ORIGINAL

24-6762
CASE NO.

FILED
JAN 27 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

NATALIA DALTON,

Petitioner,

vs.

JULIO LACAYO, ET AL.

Respondents.

On Petition for Writ of Certiorari to the

United States Court of Appeals for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

NATALIA DALTON
Petitioner, *pro se*
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Reston, Virginia 20190
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QUESTIONS PRESENTED FOR REVIEW

1) Whether or not all Virginia State, County, and City Courts are Unconstitutional and/or Illegitimate with respect to the 1971 Constitution of Virginia, Article I, Sections 2 & 5 (Virginia Rights), with respect to the Constitution of the United States, Article VI, Clause 2 (***U.S. Supremacy Clause***), and/or with respect to the ***U.S. Supremacy Clause*** as found in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891)?

2) Whether or not Petitioner shall receive a fair and impartial *de novo* Trial/Appeal in any Virginia State, County, or City Court where Petitioner's Liberty Interest protected by the Due Process Clause of **U.S. Amendment XIV** in the "nurture, upbringing, companionship, care, and custody" of her son E. L.-D. (DOB 2008) has gone unenforced as a matter of Virginia Policy?

3) Whether or not U.S. District Court for the Eastern District of Virginia (hereafter "**VAED**") is lawful to remand *Julio Lacayo v. Natalia Dalton*, VAED Case No. 1:24-cv-653 (LMB/WBP) back to the Unconstitutional and/or Illegitimate Circuit Court of Fairfax County (hereafter "**FCCC**") to become *Julio Lacayo v. Natalia Dalton*, FCCC Case No. JA-2024-0000085?

4) Whether of not the U.S. Court of Appeals for the Fourth Circuit (hereafter "**4th Circuit**") erred in its 12/9/2024 4th Circuit "Judgment" when it remanded *Julio Lacayo v. Natalia Dalton*, 4th Circuit Case No. 24-1480 back to the VAED with instructions to further remand *Julio Lacayo v. Natalia Dalton*, VAED Case No. 1:24-cv-653 (LMB/WBP) back to the FCCC?

5) Whether or not the VAED erred in its 12/9/2024 VAED "Order" when it remanded *Julio Lacayo v. Natalia Dalton*, VAED Case No. 1:24-cv-653 (LMB/WBP) back to the FCCC?

6) Whether or not Custody and Visitation Arrangements of Petitioner's son E. L.-D. (DOB 2008) ought to be immediately modified in the Circuit Court of Alexandria City (hereafter "**ACCC**") to guarantee Respondent Lacayo's ALIENATION of Petitioner from her son E. L.-D. (DOB 2008) ceases on or before 2/11/2025 which is Petitioner's son's 17th Birthday?

LIST OF PARTIES

1) ***Petitioner Natalia Lanell Dalton***, 11625 Charter Oak Court, Apartment #201, Reston, Virginia, 20190, 703-508-0820, natalia.dalton@gmail.com;

2) ***Respondents***:

   a) ***Respondent Julio Cesar Lacayo***, 236 S. Jenkins Street, Alexandria, Virginia, 22304, 202-302-5300, julio.lacayo@gmail.com;

   b) ***Respondent Merrick Garland (or his Trump replacement)***, Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC, 20530-0001, 202-514-2000 because the 4/19/2024 VAED "Notice of Removal" had a Legal Question relating to whether 45 CFR §§301, 302, & 303 administering the Social Security Act, Title IV-D violated **U.S. Amendment XIV**;

   c) ***Respondent Jessica D. Aber***, United States Attorney for the Eastern District of Virginia, 2100 Jamieson Avenue, Alexandria, Virginia, 22314, 703-299-3700, because Merrick Garland (or his Trump replacement) the Attorney General of the United States is a Respondent above;

   d) ***Respondent Jason Miyares***, Attorney General of Virginia, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia, 23219 because **28 U.S.C §2403(b) MAY APPLY**.

CORPORATE DISCLOSURE STATEMENT

There is no parent corporation nor any publicly held company that owns 10% of anything associated with *pro se* Petitioner. Since Petitioner is not a corporation, she has no corporate disclosure to make.

