No. 17-6071

In The

Supreme Court of the United States

GREGORY SHAWN MERCER,

Petitioner,

vs.

FAIRFAX COUNTY BOARD OF SUPERVISORS, *et al.*,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals for The Fourth Circuit

PETITION FOR REHEARING

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TABLE OF CONTENTS

Table of Contents		i
Table of Cited Authorities (Case Law)		ii
	(Non-Case Law)	iii
Petition for Rehearing:		96
I.	Intervening Circumstances of a Substantial or Controlling Effect	96
II.	Constitutional Provisions and Statutes	97
III.	Facts and Argument	98
IV.	Other Substantial Grounds Not Previously Presented	108
V.	Signature	109
VI.	Certification Petition for Rehearing is: Restricted to Rule 44.2 Grounds, Made in Good Faith, and Not Made for Delay	110
Appendix:		
	6/19/2015 Affidavit of U.S. Constitutional Amendment IV Violations (Reprint)	A84

i

TABLE OF CITED AUTHORITIES

CASE LAW:

Atherton v. District of Columbia Office of Mayor, 567 F.3d 672, 681-82 (D.C.Cir 2009) 99

Baker v. Carr, 369 U.S. 186, 222 n. 48 (1962) 100

Carey v. Piphus, 435 U.S. 247, 259, 98 S.Ct. 1042, 1950, 55 L.Ed.2d 252 (1978) 106

Luther v Borden, 48 U.S. (7 How.) 1, 45 (1849) 99

Gregory Shawn Mercer v. Commonwealth of Virginia, Case No. 17-964 96, 108

Parratt v. Taylor, 451 U.S. 527, 537, 101 S.Ct. 1908, 1913, 68 L.Ed.2d 420 (1981) 106

Riddle v. Mondragon, 83 F.3d 1197, 1202 (10th Cir. 1996) 99

Sterling v. Constantin, 287 U.S. 378, 401 (1932) 101

Taylor v. Books a Million, Inc., 296 F.3d 376, 378 (5th Cir. 2002) 99

Commonwealth of Virginia v. Gregory Shawn Mercer, Case No. MI-2006-2302 102

Zinermon v. Burch, 494 U.S. 113, 125, 110 S.Ct. 975, 983, 108 L.Ed.2d 100, 58 USLW4223 (1990) 106-107

ii

NON-CASE LAW:

39th Congress, Session I, Chapter 31,
Section 1 (1866) 101

iii

PETITION FOR REHEARING

I. INTERVENING CIRCUMSTANSTANCES OF A SUBSTANTIAL OR CONTROLLING EFFECT:

76. There are three intervening circumstances between the filing of the two identical 12/18/2017 Petitions for Writ of Certiorari with two identical 12/22/2017 Amended Supplemental Briefs of Petitioner and then the filing of these two identical 2/2/2018 Petitions for Rehearing in ***these cases*** being defined herein as either ***Case No. 17-6071*** or ***Case No. 17-6072***:

a) The filing on 1/4/2018 of *Gregory Shawn Mercer v. Commonwealth of Virginia*, Case No. 17-964 which was docketed on 1/8/2018 and previously discussed in the Petitions for ***these cases*** on pages 5, 56, 59-60, 62-63, 69-72, 75-78, A29-A43 and in the Amended Supplement for ***these cases*** on pages 88-89, 91,93, A106-A137;

b) The filing on 1/4/2018 of "Rule 12.4 Motion to Join [Petitions for Writ of Certiorari for] Case Nos. 17-6072 & 17-964" demonstrating a Virginia Pattern of Denying U.S. Amendment V & XIV Rights; and

c) The 1/8/2018 denial of the Petitions for Writ of Certiorari in ***these cases*** alerting Petitioner he needs to emphasize his ***6/19/2015 Affidavit of U.S. Constitutional***

96

Amendment IV Violations which is in the Petitions for Writ of Certiorari on Pages A84-A96 (reprinted in Appendix attached hereto).

II. CONSTITUTIONAL PROVISIONS AND STATUTES:

United States Constitution and Amendments:

CUS, Article III, Section 2, Clause 1 (Case or Controversy Clause) 100

CUS, Article IV, Section 4 (Guarantee Clause) 99-101

U.S. Amendments IV 96-97, 101

V 96, 99, 105, 107-108

XIV 96, 99, 105, 107-108

United States Code Statutes:

28 U.S.C. §1254(1) & 1257(a) 100

28 U.S.C. §1443 101

42 U.S.C §1983 106

Code of Virginia Statutes:

VA FOIA 104-107

§2.2-3705.3(9) 104

97

§2.2-3705.5(3) 104

63.2-104 104

63.2-105 104

Federal Rules of Civil Procedure:

