Petitioner had already been tried by *Prosecutor County of Fairfax* on 9/21/2021 in the FCGDC, how respectful of the *U.S. Supremacy Clause* was the COAV when it remanded back for *nunc pro tunc* FCCC Orders which would have nullified Petitioner's *already violated* Federal Right? Clearly, the Judges of the COAV do not respect that they are "bound" by the *U.S. Supremacy Clause* where Petitioner's Federal Rights are concerned which is the hallmark of a Renewed Confederacy.

(2) For the COAV to make such a small issue as the Assignments of Error being in Question Form not Affirmative Statement Form where RSCV Rule 5A:20(c) is *not* clear and then for the COAV to totally ignore the clear Virginia violation of U.S. Amendment V & XIV (the Supreme Law of the Land) having subjected Petitioner to Double Jeopardy is outrageous! This again exemplifies "bound" COAV Judges not respecting the *U.S. Supremacy Clause*. In *Ableman v. Booth*, 62 U.S. 506 (1859) and *Cooper v. Aaron*, 358 U.S. 1 (1958), the Supreme Court of Wisconsin and the United States District Court for the Eastern District of Arkansas (respectively) failed to appreciate the supreme nature of the Supreme Law of the Land decided by SCOTUS. The decisions of these two lower Courts were reversed by the SCOTUS (a Federal Court and the highest Federal Court). The COAV should likewise be reversed for using unconstitutional reasoning in their 3/28/2023 "Memorandum Opinion Per Curiam." RSCV Rule 5A:20(c) is not the Supreme Law of the Land like the *U.S. Supremacy Clause* and U.S. Amendments V & XIV are even if COAV Assignments of Error cannot be in Question Form but must be in Affirmative Statement Form. However, this fact is not clear from a Good Faith and Fair reading of RSCV Rule 5A:20(c). Virginia is a Renewed Confederacy and Confederacies do not enforce State or Federal Rights, period.

(3) The fact that only one (on 8/9/2022) of eight COAV Orders was captioned *Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax*, Record No. 1193-21-4 where Petitioner filed a 11/4/2021 "FCCC to COAV Notice of Appeal ..." so captioned is indicative that the COAV was and is **DELIBERATELY DEFYING** the *U.S. Supremacy Clause*. These COAV Judges need muskets with bayonets to await the next Union Offensive in Chancellorsville, Virginia. Petitioner believes the seditious character of the COAV Rulings which disrespect the *U.S. Supremacy Clause* has led someone to commit an Act of Treason explained below.

(4) The COAV defiance to honor the supreme nature of Petitioner's U.S. Amendment V & XIV Right and both: 1) compel *Appellee County of Fairfax* to appear in the COAV; and 2) compel *Appellee Commonwealth of Virginia* and

*Appellee County of Fairfax* to file responsive “Briefs of Appellee” in the COAV needs to be recognized by the SCOTUS. The SCV denial of Petitioner’s 1/24/2023 “Petition for Writ of Certiorari to the COAV” without the benefit of **Respondent Commonwealth of Virginia’s or Respondent County of Fairfax’s** Responses had the same effect. In fact, by treating Petitioner’s 1/24/2023 “Petition for Writ of Certiorari to the COAV” as a “Motion for Certification,” the SCV did not give Petitioner’s Petition a SCV Record Number further impeding the Appellate Jurisdiction of the SCOTUS. This reveals how the SCV stands on the issue of enforcing Petitioner’s **U.S. Amendment V & XIV** Right giving justification for the need of a “SCOTUS Extraordinary Writ of Mandamus to the Chief Judge of the SCV, S. Bernard Goodwyn.”

(5) There is a very good reason why the SCOTUS should make **U.S. Amendment X** applicable to the States. The Appellate Judges of a ROGUE State like Virginia are using POWERS they do not possess to hurt the Public. These POWERS are prohibited to State Judges by the **U.S. Supremacy Clause**. These Appellate Judges in Virginia have no boundaries of their misuse of POWER. Of course, the COAV should not have remanded to the FCCC for *nunc pro tunc* Orders that would nullify a violation of Petitioner’s **U.S. Amendment V & XIV** Right which is the Supreme Law of the Land! Of course, the *Appellee County of Fairfax* should have been compelled to appear in the COAV! Of course, both *Appellee Commonwealth of Virginia* and *Appellee County of Fairfax* should have been compelled to file “Briefs of Appellee” in the COAV! The COAV Judges are not neutral when they protect State and County Governmental Prosecutors from being transparent and simply explaining their actions to a Citizen of these two Governments. This leads into COMPETENCE.