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TABLE OF AUTHORITIES

A) Cases

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1) 3/12/2024 Fairfax County Juvenile & Domestic Relations District Court (herein and hereafter "**FCJ&DRDC**") "Child Support Order" in *Julio Lacayo v. Natalia Dalton*, FCJ&DRDC Case No. JA413878-06-00 **[A52-A60]** which was sealed by the VAED;

2) 4/24/2024 VAED "Order" in *Julio Lacayo v. Natalia Dalton*, VAED Case No. 1:24-cv-653 (LMB/WBP) **[A109-A112]**;

3) 5/2/2024 VAED "Order" in *Julio Lacayo v. Natalia Dalton*, VAED Case No. 1:24-cv-653 (LMB/WBP) **[A113-A114]**;

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6) 12/9/2024 4th Circuit "Judgment" in *Julio Lacayo v. Natalia Dalton*, 4th Circuit Case No. 24-1480 **[A152-A157]**;

7) 12/9/2024 VAED "Order" in *Julio Lacayo v. Natalia Dalton*, VAED Case No. 1:24-cv-653 (LMB/WBP) **[A158-A159]**;

8) 12/18/2024 4th Circuit "Temporary Stay of Mandate" in *Julio Lacayo v. Natalia Dalton*, 4th Circuit Case No. 24-1480 **[A160]**;

9) 12/18/2024 FCCC "Notice of Hearing on an Appeal to the Circuit Court from a Decision of the Juvenile and Domestic Relations Court" in *Julio Lacayo v. Natalia Dalton*, FCCC Case No. JA-2024-0000085 **[A161]**.

10) 1/22/2025 4th Circuit "Order" and 1/30/2025 4th Circuit "Mandate" in *Julio Lacayo v. Natalia Dalton*, 4th Circuit Case No. 24-1480 **[A199 & A216]**.

JURISDICTION

The bases form jurisdiction in this Supreme Court of the United States (hereafter "**SCOTUS**") for a Writ of Certiorari to the U.S. Court of Appeals for the Fourth Circuit is 28 U.S.C. §1254 (Court of appeals; certiorari; certified questions):

> "Cases in the courts of appeal may be reviewed by the Supreme Court by the following methods:
>
> 1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;
> 2) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy."

The 4th Circuit "Judgment" to be reviewed is dated 12/9/2024 and the VAED "Order" to be reviewed is also dated 12/9/2024 after the 4th Circuit vacated both the 4/24/2024 VAED "Order" and the 5/2/2024 VAED "Order" in the 12/9/2024 4th Circuit "Judgment." There was a 1/22/2025 4th Circuit "Final Order **[A199]**" denying Petitioner's 12/18/2024 "Petition for Rehearing *En Banc* / Motion for Stay of the 12/9/2024 'Judgment'" then a 1/30/2025 4th Circuit "Mandate **[A216]**."

CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Amendment I – "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

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 power 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."

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."

CONCISE STATEMENT OF THE CASE

Petitioner has profound auditory and language learning issues which makes the construction of grammatically correct sentences a challenge and the expression of complex ideas extremely difficult. However, court-ordered counsel have consistently been ineffective. Petitioner has the Right to represent herself *pro se*. But that does not mean that Petitioner must proceed to represent herself in a handicapped and/or incompetent fashion. Petitioner has friends who help her form her plan and express her ideas herein but which friends are non-attorneys so that Petitioner can sign the VAED Local Rule 83.1(M) Ghostwriter's Certificates with a

clear conscience. Petitioner's method of proceeding *pro se* requires she give assurances to her friends so they cannot be held liable for any negative consequences to the Petitioner or the community for the friends' assistance in the preparation of this document. Therefore, Petitioner agrees to fully indemnify every non-attorney friend whose assistance she received in the preparation of this document. Petitioner has fully read this document, understands this document completely, and totally agrees with ideas this document expresses. Petitioner holds harmless every non-attorney friend who assisted her in the preparation of this document. No friend was compensated by Petitioner for any assistance he or she provided in the preparation of this document nor has any friend represented to Petitioner that they were/are an attorney. Defendant is totally responsible for this document prepared without assistance from any attorney.

The Virginia Courts have and are violating Petitioner's Liberty Interest in the "nurture, upbringing, companionship, care, and custody" of her son E. L.-D. (DOB 2008) which Fundamental Liberty Interest is protected by the Due Process Clause of **U.S. Amendment XIV**. *Troxel v. Granville*, 530 U.S. 57, 77, 120 S.Ct. 2054, 2066, 147 L.Ed.2d (2000) (Souter, J., concurring). These Virginia Courts are Unconstitutional and/or Illegitimate Courts lacking adherence to ***STANDARDS*** found in the Code of Virginia §20-124.2(B) as stated in the following sentences: **1)** "In determining custody, the court shall give primary consideration to the best interests of the child;" and **2)** "The Court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children."

Petitioner has seen her son E. L.-D. (DOB 2008) only six times since 3/14/2020 (5/9/2021, 2/11/2022, 2/12/2022, 2/26/2022, 4/8/2023 & 5/20/2023) with periods of no visitation as long as 20 months due to the alienation by Respondent with his Sole Legal Custody and his Primary Physical Custody. According to an ignored ACCC Document **[12/27/2020 "Mental Status Report on Natalia Lanell Dalton" by Dennis J. Hunt, Ph. D. with Dr. Hunt's Curriculum Vitae newly-presented at A206-A215]** there is no rational reason why the ACCC and Respondent can continue to violate Petitioner's Liberty Interests in the "nurture, upbringing, companionship, care, and custody" of her son E. L.-D. (DOB 2008) which Fundamental Liberty Interest is protected by the Due Process Clause of **U.S. Amendment XIV**. This SCOTUS ought to be able to immediately modify ACCC Custody Arrangements through Petitioner's SCV Petitions for Writ of Mandamus to the ACCC and FCCC in the Supreme Court of Virginia (herein "**SCV**").

