No. 25A1117

IN THE
SUPREME COURT OF THE UNITED STATES

J. E. PENDLETON,

Applicant,

v.

UNITED STATES, et al,

Respondents.

To the Honorable John Roberts, Chief Justice of the United States Supreme Court and Circuit Justice for the D.C. Circuit

EMERGENCY APPLICATION FOR A WRIT OF INJUNCTION

J. E. Pendleton
Applicant, *in forma pauperis*
1857 Maisonneuve W, #100
Montreal, QC H3H 1J9
Tel: (418) 800 6685
E-mail: 2jqwann@gmail.com

March 30th, 2026

PARTIES AND RULE 29.6 STATEMENT

Applicant, JOCHEN EDMUND PENDLETON, formerly known as Jonathan Eric Pendleton, is a U.S. citizen currently residing in Canada, where he is seeking asylum under the Geneva Convention. Applicant is the Plaintiff-Appellant in the proceedings below and is a natural person who does not issue stock.

Respondents are MARCO RUBIO, in his official capacity as Secretary of State; KASH PATEL, in his official capacity as Director of the FBI; PAUL FERGUSON, in his individual capacity as Clerk of the Circuit Court of Arlington County, Virginia; NELSON SMITH, in his individual capacity as Commissioner of the Virginia Department of Behavioral Health and Developmental Services; JOHN LYNCH, in his individual capacity as the prosecuting Commonwealth Attorney for Arlington County, Virginia; TYLER COWEN, in his individual capacity as an employee of an unknown federal agency; UNKNOWN OFFICIALS from George Mason University and its police department. None of the Defendants have appeared or responded in any way.

RELATED PROCEEDINGS

1. *Pendleton v. United States, et al*, No. 1:25-CV-01218-LLA (D.C. 2025). The District Court spontaneously dismissed this case, filed in April, on November 5, 2025, denying Applicant's motion for an injunction as "moot." App. B.
2. *Pendleton v. United States, et al*, No. 25-5399 (D.C. Cir. 2025). Applicant's identical motion for injunction and appeal, filed November 20, 2025, were dismissed March 24, 2026. App. A.

TABLE OF CONTENTS

INDEX OF APPENDICES

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

TO THE HONORABLE JOHN ROBERTS, CHIEF JUSTICE OF THE SUPREME COURT AND CIRCUIT JUSTICE FOR THE D.C. CIRCUIT

Continuing to seek relief from his unlawful detention, Applicant respectfully petitions for a writ of injunction and asks this Court to permanently enjoin Defendants from: (a) reporting that Applicant is wanted for felonies that he was acquitted of in 2014; and from (b) reporting that Applicant is wanted for a misdemeanor that does not exist; and from (c) attempting to prosecute Applicant under Va. Code §§ 19.2-182.2 *et seq*, because these statutes violate the Equal Protection Clause after *Foucha v. Louisiana*, 504 U.S. 71, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992). Applicant is seeking the immediate return of his passport.

Applicant also (d) presents proof that he is actually innocent of the original 2014 charges based on newly disclosed evidence, and asks the Court to set aside the verdict of "not guilty by reason of insanity" in the Circuit Court of Arlington County, Virginia, because this verdict is the source of the irreparable harm complained of.

OPINIONS BELOW

The District Court dismissed this case *sua sponte* on November 5, 2025, for lack of subject-matter jurisdiction, calling the claims "patently insubstantial," akin to "bizarre conspiracy theories, … fantastic government manipulations of a plaintiff's will or mind, or … supernatural intervention." App. B at 1-2 (citation and internal alterations omitted). The District Court simultaneously denied this same Application as "moot." An identical motion filed November 20, together with an appeal brief filed December 30, 2025, were dismissed by the D.C. Circuit on March 24, 2026, for failure to provide "a short and plain statement of the claim showing that the pleader is entitled to relief." App. A.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1254 following the dismissal of Applicant's appeal No. 25-5399 in the D.C. Circuit, and may at any time grant an original writ pursuant to 28 U.S.C. §§ 1651, 2241(c)(3).

BACKGROUND AND PROCEDURAL HISTORY

As alleged in Applicant's verified First Amended Complaint below (Dist. Ct. Dkt. 12), in the fall of 2013 Mr. Pendleton "became the target of a sophisticated cyberstalking campaign perpetrated by George Mason University economics professor Tyler Cowen of Virginia." *Id.* ¶1. On March 26, 2014, "[a]fter spending several months reporting Cowen's activities to law enforcement across the country, [Applicant] attempted to place Mr. Cowen under citizen's arrest according to the common law of Virginia." *Id.*

As a result of this incident, Mr. Pendleton entered a dual pleading of "not guilty" or "not guilty by reason of insanity" (NGRI) and was acquitted NGRI on December 15, 2014, in the Circuit Court of Arlington County, Virginia, of felony MALICIOUS INJURY BY ACID, felony ABDUCTION BY FORCE, and misdemeanor ASSAULT AND BATTERY. See App. C, **Ex. B**. In May of 2015, he was involuntarily committed by the Circuit Court of Arlington County pursuant to Va. Code § 19.2-182.3.

After being conditionally released from the hospital in January 2017, Applicant was detained in Virginia for years without any relevant evidence being presented. When his NGRI case managers reneged on their promises of release in 2020, and Applicant was denied a meaningful hearing in Arlington's Circuit Court, he decided to decline any further participation and bench warrant was issued for "not following Court orders, to wit: did not appear for a Show

Cause hearing on October 23, 2020." The hearing was a "civil proceeding" under Va. Code §§ 19.2-182.6-8, yet the court records show a misdemeanor charge, App. C, **Ex. E**, and the bench warrant itself lists the "original charge[s]" Mr. Pendleton was acquitted of in 2014. *Id.*, **Ex. C**.

Mr. Pendleton then moved back to Seattle where he had been living prior to his arrest, and in February 2021 received a letter from the State Department notifying him that his passport had been revoked because "Arlington, Virginia, entered a felony warrant for your arrest. Warrant number CR14-91809 charges you with failure to appear for the underlying charge of assault and battery." App. C, **Ex. F**.

In May 2022, when Applicant moved to Austin, Texas … he was arrested by Texas authorities who also had the impression Mr. Pendleton was charged with the felonies he had been acquitted of in 2014 which was "repeatedly confirmed with Arlington." Dist. Ct. Dkt. 12, ¶131-32. Pendleton was released when Arlington declined extradition, App. C, **Ex. C**, and soon discovered that Virginia's NGRI statutes have been unconstitutional for decades.

In August 2022 Applicant filed a petition for a writ of habeas corpus in the Circuit Court of Arlington County challenging the entirety of his post-verdict detention in Virginia as facially unconstitutional. The petition reads in relevant part:

> "The US Supreme Court has made it clear in Baxstrom v. Herold (1966) and Foucha v. Louisiana (1992) that defendants found NGRI in the United States are entitled to the same protections afforded individuals facing purely civil commitment proceedings under Virginia code § 37.2-800, consistent with the Equal Protection Clause of the Fourteenth Amendment. This makes the separate NGRI commitment and release process in Virginia plainly unconstitutional."
>
> Dist. Ct. Dkt. 12, ¶135 (citing Arl. Cnty. CL22003186-00, App. D, **Ex. O**).

The Clerk of the Circuit Court of Arlington County, Defendant Paul Ferguson, who was named as a respondent in the petition addressed to that court, "began retaliating by refusing to

complete service on any of the court's orders, refusing to respond to FOIA requests for court records, and repeatedly delaying Mr. Pendleton's employment background checks for up to a month." Dist. Ct. Dkt. 12, ¶136 (see App. D, **Ex. P**). The Circuit Court of Arlington County issued a number of orders and judgments but Mr. Pendleton does not know what they say.

