

RECORD NO. 19-7483

In The  
**United States Court of Appeals**  
**For The Fourth Circuit**

**BRIAN DAVID HILL,**

*Appellant,*

v.

**UNITED STATES OF  
AMERICA,**

*Appellee.*

2020 MAR 20 PM 2:02  
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MAR 20 2020

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA AT  
GREENSBORO**

**PETITION FOR REHEARING OR REHEARING EN BANC**

**U.S.W.G.O.**

**Brian David Hill – Ally of Qanon  
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*Pro Se Appellant*

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TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES .....	iii
I. INTRODUCTION AND RULE 35(b)(1) STATEMENT .....	1
II. BACKGROUND .....	8
III. ARGUMENT .....	8
A. Argument .....	8
i. Rehearing Is Warranted Because the Panel’s Decision That Was Rendered overlooked the issues, did not state the merits of what was argued, and creates a Dangerous Precedent. ....	8
ii. The Panel’s decision creates potential consequences of facing future Partial Decisions and Favoritism towards the United States Attorney.....	10
IV. CONCLUSION.....	13
EXHIBITS / ATTACHMENTS .....	13
CERTIFICATE OF COMPLIANCE.....	14
CERTIFICATE OF FILING AND SERVICE .....	15

**TABLE OF AUTHORITIES/CITATIONS**

**Page(s)**

**CASES**

*State v. Dillehay,*

(In re Disqualification of Weithman), 2019 Ohio 4814, 2-3 (Ohio 2019).2, 3

*In re Disqualification of O'Neill,*

100 Ohio St.3d 1232, 2002-Ohio-7479, 798 N.E.2d 17, ¶ 14 .....2, 3

*State ex rel. Pratt v. Weygandt,*

164 Ohio St. 463, 469, 132 N.E.2d 191 (1956) .....2, 3

*United States v. Robinson,*

No. 18-4245, at \*2-3 (4th Cir. Apr. 30, 2019) .....10

*Kolon Indus. Inc. v. E.I. DuPont de Nemours & Co.,*

748 F.3d 160, 167 (4th Cir. 2014).....10

*Belue v. Leventhal,*

640 F.3d 567, 573 (4th Cir. 2011).....10

*Liteky v. United States,*

510 U.S. at 545 (1994) .....10

## I. INTRODUCTION AND RULE 35(b)(1) STATEMENT

This case involves an appeal from the U.S. District Court denying the motion to disqualify also known as the motion to recuse (See Dkt. #198 Order, Dkt. #203 Notice of Appeal) over the issues of a judge taking things too far, lying about Appellant Brian David Hill (“Appellant”) or making claims contradictory to the record, and ignoring any evidence of facts by the Defense while accepting anything and everything from the Government, from the Corrupt U.S. Attorney Assistant Anand Prakash Ramaswamy who has been caught lying about Appellant and defrauding the Court. This direct appeal case was the only relief available to ensure that Appellant’s right to an impartial Article III judicial tribunal would be guaranteed. The panel’s decision to deny the appeal and affirm the decision of the District Court is on an erroneous basis and is an error of law. The panel didn’t even make a determination on the merits of the arguments and evidence brought before this Honorable Court of Appeals. This doesn’t just affect Brian’s supervised release case, but also affects the 2255 motion and any potential Writ of Error Coram Nobis that Appellant may file if the Habeas Corpus is thrown under the bus. The decision of the panel is allowing a partial and biased judicial officer to act as dictator and refuse any evidence in favor of Appellant and always rule in favor of the Government counsel, even when the Government counsel had been caught lying. This is very dangerous in the United States of America. This is VERY DANGEROUS for a system of checks and balances.

In the highest Courts of the land including the Ohio Supreme Court, it is bias and/or prejudice when a Judge acts to ignore evidence, favors evidence of only a particular party whether it be a Government Counsel or Private Counsel. When a Court is allowed to render the most stringent punishment, the most severe punishment against a particular party while taking nothing into consideration of that same party in favor of the other party on the record, it is biased and/or prejudice.

When a Judge was given filed evidence disproving what the Government counsel had used against the victim of defamation, and the Judge repeats the lies and injuries of defamation against the victim, the victim being Brian David Hill--- Appellant in this case, it is biased and/or prejudice.