Respondent has abused and continues to abuse Petitioner with his Sole Legal Custody and his Primary Physical Custody which was inappropriately switched to the Respondent beginning on 4/3/2014. On 7/7/2023, Petitioner filed FCJ&DRDC "Motion to Modify Child Support, Prospectively and Retrospectively and Request Audit from Child Support – Potential Fraud Case **[A1-A13]**." It raised the Federal Question whether or not the Virginia Judges in the Virginia Courts are violating Petitioner's Fundamental Liberty Interest in the "Nurture, Upbringing, Companionship, Care, and Custody" of her son E. L-D. (DOB 2008) which is protected by **U.S. Amendment XIV**. To see her son, Petitioner has to pay a supervisor who must be approved by Respondent. The 3/12/2024 FCJ&DRDC "Child Support Order **[A52-A60]**" lowered the monthly Child Support Petitioner has to pay Respondent making it more likely Petitioner who "has extremely limited personal assets **[A4]**" can see/visit with her son E. L.-D. (DOB 2008) who has his 17th Birthday on 2/11/2025. Respondent filed a 3/20/2024 FCJ&DRDC to FCCC "Notice of Appeal – Support Proceeding **[A61-A62]** creating FCCC Case No. JA-2024-0000085 with the intention of increasing the amount of monthly Child Support Petitioner has to pay Respondent. Therefore, the act of Respondent Lacayo appealing has made it less likely that Petitioner will be able to see/visit with her son E. L.-D. (2008) on his 17th Birthday as her Fundamental Liberty Interest which is protected by **U.S. Amendment XIV** is violated by Virginia and Respondent.

Therefore, Petitioner filed a 4/19/2024 VAED "Notice of Removal **[A14-A108 where A50-A108 were sealed by the VAED]**" in accordance with 28 U.S.C. §1446(b)(1) with 28 U.S.C. §1331 (Federal Question Jurisdiction). Along the way, Petitioner learned about *Mercer v. Virginia, et al.*, SCOTUS Case No. 23-7393 pending in the SCOTUS and how it proves all Virginia State, County, and City Judges are INCOMPETENT plus proves all Virginia State, County, and City Courts are Unconstitutional and Illegitimate because the Constitution of Virginia violates the ***U.S Supremacy Clause*** and the ***U.S. Supremacy Clause*** as found in *Duncan v. McCall*, 139 U.S. 449,461, 11 S.Ct. 573, 577 (1891). Now Petitioner might aid her efforts to Remove FCCC Case No. JA-2024-0000085 to the VAED as 1:24-cv-653 (LMB/WBP) because the 4th Circuit cannot REMAND to the VAED with instructions to further REMAND to an Unconstitutional & Illegitimate FCCC.

STATEMENT OF FACTS

By way of Housekeeping (these first two paragraphs), the 4/19/2024 VAED "Notice of Removal **[A14-A108 where A50-A108 were sealed by the VAED]**" on

pages 3-4 **[A16-A17]** starts Section III.1 (Statement of Claim – Removal) with an erroneous paragraph. Petitioner corrected this erroneous paragraph on the first page of her 5/1/2024 Letter to the VAED Judge **[VAED Document 7 (Page ID #112 to #113)]** after that VAED Judge had issued an erroneous first 4/24/2024 VAED "Order **[A109-A112]**" alleging Dalton had filed the 3/20/2024 FCJ&DRDC to FCCC "Notice of Appeal – Support Proceeding **[A61-A62]**" after the 3/12/2024 FCJ&DRDC "Child Support Order **[A52-A60]**." However, it had been Lacayo who had appealed to the FCCC on 3/20/2024 and Dalton who had Removed to the VAED on 4/19/2024 in accordance with 28 U.S.C. §1446(b)(1). The VAED Judge treated Petitioner's 5/1/2024 Letter to the Judge as a "Petition for Rehearing" issuing a second on-point 5/2/2024 VAED "Order **[A113-A114]**." The 4th Circuit vacated both the 4/24/2024 VAED "Order **[A109-A112]**" and 5/2/2024 VAED "Order **[A113-A114]**" in its 12/9/2024 4th Circuit "Judgment **[A152-A157]**" instructing the VAED to issue a new 12/9/2024 VAED Final "Order **[A158-A159]**" and REMAND to the FCCC. Petitioner thoroughly reviews this 4/19/2024 "Notice of Removal" erroneous paragraph **[A16-A17]** and VAED corrections thereto **[VAED Document 7 (Page ID #112)]** in Petitioner's 7/22/2024 4th Circuit "Informal Opening Brief **[A122-A151]**" at **A134-A136**. There was an issue with the VAED Record through no fault of Petitioner that required **Document 1 (Page ID #1 to #35)** to be rescanned as **Document 1 (Page ID #182 to #217)**.