FRCP Rules 1 through 4 101

FRCP Rule 4 102-103

Rules of the Supreme Court of the United States:

Rule 12.4 96, 108

Rules 44.1 to 44.3 109-110

III. FACTS AND ARGUMENT:

77. Petitioner now understands that only three Law Clerks reviewed his two Petitions for Writ of Certiorari in ***these cases*** being Law Clerks for the Pool (Seven Justices) and Law Clerks in the Offices for both Justices Thomas and Justice Gorsuch. Petitioner understands that Justice at this level is about getting at least four Justices to vote yes for a Petition for Writ of Certiorari while this Court receives what Petitioner estimates as an average of 30 Petitions a day, give or take. Petitioner's two

98

Petitions was reviewed over the Christmas Holidays of 2017.

78. Petitioner is comfortable restricting his two appeals to Issues 1, 2, & 4 in the interest of securing his four votes. Petitioner is comfortable restricting his hopes only to restoring his U.S. Amendment V & XIV Rights in the interest of securing his four votes.

79. *Pro se* Petitioner's writing is non-standard and Petitioner would like to explain to this Court how the Intervening Circumstances of a Substantial or Controlling Effect relate to ***these cases***. Petitioner believes this is a Justiciable Guarantee Clause Claim relating to a Permanent Military Police Government in Virginia and not simply Gerrymandering. *Pro se* Petitioner is doing his best to communicate this to the Court but does not write as well as a lawyer. He hopes to be held to less stringent standards (*Taylor v. Books a Million, Inc.*, 296 F.3d 376, 378 (5th Cir. 2002); *Riddle v. Mondragon*, 83 F.3d 1197, 1202 (10th Cir. 1996); *Atherton v. District of Columbia Office of Mayor*, 567 F.3d 672, 681-82 (D.C.Cir 2009)).

80. *Luther v Borden*, 48 U.S. (7 How.) 1, 45 (1849) states, "Unquestionably a military [or police] government, established as the permanent government of the State, would not be a republican government, and it would be the duty of Congress to overthrow it."

81. Where the Petitioner has actually and personally suffered injury or harm "in fact" from

99

what he argues is a Un-Republican Permanent Military Police Government in Virginia, the Case or Controversy Clause (CUS, Article III, Section 2, Clause 1) together with both 28 U.S.C. §1254(1) and 28 U.S.C. §1257(a) would naturally alert Congress to any domestic problem where there might be a Guarantee Clause Violation should this Court grant Certiorari in ***these cases***. It is for Congress to decide whether or not to apply the Guarantee Clause thereafter.

82. The specific means for alerting Congress comes from the clarification in the political question doctrine in Gerrymandering case *Baker v. Carr*, 369 U.S. 186, 222 n. 48 (1962) where **there actually is** a "judicially discoverable and manageable standard for resolving" a possible Un-Republican Military Police Government in Virginia.

83. According to the Guarantee Clause (CUS, Article IV, Section 4), "The United States shall guarantee to every State in the Union a Republican Form of Government, and shall protect each of them ... on Application of the Legislature [Congress] ... against domestic Violence." Virginia State Police (VSP) Officers are vindictively attacking this Petitioner who is a United States Citizen.

84. Petitioner has preserved his motion for the lower courts to **declare Virginia in a state of Domestic Violence** in order to alert Congress of the Virginia Police aggression Petitioner has experienced. In this way, Congress could decide whether or not to apply the Guarantee Clause.

100

85. When cases such as ***these cases*** come before this Court, "What are the allowable limits of military [or police] discretion, and whether or not they have been overstepped in [***these***] particular ***case***[***s***] are judicial questions." *Sterling v. Constantin*, 287 U.S. 378, 401 (1932). Petitioner's first Question for Review asks this.

86. The following is what happened to Petitioner in Virginia as documented in the Appendix attached hereto by way of a reprint of Petition pages A84-A96: ***6/19/2015 Affidavit of U.S. Constitutional Amendment IV Violations***. Petitioner believes this Affidavit documents evidence of Justiciable Guarantee Clause Violations by a Permanent Military Police Government in Virginia.

87. Petitioner had a Right to sue by FRCP Rules 1 through 4 (See also 39th Congress, Session I, Chapter 31, Section 1 (1866) – "...citizens ... shall have the same right, in every State and Territory in the United States, ... to sue, ... and to full and equal benefit of all laws and proceedings for the security of person and property, ... any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding" which United States Code Section is now the basis of 28 U.S.C. §1443).