In March 2023, Applicant filed a second petition for a writ of habeas corpus in the Supreme Court of Virginia, again challenging the State's NGRI statutes as facially unconstitutional.

In April 2023, Applicant filed a suit for damages and declaratory relief in the U.S. District Court for the Eastern District of Virginia at Alexandria. *Pendleton v. Miyares, et al.*, E.D.Va. No. 1:23-CV-446. And in May 2023, Ferguson's office began reporting for the first time on Applicant's employment background checks that he is wanted for a non-existent misdemeanor crime called "VIOLATION OF NOT GUILTY BY REASON OF INSANITY CONDITIONAL RELEASE," causing job offers in Texas to be suspended or withdrawn. App. D, **Ex. S.**

In June 2023, the Supreme Court of Virginia dismissed Applicant's habeas petition because, as the court was informed, he could not afford process service on the respondents. In July 2023, Applicant then filed the first attempt at federal habeas relief pursuant to 28 U.S.C. § 2254 in Alexandria. *Pendleton v. Miyares, et al.*, E.D. Va. No. 1:23-CV-446, ECF 8-10. The exhibited dismissal order of Virginia's high court is attached at App. D, **Ex. R**.

In September 2023, after the district court had failed to respond to any of the pleadings, Applicant filed a petition to the Fourth Circuit for a writ of mandamus. *In re: Jonathan Pendleton*, USCA4 No. 23-1987; also cross-filed in *Pendleton v. Miyares, et al,* E.D.Va. No.

1:23-CV-446, ECF 12. This is the first time the warrant in question was attached to the federal record.

On October 3rd, 2023, Judge Leonie Brinkema dismissed the complaint in favor of *Younger* abstention, claiming that Mr. Pendleton is charged with felony escape under Va. Code § 19.2-182.15, a charge that does not appear on the warrant and had not been previously alleged. Judge Brinkema's order also says the complaint "does not meaningfully challenge any state law as violative of the Constitution" and declares habeas corpus "inappropriate" and "moot" without explanation. *Pendleton v. Miyares, et al,* E.D.Va. No. 1:23-CV-446, ECF 13 at 6-7.

On October 19, 2023, Applicant appealed Judge Brinkema's order to the Fourth Circuit in *Pendleton v. Miyares, et al,* USCA4 No. 23-7039 (later affirmed without comment), and sent another petition for a writ of habeas corpus to the U.S. district court in Richmond, *Pendleton v. DiMatteo, et al,* E.D.Va. No. 3:23-CV-734, which merely repeated Judge Brinkema's allegations and concluded on November 30, 2023, that "Pendleton has failed to exhaust available state remedies or demonstrate that exceptional circumstances warrant consideration." *Id.*, ECF 4 at 3-5.

Also on November 30, 2023, Applicant filed suit against Defendant Paul Ferguson under the Fair Credit Reporting Act in the U.S. District Court for the Western District of Texas at Austin for retaliatory disclosures on Applicant's background checks. See *Doe v. Charter Communications, LLC,* W.D. Tx. No. 1:23-CV-01458. The amended complaint documents two specific instances where consumer reporting agencies that had previously cleared Pendleton for employment were both newly reporting inaccurate information from Ferguson's office in Arlington — the only thing that had changed was that Pendleton had sued Ferguson in the

Eastern District of Virginia. *Id.*, ECF 12-1 (see App. D, **Ex. S**). That complaint, too, was dismissed with reference to Judge Brinkema's order, even though it is not relevant to the FCRA claims in Texas. *Id.*, ECF 8, 13.

On December 21st, 2023, Applicant appealed the denial of habeas corpus in Richmond under 28 U.S.C. § 2253(c)(2). *Pendleton v. DiMatteo, et al,* No. 23-7293 (4th Cir. 2023). On January 8, 2024, when State officials were finally compelled to respond, they once again repeated Judge Brinkema's allegation that "[the] warrant was issued for [Pendleton's] arrest for the felony offense of leaving Virginia while he was on conditional release, pursuant to Va. Code § 19.2-182.15," *id.*, ECF 12 at 2, and also repeated the falsehood that "Pendleton did not exhaust his state court remedies." *Id.* at 5-6. They did not comment on the fact that the State's entire statutory scheme violates the Equal Protection Clause after *Foucha v. Louisiana*, 504 U.S. 71, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992), and even cited case law that does not exist.[1]

On May 14, 2024, Applicant petitioned this Court for certiorari, asking for review of both the Alexandria and Richmond cases, *Pendleton v. Miyares, et al,* No. 23-7500, whereupon the Fourth Circuit denied the still pending habeas appeal out of Richmond — within hours of notifying the Virginia Attorney General that the petition for certiorari was in the mail. *Pendleton v. DiMatteo, et al*, USCA4 No. 23-7293, ECF 18 (referring opaquely to a "dispositive procedural ruling" in the district court).

In August 2024, realizing that he is being shut out of the courts intentionally and likely to remain unemployable for the foreseeable future, Mr. Pendleton applied for political asylum in Canada as a person in need of protection from persecution under the U.N. treaty of 1951, citing

[1] For example, the citation on pg. 4, "*United States v. Cordaro*, 2016 WL 11707873, at *1 (3d Cir. Mar. 31, 2016)," is one of several language model hallucinations.

"government sanctioned retaliation that has permanently impaired claimant's livelihood, persistent threats of trumped-up charges from state and federal officials, and a risk of cruel and unusual punishment upon return." Dist. Ct. Dkt. 12, ¶210 (see App. D, **Ex. T**).

On October 7, 2024, this Court denied Applicant's petition for certiorari and application for a writ of habeas corpus. *Pendleton v. Miyares, et al,* S. Ct. No. 23-7500, *cert. denied*, 145 S. Ct. 197 (Oct. 7, 2024). On October 24, Applicant filed a petition for rehearing explaining that there were newly identified *Brady* violations in the record, and that Petitioner had sought refuge in Canada from retaliation that had made it impossible for him to live in the United States — which was also denied. *Id.*, 145 S. Ct. 607 (Nov. 25, 2024).

As things stand now, the FBI is reporting that Applicant is wanted for felonies he was acquitted of in 2014; Arlington's Circuit Court is reporting that Applicant is charged with a misdemeanor that does not exist; and multiple state and federal officials have claimed that Applicant is charged with another felony for which no warrant or indictment has issued and which violates the Equal Protection Clause after *Foucha*. There has been no hearing and no merits based determination of Applicant's constitutional claims, and Applicant is still unrepresented by counsel.

Applicant filed the suit below in early April 2025, once again re-alleging he is "not charged with a crime as a matter of fact, and could not be charged with a crime as a matter of law," Dist. Ct. Dkt. 12, ¶226, petitioning for review under 5 U.S.C. §§ 706(2)(A-D, F).

On April 10, 2025, the FBI responded to a Freedom of Information Act request identifying Defendant Tyler Cowen and his associates, Alex Tabarrok and Mark Thornton — both of whom were named in Pendleton's 2014 testimony, as federal personnel under 5 U.S.C. §

552(b)(6). See App. C, **Ex. A**. This FOIA document "makes Cowen's 2014 testimony in the Circuit Court of Arlington County about his relationship to Tabarrok and Thornton thoroughly impeachable." Dist. Ct. Dkt. 12, ¶226. Together with Cowen's personal ties and business dealings with Palantir co-founder Peter Thiel, who manages a company that provides the same cyberstalking capabilities Pendleton was describing in 2014 to the federal government, *id.* ¶109-11, the First Amended Complaint alleges that these facts constitute proof of Pendleton's actual innocence. *Id.* ¶226.