What the District Court had done was as close to a fixed opinion as possible, as stated in Black's Law Dictionary: "fixed opinion. (1807) A bias or prejudice that disqualifies a potential juror." A Judge is the same as a juror, a trier of fact. If any Judge or juror has a known bias such as a fixed opinion that will not change the outcome regardless of the evidence that was offered at trial, it is partial and warrants disqualification. Also See Blacks' Law Dictionary: "prejudice, n. (14c) 1. Damage or detriment to one's legal rights or claims. See dismissal with prejudice and dismissal without prejudice under DISMISSAL." If a particular judicial official in a case has an inherit partiality, a fixed opinion, and deprives one parties rights over another, it is partiality.

Ohio Supreme Court decision: State v. Dillehay (In re Disqualification of Weithman), 2019 Ohio 4814, 2-3 (Ohio 2019) ("See In re Disqualification of O'Neill, 100 Ohio St.3d 1232, 2002-Ohio-7479, 798 N.E.2d 17, ¶ 14, quoting State ex rel.

Pratt v. Weygandt, 164 Ohio St. 463, 469, 132 N.E.2d 191 (1956) (*defining "bias or prejudice" as implying " 'a hostile feeling or spirit of ill-will or undue friendship or favoritism toward one of the litigants or his attorney, with the formation of a fixed anticipatory judgment on the part of the judge, as contradistinguished from an open state of mind which will be governed by the law and the facts' "*). {¶ 7} *As previously explained, [a] judge rarely hears preliminary aspects of a case without forming conditional opinions of the facts or law. These conditional opinions often assist the parties and their counsel in identifying and narrowing the issues in controversy and facilitate the settlement of cases prior to trial. However, the formation of these conditional opinions is not sufficient to counter the presumption of the judge's ability to render a fair decision based upon the evidence later presented at trial."*)

The facts and the law don't equal up to the severe punishment entered by this very Judge, this very Judge does not allow or use any evidence of any mitigating factors/elements that can lessen the offense of Supervised Release Violation or even consider that such punishment was not necessary. Such as for example, that Petitioner's state appeal was still ongoing but Judge Schroeder ignored the state court process and jumped in to order the maximum imprisonment despite a good chance of Appellant being acquitted of his state law charge of indecent exposure reveals that this Judge is out to get Brian and doesn't care what evidence and witnesses might get in his way of delivering his fixed opinion to the Court. A mitigator may be necessary if Appellant was guilty of violating his Supervised Release conditions, but the state court was unclear with the obscenity requirement and Appellant fighting to be found innocent of his state charge of indecent exposure as a matter of law. If he is indeed

found innocent, will the District Court undo its erroneous judgment based on any facts of innocence to the state law violation which was the basis for the Supervised Release Violation? Or will the Hon. Judge Thomas David Schroeder shrug off such acquittal or sleep on the issue without caring that Appellant never broken the law at all.

The Panel's decision deprives Petitioner of impartiality, of fair and equal due process of law guaranteed by the United States Constitution. The law should be equal as well as justice should be equal.

Respectfully, the Hon. Judge Henry F. Floyd, the Hon. Judge Robert B. King, and the Hon. Judge Barbara Milano Keenan have misinterpreted the intent and spirit of the why the direct appeal had been filed, didn't understand the severity of the issues brought forth by Appellant as to the prejudice and bias that place Appellant in greater danger of suffering past, current and future miscarriages of justice and deprivation of due process protections under law. Rehearing is warranted in this case. It was either misinterpreted or overlooked by mistake (Citing one ground for rehearing is: 1. a material factual or legal matter was overlooked in the decision). There is no opinion citing the merits of the basis on the decision that the Hon. Judge Thomas David Schroeder not be recused and not be disqualified from participating any further in the case of United States v. Brian David Hill---criminal case, and Brian David Hill v. United States---2255 case. A partial judge is damaging to the Constitutional rights and integrity of the judicial machinery. If a lower court Judge can openly lie about a particular party on the record which is defamatory, it is dangerous to the American republic, it is dangerous to the integrity of the judicial machinery, and opens to door

to the Government using the Courts to lie about people and throw innocent people into prisons based upon the inherit biases of a Judge when it would be simple enough to change the presiding judicial officer to ensure that the process is fair and impartial.

