

VIRGINIA:
IN THE CIRCUIT COURT OF THE CITY OF MARTINSVILLE

_____)	
COMMONWEALTH OF VIRGINIA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No. CR19000009-00
)	
BRIAN DAVID HILL)	
)	
Defendant,)	
)	Motion to Request Substitute Counsel
_____)	
)	

Motion to Request Substitute Counsel

Pursuant to U.S. Supreme Court case Strickland v. Washington, 466 U.S. 668 (1984), No. 82-1554, 6th Amendment of the U.S. Constitution, and Virginia Code § 19.2-163.01(A)(4), criminal Defendant Brian David Hill (“Brian”, “Hill”) would like to request substitute counsel to be appointed to indigent defendant Brian David Hill.

Hill's Sixth Amendment right was violated by court appointed lawyer Lauren Michelle McGarry, Martinsville Public Defender, P.O. Box 31, Martinsville, VA 24114.

Here are the facts which can be presented to the Court upon determining whether Lauren McGarry (“Lauren”) had been ineffective as assistance of counsel and that the Court should move to appoint new counsel to Brian D. Hill to protect his Sixth Amendment right to effective counsel.

1. Lauren had informed Brian on July 15, 2019, outside of the Circuit Courtroom that Brian couldn't present anything he offered as evidence,

because she said in her own words and determination that any piece of evidence that was ever offered was going to be inadmissible. Then she said that anything I give her (medical records, other circuit court case law regarding the obscenity clause requirements for indecent exposure, pictures, etc etc) will be kept in her file, and that is where it will always be, in her file. Roberta Hill had witnessed that statement.

2. Lauren was faxed three different Virginia Circuit Court case laws on July 3, 2019, that ruled indecent exposure convictions were to be reversed since those cases did not meet the obscenity clause requirement. There is strict liability where somebody is technically guilty of a crime and then there are case laws where certain statutory criteria must be met in order to be guilty of a crime. After Brian's appeal pro se to the General District Court which appealed the case to the Circuit Court, attorney Scott Albrecht met Brian and had told him (*after Brian's friend named Eric Clark from Kansas sent an email to Scott Albrecht in regards to the case laws for acquitting those convicted of indecent exposure*) that he can argue Brian's technical innocence in court, and took Brian's description about a man wearing a hoodie. Scott Albrecht originally argued on December 21, 2018, during the trial in General District Court, that Brian was not being obscene when he was naked, that nobody was on the trail screaming "oh my god!" and that Brian was not aroused on the trial. Then the Commonwealth Attorney Assistant argued that "He was not charged with obscenity". So the Commonwealth's attorney had argued that Brian was not charged with obscenity, meaning that the Government doesn't have the evidence to support obscenity. Scott Albrecht showed the obscenity statute. The three case laws which were faxed to the Public Defender office for Lauren McGarry to read, the two pages excerpted from Brian's pro se "Motion for an Earlier Trial Date" which was filed with the Circuit Court Clerk in May, 2019. Lauren has totally ignored the case laws. She told Brian on July 15, 2019, that if Brian wants to continue taking the case to trial, that Brian will be found guilty, that he will lose. Her statement on that contradicts former Assistant Public Defender Scott Albrecht who was formerly assigned to Brian's case as counsel. Again, Scott had said in December 2018 (*after Brian had filed his "notice of appeal" pro se*) that he can argue Brian's technical innocence, after receiving an email from Eric Clark regarding the indecent exposure acquittals based upon the three case laws. So Lauren's claims are contradicting Scott Albrecht a lawyer.

3. Brian had met with a private attorney for free consultation (to get a second opinion) on the date of July 18, 2019, at the “Haymore & Holland, P.C.” who are located at 219 Patton Street, Danville, VA 24541. He wasn't aware of the three indecent exposure acquittal case laws in the other circuit courts, so he gave his opinion based upon strict liability that he thought Brian would be found technically guilty of indecent exposure, but however he said that the evidence his family showed him was admissible as evidence. He sounded puzzled as if he disagreed with my grandmother Stella Forinash when she told that lawyer that Lauren McGarry told Brian and his mother that any evidence him or his family gave to her would be considered inadmissible. He said Brian can bring up his medical records, the psychosis diagnosis, and any other cumulative evidence up as a defense, not a regular defense but a “Insanity defense”. So he told Brian and his family that he should get his court appointed lawyer to file a motion for a sanity evaluation to enter in a plea of insanity at the time of the offense. That is my explanation to the court why I had filed the “Motion to Request an Insanity Defense – Sanity at the time of the Offense” pro se with the Circuit Court Clerk on July 19, 2019. I knew Lauren was never going to bring up the insanity defense, and she wasn't going to bring up any medical records, diagnosis I was given, none of it. She will bring none, no evidence, nothing at all, because she thinks all of it and any of it was inadmissible the way she sounded and the way she had said it. The other lawyer from the private law firm during free consultation had totally disagreed with Lauren McGarry's position on the admissibility matter. I had also reviewed over the Virginia Rules of Evidence and it doesn't sound like Lauren was correct as to why she personally believes the evidence I had presented her and was going to present her would have been in any way, shape, or form, be considered inadmissible. She was wrong.
4. She had behaved rude towards Brian's family on multiple occasions. Unlike the lawyer from Danville, VA during the consultation. Even Scott Albrecht had not acted rude as Lauren has in the past with Brian's family.
5. Lauren said that she cannot and will not bring up chimney expert witness “Pete Compton” of ACE Chimney Sweep at 296 Dodson Rd, Bassett, VA 24055, (276) 629-4453, even though he had found residue evidence of carbon monoxide poisoning, because he didn't get the levels