Petitioner briefly explains the 4/19/2024 VAED "Notice of Removal's" erroneous paragraph on **A16-A17**. Petitioner Dalton as Defendant in FCJ&DRDC Case No. JA413878-06-00 actually initiated *Natalia Dalton v. Julio Lacayo*, FCJ&DRDC Case No. JA413878-05-01 by filing a 6/27/2023 Motion which was amended as 7/7/2023 FCJ&DRDC "Motion to Modify Child Support, Prospectively and Retrospectively and Request Audit from Child Support – Potential Fraud Case **[A1-A13]**." The 3/12/2024 FCJ&DRDC "Child Support Order **[A52-A60]**" in *Julio* recognizing that Petitioner Dalton's 6/27/2023 Motion had initiated the first case JA413878-05-01 **[A52]** before these two FCJ&DRDC Cases were combined as FCJ&DRDC Case No. JA413878-06-00 but that 3/12/2024 FCJ&DRDC "Child Support Order **[A52]**" failed to realize that Petitioner Dalton's 6/27/2023 Motion had been amended on 7/7/2023. The 4/19/2024 VAED "Notice of Removal's" erroneous paragraph on **A16-A17** reflects that Respondent Lacayo's Show Cause Motion **[A50-A51; VAED Document 2 (Page ID #36 to #37)]** not Petitioner Dalton's 7/7/2023 Motion **[A1-A13]** initiated the FCJ&DRDC Proceedings. This 7/7/2023 "Motion to Modify Child Support, Prospectively and Retrospectively and Request Audit from Child Support – Potential Fraud Case **[A1-A13]**" starts off the Appendix. Therefore, the first full paragraph on **A17** should also be corrected to

start "The Defendant's redone Motion was a **[7/7/2023]** 'Motion ..." not "...6/27/2023 'Motion ..."

In the 12/9/2024 4th Circuit "Judgment **[A152-157]**" at **A155-A156**, the 4th Circuit opined:

> "Assuming without deciding that Dalton could remove a state court action in this posture, we agree with the district court that it lacked federal subject matter jurisdiction.[3] *See Republican Nat'l Comm. V. N.C. State Bd. of Elections*, 120 F.th 390, 398 (4th Cir. 2024) ("We review de novo questions of subject-matter jurisdiction, including removal.").
>
> Turning to federal question jurisdiction, Dalton did not demonstrate that Lacayo's appeal – the action that she sought to remove – involved a federal question. *See* 28 U.S.C. §1331 (establishing federal question jurisdiction); *In re Blackwater Sec. Consulting, LLC* 460 F.3d 576, 583 (4th Cir. 2006) ("The party seeking removal bears the burden of demonstrating that removal jurisdiction is proper."). Moreover, Dalton could not manufacture federal question jurisdiction by raising a federal question in response to Lacayo's appeal or by including federal claims in her notice of removal.[4] ...
>
> [3] Because the district court never remanded this case to state court, we have jurisdiction to review the district court's orders. *Cf.* 28 U.S.C. §1447(d) (explaining that remand order is not reviewable o appeal absent limited exceptions).
>
> [4] On appeal, Dalton maintains that her motion to modify her child support obligations presented unspecified federal questions and thus authorized removal. Even if Dalton's motion presented a federal question, she could not have removed her own motion to federal court in the first place. *See* 28 U.S.C §1446(a) (providing that only defendant may remove state court action to federal court). Apparently recognizing as much, Dalton's notice of removal relied on Lacayo's appeal. But as explained above, Dalton did not establish that Lacayo's appeal involved a federal question.

Petitioner has two responses to the 12/9/2024 4th Circuit "Judgment." First, the 4th Circuit seems to be stating that Petitioner had to have raised a federal question(s) in, specifically, her 7/7/2023 "Motion to Modify Child Support, Prospectively and Retrospectively and Request Audit from Child Support – Potential Fraud Case **[A1-A13]**" (hereafter "**7/7/2023 Motion to Modify**") which was clearly filed in the FCJ&DRDC before appeal to the FCCC and which FCJ&DRDC federal question(s) was/were emphasized or made prominent by

Lacayo's act of appealing. Second, and the 4th Circuit never addressed this issue in its 12/9/2024 "Judgment," if all Virginia State, County, and City Courts are Unconstitutional and/or Illegitimate because they violate, among other Virginia Rights, the ***U.S. Supremacy Clause*** (U.S. Constitution, Article VI, Clause 2) and the ***U.S. Supremacy Clause*** found in Duncan v. McCall, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891), is it even lawful for the VAED to REMAND to an Unconstitutional and/or Illegitimate FCCC or for the 4th Circuit to REMAND to the VAED with instructions to further REMAND to the Unconstitutional and/or Illegitimate FCCC?