Rehearing is warranted because the panel's decision will have far-reaching consequences for the conduct of a Judge not making any decision on uncontested motions, lying about the Appellant and not listening to any evidence or witnesses that are contrary to the Government's claims in their quest for punishment against Appellant. It is lawfare at best, LEGAL TERRORISM at worst. It creates one miscarriage of justice after another without merit, without end, and without mercy.

Lies were exposed in the Dkt. #203 Notice of Appeal:

Quote #1: "Error of law #2: Judge Schroeder; Page 7 of 8: "Defendant reportedly hit his grandfather. (Doc. 123 at 22-23, 48.)" Actually it distorts what had entirely happened. USPO Kristy L. Burton had said that "At that moment, everybody was very agitated and flurried, but I wasn't in there long enough for -- whatever had happened had occurred before I got to the home." Page 23 of 84. It even said that the family did not call the police because the entire family was agitated and stressed (or flurried) which is the way families are from time to time. Families go through arguments. Nobody called the police so nobody felt that Brian David Hill was dangerous or aggressive enough to call law enforcement. Renorda Pryor asked USPO Burton "Q Okay. And while you were there in that environment, did they call the police? Was anyone hurt?" Her response was "A As far as I know, they never called the police, no." So it was a small family feud where everybody was agitated which happens in families across the country. To use that against Brian was simply wrong and was an error of fact and an abuse of discretion. Even witness Kenneth Forinash had this to say about the incident: "and his reflex action was that he turned around and hit me. It didn't hurt. And a few minutes later, we all apologized and everything was okay." Page 53 of 84. It doesn't sound as bad as the way it had sounded in the Hon. Judge Schroeder's order."

Quote #2: "Error of law #3: Judge Schroeder; Page 7 of 8: "The Defendant maintained that the child pornography was sent to his cell phone unsolicited and anonymously, which seems unlikely in so far as the cell phone is a prepaid phone belonging to his grandmother (Doc. 123 at 6, 35) and no one would likely have knowledge of the phone number." That is not true as the Defendant/Petitioner had broken no law, and that Defendant/Petitioner had never asked for the child pornography, there is no evidence of it, there is no mentioning of it in this entire case.



The only thing that happened was that Brian David Hill had received threatening text messages before the child pornography had allegedly been reportedly sent to his grandmother's cell phone. Brian immediately thereafter, in good faith, reported the cell phone to his Probation Officer Kristy L. Burton who acknowledged that Brian had voluntarily reported the matter to her, a federal "law enforcement officer" or "agent", and gave her the cell phone. That is an affirmative defense under federal law to any child pornography charge under the federal law. That was why Brian had not been charged for giving the phone to Kristy L. Burton because he is actually innocent of such allegation by turning over the so-called unsolicited such material to a law enforcement officer or agent in good faith. Brian maintains that he complied with the law, and did not do anything wrong to warrant that being used against him. According to Attorney Susan Basko on the record of Document #46 in this case: 1 "The other purpose was to follow the provision in federal child porn law that gives an affirmative defense under this law:" 18 US. Code § 2252A - Certain activities relating to material constituting or containing child pornography"

This decision by the panel endangers the integrity and impartiality forever for Appellant because then a lower Court Judge can ignore any evidence favorable to Appellant, accept any and all evidence by the Government Counsel or even a Deep State Operative (Swamp), the Court can ignore proof of frauds and deceptions all day long and dealt maximum punishment against Appellant without taking anything at all into consideration, and then no average citizen of the United States will ever believe in the Federal Court again. Nobody will ever believe anything a Federal Court has to say anymore because there will be no integrity and then eventually becomes a lack of honor, no justice, just lies and frauds and judicial activism will be filled in the Courts because nobody will do anything about it. Like the saying goes, "*The world is a dangerous place, not because of evil, but because of those who look on and do nothing*" – Quote from scientific genius Albert Einstein.

Should this very Court be sleeping on the issues of partiality of a certain judge? What if a Judge is being secretly blackmailed by the Deep State Swamp like those

connected with Jeffrey Epstein or even Harvey Weinstein or even Madam Hillary Rodham Clinton? Should this Court allow a Judge to have a fixed opinion over a matter before disposing of a charge or issue? Should this Court allow a Judge to lie about somebody on official court records or opinions with no ability to challenge the lies, errors, and frauds?