of carbon monoxide gas poisoning. So according to her, it was better for him to leave carbon monoxide in the entire apartment complex at 310 Forest Street, for the whole home to consistently have carbon monoxide gas in order to find out what the levels were. She said his testimony would be inadmissible.

6. Roberta Hill had discovered that Lauren's LinkedIn profile had omitted the fact that in 2014, she was an intern for the Commonwealth Attorney's Office of Martinsville. Brian's family found at least 2-3 articles showing that Lauren McGarry had worked for the Martinsville Commonwealth Attorney Office as an intern back in 2014. Explains why she doesn't want any witnesses to testify and doesn't want any evidence to be presented to the court for admissibility for the jury trial either. A potential conflict of interest. All of her refusals to do any defense work is beneficial to the other side, to the Commonwealth Attorney.
7. Brian no longer wishes to stay in communication with his lawyer which causes a problem for Brian's Circuit Court case. He feels angry about her, and doesn't want to talk to her anymore because she is rude to Brian's family, complains that nothing can be brought up as evidence and not even medical records from the Hospital, and then she said that she cannot bring up Pete Compton as a witness for the trial. She ignored the case law which means, if there is a guilty verdict by a jury and the case is appealed up further, Lauren will not bring up the three different case laws regarding acquittals of indecent exposure for not meeting the bar of the obscenity clause. Lawyer Scott Albrecht told Brian and his family in 2018 that Brian was innocent of indecent exposure because Brian wasn't sexually aroused when he was naked, he was just naked, that was it. So while Scott argues the obscenity clause just like in the three Circuit Courts ruling acquittals, Lauren seems to be giving her opinion on the basis of strict liability. What Lauren is arguing in regards to strict liability is dangerous. Part of the reason why different Circuit Courts rule that one cannot be guilty of indecent exposure unless they are being obscene in public (sexual behavior such as masturbation and arousal) is because of people with mental illnesses that might not think straight but aren't being sexual if naked in public at night, or an elderly man or woman with Alzheimer's disease or dementia that was out naked in a public place not knowing what is going on. There could be somebody drunk in public that takes clothes off but is not being sexual. The purpose of the indecent exposure statute is to prevent lewd sexual

behavior in public. Even the U.S. Supreme Court and lower courts have upheld the constitutionality of "nudity without more," specifically referring to the nudist depiction as a fully constitutional form of expression. (Sunshine Book Co. v. Summerfield, Postmaster General, 355 U.S. 372) That may also be likely as to why the three circuit courts require obscenity in order to be guilty of indecent exposure. In those three cases faxed to Lauren, the convictions were reversed when the conduct did not rise to being obscene, because "it does not rise to the level of obscenity required under Code § 18.2-387, as defined in Code § 18.2-372." (1) Kimberly F. Neice v. Commonwealth of Virginia, Record No. 1477-09-3 in the Circuit Court of Giles County; (2) A. M. v. Commonwealth of Virginia, Record No. 1150-12-4 in the Circuit Court of Shenandoah County; (3) Kenneth Samuel Moses v. Commonwealth of Virginia, Record No. 0985-03-3 in the Circuit Court of Richmond. Scott Albrecht had informed Brian that there was a few other case laws he was looking into months prior to Lauren being assigned as Brian's new counsel. If the Circuit Court decides to adopt strict liability instead which is dangerous for the mentally ill, the elderly, the mentally handicapped, and those who were confused or on drugs/alcohol but not sexual in public. However if strict liability is to be adopted by the Martinsville Circuit Court, then the case could be decided by the Virginia Supreme Court due to the conflict between the different Circuit Court decisions. Nudity and nothing more is not being obscene. Obscenity means that somebody feels sexually aroused by being seen and wants to pleasure themselves in public. Brian did nothing like that, especially since evidence is building showing that Brian had over eight (8) symptoms of carbon monoxide poisoning which would have caused Brian to have behaved insanely. Lauren ignored all of that.