Petitioner addresses her latter response first then dissects her 7/7/2023 Motion to Modify. Pending in this SCOTUS is Mercer v. Virginia, et al., SCOTUS Case No. 23-7393. Mercer was tried by the County of Fairfax in the Fairfax County General District Court (hereafter "**FCGDC**") on 11/13/2018 for "Maintenance of a Vehicle Parked on Street" (Fairfax County Ordinance §82-5-43) and was convicted. He was tried on appeal by County of Fairfax in the FCCC on 1/3/2019 for the same "Maintenance of a Vehicle Parked on Street" (Fairfax County Ordinance §82-5-43) and convicted again. However, the now SCV Justice but then FCCC Judge Thomas P. Mann changed the case caption from County of Fairfax v. Mercer to Commonwealth of Virginia v. Mercer in his 1/15/2019 FCCC Final Order. Mercer appealed to the Court of Appeals of Virginia (hereafter "**COAV**") captioning his 1/23/2019 "Notice of Appeal" Commonwealth of Virginia v. Mercer like the 1/15/2019 FCCC Final Order. The COAV dismissed the appeal on 1/27/2020 for failing to name a necessary Party "County of Fairfax" in the caption of the 1/23/2019 "Notice of Appeal." The Supreme Court of Virginia (herein "**SCV**") dismissed the appeal on 1/11/2021 for "lack of jurisdiction." The SCOTUS denied certiorari on 10/4/2021 and denied rehearing on 12/6/2021. All this established a *res judicata* argument between Commonwealth of Virginia, County of Fairfax, and Mercer that the Commonwealth of Virginia cannot be used as a substitute for the County of Fairfax.

On 2/6/2020, Mercer got a Summons for "Unlawful Passing on Right" (Fairfax County Ordinance §82-1-6 adopting Code of Virginia §46.2-841). The SCV declared a Judicial Emergency in Virginia due to COVID-19. The County of Fairfax got five continuances to Mercer's one allowed Continuance. Mercer complained after 523 days about the unnecessary delay, the County of Fairfax's five continuances, and the fact that the Officer did not come to trial but his 7/13/2021 Motion to Dismiss was unreasonably denied. On Day 593 (9/21/2021), he was convicted in the FCGDC by County of Fairfax for "Unlawful Passing on Right" (Fairfax County Ordinance §82-1-6 adopting Code of Virginia §46.2-841). He was tried by the Commonwealth

of Virginia in the FCCC on 11/4/2021 contrary to *res judicata* from previous litigation where he testified that County of Fairfax had appeared in improper person as the Commonwealth of Virginia. On Day 637 (11/4/2021), he invoked his **U.S. Amendment V, VI, & XIV** Rights to a speedy public Trial and to be protected from Double Jeopardy but was convicted in the FCCC by the Commonwealth of Virginia for the same "Unlawful Passing on Right" (Fairfax County Ordinance §82-1-6 adopting Code of Virginia §46.2-841). Mercer's 11/4/2021 "Notice of Appeal" to the COAV was captioned *Mercer v. Commonwealth of Virginia & County of Fairfax*. The County of Fairfax failed to appear in the COAV and the Commonwealth of Virginia refused to respond to Mercer's 5/25/2022 "Opening Brief of Appellant." Mercer's Assignments of Error concerning Virginia's **U.S. Amendment V, VI, & XIV** violation were ignored by the COAV and his appeal was dismissed on 3/28/2023 with rehearing denied on 4/18/2023. Likewise to the COAV, in the SCV the County of Fairfax failed to appear and the Commonwealth of Virginia refused to respond to Mercer's 5/23/2023 "SCV Corrected Petition for Appeal / ..." The SCV refused Mercer's appeal on 10/26/2023 and denied rehearing on 2/2/2024. Mercer's 5/2/2024 SCOTUS "Petition for Writ of Certiorari [to the SCV]" was timely filed. On 12/27/2024, Mercer Supplemented his 5/2/2024 "Petition for Writ of Certiorari [to the SCV]" with this case of Petitioner's herein.

Mercer argues in SCOTUS Case No. 23-7393 that the 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 are Unconstitutional with respect to the ***U.S. Supremacy Clause*** and the ***U.S. Supremacy Clause*** as found in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891). The SCV cannot interpret the U.S. Constitution nor the U.S. Bill of Rights because this violates the ***U.S. Supremacy Clause***. All Virginia State, County, and City Judges need to be elected to by the People so that these Virginia Judges' Allegiance to the Defendants and their Rights. Mercer describes Virginia as a Confederate Police Government that does not enforce State or Federal Rights as a matter of Virginia Public Policy. Mercer describes all State, County, and City Judges as "INCOMPETENT." Mercer demands a Virginia Constitutional Convention to rewrite 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 to make these Virginia Constitutional Sections agree with the ***U.S. Supremacy Clause***. Mercer asks that the ***Incorporation Doctrine*** make **U.S. Amendments IX and X** applicable to the States through **U.S. Amendment XIV** and/or the ***U.S. Privileges and Immunity Clause*** (U.S. Constitution, Article IV, Section 2).