(6) With COMPETENCE defined using (Independence, Impartiality, Acting with Propriety, Fairness, and Acting with Integrity), what grade can a Virginia Citizen expect a Virginia State, County, or City Judge to receive? The Virginia Citizen will not have State or Federal Rights enforced which is not Fair and shows Partiality of the Virginia Judge to the Governmental Prosecutors. These Virginia Judges cannot have Integrity where it is defined as the quality of being honest and having strong moral principles; moral uprightness. All Virginia State, County, and City Judges are INCOMPETENT!

(7) Here again is a very good reason why the SCOTUS should make **U.S. Amendment IX** applicable to the States because Judges need to have ALLEGIANCE to the PEOPLE, not the Government. The INCOMPETENCE of all Virginia Judges who take an Oath to Support the *racially-inspired* Constitution of Virginia being selected by the Virginia General Assembly (Government) make them partial to Governmental Prosecutors. In accordance with *Duncan v. McCall*,

139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891), Petitioner has an Unenumerated Right to choose his own Virginia Judges for Governmental Administration. And Petitioner never had any opportunity to choose these COAV or SCV Judges. Virginia State, County, and City Judges personify a violation of Petitioner's U.S. **Amendment IX Right** as found in *Duncan* (supra). Virginia Judges ignore Petitioner's **Constitution of Virginia, Article I, Section 2** Right stating, "That all power is vested in, and consequently derived from, the people, that magistrates are their trustees and servants, and at all times amenable to them."

(8) Clearly, the FCCC and COAV erred by not enforcing Petitioner's invoked **U.S. Amendment V, VI, & XIV** Rights. Petitioner's **U.S. Amendment VI & XIV** Right about a Speedy Trial is a matter of Judicial Discretion. However, this is not the case in Virginia. In Virginia, invoked State and Federal Rights are denied as a Public Policy. It is not FAIR to Virginia Citizens or PEOPLE passing through Virginia to lead them on into believing that Rights written in the 1971 Constitution of Virginia, Article I and/or the U.S. Bill of Rights are enforceable in Virginia when all State and Federal Rights are always denied as Public Policy in Virginia.

(9) This is an extension of the answers to Assignments of Error #5 and #7 above. The Citizens of Virginia should be able to choose their own State, County, and City Judges according to *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) contrary to the **Constitution of Virginia, Article VI, Section 7** so that the ALLEGIANCE of these Judges is to the PEOPLE and not to the GOVERNMENT. If the **U.S. Supremacy Clause** binds the Judges in every State to respect the Supreme Law of the Land, **U.S. Amendment X** prohibits State Judges the POWER to impede the enforcement of the Supreme Law of the Land. **U.S. Amendment X** echoes the **U.S. Supremacy Clause** and **prohibits** States Judges the POWER to impede the Appellate Jurisdiction of the SCOTUS as these COAV & SCV Judges have done herein. All Virginia State, County, and City Judges are INCOMPETENT!

(10) Supreme Court of Virginia Judges do not have the POWER to interpret the Constitution of the United State nor the U.S. Bill of Rights as allowed in the **1971 Constitution of Virginia, Article VI, Sections 1 & 2**. The PEOPLE and **not** the Virginia General Assembly need to choose all Virginia State, County, and City Judges contrary to the **1971 Constitution of Virginia, Article VI, Section 7** so the ALLEGIANCE of Virginia Judges is to the PEOPLE not to GOVERNMENT. Virginia needs to have a Virginia Constitutional Convention [D36] to rewrite the Unconstitutional **1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 adding a Restatement of the U.S. Supremacy Clause** and force the production of Virginia Police Reports on the demand of Citizens and/or of the Accused so that the Virginia Confederate Police Government will be abolished as the U.S. Congress

intended when it made Acts of Congress between 1866 and 1870 in accordance with the **U.S. Guarantee Clause** (U.S. Constitution, Article IV, Section 4).