Meanwhile Applicant is surviving on the charitable assistance of a neighboring country, awaiting an asylum hearing in Canada where he is also unable to work professionally because Arlington County is reporting that he is "criminally insane," and still unable to travel because the FBI is reporting he is wanted for crimes he was tried and acquitted of 12 years ago — all in flagrant violation of the U.S. Constitution.

On August 10, 2025, Applicant filed the First Amended Complaint at Dist. Ct. Dkt. 12, and sent AO399 waiver of service forms along with true copies of the Complaint to most of the Defendants, none of whom have replied. The answer from the executive branch Defendants to the *original* Complaint was due October 14, 2025, and they also did not bother to respond. The District Court dismissed this case on November 5, 2025, and denied Applicant's motion for an injunction as "moot." App. B. Applicant's appeal and identical motion for an injunction, filed November 20, 2025, were dismissed by the D.C. Circuit on March 24, 2026. App. A. The executive branch Respondents did not answer and have been in default since December 2025. See Fed. R. App. P. 15(b)(2) ("If the respondent fails to answer in [21 days], the court will enter judgment for the relief requested.").

REASONS FOR GRANTING THE WRIT

A. The Warrant Being Reported By The FBI Is Facially Unconstitutional

The warrant for Mr. Pendleton's arrest from the Circuit Court of Arlington County, Virginia, being reported through the FBI's NCIC database, was issued for "not following Court orders, to wit: did not appear for a Show Cause hearing on October 23, 2020." App. C, **Ex. C**. In all legal respects, the hearing was a "civil proceeding" pursuant to Va. Code §§ 19.2-182.6-8. Indeed, federal law requires that this hearing be a civil proceeding because "the State has no [] punitive interest. As [acquittee] was not convicted, he may not be punished." *Foucha v. Louisiana*, 504 U.S. at 80, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992).

However, the warrant also lists the "original charge[s]" Pendleton was acquitted of at trial in 2014 — CR14-918: MALICIOUS INJURY BY ACID; CR14-922: ABDUCTION BY FORCE; and CR14-995: ASSAULT AND BATTERY. App. C, **Ex. C**. The inclusion of these charges on the warrant has led both the U.S. Department of State and officials in the State of Texas to believe that Applicant is wanted for the crimes he was acquitted of twelve years ago. Without knowing anything of the case history, this is the only logical interpretation, and it has resulted in ten days of solitary confinement in the Travis County jail in 2022, *id.*, **Ex. C**, and the ongoing revocation of Applicant's passport since 2021. *Id.*, **Ex. F**.

To the extent that this October 23, 2020, warrant from the Circuit Court of Arlington County, Virginia, has been construed as being for crimes Pendleton was tried and acquitted of in 2014, it is patently in violation of the Double Jeopardy Clause of the Fifth Amendment. "For double jeopardy purposes, a [verdict of] not guilty by reason of insanity is a conclusion that criminal culpability had not been established, just as much as any other form of acquittal."

McElrath v. Georgia, 144 S. Ct. 651, 601 U.S. 87, 217 L. Ed. 2d 419 (2024) (citing *Burks v. United States*, 437 U.S. 1, 10, 98 S.Ct. 2141, 57 L.Ed.2d 1 (1978) (internal quotation omitted)).

As alleged in the Complaint at Dist. Ct. Dkt. 12, ¶¶269-84, by reporting and acting upon an unconstitutional warrant and revoking Applicant's passport, the executive branch Defendants have restricted Applicant's right to travel and thereby curtailed his rights of speech, expression, and association, protected by the First Amendment, *Kent v. Dulles,* 357 U.S. at 126, 78 S. Ct. 1113, 2 L. Ed. 2d 1204 (1958); they have seized both his property and his person in violation of the Fourth Amendment, *Thompson v. Clark,* 596 U.S. 36, 142 S. Ct. 1332, 212 L. Ed. 2d 382 (2022); and they are reporting that Applicant is wanted for crimes he was acquitted of without anything resembling due process of law, *Tarlton v. Saxbe,* 507 F.2d 1116 (D.C. Cir. 1974). As with any fundamental right under the Constitution, "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. at 374, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976).

And yet there has been a concerted effort in the federal courts, beginning with Judge Leonie Brinkema in the Eastern District of Virginia, to allege that Pendleton is wanted for another crime *not appearing on the warrant* — that of felony escape under Va. Code § 19.2-182.15. "Because Pendleton left Virginia while he was on conditional release and did not have permission from the court, he *could be charged* with a felony." *Pendleton v. Miyares, et al*, E.D.Va. No. 1:23-cv-446, ECF 13 at 3 (emphasis added). Judge Brinkema then concludes that Applicant's suit for declaratory relief and subsequent petition for habeas corpus is "an attack on an *ongoing state criminal prosecution*—the arrest warrant for leaving the state while on conditional release." *Id.* at 5 (emphasis added). This obvious fabrication has now been repeated

by numerous federal judges and State officials as an excuse to shut this Applicant out of the courts nationwide and deny the fundamental rights of an entire class of Virginians.

At the time the warrant in question was signed in the Circuit Court of Arlington County, around 10:30am on the morning of October 23, 2020, Pendleton had not yet left the State of Virginia. See Dist. Ct. Dkt. 12, ¶¶127-128. It is therefore impossible as a matter of fact for the warrant to be based on probable cause to believe that Pendleton had violated Va. Code § 19.2-182.15. This is why the warrant does not say "escape" on it. App. C, **Ex. C.**

Hornbook law tells us that the United States has never recognized general warrants. *Ex parte Burford*, 7 U.S. 448, 2 L. Ed. 495 (1806) (averring to the particularity and probable cause requirements of the Fourth Amendment: "all warrants to seize any person whose offence is not particularly described, and supported by evidence, are grievous and oppressive, and ought not to be granted."). Federal courts categorically lack jurisdiction over state criminal law, e.g. *Cohens v. Virginia*, 19 U.S. 264, 5 L. Ed. 257, 5 L. Ed. 2d 257 (1821) ("Congress has … no general right to punish murder committed within any of the States."). Neither do any of the officials repeating the allegation of escape have any authority to issue state warrants. *Coolidge v. New Hampshire*, 403 U.S. 443, 91 S. Ct. 2022, 29 L. Ed. 2d 564 (1971). For these state and federal officials to refuse to respond to the constitutional challenges in the countless petitions for habeas corpus, and instead claim that Pendleton is charged with a crime he has not in fact been properly charged with is the very definition of abuse of process: "misusing, or misapplying process justified in itself for an end other than that which it was designed to accomplish." Prosser and Keeton on the Law of Torts at 897 (5th ed. 1984) (cited in *Heck v. Humphrey*, 512 U.S. at *3, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994)).

As alleged in the Complaint, Judge Brinkema's order of October 3rd, 2023, "lacks any basis in fact or law and is a fraud on the court …." Dist. Ct. Dkt. 12, ¶156. This Court has explained that "tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society." *Hazel-Atlas Co. v. Hartford Co.*, 322 U.S. at 246, 64 S. Ct. 997, 88 L. Ed. 1250 (1944). It is especially problematic when the fraud is perpetrated by officers of the court because "[o]ur adversary system ... rests on the unshakable foundation that truth is the object of the system's process which is designed for the purpose of dispensing justice. ... Even the slightest accommodation of deceit or lack of candor in any material respect quickly erodes the validity of the process." *United States v. Shaffer Equip. Co.*, 11 F.3d 450, 457 (4th Cir. 1993).