Under the panel decision, a lower Court can repeatedly ignore motions, lie about a defendant or plaintiff on record, ignore evidence and witnesses if it doesn't fit the narrative of the Government counsel or even the U.S. Probation office, and even refuse to make a decision on any fraudulent begotten judgments while forcing Appellant to comply with unconstitutional, illegal and void judgments. Then those that perpetuate fraud(s) upon the Court can evade legal accountability for this misconduct. They can commit whatever crimes or misconduct that they want to and never be held accountable for any of it. That is a serious and egregious form of miscarriage of justice and legal abuses that will forever be considered acceptable.

If this Court can reconsider its decision to affirm the decision of the lower Court's order denying the motion to recuse, then the Judge can be compelled to step down from the case, and a new Judge can be assigned to the case making sure that the impartiality of the judicial machinery is enforced, and all negative issues pertaining to a certain judicial officer are no longer an issue that has to be dealt with by Appellant just by simply having the assigned Judge step down from the case as a matter of law and having a impartial judge assigned to the criminal case and the 2255 case.

## II. BACKGROUND

The Informal Opening Brief and Notice of Appeal are both attached as exhibit/attachment, supporting documentation and will explain the background.

## III. ARGUMENT

- i. **Rehearing Is Warranted Because the Panel's Decision That Was Rendered overlooked the issues, did not state the merits of what was argued, and creates a Dangerous Precedent.**

The panel's sweeping refusal to review over the merits of the issues raised in the Informal Opening Brief [Dkt. 11 of this Appeal], and did not what state whether the Appellant had any merit to his claims of the issues raised in the respective Opening Brief, it creates a dangerous precedent for this case and any future legal cases that are assigned to the Hon. Thomas David Schroeder. The dangerous precedent set is that a Judge that has a personal or emotional disagreement/animosity towards a particular party: Brian David Hill, openly makes statements in disregard for the truth or lying about Appellant, and ignores Motions that may vacate fraudulent begotten judgments that were entered favorable to the Government, and that dangerous precedent is that Appellant will always be deprived of justice throughout the Federal case or any cases assigned to the Hon. Schroeder. That means any and all motions not favorable to the U.S. Attorney will either be ignored or denied. The merits will never be reached and even if the merits were ever reached, the Judicial Officer will still deny them. This places Appellant in an uncomfortable, scary or dangerous situation where the fate of his life is in the hands

of a Judge that probably hates him and wants him to suffer with each and every ruling of his. Appellant will likely never get any favorable decision, ever, despite whatever evidence or witnesses are offered. This is contrary to the Bill of Rights and the Constitution, this is contrary to case law, and creates a perpetuate need for Appellant to have to appeal every bad decision ever entered by this Judge because he will keep entering bad decisions contrary to law to make life difficult for Appellant over some personal grudge or hatred or whatnot. Whatever the case may be, it is better in the interests of justice for a new judge to be assigned to the case immediately. For Appellant to have six consistent/ongoing federal appeals after the Supervised Release Violation charge, when usually the Judge respects the higher court for awaiting a single decision, it shows that the Judge would rather deny every single motion and every single piece of evidence ever offered by Appellant. This judge will ignore his Probation Officer like Jason McMurray because he will not commit perjury like Kristy Burton did who was praised by this very same Judge. Judge Schroeder praises Kristy L. Burton even though she was caught lying on the stand but this very same Judge ignored Roberta Hill when talking about the carbon monoxide and ignored anything said from Jason McMurray that was in Appellant's favor. The record shows that when there is such a disregard for the truth, open lies, and disregard of evidence, disregard of perjury when the perjury perpetrator lies with witness in favor of the U.S. Attorney Office's prosecution, it shows that no evidence will ever be accepted if it is against the Government. That is favoritism and any average American will believe that Brian David Hill is a victim of judicial favoritism because he was never allowed to have that very Judge

recused/disqualified to have a better Judge that will not act in this manner.

**ii. The Panel's decision creates potential consequences of facing future Partial Decisions and Favoritism towards the United States Attorney.**

Respectfully, the Panel's decision creates potential irreversible consequences of facing future partial decisions and favoritism that will end Appellant's very means of achieving any kind of justice through the Federal Judicial System.