88. Petitioner had and has an actionable claim against two VSP Officers based on 3/19/2016 Federal Hearsay Exception Evidence [Petition pages A96-A99] and 5/4/2016 Forensic Tape Expert Evidence [Petition pages A99] that his 3/26/2007

101

Court Transcript from Fairfax County Circuit Court (FCCC) Case *Commonwealth of Virginia v. Gregory Shawn Mercer,* Case No. MI-2006-2302 was fraudulently edited in multiple places. In fact, the 3/26/2007 Transcript was edited to read incorrectly Case No. MI-2006-2343. Petitioner's three appeals of this case were obstructed in: **a)** the Court of Appeals of Virginia (COAV – 7/18/2007 Record No. 0828-07-4); **b)** the Supreme Court of Virginia (SCV – 2/27/2009 Record No. 090536); and **c)** this Court (12/21/2009 Case No. 09-8206).

89. Petitioner sued VSP Trooper Kenneth S. Houtz and VSP Sergeant Kerry S. Allander along with the Fairfax County Board of Supervisors (FCBoS), et al. in a United States District Court Civil Action (VAED – 3/6/2015 Case No. 1:15-CV-302). This case passed through the United States Court of Appeals for the Fourth Circuit (USCOA4C – 2/22/2016 Case No. 16-1138) and is now in this Court as **Case No. 17-6071**.

90. Petitioner worked with a Professional Process Serving Company and a Private Process Server in accordance with FRCP Rule 4 to serve the two VSP Defendants (served 5/22/2015 & 5/31/2015) in his VAED Civil Action.

91. The VSP Defendants along with VSP Special Agent Eliezel A. Vega retaliated without reason with four 6/1/2015 False Warrants against Petitioner. Petitioner was terrified and ran from VSP for four and a half days.

102

92. Petitioner was Falsely Arrested on 6/6/2015 because the Professional Process Serving Company had used a computer to learn two VSP Home Addresses which Petitioner then took to the VAED to get Amended Summonses one of which was served on a VSP Defendant by a Private Process Server in Petitioner's presence because of that VSP Defendant's prior evasion of service. At his 6/6/2015 False Arrest, Petitioner's laptop computer and cell phones were seized by the VSP (Property never returned). Attempts to recover his property became FCCC Case No. CL-2016-07197, passed through the Supreme Court of Virginia (SCV – Record No. 161248), and is now in this Court as **Case No. 17-6072**.

93. Petitioner was placed in Solitary Confinement for three and a half days until 6/9/2015 in the Fairfax County Adult Detention Center (FCADC) for following FRCP Rule 4. While Petitioner was in the FCADC, the VSP Unconstitutionally Searched his townhouse and Unconstitutionally Seized Property including a case file against the FCBoS from his townhouse (Property never returned). Petitioner paid un-reimbursed legal fees of $4,560. Petitioner was re-arrested on 7/2/2015 on six more False Warrants and paid more un-reimbursed legal fees of $1,750. Petitioner refused to have a mental health evaluation while in his Supervised Release Program in 8/2015 which created an eleventh False Charge.

94. On 12/17/2015, the VAED dismissed Case No. 1:15-CV-302 because the FCBoS demanded a

103

Theory of Supervisory Liability then used VA FOIA (VA Code: §2.2-3705.3(9), §2.2-3705.5(3), 63.2-104, & 63.2-105) to withhold True Copies of documents that Petitioner needed to form his Theory of Supervisory Liability. Petitioner could not respond intelligently to the 11/20/2015 FCBoS Motion to Dismiss nor prosecute his case because VA FOIA permitted the FCBoS the discretion of withholding True Copies of the FCBoS Documents. Petitioner moved the VAED on 11/25/2015 for True Copies of the FCBoS Documents but the VAED abstained on 12/4/2015 due to VA FOIA. Petitioner argues this abstention was **VAED error**. The VAED Dismissed Petitioner's Complaint which was appealed on 2/22/2016 to the USCOA4C (Case No. 16-1138).

95. On 3/31/2016, eight FCCC False Charges were Dismissed with Prejudice and three FCCC False Charges which were the previous Felony Charges were reduced to Misdemeanors then Nolle Prosequied.

96. Petitioner tried to get a Return of Property Order for his 6/6/2015-Seized Electronic Property and was told by a Fairfax County General District Court Judge to get an Inventory List suggesting VA FOIA. Petitioner's two VA FOIA Requests for the 6/6/2015 Inventory List were denied by the VSP because production of the Inventory List was at the discretion of the VSP Custodian of Records according to VA FOIA. Petitioner filed a Petition for Writ of Mandamus (5/19/2016 – FCCC Case No. CL-2016-07197) against the VSP Custodian of Records Lieutenant Tricia W. Powers arguing his

104

U.S. Amendment V & XIV Rights not to be deprived of his Property ***without due process*** were being violated. The FCCC denied (5/27/2016) Petitioner's Petition for Writ of Mandamus for the 6/6/2015 Inventory List which denied Petitioner the only due process available to him which he needed so that he could be granted a Return of Property Order for his 6/6/2015-Seized Property. His U.S. Amendment V & XIV Rights had been violated by this **FCCC error**.

