

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-7594
(3:17-mc-00002-MHL)

VIRGINIA DEPARTMENT OF CORRECTIONS

Petitioner - Appellee

v.

RICHARD JORDAN; RICKY CHASE

Respondents - Appellants

O R D E R

The parties are directed to file supplemental briefs addressing the following three issues:

1. Whether this Court is required to address the issue of state sovereign immunity in this case in light of *Vermont Agency of Nat. Res. v. United States ex rel. Stevens*, 529 U.S. 765 (2000); *Constantine v. Rectors & Visitors of George Mason Univ.*, 411 F.3d 474 (4th Cir. 2005); and *Strawser v. Atkins*, 290 F.3d 720 (4th Cir. 2002).
2. Whether state sovereign immunity shields Virginia Department of Corrections from this federal third-party subpoena.
3. Whether circumstances and/or principles limit the application of state sovereign immunity to federal third-party subpoenas, and how those principles

apply in this case.

Appellee shall file its brief on these issues, not to exceed 20 pages of argument, by November 29, 2018; Appellants shall file a response, not to exceed 20 pages of argument, by December 21, 2018; and Appellee may file a reply, not to exceed 7 pages of argument, no later than January 7, 2019.

The Court also invites the filing of amicus curiae briefs, not to exceed 20 pages of argument, addressing these issues. Any amicus curiae supporting Appellee, or not supporting either party, shall file its brief by December 6, 2018. Any amicus curiae supporting Appellants shall file its brief by January 3, 2019.

For the Court

/s/ Patricia S. Connor, Clerk