(11) Russia fanned the flames of both sides of the Unite the Right Rally by White Supremacists in Charlottesville, Virginia in August of 2017 according to the FBI [Doc. #2 – 69-70, Apx 33-35; Doc. SCV – 37, A(38-40)]. Putin as a former KGB Agent has experience handling White Supremacists like Rainer Sonntag in Germany and others probably without their knowledge. Three and a half years after the Charlottesville, Virginia Unite the Right Rally, White Supremacists Attacked the U.S. Capitol on 1/6/2021 in what Putin intended as an assignation attempt on Vice-President Mike Pence. Vice-President Mike Pence was the one who had to certify the 2020 U.S. Presidential Election Results to stop the current Presidency two weeks later. This was the Second Act Levying War against the United States by Putin. The First Act of War by Putin was against NATO inclusive of the United States. COVID-19 origins are still classified. Congress voted to declassify the origins of COVID-19 on 3/10/2023. Petitioner would need access to this declassified COVID-19 information. Scientific Articles link COVID-19 and the 1889 Russian Flu by symptoms including the loss of taste and smell in infected individuals. Doctors have already reconstructed the 1918 Spanish Flu from the Alaskan Permafrost. Reconstructing the 1889 Russian Flu is a doable thing. Reportedly, 65% of Russia is covered by Permafrost. The argument can be made that a pandemic is the perfect weapon against NATO because the Free Countries that make up NATO cannot control the spread of a pandemic like a totalitarian regime can control the spread of a pandemic. China tried to control COVID-19 with its Zero-COVID Policy and with limited success. Ultimately, China lost its battle with COVID-19 by giving in and allowing freedoms to the Chinese People but the totalitarian leaders of China really don't care about the PEOPLE as Putin really doesn't care about the Ukrainian, European, American, Russian, (Fill in the Blank) PEOPLE.

(12) The Forefathers who created the U.S. Bill of Rights considered all ten of the **U.S. Amendments** in the U.S. Bill of Rights very important. Petitioner understands why **U.S. Amendments IX & X** are in the U.S. Bill of Rights and has explained this above. The **Incorporation Doctrine** should be expanded to include **U.S. Amendments IX & X** so the Judges of all States have ALLEGIANCE to the PEOPLE and State Judges are forced to respect the **U.S. Supremacy Clause**. Either **U.S. Amendment XIV** or the **U.S. Privileges and Immunity Clause** (Constitution of the United States, Article IV, Section 2) is the way to make **U.S. Amendments IX and/or X** applicable to the States. This is for SCOTUS.

(13) Where Treason is defined in the Constitution of the United States as levying war against the United States, Putin caused the release of the 1889 Russian

Flu in Wuhan, Hubei Province, China in September of 2019 and put together a Force of armed White Supremacists to Attack the U.S. Capitol on 1/6/2021. Former U.S. President Donald Trump added Trump Supporters then gave the members of Putin's Force the marching order on 1/6/2021. Petitioner is a Witness to Trump's Treason by identifying Trump's Act of Treason on 1/6/2021 as furthering Putin's levying of an Act of War against the United States [Notarized Doc. #10 – 4-6].

### **How would Extraordinary Writ of Mandamus Aid Appellate Jurisdiction of SCOTUS? (SCOTUS Rule 20.1)**

The concept of an appeal is for two opposing sides to present their arguments to Appellate Judges who decides if the lower Court(s) made any errors then for the Appellate Judges to correct errors that have occurred in the lower Court(s). In Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax, COAV Record No. 1193-21-4, Petitioner presented alleged FCGDC & FCCC errors from County of Fairfax v. Gregory Shawn Mercer, FCGDC Case No. GT20027665-00 which unconstitutionally became Commonwealth of Virginia v. Gregory Shawn Mercer, FCCC Case No. MI-2021-776. *Appellee County of Fairfax* did not appear in the COAV nor file a "Brief of Appellee." Appellee Commonwealth of Virginia did appear in the COAV but did not present its side of the argument by filing a "Brief of Appellee." Appellant was unopposed in the COAV **AND LOST** because the Petitioner alleges Virginia and both the COAV & SCV herein specifically disrespects the ***U.S. Supremacy Clause***. The Originalists on the SCOTUS ought to be interested in this case because one State (Virginia) is unequal and clearly disrespects the ***U.S. Supremacy Clause*** while the other 49 States apparently do respect the ***U.S. Supremacy Clause*** (South Carolina's General Assembly or Legislature choses all the South Carolina State, County, and City Judges). The Liberals on the SCOTUS ought to be interested in this case because it involves unreasonable denial of Federal Rights by Virginia. In any event, Virginia has decided this case about Double Jeopardy involving a County in a State and that State differently than this SCOTUS decided about Florida in Waller v. Florida, 397 U.S. 387, 90 S.Ct. 1184, 25 L.Ed.2d 435 (1970) so SCOTUS Rule 10(b) applies.