97. After the 2/22/2016 Notice of Appeal, Petitioner argued the VAED should not have abstained due to VA FOIA but the USCOA4C denied Petitioner's Appeal (1/24/2017). *Pro se* Petitioner filed a Petition for Rehearing Moving for leave to file a 16th page then supplemented this USCOA4C Rehearing with his SCV Rehearing from the following paragraph. The USCOA4C granted leave to supplement, denied the 16th page, and denied the Rehearing (3/13/2017). *Pro se* Petitioner argues denial of the 16th page was **USCOA4C error**.

98. Petitioner filed his appeal in the SCV (6/20/2016 – Record No. 1612480). Petitioner argued VA FOIA was being used to deny him the his only available due process (the 6/6/2015 Inventory List) which he needed in order to be granted a Return of Property Order for his 6/6/2015-Seized Property. The SCV denied his appeal (2/6/2017) and Rehearing (3/24/2017). This violated Petitioner's U.S. Amendment V & XIV Rights not to be deprived of his Property ***without due process*** and was **SCV error**. There is no

105

method in Virginia by which Petitioner could get his 6/6/2015-Seized Property back from the VSP because Petitioner was denied by the SCV the only due process available to him being the 6/6/2015 Inventory List withheld from Petitioner using VA FOIA. But for VA FOIA, the 6/6/2015 Inventory List would be produced to Petitioner who would then be able to be granted a Return of Property Order from the FCCC for his 6/6/2015-Seized Property.

99. *Zinermon v. Burch*, 494 U.S. 113, 125, 110 S.Ct. 975, 983, 108 L.Ed.2d 100, 58 USLW4223 (1990) states,

> "In procedural due process claims, the deprivation by state action of a constitutionally protected interest in 'life, liberty, or property' is not in itself unconstitutional; **what is unconstitutional is the deprivation of such an interest *without due process of law***. *Parratt v. Taylor*, 451 U.S. 527, 537, 101 S.Ct. 1908, 1913, 68 L.Ed.2d 420 (1981) and *Carey v. Piphus*, 435 U.S. 247, 259, 98 S.Ct. 1042, 1950, 55 L.Ed.2d 252 (1978). ... The constitutional violation actionable under §1983 is not complete when the deprivation occurs; it is not complete unless and until the State fails to provide due process. Therefore, to determine whether a constitutional violation has occurred, it is necessary to ask what process the State provided, and whether it was constitutionally adequate."

106

100. *Zinermon* makes it clear that although the 6/6/2015 arrest may have been a False Arrest, the subsequent 6/6/2015-Seizure of Petitioner's Property was not unconstitutional. But because there is no procedural due process of law by which Petitioner could possibly end the deprivation of his property, ***there is an Unconstitutionality***. What maintains the unconstitutional deprivation is the failure to disclose the 6/6/2015 Inventory List (the Due Process) which VA FOIA permits the VSP Custodian to legally withhold at her discretion. Petitioner argues that ***VA FOIA is Unconstitutional***. In the only Virginia Procedure to Return Police-Seized Property, VA FOIA legally permits the deprivation of Petitioner's Property ***without Due Process of Law***. The 6/6/2015 Inventory List can be legally withheld ***at the discretion of the VSP Custodian of Records according to VA FOIA*** in violation of Petitioner's U.S. Amendment V & XIV Rights.

101. Once ***VA FOIA is*** determined to be ***Unconstitutional*** in **Case No. 17-6072** because it permits the Custodian of Records to legally withhold a document (the 6/6/2015 Inventory List) that was Petitioner's only available due process of law for the Return of his Property, VA FOIA cannot be an acceptable grounds for withholding the True Copies of FCBoS Documents in VAED Case No. 1:15-CV-302 on 12/4/2015 which became USCOA4C Case No. 16-1138 on 2/2/2016 then **Case No. 17-6071** in this Court on 9/21/2017.

107

IV. OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED:

102. Petitioner filed on 1/4/2018 and one day before this Court first considered ***these cases*** herein both *Gregory Shawn Mercer v. Commonwealth of Virginia*, Case No. 17-964 and a "Rule 12.4 Motion to Join [Petitions for Writ of Certiorari for] Case Nos. 17-6072 & 17-964." Because Petitioner did not know the number of Case No. 17-964 on 1/4/2018, the Rule 12.4 Joindre Motion was only filed under Case No. 17-6072. Since Case No. 17-6072 was denied on 1/8/2018, Clerk Redmond K. Barnes returned the Rule 12.4 Joindre Motion to Petitioner with letter dated 1/8/2018.