Having shown that the warrant being reported by the FBI is unconstitutional on its face, and irreparable harm being established, the Court is asked to permanently enjoin the Respondents from reporting that Pendleton is wanted for crimes he was acquitted of in 2014. The balance of equities weighs in Applicant's favor because "[t]here is generally no public interest in the perpetuation of unlawful agency action." *League of Women Voters of US v. Newby*, 838 F.3d at 12 (D.C. Cir. 2016) (citing *Gordon v. Holder,* 721 F.3d 638, 653 (D.C. Cir. 2013)). "To the contrary, there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations." *Id.* (citing *Washington v. Reno*, 35 F.3d 1093, 1103 (6th Cir. 1994) (internal quotes omitted)).

B. Virginia's NGRI Statutes Violate The Equal Protection Clause

"It should be apparent from what has been said ... that the [State] ... discriminates against [the acquittee] in violation of the Equal Protection Clause of the Fourteenth Amendment." *Foucha v. Louisiana* at 84-85 (majority opinion). This Court has decided that "keeping [an insanity acquittee] against his will ... is improper absent a determination in civil commitment proceedings of current mental illness and dangerousness." *Id.* at 78-80. "This, of course, is an equal protection argument (there being no rational distinction between A and B, the State must treat them the same)." *Id.* at 108 (J. Thomas, dissenting).

Virginia's NGRI statutes, Va. Code §§ 19.2-182.2 *et seq,* differ in every conceivable way from the State's civil commitment statutes under Va Code §§ 37.2-814 *et seq.* Compare App. D, **Ex. D** (https://law.lis.virginia.gov/vacode/title19.2/chapter11.1/), with **Ex. E** (https://law.lis.virginia.gov/vacode/title37.2/chapter8/). The NGRI statutes are substantively and procedurally less favorable at every stage and plainly violate the Equal Protection Clause after *Foucha.*

The Virginia statute used for NGRI commitments, Va. Code § 19.2-182.3, does not mention the heightened standard of "clear and convincing" evidence — the burden of proof required for civil commitments which tends to be closer to "beyond a reasonable doubt" than a "preponderance of the evidence." See *Addington v. Texas*, 441 U.S. 418, 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979). Moreover, § 19.2-182.3 is defective because (1) mental illness and dangerousness are described as "factors" rather than strictly coextensive requirements, (2) it explicitly allows for a finding of mental illness that is "in a state of remission," and (3) considers only the "likelihood" of dangerousness in the "foreseeable future." *Ibid.* These are the same

criteria used to continue confinement under § 19.2-182.5(C) which means that insanity acquittees in Virginia can be hospitalized indefinitely based on a *presumed* mental illness and the *prospect* of future dangerousness, with no statutory right of appeal to a jury afforded under the analogous civil statute, Va. Code § 37.2-814(D)(v). This is a condition that has gone on indefinitely in this case. Setting aside equal protection, these statutes fail on due process grounds.[2]

Though Applicant has still been unable to retrieve his psychiatric evaluations, his recollection is that the one evaluator who recommended commitment in 2015 found that his alleged mental illness was "in remission." Considering that this was part of a split decision between the evaluators — the other recommending release, this could hardly be "clear and convincing" evidence of current mental illness and dangerousness required by *Foucha.*

But at the most cursory level Va. Code §§ 37.2-817(C) and 37.2-817.01(B-C) cap both *civil* inpatient and outpatient review periods at 180 days (App. D, **Ex. L**), whereas NGRI confinement hearings are "conducted at yearly intervals for five years and at biennial intervals thereafter." Va. Code § 19.2-182.5(A) (App. D, **Ex. G**). Since the required continuation orders beginning at 180 day intervals from Pendleton's commitment in May 2015 are not on the record as of November 2015 onward, his continued civil custody in Virginia cannot possibly be consistent with the equal protection holding in *Foucha.* See App. C, **Ex. D**. Therefore, from a high-level examination of the record, it is clear that Applicant's detention in Virginia became unconstitutional more than ten years ago.

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[2] In *Mercer v. Com.*, 523 S.E.2d 213, 259 Va. 235 (2000), the Supreme Court of Virginia took a pass on equal protection and due process by saying "the term 'mental illness' in [NGRI] § 19.2-182.3 is not limited solely to the definition of 'mentally ill' in [civil] § 37.1-1," and may include an illness that is "in a state of remission." *Id.* at 216. In other words, the substance of the law need not be *equal* and the evidence need not be *current.*

Following the commitment order in 2015, Applicant was confined in Virginia for several years without even the pretense of evidence based decisions. The statutes simply do not require it. Upon being conditionally released from the hospital, the evidentiary standard for Pendleton's continued detention in Virginia became "[t]he court shall subject a conditionally released acquittee to such orders and conditions it deems will best meet the acquittee's need for treatment and supervision and best serve the interests of justice and society." Va. Code § 19.2-182.7. This statute is unconstitutionally vague because it fails to "establish standards … sufficient to guard against the arbitrary deprivation of liberty interests." *Chicago v. Morales*, 527 U.S. 41, 119 S. Ct. 1849, 144 L. Ed. 2d 67 (1999).

In March 2019, Applicant's first motion for unconditional release pursuant to Va. Code § 19.2-182.11 was denied without any unfavorable evidence being presented. The NGRI case manager explained that she would like to see Mr. Pendleton find a job after graduating from college; the court then announced that "it hasn't been long enough." Dist. Ct. Dkt. 12, ¶105. For comparison, Virginia's civil statutes again cap mandatory outpatient treatment at 180 days absent "clear and convincing evidence" of "recent behavior causing, attempting, or threatening harm." Va. Code § 37.2-817.01. App. D, **Ex. L.**

When Mr. Pendleton began filing petitions challenging the constitutionality of these laws in 2022, Virginia retaliated in a way that has permanently impaired his livelihood, and for more than three years now State and federal officials have colluded to prevent Mr. Pendleton from accessing the courts across multiple districts and in three different appellate circuits.

The primary strategy among these officials has been to falsely claim that the warrant issued on October 23, 2020, was for felony escape in violation of Va. Code § 19.2-182.15 — but

this statute also violates the equal protection holding in *Foucha* since there is no analogous civil statute for absconding from outpatient treatment. Virginia's civil statutes concerning "mandatory outpatient treatment," particularly Va. Code § 37.2-817.1(F) concerning "[i]f the person fails to appear for the hearing ...," do not include the word "felony." Neither does § 37.2-833 concerning "any person who has been ordered to be involuntarily admitted to a facility escapes ...." See App. D, **Ex. L-N**.