Mercer cites *Waller v. Florida*, 397 U.S. 387, 90 S.Ct. 1184, 25 L.Ed.2d 435 (1970) where Waller removed a canvass mural from the wall inside the City Hall of

Saint Petersburg, Florida carrying it through city streets and damaging it. Convicted of destruction of city property and disorderly breach of the peace in Saint Petersburg Municipal Court, he served 170 days in jail. Thereafter, the State of Florida charged him with Felony Grand Larceny. The Supreme Court of Florida did not prevent Waller's second trial where Double Jeopardy was alleged. Waller was convicted of Felony Grand Larceny and appealed to the District Court of Appeals (Second District) which acknowledged that the charge the State Court action rested on "was based on the same acts of the appellant as were involved in the two city ordinances." The District Court of Appeals 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 for which he is charged in the state court." The Supreme Court of Florida denied certiorari but the SCOTUS reviewed the case on certiorari. The SCOTUS decided that the Constitution of Florida, Article VIII, Section 2 established the municipal governments. The Constitution of Florida, Article V, Section 1 created the municipal courts. Since the Constitution of Florida created the State and Municipal Courts and State and Municipal Prosecutors, Waller had been a victim of Double Jeopardy.

Likewise, Mercer argues that the Prosecutor County of Fairfax is created from the Constitution of Virginia, Article IV (Sections 1 & 11) and Article VII (Section 2) with the Code of Virginia, Title 15.2 (Sections 301(A), 401, 402(A), & 408). The FCGDC and FCCC are created by the Constitution of Virginia, Article VI (Section 1). Prosecutor Commonwealth of Virginia is created from the Constitution of Virginia, Article V (Section 15). This is a damning argument that Mercer was subjected to Double Jeopardy by Virginia in violation of the ***U.S. Supremacy Clause***. Mercer further argues that *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891) creates Supreme Law of the Land that "By the Constitution, a republican form of government is guaranteed to every state of the Union, and a distinguishing feature of that form is the right of the people to choose their own officers for governmental administration." This means that the 1971 Constitution of Virginia, Article VI, Section 7 violates the ***U.S. Supremacy Clause*** because the Virginia Citizens have a Right to elect their own Judges so those Virginia Judges have Allegiance to the People not Allegiance to the Virginia General Assembly and the Virginia Police.

In the 7/7/2023 Motion to Modify after it is edited in an attempt to correct for Petitioner's Disabilities mentioned in the "Concise Statement of the Case" Section:

"There is no proof claiming criminal abuse or neglect [involving Petitioner that] was ever reported or was found during discovery / investigation; being that th[ese were] never done **[A3]**."

"Petitioner['s evidence and concerns have] been disregarded and ignored when brought to the court's attention, [including the] gross disparity [between her] actual income [and her] imputed income **[A3]**."

"Since this [actual income versus imputed income discovery and investigation] was never properly [and correctly] done, the child support order at the [out]set of this case should be null and void **[A4]**."

"Petitioner has extremely limited personal assets which are insufficient to support [E. L.-D. (DOB 2008)] as previously ordered **[A4]**."

"In fact, the [Division of] Child Support [petitioned] the Department of Motor Vehicles to suspend [Petitioner's driver's] license **[A4]**."

"In addition, Petitioner is burdened with certain disabilities that adversely affect her abilit[ies] and potential to earn **[A5]**."

"Petitioner, upon information and belief, earns approximately $3,336.38 per year when order was entered **[A6]**."

"Petitioner has applied for Social Security Disability benefits **[A6]**."

"[Petitioner has] ADA Rights; [the law requires] she [have] reasonable accommodations [of] equal and fair footing in the Court [for herself and for] her son **[A6]**."

"[Division of] Child Support refused to review any of Petitioner's documents showing proof of actual income **[A7]**."

"[Petitioner wonders why she is] still paying on health care and child care when [her] son is 15 years old [and] child care ended when [that son] was seven years old **[A9-A10]**."

"Petitioner can receive for child health insurance for free (Medicaid) **[A10]**."

""Petitioner would also like to bring to the court's attention the case *Morgan v. Morgan*, Supreme Court of New York, Second Department, February 1, 2023 regarding the suspension of child support due to custodial interference. Mr. Lacayo shows a pattern of custodial interference and control [in order to alienate mother from son] by disallowing mother to see her son for three years straight. [This is accomplished by] deliberately disapproving

supervisors that are well qualified to [supervise] visits in order to further discourage mother/son visits **[A10]**."