An Extraordinary Writ of Mandamus to the Chief Judge of the SCV, S. Bernard Goodwyn would enable this now SCV Appeal Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax, SCV Record No. 230354, to be remanded to the COAV as COAV Record No. 1193-21-4 where *Appellee County of Fairfax* would be compelled to appear and where both *Appellee Commonwealth of Virginia* and *Appellee County of Fairfax* would be compelled to file "Briefs of

Appellee" so that the SCOTUS would be able to hear from both sides to fully review the very important issues in this appeal. An Extraordinary Writ of Mandamus would aid the Appellate Jurisdiction of this SCOTUS. The COAV would have to decide Petitioner's **U.S. Amendments V & XIV** were violated or send case to SCV.

**What are the Exceptional Circumstances which Warrant the Exercise of SCOTUS Discretionary Powers? (SCOTUS Rule 20.1)**

Virginia through its *1902 Constitution of Virginia, Article VI, Sections 88, 91, 96, & 99* then its *1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7* have not respected the *U.S. Supremacy Clause*. The 1902 Constitution of Virginia was White Supremacist and the 1971 Constitution of Virginia is *racially-inspired*. Petitioner argues herein that Russian President Vladimir Putin who has used White Supremacists for intelligence and military purposes with or without their knowledge used the August of 2017 Unite the Right Rally in Charlottesville, Virginia to identify White Supremacist Leaders in the U.S. then handled them to build a Force that attacked the U.S. Capitol on 1/6/2021 in an attempt to assassinate Vice-President Mike Pence. Petitioner argues that Putin unfroze the 1889 Russian Flu antigen from the Russian Permafrost as the 1918 Spanish Flu antigen was unfrozen from the Alaskan Permafrost to release a pandemic in Wuhan, Hubei Province, China in order to destabilize NATO prior to Putin's Second Invasion of the Ukraine in February of 2022. Former U.S. President Donald Trump in an Act of Treason aided and adhered to Putin in directing Putin's Force of armed White Supremacists and Trump Supporters to attack the U.S. Capitol on 1/6/2021.

Virginia enticed Putin to do this because of its seditious character clearly exhibited herein by COAV Judges remanding to the FCCC for *nunc pro tunc* Orders to nullify a **U.S. Amendment V & XIV** Right violation, COAV Judges deliberately defying the *U.S. Supremacy Clause*, and COAV & SCV Judges impeding the Appellate Jurisdiction of the SCOTUS.

Virginia is a ROGUE State that needs to respect the *U.S. Supremacy Clause* equally to other States. Virginia needs to have a Virginia Constitutional Convention to rewrite the *1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7* before the health and continuance of the United States ceases.

**Why Adequate Relief Cannot be Obtained from Other Form or Other Court? (SCOTUS Rule 20.1)**

The only other Court that could grant relief is the SCV.

There was 190 days after 9/19/2022 where the COAV delayed Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax, COAV Record No. 1193-21-4.

Petitioner filed an 11/5/2022 “Motion for Ruling [D17-22]” in the COAV moving the COAV: 1) to compel **Appellee County of Fairfax** to appear in the COAV; and 2) to compel both **Appellee Commonwealth of Virginia** and **Appellee County of Fairfax** to file responsive “Briefs of Appellee” in the COAV to Petitioner’s 5/25/2022 “Opening Brief of Appellant.”

Petitioner filed In Re: Gregory Shawn Mercer, SCV Record No. 220746 [B3] on 11/15/2022 petitioning the SCV for a Writ of Mandamus to the Chief Judge of the COAV, Marla Decker to Order the COAV: 1) to compel the appearance of **Appellee County of Fairfax**; and 2) to compel “Briefs of Appellee” from both **Appellee Commonwealth of Virginia** and **Appellee County of Fairfax**.

Petitioner filed a 35-page “Petition for Writ of Certiorari to the COAV” in the SCV on 1/24/2023 [D23-24].