103. Petitioner herewith renews his Rule 12.4 Joindre Motion for both Case Nos. 17-964 & 17-6072. Both these Petitions are for Writs of Certiorari to the SCV. Both argue a violation of Petitioner's U.S. Amendment V & XIV Rights and demonstrate a Virginia Pattern of Denying U.S. Amendment V & XIV Rights.

104. Case No. 17-6072 argues the **SCV erred** violating Petitioner's Due Process U.S. Amendment V & XIV Rights by denying Petitioner due process of law by way of a Writ of Mandamus to the VSP Custodian of Records Lieutenant Tricia W. Powers for a 6/6/2015 Inventory List.

105. Case No. 17-964 argues the **SCV erred** violating Petitioner's Due Process U.S. Amendment V & XIV Rights by ignoring FCPD Officer Carl

108

Jenkins' Perjury and both FCPD Officer Jenkins' and Assistant Commonwealth's Attorney Alexandra P. Vakos' ***Vindictive Prosecution***.

106. Rule 44.3 requires Petitioner move this Court to Order Opposing Counsel to respond to this Petition for Rehearing.

V. SIGNATURE:

Respectfully Submitted,



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109

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VI. CERTIFICATION PETITION FOR REHEARING IS: RESTRICTED TO RULE 44.2 GROUNDS, MADE IN GOOD FAITH, AND NOT MADE FOR DELAY:

As required by Rule 44.2, I certify that this petition for rehearing was restricted "to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented." In accordance with 44.1, I further certify that this petition for rehearing was made in good faith and not made for delay.

I declare under penalty of perjury that the foregoing certifications are true and correct to the best of my information, knowledge, and belief.

110

Executed this 2nd day of February, 2018.

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111

6/19/2015 Affidavit of U.S. Constitutional Amendment IV Violations

AFFIDAVIT OF U.S. CONSTITUTIONAL AMENDMENT IV VIOLATIONS

FEDERAL CASE NO. 1:15-CV-302

I, Gregory Shawn Mercer, was falsely arrested on 6/6/15 by the Virginia State Police who unlawfully confiscated my computer, my iPhone, my vehicle being a white 2009 Toyota Camry Hybrid (VIN # 4T1BB46K39U089938), and unlawfully searched my home at 3114 Borge Street, Oakton , Virginia, 22124 on 6/8/15 while I was seized and in jail (the Fairfax County Adult Detention Center – FCADC) between 6/6/15 and 6/9/15. I am a Plaintiff in a Federal District Court lawsuit against 20 Defendants, though at least one

Defendant is dead. The reason I was falsely arrested by the Virginia State Police is that I was following Federal Civil Rules and Procedure to have Summonses served on the 19 Defendants in my Federal case. Two of those Defendants are Virginia State Police Troopers. I hired a Professional Process Serving Company (Virginia Process Servers, Inc.) to serve Defendants Kenneth S. Houtz and Kerry S. Allander. Defendant Houtz was served without incident. Defendant Allander evaded service and told the Professional Process Server his name was "Greg" and he was a renter. I went with a Private Process Server to find out from Renter Greg how to serve Defendant Allander and I went because I would recognize if Defendant Allander was pretending to be Renter Greg as I know Defendant Allander from previous meetings. Renter Greg turned out to be Defendant Allander and Defendant Allander was properly served by the Private Process Server. Thereafter, Defendants Houtz and Allander as Virginia State Police used the Virginia Criminal Justice System to effect an advantage in the Civil Litigation. My arrest was retaliation for successfully serving Defendant Allander. The following is what happened to me presented in third person where I am the "Plaintiff" and where Docket Entry Numbers refer to the Federal District Court for the Eastern District of Virginia, Alexandria Division, Gregory Shawn Mercer vs. Fairfax County Child Protective Services and Department of Code Compliance, et al., Case No. 1:15-CV-302.

On May 14, 2015, Plaintiff began trying to serve Summons[es] on Defendants Kenneth S. Houtz and Kerry S. Allander. He accompanied

Private Process Server Hussein Dernawi to both the Virginia State Police Area 9/48 facility on Braddock Road seeking Defendant Allander and the Area 10 facility in Loudo[u]n County seeking Defendant Houtz. Both Service attempts were unsuccessful. However, the Area 9/48 facility informed Private Process Server Dernawi that Defendant Allander was expected at work at the next midnight shift (Docket Entry 50 – Exhibits #2 & #5).