To accuse Mr. Pendleton of felony escape would be like accusing a black family bringing an action under the equal protection decision in *Brown v. Board of Education*, 349 U.S. 294, 75 S. Ct. 753, 99 L. Ed. 1083 (1955), or the due process decision in *Bolling v. Sharpe*, 347 U.S. 497, 74 S. Ct. 693, 98 L. Ed. 884 (1954), of committing the "crime" of trying to send their kids to "white" schools. Indeed, the circumstances in this case are strikingly similar to *Dombrowski v. Pfister*, 380 U.S. 479, 85 S. Ct. 1116, 14 L. Ed. 2d 22 (1965).[3]

Thus, it is irrelevant whether Mr. Pendleton "could" or "shall be" charged with felony escape under § 19.2-182.15 because all the exceptions to *Younger* abstention are present: (1) Virginia's NGRI statutes are "flagrantly and patently violative of express constitutional prohibitions in every clause, sentence and paragraph, ..." *Watson v. Buck*, 313 U.S. at 402, 61 S. Ct. 962, 85 L. Ed. 1416 (1941); (2) there has been well-documented "harassment or prosecutions undertaken by state officials in bad faith without hope of obtaining a valid conviction." *Perez v. Ledesma*, 401 U.S. at 85, 91 S. Ct. 674, 27 L. Ed. 2d 701 (1971); and (3) "it plainly appears that [state remedies] would not afford adequate protection" in what are clearly "extraordinary

[3] Whereas "threats to enforce the statutes against appellants are not made with any expectation of securing valid convictions, but rather are part of a plan to employ arrests, seizures, and threats of prosecution under color of the statutes to harass appellants and discourage them ...from asserting and attempting to vindicate [] constitutional rights ...." *Id.* at 482.

circumstances where the danger of irreparable loss is both great and immediate." *Fenner v. Boykin*, 271 U.S. 240, 46 S. Ct. 492, 70 L. Ed. 927 (1926) (citing *Ex parte Young*, 209 U.S. 123, 28 S. Ct. 441, 52 L. Ed. 714 (1908)).

Having shown Virginia's NGRI statutes to be in violation of the Equal Protection Clause after *Foucha*, and having shown that Pendleton's detention in Virginia has been unconstitutional since 2015, Applicant is asking this Court to enjoin any further attempts by State officials to prosecute him under these statutes. After all, "a law repugnant to the [C]onstitution is void," *Marbury v. Madison*, 5 U.S. at 179, 2 L. Ed. 60, 2 L. Ed. 2d 60 (1803), and "enforcement of an unconstitutional law is always contrary to the public interest." *Gordon v. Holder*, 721 F.3d at 653 (D.C. Cir. 2013).

C. The Records Being Maintained By Arlington County Violate Virginia Law

In spite of the fact that Virginia law superficially declares post-verdict NGRI hearings concerning insanity "acquittees" to be "civil proceedings" in Va. Code §§ 19.2-182.3, 5, 6, 8 (App. D, **Ex. F-I**), court clerks across the State continue to record all post-verdict hearings as criminal matters in violation of State law. See App. C, **Ex. D**. Indeed, Virginia's court system does still consider that a person acquitted NGRI in the State "is not discharged from the constraints imposed upon him by law as a result of his criminal act." *Eastlack v. Com.*, 710 S.E.2d at 725, 282 Va. 120 (2011) (declining to allow expungement of criminal records for acquittees still subject to conditional release). This is the only reason the warrant at issue was reported to the NCIC.

As this Court noted in *Foucha*, "there are constitutional limitations on the conduct that a State may criminalize." *Id.* at 80 (citing *Robinson v. California*, 370 U.S. 660, 82 S. Ct. 1417, 8

L. Ed. 2d 758 (1962) ("It is unlikely that any State at this moment in history would attempt to make it a criminal offense for a person to be mentally ill, ...")).

Yet court records reveal that when Pendleton "did not appear for a Show Cause hearing on October 23, 2020," which was a "civil proceeding" under Va. Code §§ 19.2-182.6-8, the hearing was already docketed as a criminal matter in violation of State and federal law. See App. C, **Ex. E**. And before the bench warrant was issued for failure to appear on October 23, 2020, the criminal "Charge" was already recorded as "VIO NGRI CONDITIONAL RELEASE," which is to say Pendleton had violated the terms of his conditional release agreement. The "Charge Type" is "Misdemeanor," and the "Offense Date" is September 23, 2020. *Id.* There is no such crime in the State of Virginia.[4] Failing to appear for a civil hearing is not a crime. Having a conditional release revoked altogether — which did not happen until the following year: May 26, 2021 — is also not a crime. Va. Code § 19.2-182.8 ("The hearing is a civil proceeding.").

As pleaded, when Applicant filed the first State habeas petition in the Circuit Court of Arlington County in August 2022, the Clerk of that court, Defendant Paul Ferguson, who was named as a respondent in the petition, immediately began "retaliating by refusing to complete service on any of the court's orders, refusing to respond to FOIA requests for court records, and *repeatedly delaying Plaintiff's employment background checks for up to a month*." Dist. Ct. Dkt. 12, ¶136 (emphasis added). See App. D, **Ex. P**. Applicant then sued Ferguson for First Amendment access retaliation in the Eastern District of Virginia at Alexandria. See *Pendleton v. Miyares, et al*, E.D. Va. No. 1:23-CV-446 (filed April 2023).

[4] See App. D, **Ex. J**, for full text of Va. Code § 19.2-182.7 cited in the court record.

After Pendleton filed suit against Ferguson in Alexandria, Ferguson's office *further* retaliated by reporting for the first time on Applicant's employment background checks, beginning in May 2023, that he is wanted for the non-existent misdemeanor crime of "VIOLATION OF NOT GUILTY BY REASON OF INSANITY CONDITIONAL RELEASE," causing his only professional job offer that year to be suspended. See App. D, **Ex. S** (originally exhibited along with Applicant's first federal petition for a writ of habeas corpus and request for a preliminary injunction in July 2023).

When the complaint and petition in Alexandria were dismissed in October 2023, Applicant filed suit against Ferguson in November under the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 *et seq*, in the Western District of Texas at Austin for *retaliatory disclosures on Applicant's background checks*. See *Doe v. Charter Communications, LLC*, W.D. Tx. No. 1:23-CV-01458 (note the factual and legal novelty of this cause of action). The amended complaint presents a second instance of the same inaccurate disclosure that occurred in October 2023. See *id.*, ECF 12-1 at 77 (filed January 1, 2024). App. D, **Ex. S**. That complaint was also dismissed under circumstances that indicate fraud. Dist. Ct. Dkt. 12, ¶¶178-79. The dismissal was then affirmed by the Fifth Circuit under circumstances that indicate fraud. *Id.*, ¶218.

Thus, Ferguson is now being sued for taking part in a conspiracy against rights, together with other State and federal officials, to deny access to the courts and prevent equal protection under the law in violation of 42 U.S.C. § 1985(3). *Id.*, ¶235.

For Respondent Ferguson's office to report that Applicant has *any* criminal record, or is a "fugitive,"[5] or is charged with *any crime at all* is simply defamation and abuse of process in violation of settled law. See *Foucha* ("As [acquittee] was not convicted, he may not be punished."). Fergusons's failure to correct these records after being repeatedly sued over them is contributing to the ongoing revocation of Applicant's passport and continuing reputational damage, and has caused and will continue to cause damage to Applicant's property interests in past and future job offers, in violation of the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the Constitution. See *Jenkins v. McKeithen*, 395 U.S. 411, 89 S. Ct. 1843, 23 L. Ed. 2d 404 (1969) ("a course of conduct designed publicly to brand appellant and others as criminals, including, as noted above, the filing of [] baseless criminal charges"); see also *Pulliam v. Allen*, 466 U.S. 522, 104 S. Ct. 1970, 80 L. Ed. 2d 565 (1984) (magistrate enjoined for practices exceeding constitutional authority).