See United States v. Robinson, No. 18-4245, at \*2-3 (4th Cir. Apr. 30, 2019) (“*We review a judge's recusal decision for abuse of discretion.*” *Kolon Indus. Inc. v. E.I. DuPont de Nemours & Co.*, 748 F.3d 160, 167 (4th Cir. 2014). Generally, “*courts have only granted recusal motions in cases involving particularly egregious conduct.*” *Belue v. Leventhal*, 640 F.3d 567, 573 (4th Cir. 2011). In order to disqualify a judge, the “*bias or prejudice must, as a general matter, stem from 'a source outside the judicial proceeding at hand.'*” *Id.* at 572 (quoting *Liteky*, 510 U.S. at 545). “[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.” And, “*opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.*”)

Fair Judgment is impossible when a Judge has a track-record in a case as to ignoring evidence, ignoring witnesses in favor of Appellant, refusing to make any decision on the pro se motions to vacate the fraudulent begotten judgments. Any

witnesses favorable to the Government are praised like “Kristy L. Burton” the perjurer, the liar, and yet she can lie multiple times on the stand in open court, committing her perjury while the U.S. Attorney Assistant Anand Prakash Ramaswamy allows her to do so which is subornation of perjury. Any reasonable Judge would have recommended that she be charged with perjury or even have moved to sanction her and Ramaswamy with the Court’s inherit powers. Any reasonable Judge would have reversed a decision when the Government’s only witness “Kristy L. Burton” was caught lying which is fraud upon the court. Any reasonable Judge would only stick with the facts and the law, ONLY the facts and the law. Even Judge John L. Kane was reasonable in the lawsuit of Righthaven LLC v. Brian D. Hill, U.S. District Court---Colorado. There are good Judges and bad Judges, just like with the Freemasons. There are good Masons and there are bad Masons. There are people that join a group for good purposes, and those who join groups to dominate them and achieve more power and/or money. There are Judges that protect the Constitutional rights of the American people as is their sworn duty, and then there are those working for the Deep State, upholding the Deep State Tyranny. They will do everything to shred the Constitution into a thousand pieces so that the Deep State has unchecked/unlimited power to do whatever they want to any of us to set an example that we are cattle that can be butchered at any time at their whims and that we are slaves who will never be afforded due process of law.

Appellant has suffered enough throughout this criminal case, he has suffered one miscarriage of justice after another. When a Juror has a fixed opinion, a disregard for the truth, a law Clerk filing an unsigned order stating that Judge

Schroeder orders 10 months of imprisonment for Brian David Hill for Supervised Release Violation, then months later files a similar written order with similar typed statements about “*On September 21, 2018, the Defendant was arrested for the commission of a crime.*” And then the same opinion was stated in the signed written judgment for the Supervised Release Violation without ever stating what that “commission of a crime” even was. That statement may be false and fraudulent if Brian David Hill is ever acquitted of his state charge of indecent exposure, then there is no evidence of a commission of a crime. The commission of a crime is based on proving all of the elements of the alleged crime. This Judge also ignored Appellant’s request to appeal, have a continuance at the revocation hearing dated September 12, 2019 [Dkt. #215]. He also didn’t care that Appellant was still involved in the trial de novo in the State/Commonwealth of Virginia which was the opposite treatment from the Hon. U.S. Magistrate Judge Robert S. Ballou of Roanoke, Virginia, who respected Appellant’s constitutional rights and let Appellant out on bond. That judge respected his constitutional rights including trial de novo while the Hon. Schroeder moved to imprison Appellant. However the Virginia Courts stated that one cannot be guilty of indecent exposure without evidence of intent and obscenity. Appellant still has a good chance of being acquitted in the state court, but would any of that matter if Brian was legally acquitted for not breaking Virginia law?????? Is Judge Schroeder showing favoritism against Brian? Should Brian be afforded a new Honorable Judge who is more than likely to be impartial in his criminal case? Will Brian have to consider the costly option of transferring venue and asking to remove his criminal case and

Probation from the Middle District of North Carolina as his only means to get a better Judge assigned to his case?

#### IV. CONCLUSION

For the foregoing reasons, the Petitioner respectfully requests that this Court grant this petition for rehearing or rehearing en banc. Petitioner respectfully requests that this Appeal be re-opened so that the District Court be compelled to recuse the Hon. Judge Schroeder from the case and assign a new Judge to the case(s).