On May 15, 2015 shortly after midnight, Plaintiff accompanied Private Process Server Ibrahim Fetterolf to the Virginia State Police Area 9/48 facility and was kept waiting on hold on the door phone while a Virginia State Police vehicle left out of the back of the Area 9/48 facility. Defendant Allander had been expected at work at midnight. When the operator returned to the line of the door phone, Plaintiff was told that Allander was not at the Area 98/48 facility but would return on "Saturday." Plaintiff and Private Process Server Fetterolf spoke with three other Virginia State Troopers outside the Area 9/48 facility seeking information on Defendant Allander before leaving (Docket Entry 50 – Exhibits #2 & #5).

On May 19, 2015, Plaintiff paid $160 to have Virginia Process Servers Inc. run computer "Skip Traces" on Defendants Wasklewicz, Mackay, Houtz, and Allander to find home addresses to serve Summonses (Docket Entry 50 – Exhibit #3). Plaintiff prepared four Amended Summonses for these four Defendants at the Clerk's Office of this Court. Plaintiff arranged Professional Process Servers for Defendants Wasklewicz in Bellingham,

Washington and Defendant Mackay in Chicago, Illinois. On May 21, 2015, Plaintiff paid $150 to have Virginia Process Servers, Inc. serve Defendants Houtz and Allander (Docket Entry 50 – Exhibit #3). Defendant Houtz was served his Summons on May 22, 2015 at 1:23 pm by Professional Process Server Patricia Beard (Docket Entry 50 – Exhibit #3).

On May 27, 2015 at 1:[0]5 pm, Professional Process Server Beard attempted service on Defendant Allander who Evaded Service by giving his name as "Renter Greg" (Docket Entry 50 – Exhibit #4). In Open Court on June 16, 2015 at a Hearing concerning Defendants Houtz's and Allander's Petitions for Protective Order against Plaintiff and Private Process Server Fetterolf (Docket Entry #58 – Both Exhibits), Defendant Allander explained that he would get sales pitches for new siding, a new roof, etc. if he admitted to being the homeowner so he never gives his true name when approached at home by strangers (Docket Entry #58). Plaintiff was forced by his requirement to serve a Summons on defendant Allander tomake contact with "Renter Greg." Fearing a trap, Plaintiff went to the Clerk's Office, had [an] Alias Second Amended Summons for Defendant Allander issued (Docket Entry 50 – Exhibit #2), and arranged to go to Defendant Allander's home with Private Process Server James N. Powers. Renter Greg turned out to be Defendant Allander. Defendant Allander was served on May 31, 2015 at 8:25 pm by Private Process Server Powers who was accompanied by Plaintiff (Docket Entry 50 – Exhibits #2 & #5).

On June 1, 2015 at or about 7:30 pm while Plaintiff was with his two adopted daughters aged 10 and 12 at Zinga Frozen Yogurt in Oakton Shopping Center, Virginia State Police Special Agent Vega was with two other Virginia State Police Troopers according to Plaintiff's Roommate Dernawi. Special Agent Vega explained that Plaintiff needed to return home because there were Warrants out for his arrest. Defendants Houtz and Allander had enlisted the support of the Virginia State Police to use the Virginia Criminal Justice System in an effort to effect an advantage in this Civil Case. Plaintiff asked what the charges were and was told by Special Agent Vega that they would be explained to him after he returned home. Plaintiff explained he was out with his children. Special Agent Vega told Plaintiff arrangements would be made for his children. Fearing Special Agent Vega and his two Virginia State Troopers were attempting to seize service paperwork concerning Defendant Allander not yet filed in this Court, Plaintiff told Special Agent Vega he was not going to return home. Fortunately, Plaintiff's phone ran out of power in the next five minutes as he talked with his ex-wife about arrangements for his children. Plaintiff's electronic footprint vanished from the Virginia State Police tracking network.

Plaintiff went to James and Kim Powers house Monday night and dropped his children there for the night. Plaintiff arranged for Private Process Server Powers to notarize the service paperwork of Defendant Allander and file it to this Court. Plaintiff returned home expecting to be arrested,

took a shower, and drove back to the Powers' house sleeping in his vehicle in front of the house.

The next morning was Tuesday, Kim Powers drove Plaintiff's oldest daughter to school and Plaintiff drove his younger daughter to school. Plaintiff went to his bank and withdrew $3,000 using only his driver's license to avoid an electronic footprint if he used his bank card. Plaintiff and Private Process Server Powers went to the notary and Private Process Server Powers filed the service paperwork of Defendant Allander in this Court. Plaintiff paid Private Process Server Powers $200. Plaintiff picked his children up from school and dropped them with his ex-wife at Harris Teeter grocery store. Plaintiff slept at a friend's house as Virginia State Police staked out his house. He drove his friend's car into and out of the parking lot of his house to figure out the unmarked Police presence. Plaintiff wrote an Ex Parte Emergency Motion for filing in this Court the next day explaining his situation.