It is quite clear that Brian no longer wishes to work with Lauren McGarry as counsel because she doesn't want to present any evidence during the pre-trial phase to determine it's admissibility. Lauren made her own personal determination of the entire case as if she were Judge, Jury, and Executioner. She decides that any evidence ever offered is all inadmissible and that case laws of the Commonwealth of Virginia did not matter at all either which contradicts both former attorney Scott Albrecht and the lawyer during the free consultation period at "Haymore & Holland, P.C." in Danville. Lauren

believes in strict liability when she doesn't know or understand that the Circuit Court may rule along with the other Circuit Courts on the obscenity requirements (“nudity and nothing more”) for indecent exposure and for good reason. There are crazy people that might just go insane and take clothes off, there are those with carbon monoxide poisoning like what had happened to Brian, elderly people, people who have severe mental handicaps, and all of the people like that would face sex charges when none of them had any sexual behavior and no sexual intent. The Adam Walsh Act was never meant to be used for this purpose, it was mainly meant for rapists and child molesters. All this does is delude the trust and credibility of the sex offender registry while Jeffery Epstein from New York was reported to have molested hundreds of kids with the Lolita Express and he was already registered as a sex offender but that didn't stop him from sexually abusing children and engaging in child trafficking. The registry has become a failure, especially with the strict liability issues of the indecent exposure charge, that is why there are Circuits which have ruled that obscenity is required for indecent exposure, as to not delude the sex offender registry with stupid non-sexual acts being a reason to convict people with indecent exposure to even warrant registration. Strict liability again is very dangerous and can put innocent people onto a sex offender registry, somebody who is drunk and peed at a bush or tree in public could become a sex offender under strict liability. An elderly woman or man with dementia or brain problems that could cause somebody to undress in a public place without understanding the consequences would become an instant sex offender. The obscenity requirements protects the mentally ill and those with brain/neurological illnesses from being convicted of indecent exposure. More likely police that would find such people would place them in a hospital, or in a mental facility, or back with their families or caregivers. There is a reason why Scott Albrecht had brought up the obscenity requirement and argued that Brian wasn't being obscene and therefore wasn't guilty of indecent exposure.

Carbon Monoxide poisoning can also cause abnormal behaviors and can cause something like indecent exposure and other weird behaviors. It can cause hallucinations and psychosis. You can think your in the shower while naked but yet be at a public waterfall in a state park. You can think you were naked in your home but instead be in a public building. Carbon monoxide is a good defense to bring up but Lauren refuses to bring any of that up.

Counsel is ineffective, counsel refuses to present any evidence to the Judge to determine whether it can be admissible for the Jury Trial. Counsel refuses to present any witnesses, counsel gives an opinion of only guilt for Brian at the jury trial when Scott Albrecht and the Danville VA counsel both said otherwise. When two lawyer's opinions conflicts with Lauren's own opinions and beliefs, it is clear that Lauren will not defend Brian and is not good counsel for Brian to be able to defend himself in a court of law against the charge of indecent exposure. Therefore Brian recommends to the Court that they find Lauren McGarry of the Public Defender Office to being ineffective as assistance of counsel in Brian's case, and therefore the Court should move to appoint substitute counsel to protect Brian's Sixth Amendment right under the United States Constitution. If Brian is to have any chance of a constitutionally guaranteed fair trial instead of a kangaroo trial, Brian does not need Lauren McGarry as counsel. Brian doesn't even want to talk with his counsel anymore which effects the case entirely. Brian's family is having to check the case status and history just to find out when Brian's next court hearing is because Brian is very displeased with his lawyer for screwing up his case. Brian is agitated, angry, and annoyed with his counsel for lying to him and his family, refusing to defend Brian on her personal belief that Brian is guilty no matter what he says, argues, or whatever evidence that he presents.

Brian requests that the Court grant him substitute counsel without any unnecessary delay.

WHEREFORE, the Defendant, Brian David Hill, prays that this Court enter an Order granting this motion and give the Defendant substitute counsel appointed by this Court for Brian so that he receives due process of law, a fair and just trial, and an impartial jury. His constitutional rights are in jeopardy under current assigned counsel.

Hill respectfully files this Motion with this honorable Court, this the 19th day of July, 2019.

Signed, Brian D. Hill
Signed
Brian D. Hill (Pro Se)
Phone #: 276-790-3505
310 Forest Street, Apartment 1
Martinsville, Virginia 24112



Amazon: The Frame Up of Journalist Brian D. Hill
Stanley's 2255 blog: JusticeForUSWGO.wordpress.com

Qanon

Brian D. Hill asks President Donald John Trump and QANON for help.

This pleading has been filed by hand delivery to the office of the Hon. Ashby Pritchett, Clerk's office at the Martinsville Circuit Court on July 19, 2019, at the address of 55 West Church Street, Martinsville, Virginia 24112.

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 2019, a true copy of the foregoing Motion/Pleading was hand delivered to the office of the Commonwealth Attorney of Martinsville, at 55 West Church Street, Martinsville, Virginia 24112, counsel for Plaintiff of the Commonwealth of Virginia.

Signed, Brian D. Hill
Signed
Brian D. Hill (Pro Se)
Phone #: 276-790-3505
310 Forest Street, Apartment 1
Martinsville, Virginia 24112

U.S.W.G.O.

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