

In the United States District Court
For the Middle District of North Carolina



**Brian David Hill,
Defendant**

v.

**United States of America,
Plaintiff**

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) **Criminal Action No. 1:13-CR-435-1**
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**DEFENDANT’S MOTION FOR STAY OF JUDGMENT PENDING
APPEAL AND ITS SUPPORTING MEMORANDUM OF LAW –
EMERGENCY MOTION**

NOW COMES the criminal Defendant Brian David Hill ("Brian D. Hill"), ("Defendant", "Brian", or "Hill"), by and through Brian David Hill who is acting Pro Se in this action before this Honorable Court in the Middle District of North Carolina, and hereby respectfully moves this Court for a stay of its September 12, 2019 Judgment ("judgment") and Order (Document No. 186) pending final appeal of this case. Hill also asks that the appearance bond conditions (Document No. 176, Attachment 3, Attachment 2) be reinstated for Hill’s supervised release pending final appeal. A "DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF DEFENDANT’S MOTION FOR STAY OF JUDGMENT PENDING APPEAL AND ITS SUPPORTING MEMORANDUM OF LAW" is also filed with this motion in support of such motion. This is pursuant to Fed. R. App. P. 8; Loc. R. 8. See also Loc. R. 18 (stay pending consideration of petition for review). Also pursuant to Rule 38. Staying a Sentence or a Disability, of the Fed. Rules of Crim. Procedure.

In the alternative, Hill requests that this Court stay those portions of its decision ordering for Hill to voluntarily surrender to federal prison on December 6, 2019, and of the GPS location monitoring since Hill had been completely compliant with the appearance bond conditions that such portions be stayed until the final appeal of this case.

Both the Notice of Interlocutory Appeal (Document #187; “PRO SE NOTICE OF APPEAL (Interlocutory) by BRIAN DAVID HILL re 183 Order on Motion to Continue. (Entered: 09/12/2019)”), and Notice of Appeal (Document #190; “PRO SE NOTICE OF APPEAL without payment of fees by BRIAN DAVID HILL. (Entered: 09/12/2019)”), were transmitted to the U.S. Court of Appeals for the Fourth Circuit. See Document #191, “*Electronic Transmission of Notice of Appeal and Docket Sheet as to BRIAN DAVID HILL to US Court of Appeals re: 187 Notice of Appeal – Interlocutory and 190 Notice of Appeal Without Fee Payment. (Daniel, J) (Entered: 09/13/2019)*”.

Because the Defendant had filed a Notice of Interlocutory Appeal (Document No. 187) with the U.S. Probation Office in the federal courthouse in Winston-Salem around noon (12:00PM-12:30PM) since that courthouse has no manned clerk’s office and was delivered to the CSO, and was noted before the hearing had begun, the Judgment on September 12th may had been a procedural due process error and an error of law regarding Hill’s due process right to appeal a decision, the appeal should have been acted upon prior to commencement of such hearing. For this exact reason, the Defendant should be placed back on the appearance bond conditions (Document No. 176) that was set by the Western District of Virginia prior to the final appeal decision in this case. Brian had been compliant with the bond conditions and had attended all mental health appointments and was reportedly at the courthouse approximately two hours early. Brian poses no flight

risk and would be happy with the court reverting Brian's release conditions back to those conditions of his appearance bond before the erroneous judgment was made on September 12, 2019.

Brian had been documented (Document No. 86) as having Obsessive Compulsive Disorder ("OCD"), Type 1 brittle Diabetes and Generalized Anxiety Disorder. Brian also has eczema and being forced to wear an ankle monitor may exacerbate one or more medical conditions of Defendant on record.

The Hon. U.S. Magistrate Judge Robert S. Ballou under Document #176 and all attachments show that he approved of Defendant's bond conditions for the Supervised Release Revocation hearing, and that the "Government does not oppose bond" under Document #176-1 in the Middle District of North Carolina (Western District of Virginia Case #7:18-mj-00148, Document #21, Filed 05/14/19). He approved such bond conditions for Brian's release without requiring an excessive and harsh ankle monitor.

Analysis of "Rule 8. Stay or Injunction Pending Appeal; (a) Motion for Stay"

"(1) Initial Motion in the District Court. A party must ordinarily move first in the district court for the following relief: (A) a stay of the judgment or order of a district court pending appeal";

"(B) Approval of a bond or other security provided to obtain a stay of judgment"; or "(C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending."

There is a \$20,000 unsecured bond that was already posted in the Western District of Virginia, a bond with specific conditions has already been approved by the Court prior to the final revocation hearing which was appealed prior to the final revocation hearing (Notice of Interlocutory Appeal, Document #187) and was appealed right after the hearing (Notice of Appeal, Document #190), the Government in Roanoke did not object to the bond and conditions of that bond.

There is no good reason why the Defendant should not be placed back on the bond conditions and be relived of the ankle monitor (GPS location monitoring) as set forth by the Court prior to the appealed Judgment on September 12, 2019.

A bond or other security was already provided, and that appearance bond conditions would be reinstated if the Court of Appeals reverses the final judgment on September 12, 2019, by the Hon. Judge Thomas D. Schroeder.

Brian the Defendant prays for relief from the final judgment on September 12, 2019 from this court, pending appeal of the judgment that was made that day. God Bless America, god bless the good people in the U.S. District Court.

Respectfully filed with the Court, this the 17th day of September, 2019.

Respectfully submitted,

Brian D. Hill
Signed

Signed

Brian D. Hill (Pro Se)

310 Forest Street, Apartment 1

Martinsville, Virginia 24112

Phone #: (276) 790-3505

U.S.W.G.O.

Former U.S.W.G.O. Alternative News reporter

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CERTIFICATE OF SERVICE

Defendant hereby certifies that on September 17, 2019, service was made by mailing the original of the foregoing:

“DEFENDANT’S MOTION FOR STAY OF JUDGMENT PENDING APPEAL AND ITS SUPPORTING MEMORANDUM OF LAW –EMERGENCY MOTION”

by deposit in the United States Post Office, in an Priority Mail envelope, Postage prepaid, on September 17, 2019 addressed to the Clerk of the Court in the U.S. District Court, for the Middle District of North Carolina, 324 West Market Street, Suite 1, Greensboro, NC 27401.

It is under Certified Mail tracking number 7017-2680-0000-5750-9139

Then pursuant to 28 U.S.C. §1915(d), Defendant requests that the Clerk of the Court move to electronically file the foregoing using the CMIECF system which will send notification of such filing to the following parties to be served in this action:

Anand Prakash Ramaswamy U.S. Attorney Office Civil Case # 1:17 -cv-1036 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 Anand.Ramaswamy@usdoj.gov	Angela Hewlett Miller U.S. Attorney Office Civil Case # 1: 17 -cv-1036 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 angela.miller@usdoj.gov
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This is pursuant to Defendant's "In forma Pauperis" ("IFP") status, 28 U.S.C. §1915(d) that "The officers of the court shall issue and serve all process, and perform all duties in such cases ... "the Clerk shall serve process via CM/ECF to serve process with all parties.

Date of signing: <u>September, 17, 2019</u>	Respectfully submitted, <u>Brian D. Hill</u> <i>Signed</i> Signed Brian D. Hill (Pro Se) 310 Forest Street, Apartment 1
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Martinsville, Virginia 24112

Phone #: (276) 790-3505

U.S.W.G.O.

I stand with QANON/Donald-Trump – Drain
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Qanon
Alliance/D.O.D
help me
S.O.S.