"Petitioner is being obligated to pay [child] support [when] Mr. Lacayo is willfully and purposely [disallowing] Petitioner [to] see her son as court ordered **[A11]**."

"Petitioner has paid more than six thousand dollars ($6,000.00) in visits and phone calls **[A11]**."

"Petitioner was never found [to be an] unfit [parent], nor abusive, [and] no psychological evaluation ever indicated Petitioner was a threat to [her son] **[A11]**."

REASON FOR GRANTING THE WRIT

Petitioner adopts and incorporates the "Concise Statement of the Case" Section and "Statement of Facts" Section herein along with Appendix pages **A1** to **A215** as if they were rewritten verbatim hereat.

Mercer v. Virginia, et al., SCOTUS Case No. 23-7393 now pending in the SCOTUS presents a damning argument that Virginia State, County, and City Courts do not respect the ***U.S. Supremacy Clause***, that all Virginia State, County, and City Judges are INCOMPETENT, that Virginia State, County, and City Judges are Illegitimate because they do not enforce Virginia Rights or Federal Rights as Public Policy, that Virginia has a Confederate Police Government since 1902, and that the 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 are Unconstitutional with respect to Virginia Rights, the ***U.S. Supremacy Clause***, and the ***U.S. Supremacy Clause*** as found in *Duncan v. McCall*, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891).

Petitioner has been trying to have her Fundamental Liberty Interests protected by **U.S. Amendment XIV** to the "nurture, upbringing, companionship, care, and custody" of her son E. L.-D. (DOB 2008) (*Troxel v. Granville*, 530 U.S. 57, 77, 120 S.Ct. 2054, 2066, 147 L.Ed.2d (2000) (Souter, J. , concurring)) enforced against Respondent. These Unconstitutional and Illegitimate Virginia State, County, and City Courts, and specifically the ACCC and FCCC, handed Respondent Sole Legal Custody and Primary Physical Custody while: **1)** "There is no proof claiming criminal abuse or neglect [involving Petitioner that] was ever reported or was found during discovery / investigation; being that th[ese were] never done **[A3]**;" and **2)** "Petitioner was never found [to be an] unfit [parent], nor abusive,

[and] no psychological evaluation ever indicated Petitioner was a threat to [her son] **[A11]**." There are no Virginia **STANDARDS** to be found in the Code of Virginia §20-124.2(B) which states: **1)** "In determining custody, the court shall give primary consideration to the best interests of the child;" and 2) "The Court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children."

Furthermore, there is a 7/20/2018 ""Third Order Modifying Child Custody and Visitation **[A88-A100]**" (see paragraph "i" at **A97**) and a 3/24/2021 ACCC "Order" **[VAED Document 2, Pages 39-51 & 57-59 (Page ID #74 to #86 & #92 to #94)]** which bars Petitioner from filing any Motions or Actions to Modify Custody in the ACCC without Petitioner "first obtaining a neuropsychological or psychological assessment ... by a provider approved by this (Lisa B. Kemler's) Court" despite Petitioner previously seeing Psychologist Dennis J. Hunt, Ph. D. **[newly-presented A206-A215]** prior to 12/27/2020 in violation of Petitioner's **U.S. Amendment I & XIV** Right "to petition the Government for a redress of grievances" which is totally Illegal and Unconstitutional. Judge Lisa B. Kemler is a disgrace and should resign immediately.

Petitioner will not receive a fair and impartial *de novo* Trial/Appeal in any Virginia State, County, or City Court. And as such, the VAED erred on 12/9/2024 in its "Order" when it REMANDED VAED Case No. 1:24-cv-653 (LMB/WBP) back to the FCCC as FCCC Case No. JA-2024-0000085. Further, the 4th Circuit erred on 12/9/2024 in its "Judgment" when it REMANDED 4th Circuit Case No. 24-1480 back to the VAED as VAED Case No. 1:24-cv-653 (LMB/WBP) with Instructions to FURTHER REMAND to the FCCC.

In its 12/9/2024 4th Circuit "Judgment **[A155]**" in Footnote 3, the 4th Circuit opined:

> [3] Because the district court never remanded this case to state court, we have jurisdiction to review the district court's orders. *Cf.* 28 U.S.C. §1447(d) (explaining that remand order is not reviewable on appeal absent limited exceptions).

Petitioner believes that when an entire State's Judiciary is Unconstitutional & Illegitimate as is the case here in Virginia, this classifies as a "limited exception."

Finally, Petitioner desperately needs to see and hold her son E. L.-D. (DOB 2008) and definitely on or before 2/11/2025 when Petitioner's son turns 17 years old. Petitioner will file a SCOTUS Motion with an attached SCV "Petition for Writ of

Mandamus to the Chief Judge of the Circuit Court of Alexandria City, Lisa B. Kemler for a Modification of Custody for E.L.-D. (DOB 2008)" as Petitioner is barred from filing Motions in the ACCC.