Having shown that the records of the Circuit Court of Arlington County violate State and federal law, Applicant is asking this Court to enjoin Defendant Ferguson from reporting that he has any criminal record or is wanted for crimes that do not exist. The equities are firmly in Applicant's favor because enjoining unconstitutional conduct is "no harm at all." *US Navy Seals 1-26 v. Biden*, 27 F.4th 336, *23 (5th Cir. 2022) (quoting *McDonald v. Longley*, 4 F.4th 229, 254 (5th Cir. 2021)); see also *Gratz v. Bollinger,* 539 U.S. 244, 123 S. Ct. 2411, 156 L. Ed. 2d 257 (2003) (ongoing equal protection harm involving future college applications).

[5] "A person who, having committed a crime, flees ..." Black, H.C., 1968. Law Dictionary, Revised Fourth Edition (p. 800). Applicant is not serving a sentence, nor has he been charged with any crime. Under both State and federal law this is a civil matter and cannot be otherwise.

D. Applicant Is Actually Innocent Based On Newly Obtained Evidence

In addition to the *Brady* violations pointed out in last year's Petition For Rehearing to this Court, *Pendleton v. Miyares, et al*, S. Ct. No. 23-7500 (Oct. 24, 2024), the FBI responded to a Freedom of Information Act request as the Complaint below was being filed in April identifying the supposed victim in the underlying case, Respondent Tyler Cowen, and his associates, as federal personnel under 5 U.S.C. § 552(b)(6). See App. C, **Ex. A.** Together with publicly available information establishing Cowen's ties to federally contracted surveillance company Palantir, this evidence thoroughly discredits Cowen's 2014 testimony in the Circuit Court of Arlington County after *Napue v. Illinois*, 360 U.S. 264, 79 S. Ct. 1173, 3 L. Ed. 2d 1217 (1959); *Giglio v. United States,* 405 U.S. 150, 92 S. Ct. 763, 31 L. Ed. 2d 104 (1972).

Applicant now asserts overwhelming proof that he is actually innocent of both "insanity" and the original charges, and that this case represents a profound "miscarriage of justice" of the type noted in *Dretke v. Haley*, 541 U.S. 386, 124 S. Ct. 1847, 158 L. Ed. 2d 659 (2004) (actual innocence in a non-capital case); *McQuiggin v. Perkins*, 569 U.S. 383, 133 S. Ct. 1924, 185 L. Ed. 2d 1019 (2013) (actual innocence overcomes procedural bars).

Going back to 2014, it is a matter of public record that Pendleton was accusing Cowen of cyberstalking in the weeks leading up to the March 26 arrest incident. Applicant left a comment on Cowen's blog that was later reported in the Huffington Post, saying:

> "If the police and FBI won't arrest you for hacking my computer and sexually harassing me over the past several months, I will do it myself — in the next couple weeks before school starts again." Dist. Ct. Dkt. 12, ¶54.[6]

[6] See "Tyler Cowen Pepper Sprayed While Teaching Law School Class On Vigilantism." Huffington Post, March 27, 2014 (https://www.huffpost.com/entry/tyler-cowen-pepper-sprayed_n_5042358). App. D, **Ex. A.**

The specific charge, which Pendleton testified to in 2014, was reasonable suspicion of felony violation of 18 U.S.C. § 1030 — "gaining unauthorized access to a protected computer" in furtherance of stalking or harassment. Dist. Ct. Dkt. 12, ¶53. See, e.g. *US v. Cioni,* 649 F.3d 276 (4th Cir. 2011) (felony enhancement under the Computer Fraud and Abuse Act).[7]

In contrast to these clear accusations, Cowen's account during testimony at an evidentiary hearing on April 29, 2014, as reported in the Washington Post, was this:

> "'I was accused of having controlled [Pendleton's] mind at a distance and also [of] sexual harassment,' explaining that the mind control allegedly occurred 'by computer technology at a distance.'" Dist. Ct. Dkt. 12, ¶63.[8]

This is perjured testimony because the first thing Pendleton did after flying from Seattle to Virginia in 2014, roughly a week before the arrest incident, was to go to the George Mason University Police at the Fairfax campus, and both the prosecution and defense were aware when this testimony was given that the GMU police had thereafter discussed the accusations of computer hacking with Professor Cowen. But defense counsel was withdrawn months later and it is not known when, if ever, the prosecution disclosed either the falseness of this testimony or the precise facts of the GMU police discussion with Cowen to Pendleton's trial counsel. What is known is that somehow this testimony was not adequately challenged — the GMU police never testified and the key witness was not impeached, and yet the prosecuting Commonwealth Attorney, Respondent John Lynch, and the GMU police have known the entire time that Cowen

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[7] Felony citizen's arrest is lawful in Virginia. See *Burke v. Com.*, 515 S.E.2d 111, 30 Va. App. 89 (Ct. App. 1999) (arrest by a private security guard using pepper spray); *Tharp v. Com.*, 210 S.E.2d at 754, 221 Va. 487 (1980) (accused rapist arrested at his home).

[8] See "Tyler Cowen's attacker thought the professor was controlling his mind, Cowen testifies." Washington Post, April 29, 2014 (https://archive.ph/wFWw9). App. D, **Ex. B**.

testified falsely and have failed to correct it, just as in *Kyles v. Whitley*, 514 U.S. 419, 115 S. Ct. 1555, 131 L. Ed. 2d 490 (1995).

Of course, Mr. Pendleton was ultimately *acquitted* NGRI, and when he arrived at Central State Hospital in Petersburg, Virginia, in February of 2015, his "attempts to maintain his innocence and question his diagnoses were regarded as a 'lack of insight,'" and he was being told that he "would be medicated against his will and later that he would 'never get out' until he agreed to take medication prescribed for an illness that had barely been diagnosed." Dist. Ct. Dkt. 12, ¶85-86. Thus, Applicant has never been allowed to question the verdict of NGRI and has effectively been under duress since 2015.

After Mr. Pendleton had been released from the hospital and later graduated from college in 2019, he happened to notice that a grant and fellowship program of Cowen's called "Emergent Ventures" had received funding from the Thiel Foundation, run by billionaire Peter Thiel, and that Cowen and Thiel had been acquainted for many years. See App. D, **Ex. U-X**.

Thiel is also famously the co-founder of CIA-backed surveillance company Palantir Technologies that offers the same cyberstalking capabilities Pendleton described in his 2014 testimony. Dist. Ct. Dkt. 12, ¶¶41-45, 109-111. Palantir's services include the correlation of anyone's "home address, home telephone number, physical/mental information, social security number, and a photograph ... which enables the visualization of phone calls, emails, money, or any other material flows."[9] Forbes magazine has referred to the company as "Big Brother."[10]

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[9] Munn, Luke. "Seeing With Software: Palantir and the regulation of life." Studies in Control Societies, 2017 (https://www.academia.edu/download/67734248/Seeing_With_Software_Studies_In_Control_Societies.pdf).

[10] See Greenberg, Andy and Mac, Ryan. How A 'Deviant' Philosopher Built Palantir, A CIA-Funded Data-Mining Juggernaut. Forbes. August 14, 2013 (http://www.forbes.com/sites/andygreenberg/2013/08/14/agent-of-intelligence-how-a-deviant-philosopher-built-palantir-a-cia-funded-data-mining-juggernaut/).