The next morning was Wednesday, Plaintiff had his last shower before going to jail. Plaintiff filed his 6/3/15 Ex-Parte Emergency Motion in this Court, returned home to learn from Roommate Hussein Dernawi that Private Process Server Ibrahim Fetterolf had been arrested by the Virginia State Police for apparently violating a Protective Order for Allander against Plaintiff, then picked his children up from school. There was no prior Protective Order for Allander against Plaintiff but there had been an e-mail exchange with Virginia State Police Legal Affairs Daniel Wilson (Docket Entry 50 – Exhibit #1). This did not represent a

Protective Order as no Judge was involved and no Order was served on Plaintiff. On 6/3/15, Defendants Houtz and Allander filed their first and only Preliminary Protective Orders with Petitions for Protective Orders against Plaintiff and Private Process Server Fetterolf which were served on Plaintiff on 6/6/15. He again dropped his children with his ex-wife at Harris Teeter grocery store at or about 7:00 pm on 6/3/15. He returned to his friend's house he had slept at the previous night. He borrowed his friend's phone to call Ibrahim Fetterolf's Mother. The Virginia State Police called back on his friend's phone since Plaintiff now had an electronic footprint so Plaintiff immediately left his friend's house. Plaintiff wrote an Emergency Motion arguing why there could not have existed a Protective Order of Defendant Allander against Plaintiff prior to May 31, 2015 when he was successfully served. Therefore, the arrest of Private Process Server Fetterolf had to have been a false arrest which was assumably dated 6/3/15 when the Preliminary Protective Orders were signed. That night, Plaintiff slept in his vehicle in a parking lot.

The next morning was Thursday, Plainmtiff filed his 6/4/15 Emergency Motion defending Private Process Server Fetterolf. Plaintiff stopped at his house and left $200 for Roommate Dernawi to watch over his cats while he waited for his False Arrest to occur. Plaintiff bought tools and supplies tochange the oil in his car and changed his oil. That night, Plaintiff slept in his vehicle in a parking lot.

The next morning was Friday, and Plaintiff repeatedly called the Clerk of this Court trying to determine what the Judge had decided. Plaintiff went to Costco and had an eye exam while he waited for the Judge's decision. At 4:45 pm, a Clerk read the Judge's decision that "the States can do whatever they want." This Plaintiff took as the Federal Judge telling Plaintiff that the Federal Judge could not involve himself with States' Rights but if the issue was in Federal Court, that that would be a different matter. That night about midnight, Plaintiff was pulled over on I-495 about where it crosses I-395. A Virginia State Police car had alerted its Police drive[r] that a wanted Virginia license plate was in the vicinity. Plaintiff was arrested at gunpoint, asked to get out of the car, asked to walk backwards toward the voice giving commands, asked to get on his knees, then asked to put his hands on his head. Virginia State Trooper D. A. Espinosa made the arrest but there were numerous police cars at the scene when Plaintiff backed up toward the voice giving commands.

At the arrest, Plaintiff's computer, iPhone, and daughter's iPhone were confiscated by an unknown Virginia State Police Trooper. A rifle scope was found in Plaintiff's vehicle which he used as a telescope. Plaintiff does not own any guns. Plaintiff had the rifle scope when he went to Allander's Address with Private Process Server Powers so that, if necessary, he could determine if Renter Greg was Defendant Allander without involving Private Process Server Powers further. Plaintiff never used his telescope as no man was outside Defendant Allander's house. His case files

in the passenger seat of his vehicle were examined in detail discovering the fact that Plaintiff knew Defendants Wasklewicz's and Mackay's home addresses and had paid Professional Process Servers who were actively attempting to serve those Defendants out of State. The charges against the Plaintiff alleged a Felony for using his computer to gather identifying information, namely the addresses of Defendants Houtz and Allander (Docket Entry 50 - #3). This was a false assumption as Virginia Process Servers, Inc. had been paid to do the computer Skip Traces and told Plaintiff the results of those Skip Traces so Plaintiff have Amended Summonses issued from this Court for those Defendants (Docket Entry 50 – Exhibit #3). There were three Misdemeanors including two for gathering identifying information for the purpose of defrauding an individual (Docket Entry 50 – Exhibit #3). The final Misdemeanor was for Stalking Defendant Allander which was the direct result of Defendant Allander Evading Service of Process by giving the false "Renter Greg" identity to Professional Process Server Beard on May 27, 2015. But for Defendant Allander's Evasion of Service, Plaintiff would not have had the need to speak with "Renter Greg" to learn how next to go about serving Defendant Allander. At the arrest, Plaintiff was served the Preliminary Protective Orders of Defendants Houtz and Allander and notified of the 6/16/15 Hearing date on Petitions for Protective Orders for Defendants Houtz and Allander (Docket Entry #58 – Exhibits).