As an afterthought, the 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 violate 1971 Constitution of Virginia, Article I, Sections 2 and 5:

> **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."
>
> **1971 Constitution of Virginia**, Article I, Section 5 – "That the legislative, executive, and judicial departments of the Commonwealth should be separate and distinct; ..."

1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 do not respect the ***U.S. Supremacy Clause***. When the Virginia State, County, and City Courts stop enforcing the **U.S. Supremacy Clause**, these Virginia Courts stop enforcing the Federal Amendments in the U.S Bill of Rights which includes **U.S. Amendment V & XIV** as in *Mercer v. Virginia, et al.*, SCOTUS Case No. 23-7393. Taking Rights away from Citizens and Visitors to Virginia is not empowering the People which is what Virginia Right 1971 Constitution of Virginia, Article I, Section 2 guarantees to the Citizens and Visitors to Virginia. With the Virginia General Assembly (the Virginia Legislature) choosing all Virginia State, County, and City Judges (the Virginia Judiciary), this clearly is not separate and distinct Virginia Legislative and Virginia Judicial Departments required in the 1971 Constitution of Virginia, Article I, Section 5.

CONCLUSION

Petitioner petitions the SCOTUS for this case to be joined or heard together with similar case *Mercer v. Virginia, et al.*, SCOTUS Case No. 23-7393. These two cases share the same issues. Petitioner believes *Mercer* would do better to consider SCOTUS Rule 10(c) not SCOTUS Rule 10(b) (See Page 42(H9) in *Mercer*) for SCOTUS's use of the decision in *Waller v. Florida*, 397 U.S. 387, 90 S.Ct. 1184, 25 L.Ed.2d 435 (1970) to change Virginia in *Mercer v. Virginia, et al.*, SCOTUS Case 23-7393. Petitioner also believes that all Virginia State, County, and City Judges chosen through 1971 Constitution of Virginia, Article VI, Sections 7 were not given authority to judge others through a Constitutional Process. There is no need to

impeach a Virginia Judge using the 1971 Constitution of Virginia, Article IV, Section 17. All Virginia Judges ought to be simply dismissed!

Petitioner petitions this SCOTUS to issue a Writ of Certiorari to the 4th Circuit to review 4th Circuit Case No. 24-1480. All Virginia State, County, and City Courts are Unconstitutional and Illegitimate with respect to the 1971 Constitution of Virginia, Article I, Sections 2 & 5 (Virginia Rights), with respect to the Constitution of the United States, Article VI, Clause 2 (***U.S. Supremacy Clause***), and/or with respect to the ***U.S. Supremacy Clause*** as found in Duncan v. McCall, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891). Petitioner will not receive a fair and impartial *de novo* Trial/Appeal in any Virginia State, County, or City Court and especially ACCC and FCCC where Petitioner's Liberty Interest protected by the Due Process Clause of **U.S. Amendment XIV** in the "nurture, upbringing, companionship, care, and custody" of her son E. L.-D. (DOB 2008) have gone unenforced as a matter of Virginia Policy for a decade. This SCOTUS ought to reverse the VAED 12/9/2024 "Order" remanding VAED Case No. 1:24-cv-653 (LMB/WBP) back to the FCCC as FCCC Case No. JA-2024-0000085. This SCOTUS ought to reverse the 4th Circuit 12/9/2024 "Judgement" remanding 4th Circuit Case No. 24-1480 back to the VAED as VAED Case No. 1:24-cv-653 (LMB/WBP) with instructions for the VAED to further remand to FCCC. The 4th Circuit ought to instruct all Virginia U.S. District Courts to stop remanding cases back to Virginia State, County, and City Courts until Virginia convenes a Virginia Constitutional Convention and rewrites 1971 Constitution of Virginia, Article VI, Sections 1, 2, & 7 to agree with the ***U.S. Supremacy Clause*** and Duncan v. McCall, 139 U.S. 449, 461, 11 S.Ct. 573, 577 (1891). Petitioner's Custody Arrangements with Respondent in the ACCC for Petitioner's son E. L.-D.'s (DOB 2008) 17th Birthday on 2/11/2025 ought to be modified so that Petitioner can be with her son on a regular basis (Petitioner last was with her son on his birthday in 2015).

28 U.S.C. §1746 DECLARATION

I DECLARE under penalty of perjury under the laws of the United States of America that the foregoing "Petition for Writ of Certiorari [to the U.S. Court of Appeals for the Fourth Circuit]" is 5,390 words after subtracting quotations required under SCOTUS Rule 14.1(f) and the listing of counsel below and that the foregoing "Petition for Writ of Certiorari [to the U.S. Court of Appeals for the Fourth Circuit]" is true and correct. Executed on February 10, 2025.

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