According to court records the "Palantir Gotham Platform, was initially developed between 2004 and 2009 with the help of an investment from, and a partnership with, the venture capital arm of the Central Intelligence Agency. According to Palantir, since 2010, Palantir has successfully provided the Palantir Gotham Platform to … federal and local law enforcement agencies, the United States Marine Corps, the United States Special Operations Command ('SOCOM'), the Defense Intelligence Agency, and numerous other government agencies (as well as numerous private sector companies)." *PALANTIR USG, INC. v. US*, No. 16-784C (Fed. Cl. Nov. 3, 2016) (internal quotes removed). The company sued the U.S. Army for failing to solicit them for "development of new data architecture, standards based enhanced visualization and analytical tools, cloud computing and 'big data' analytic capabilities; cyber analytics and data integration, visualization capabilities, Cyber Operations, Interoperability, Counter Intelligence/ HUMINT, Weather, GEOINT, Geospatial Engineering and Sensor Management." *Id.*

Cowen was questioned extensively at trial in the Circuit Court of Arlington County in December 2014 and "denied during testimony knowing anyone involved in computer hacking or gaining access to computers unlawfully." Dist. Ct. Dkt. 12, ¶70. Just a few months later, in April 2015, Cowen was hosting a public interview with Thiel. See App. D, **Ex. U**. Given Cowen's personal ties and business dealings with Thiel, who is a co-founder of the federal surveillance system, this testimony is again false and misleading in a way that "concealed facts that would have undermined the credibility of the government's key witness." *US v. Ausby*, 916 F.3d 1089 (D.C. Cir. 2019).

Still hoping to be released in 2019, Pendleton kept this news to himself to avoid being sent back to the hospital. Even as late as 2020, as Mr. Pendleton was expecting to be released,

and his psychiatrist was privately questioning whether he has any mental illness at all, he was being warned not to challenge the diagnosis until he is clear of the court.

Once Applicant had safely resettled in Quebec, Canada, he began filing FOIA requests and on April 10, 2025, the FBI responded with Pendleton's original report made from Seattle in 2014 which identifies both Tyler Cowen and Alex Tabarrok (pg. 1), as well as Mark Thornton of the Mises Institute (pg. 4), as federal personnel under 5 U.S.C. § 552(b)(6). See App. C, **Ex. A**. All three of the people Mr. Pendleton identified as suspects involved in cyberstalking (and drugging) him in 2014 have turned out to be federal employees, which "makes Cowen's testimony in the Circuit Court of Arlington County about his relationship to Tabarrok and Thornton thoroughly impeachable." Dist. Ct. Dkt. 12, ¶225. It also means the FBI has likely known about Cowen's ties to Palantir from the very beginning since the company is a federal contractor and the FBI would have done the security clearances for everyone involved. See *Palantir USG, Inc. v. US*, 904 F.3d 980 (Fed. Cir. 2018) (describing government contracts).

The FBI arguably had a duty to disclose this information in 2014. See, e.g. *United States v. Antone*, 603 F.2d 566 (5th Cir. 1979) (no due process distinction between state and federal agencies); *United States v. Agurs*, 427 U.S. 97, 96 S. Ct. 2392, 49 L. Ed. 2d 342 (1976) (duty to disclose evidence so clearly supportive of innocence, even if no request is made). Certainly Cowen's failure to disclose these relationships, as an employee of an unknown federal agency, discredits his testimony in a way that is "incompatible with the rudimentary demands of justice." *Banks v. Dretke,* 540 U.S. 668, 124 S. Ct. 1256, 157 L. Ed. 2d 1166 (2004) (citing *Giglio*).

Not only does this new evidence prove mistrial in 2014, it establishes that Mr. Pendleton was actually innocent of the original charges because his affirmative defense was simply that a

"felony had actually been committed and he had reasonable grounds for believing the person arrested had committed the crime." *Tharp v. Com.*, 270 S.E.2d at 754, 221 Va. 487 (1980). Meaning it was not necessary to prove that Cowen had gained access to his computer, only that there was probable cause to make the arrest.[11] Mr. Pendleton testified that "[o]n several occasions ... [he] witnessed someone remotely manipulating files on his laptop," at a time when "Cowen began posting blogs at Marginal Revolution related to [Pendleton's] daily activities on both his computer and phone." Dist. Ct. Dkt. 12, ¶¶41-45. Now that it has been revealed that Cowen and two other previously named suspects are federal personnel, and that Cowen has ties to the company that provides similar services to the federal government, the veracity of Pendleton's 2014 testimony is no longer in question.

In truth, there was nothing illogical or implausible about the story Pendleton was telling in 2014, it was supported by copious evidence, and everything Pendleton did was consistent with a lawful citizen's arrest as a last resort. Mr. Pendleton's allegations were not dissimilar to *Kelley v. FBI,* 67 F. Supp. 3d 240 (D.C. 2014), in which cyberstalking plaintiffs "were unnerved by the level of detail contained in [anonymous] emails concerning [their] personal activities" and had "concerns for their own physical safety and the safety of their friends who were among the nation's most senior intelligence and military leaders." *Id.* That report also turned into a tawdry retaliation suit against the FBI who was supposed to be investigating the matter. Or see *Attkisson v. Holder*, 925 F.3d 606 (4th Cir. 2019), where a journalist who had been critical of the Obama Administration alleges "plaintiffs noticed anomalies in several electronic devices at their home ...

[11] "[This] plausible legal defense was never presented. At closing, [the] public defender argued that a simple assault had occurred over the Internet and that this "breach of the peace" justified [Pendleton's] citizen's arrest of Cowen. Yet simple assault requires physical proximity and is therefore impossible over the Internet. See *Harper v. Com.*, 196 Va. 723, 85 S.E.2d 249, 85 S.E. 249 (1955)." Dist. Ct. Dkt. 12, ¶74.

[wherein] a laptop and desktop computer began turning on and off at night. ... [and] that their desktop, smart phone, and [plaintiff's] work laptop were the targets of unauthorized surveillance efforts." *Id.* (internal quotes omitted). Like the plaintiffs in these cases, Mr. Pendleton has been the only one telling the truth and applying the law in good faith from the beginning.

Though Applicant was acquitted, courts have recognized due process claims in cases that did not result in conviction, where "[failure] to disclose potentially dispositive exculpatory evidence to the prosecutors, [led] to the lengthy detention of an innocent man." *Tatum v. Moody*, 768 F.3d 806 (9th Cir. 2014) (mistaken identity) (citing *Baker v. McCollan*, 443 U.S. 137, 99 S. Ct. 2689, 61 L. Ed. 2d 433 (1979) (same)); see also *Armstrong v. Daily*, 786 F.3d 529 (7th Cir. 2015) (evidence suppressed at a second trial where the charges were ultimately dismissed).

The continued suppression of evidence by state and federal officials, allowing this 2014 verdict to stand, is contributing to the revocation of Applicant's passport and ongoing reputational damage. Given that (1) Respondent Cowen lied about the accusations in an effort to make Pendleton appear crazy, (2) that Cowen concealed his relationship to other suspects who have all turned out to be federal personnel, and (3) that Cowen lied about his connections to the founder of Palantir which sells surveillance services to the federal government, Applicant is asking this Court to order the 2014 verdict in the Circuit Court of Arlington County, Virginia, set aside because of a "troubling and striking pattern of deliberate ... suppression of material evidence, in violation of [Plaintiff's] due process rights," *Long v. Hooks*, 972 F.3d 442 (4th Cir. 2020), which "undermines confidence in the verdict." *Smith v. Cain*, 565 U.S. 73, 132 S. Ct. 627, 181 L. Ed. 2d 571 (2012) (key witness should have been impeached).

CONCLUSION

Applicant has established a likelihood of success on the merits and irreparable harm in violation of fundamental constitutional rights. The Court should grant the requested relief without further delay.