Plaintiff was driven from the arrest scene to a Virginia State Police building on Alliance Drive. In this building, Plaintiff first met Virginia State

Police Special Agent Vega. He identified himself as the man on the phone when Plaintiff was at Zinga Frozen Yogurt with his children on Monday at or about 7:30 pm. Plaintiff did not waive his Right to be questioned with counsel present. Plaintiff was driven to the Fairfax County Adult Detention Center (FCADC) where he was booked and fingerprinted. He had $1,894.13 on him which remained from the $3,000 he had withdrawn (The FCADC would later send Plaintiff a check (#132365) in the mail for only $1,886.14 so the FCADC stole $8 from Plaintiff). He was told his Bail Bond was $2,000 and he would have five (5) phone calls. He was put into a room with other people arrested that night where there were phones. To make friends, he gave away one of his five phone calls. He called his ex-wife and told her to bring $150 in the early morning hours of 6/6/15 so he could make his Bail. Anne Kerttula, his ex-wife, was told that Plaintiff had "No Bond." Wondering what was taking his ex-wife so long, he called her again and learned his $2,000 Bond had been changed to No Bond.

He was processed into the jail and sent to the Forensics Ward with the psychologically disturbed inmates and placed in solitary confinement without a pen. For dental floss, Plaintiff had removed the thread in his blanket and repeatedly tied it back together as thread is much weaker than dental floss. He begged for [a] shower which did not occur until after being at the FCADC for 44 hours. That was his first shower in four and a half days. On Monday, Plaintiff was arraigned on the four charges against him being a Felony and three Misdemeanors. The Judge continued his No Bond.

Plaintiff told the Judge he would hire his own lawyer. Plaintiff's ex-wife arranged for Stephen Sheehy, Esquire to visit Plaintiff Monday afternoon. Plaintiff agreed to a $3,500 retainer fee. Tuesday at 2:00 pm, Plaintiff's Bond Motion was heard and Bond set at $5,000. At that time, Plaintiff learned his house had been searched unlawfully. Plaintiff's ex-wife paid $500 to a Bail Bondsman. Plaintiff got out of jail on Monday about 5:00 pm after spending four and a half days fleeing Justice and three and a half days in jail. Plaintiff believes all FCADC inmates should be given a pen and access to dental floss in the future.

Plaintiff was driven by his Roommate Dernawi to get his vehicle out [of] a Police Impound lot called Redman Fleet Services, Inc. The fee was $560. Plaintiff was told by his other Roommate, Private Process Server Fetterolf's Mother, how terrified she was when Plaintiff's house had been searched. There had apparently been seven or eight Virginia State Police Troopers who came in a huge truck which they parked in the neighborhood and beside Plaintiff's house for four or five hours.

Plaintiff filed his Emergency Motion for Sanctions / Motion for Enlargement of Time on 6/10/15 hastily. At the 6/16/15 Protective Order Hearing concerning Defendants Houtz's and Allander's Petitions for Protective Orders against Plaintiff and Private Process Server Fetterolf, Plaintiff presented that Virginia Process Servers, Inc. had used their computer (Docket Entry 50 – Exhibit #3) and that Defendant Allander had been Evading Service (Docket Entry 50 – Exhibits #3 & #4). Plaintiff had testified but for Defendant

Allander's Evasion of Service, Plaintiff never would have met Defendant Allander at his house in an effort to find out from Renter Greg how next to attempt to serve Defendant Allander. In Open Court, Defendant Allander testified that [he] remembers meeting Professional Process Server Beard but that he would get sales pitches for siding, a new roof, etc. if he admitted to being the homeowner so he never gives his true name when approached at home by strangers. The Petitions for Protective Orders against Plaintiff were dismissed after a Hearing and the Petitions for Protective Orders against Private Process Server Fetterolf were dismissed at the request of Defendants Houtz and Allander before a Hearing was conducted (Docket Entry #58 – Exhibits). In Defendant Houtz's Affidavit in Support of Petition for Protective Order, Defendant Houtz had committed Libel against Plaintiff.

/s/ Gregory Shawn Mercer
Affiant

VIRGINIA
COUNTY / CITY OF FAIRFAX

Before me Affiant Gregory Shawn Mercer swears under penalty of perjury upon personal knowledge and belief that the foregoing "Affidavit of U.S. Constitutional Amendment IV Violations – Federal Case No. 1:15-CV-302" is true and correct occurring as stated above. Sworn this 19th day of June, 2015.

/s/ Elizabeth Feeser "6/19/15"

NOTARY

My Commission Expires: April 30, 2018

Stamp ELIZABETH SHANNON FEESER
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES APR. 30, 2018
COMMISSION # 7619006

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