The COAV failed to rule on Petitioner’s 7/26/2022 “*Pro se* Appellant’s Objection and Motion [D8-13 / Doc. #3 – 1-6; Doc. SCV – 37, A(19, 69-74)]” about a Waiver or Exception to Petitioner’s Assignment of Errors being in Question Form, failed to rule on Petitioner’s 11/5/2022 “Motion for Ruling [D17-22 / Doc. #9 – 1-6; Doc. SCV – 37, A(19-20, 78-83)]”, then issued a premature “Memorandum Opinion Per Curiam” on 3/28/2023 [D25-34 / Doc. SCV – 37, A(20, 86-95)] followed by “Final Order” on 4/18/2023 [D35 / Doc. SCV – 37, A(21, 96)] in seditious rebellion against the **U.S. Supremacy Clause**. The SCV never issued a Writ of Mandamus and In Re: Gregory Shawn Mercer, SCV Record No. 220746 which became moot after the 4/18/2023 “Final Order” from the COAV. But how the SCV treated Petitioner’s 1/24/2023 “Petition for Writ of Certiorari to the COAV” was telling of the SCV. The SCV downgraded the “Petition for Writ of Certiorari to the COAV” to a “Motion for Certification” which receives no SCV Record Number which impedes the Appellate Jurisdiction of the SCOTUS. The SCV denied the “Motion for Certification” on 2/2/2023 nine days after it was filed and **BEFORE** either **Respondent Commonwealth of Virginia** or **Respondent County of Fairfax** filed Responses impeding the Appellate Jurisdiction of the SCOTUS [D24].

The SCV like the COAV is impeding the Appellate Jurisdiction of the SCOTUS. There are no responses to Petitioner’s 5/25/2022 “Opening Brief of

Appellant.” Both the COAV and the SCV are preventing responses to Petitioner’s 5/25/2022 “Opening Brief of Appellant” in the COAV and Petitioner’s 1/24/2023 “Petition for Writ of Certiorari to the COAV” in the SCV. Petitioner fears the SCV will just deny this “SCV Petition for Appeal” without any responses from the Respondents ruling that the case should have been captioned Gregory Shawn Mercer v. Commonwealth of Virginia without **Appellee County of Fairfax** because the COAV Record No. 1193-21-4 is captioned Gregory Shawn Mercer v. Commonwealth of Virginia. But Petitioner’s timely filed 11/4/2021 “FCCC to COAV Notice of Appeal” was captioned Commonwealth of Virginia & County of Fairfax v. Gregory Shawn Mercer, FCCC Case No. MI-2021-776 where the FCGDC to FCCC “Notice of Appeal – Criminal” was captioned County of Fairfax v. Gregory Shawn Mercer, FCGDC Case No. GT20027665-00. The COAV Appeal is by Petitioner’s 11/4/2021 “FCCC to COAV Notice of Appeal” rightly captioned Gregory Shawn Mercer v. Commonwealth of Virginia & County of Fairfax, Record No. 1193-21-4.

## CONCLUSION

Petitioner petitions the SCOTUS to issue a Writ of Mandamus to the Chief Judge of the SCV, S. Bernard Goodwyn ordering him to direct the SCV to remand SCV Record No. 230354 back to the COAV as COAV Record No. 1193-21-4 with SCV Order to have the COAV: 1) compel the appearance of the **Appellee County of Fairfax** in the COAV; 2) compel the **Appellee Commonwealth of Virginia** to file a responsive 30-day (RSCV Rules 5A:19(b)(2) & 5A:21) “Brief of Appellee” to Petitioner’s 5/25/2022 “Opening Brief of Appellant” in the COAV; 3) compel the **Appellee County of Fairfax** to file a responsive 30-day (RSCV Rules 5A:19(b)(2) & 5A:21) “Brief of Appellee” to Petitioner’s 5/25/2022 “Opening Brief of Appellant” in the COAV; and 4) provide Petitioner 14 days (RSCV Rule 5A:19(b)(3) & 5A:22) to reply to the two “Briefs of Appellee” filed by the two Appellees/Prosecutors. Thereafter, the remanded COAV Record No. 1193-21-4 should be returned to the SCV as SCV Record No. 230354 for further SCV review then further SCOTUS review as at least some of Petitioner’s issues are for SCOTUS to decide.

## 28 U.S.C. §1746 DECLARATIONS WITH SIGNATURES

**I DECLARE** under penalty of perjury that the foregoing “Petition for Extraordinary Writ of Mandamus to the Chief Judge of the SCV, S. Bernard Goodwyn / SCOTUS Rule 29 Certificate of Service” is 44 pages and was completed truthfully based on my personal experience and knowledge. I am executing this document on August 26, 2023.