Applicant also requests that this case be reassigned on remand to the district court pursuant to 28 U.S.C. § 455 because of a "deep-seated favoritism or antagonism that would make fair judgment impossible," *Liteky v. United States*, 510 U.S. 540, 555, 114 S. Ct. 1147, 127 L. Ed. 2d 474 (1994), and owing to an apparent "class-based, invidiously discriminatory animus" of the kind contemplated by *Griffin v. Breckenridge*, 403 U.S. 88, 91 S. Ct. 1790, 29 L. Ed. 2d 338 (1971). The District Court's order of November 5, 2025, and the appellate panel's order of March 24, 2026, are part of an ongoing pattern of obstruction wherein "judges, having ears to hear, hear not." CONG. GLOBE, 42d Cong., 1st Sess. 374 (1871) (remarks of Rep. Perry).

If the Court finds that this application "cannot be heard and determined because of the absence of a quorum of qualified justices, the Chief Justice … may order it remitted to the [Court of Appeals for the D.C. Circuit] … to be heard and determined by that court either sitting in banc or specially constituted and composed of the three circuit judges senior in commission who are able to sit." 28 U.S.C. § 2109. See *United States v. Aluminum Co. of America*, 148 F.2d 416 (2d Cir. 1945); *Caperton v. AT Massey Coal Co., Inc.*, 556 U.S. 868, 129 S. Ct. 2252, 173 L. Ed. 2d 1208 (2009).

REQUEST FOR RELIEF

For the foregoing reasons, Applicant asks the Court to grant the following relief:

A. Permanently enjoin the FBI, the Circuit Court of Arlington County, Virginia, and the Arlington County Sheriff's Office from reporting that Mr. Pendleton is wanted for the felonies he was acquitted of in 2014: CR14-918, CR14-922, CR14-995;

B. Permanently enjoin Respondent Paul Ferguson and the Circuit Court of Arlington County from reporting that Mr. Pendleton is wanted for a non-existent misdemeanor crime called "VIO NGRI CONDITIONAL RELEASE," or that he has any criminal record stemming from his acquittals in CR14-918, CR14-922, CR14-995;

C. Permanently enjoin the Circuit Court of Arlington County from attempting to prosecute Mr. Pendleton under Va. Code §§ 19.2-182.3 *et seq* since these statutes plainly violate the Equal Protection Clause after *Foucha*;

D. Order the verdicts of Not Guilty By Reason Of Insanity in the Circuit Court of Arlington County, case numbers CR14-918, CR14-922, CR14-995, be set aside because Mr. Pendleton is actually innocent, or because State and federal officials failed to disclose exculpatory evidence in violation of Applicant's right to due process of law.

E. Order the U.S. Department of State to return passport no. 658311107 to Mr. Pendleton since he is not charged with any crime;

F. Order this case be reassigned on remand pursuant to 28 U.S.C. § 455;

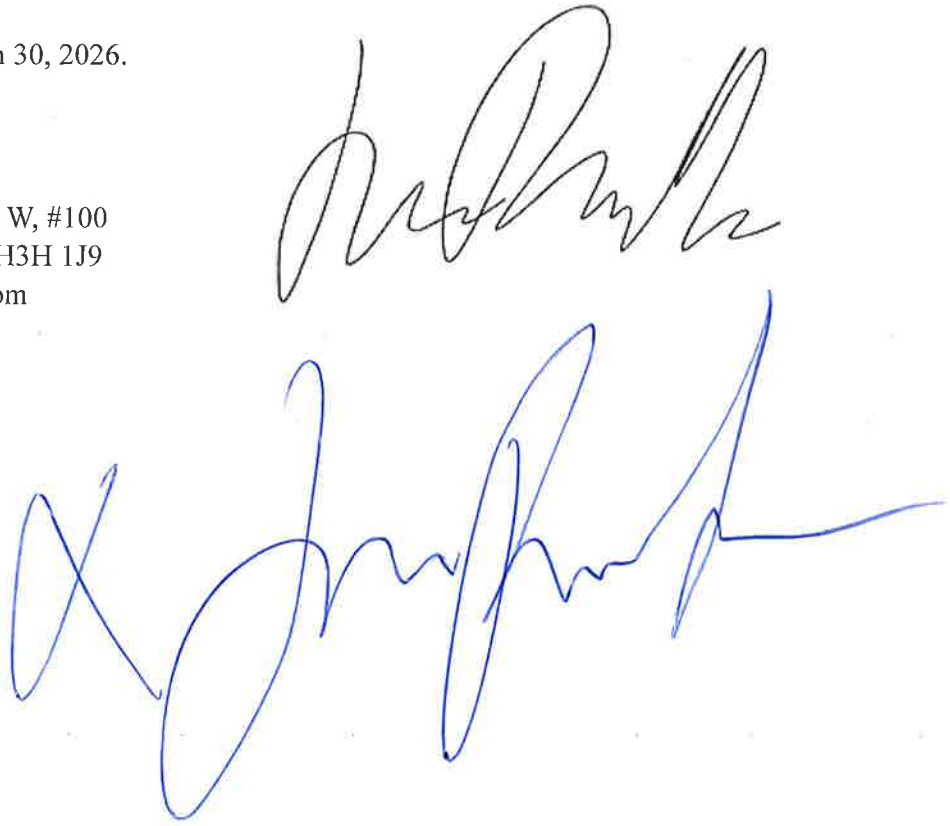
G. Grant any other relief the Court deems necessary and proper.

28 U.S.C. § 1746 VERIFICATION STATEMENT

Applicant, Jochen Edmund Pendleton, formerly known as Jonathan Eric Pendleton, declares under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of his knowledge and belief.

Respectfully submitted,

Executed on March 30, 2026.



/s/ *J. E. Pendleton*
Applicant, *pro se*
1857 Maisonneuve W, #100
Montreal, Quebec H3H 1J9
2jqwann@gmail.com

CERTIFICATE OF SERVICE

I, JOCHEN EDMUND PENDLETON, formerly known as Jonathan Eric Pendleton, in accordance with Supreme Court Rule 29.5(c), hereby declare under penalty of perjury and the laws of the United States of America that on March 30, 2026, true copies of the enclosed EMERGENCY APPLICATION FOR A WRIT OF INJUNCTION were served via Canada Post on the following:

SOLICITOR GENERAL OF THE UNITED STATES
950 Pennsylvania Ave. NW, Room 5616
Washington, DC 20530

U.S. ATTORNEY
601 D St. NW
Washington, DC 20530

PAUL FERGUSON
1425 N. Courthouse Rd., Ste. 6700
Arlington, VA 22201

VIRGINIA ATTORNEY GENERAL
202 N. 9th Street
Richmond, Virginia 23219

JOHN LYNCH
5054 26th Rd N
Arlington VA 22207

TYLER COWEN
School of Public Choice, Carow Hall
4400 University Drive, MSN 1D3
Fairfax, VA 22030

GEORGE MASON UNIVERSITY
Office of University Counsel
4400 University Drive, MS 2A3
Fairfax, VA 22030

The following email addresses have also been served electronically:

johnny.walker@usdoj.gov, pferguson@arlingtonva.us, nelson.smith@dbhds.virginia.gov, mailoag@oag.state.va.us, tcowen@gmu.edu, ouc@gmu.edu

Executed March 30, 2026.

/s/ J. E. Pendleton
Applicant, *pro se*
1857 Maisonneuve W, #100
Montreal, Quebec H3H 1J9
Tel: (418) 800 6685
E-mail: 2jqwann@gmail.com

Additional material from this filing is available in the Clerk's Office.