Respectfully Submitted,

**BRIAN DAVID HILL**

Pro Se

*Brian D. Hill*  
Signed

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*Pro Se Appellant*

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#### EXHIBITS / ATTACHMENTS

Exhibit 1	Informal Appeal Brief	Pg. 1-9
Exhibit 2	Notice of Appeal	Pg. 10-25



**CERTIFICATE OF COMPLIANCE**

1. This brief complies with type-volume limits because, excluding the parts of the document exempted by Fed. R. App. P. 32(f) (cover page, disclosure statement, table of contents, table of citations, statement regarding oral argument, signature block, certificates of counsel, addendum, attachments):

this brief contains [3,886] words  
and is 14 pages.

this brief uses a monospaced type and contains [*state the number of*]  
lines of text.

2. This brief complies with the typeface and type style requirements because:

this brief has been prepared in a proportionally spaced typeface using [*Microsoft Word 2013*] in [*14pt Times New Roman*]; or

this brief has been prepared in a monospaced typeface using [*state name and version of word processing program*] with [*state number of characters per inch and name of type style*].

Dated: March 18, 2020

Brian D Hill  
*Signed*

**U.S.W.G.O.**



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**CERTIFICATE OF FILING AND SERVICE**

I hereby certify that on this 18th day of March, 2020, I caused this Petition for Rehearing or Rehearing En Banc and attachments to be filed with the Clerk of the Court by mailing the foregoing (Certified Mail tracking no. 7019-1120-0002-2623-4163) with the Clerk of the Court then request that pursuant to 28 U.S.C. §1915(d) that the Clerk of the Court move to electronically file the foregoing using the CM/ECF system, which will send notice of such filing to the following registered CM/ECF users:

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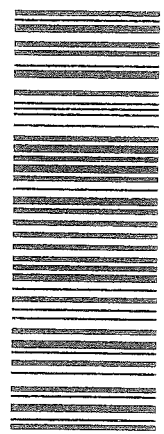
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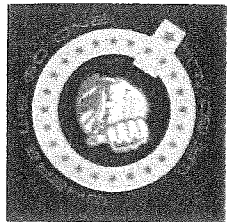


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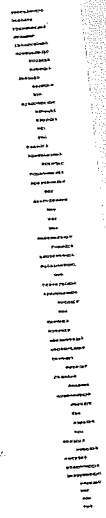
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**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT**  
**INFORMAL BRIEF**

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FOURTH CIRCUIT

No. 19-7483, US v. Brian Hill  
1:13-cr-00435-TDS-1

**1. Declaration of Inmate Filing**

An inmate's notice of appeal is timely if it was deposited in the institution's internal mail system, with postage prepaid, on or before the last day for filing. Timely filing may be shown by:

- a postmark or date stamp showing that the notice of appeal was timely deposited in the institution's internal mail system, with postage prepaid, or
- a declaration of the inmate, under penalty of perjury, of the date on which the notice of appeal was deposited in the institution's internal mail system with postage prepaid. To include a declaration of inmate filing as part of your informal brief, complete and sign the declaration below:

Declaration of Inmate Filing	
Date NOTICE OF APPEAL deposited in institution's mail system: <u>Nov. 27, 2019</u>	
I am an inmate confined in an institution and deposited my notice of appeal in the institution's internal mail system. First-class postage was prepaid either by me or by the institution on my behalf.	
I declare under penalty of perjury that the foregoing is true and correct (see 28 U.S.C. § 1746; 18 U.S.C. § 1621).	
Signature: <u>Brian D Hill</u> <i>signed</i>	Date: <u>Nov 27, 2019</u>
[Note to inmate filers: If your institution has a system designed for legal mail, you must use that system in order to receive the timing benefit of Fed. R. App. P. 4(c)(1) or Fed. R. App. P. 25(a)(2)(A)(iii).]	

**2. Jurisdiction**

Name of court or agency from which review is sought:

U.S. District Court, Middle District of North Carolina

Date(s) of order or orders for which review is sought:

Doc. #198 Oct. 4, 2019 - ORDER signed by CHIEF JUDGE THOMAS D. SCHROEDER on 10/4/2019. The Defendant's pro se motion to stay the judgment pending appeal (Doc. 192 ) is DENIED WITHOUT PREJUDICE, and his motion for recusal (Doc. 195 ) IS DENIED as to BRIAN DAVID HILL (1). (Daniel, J) (Entered: 10/04/2019)

**3. Issues for Review**

Use the following spaces to set forth the facts and argument in support of the issues you wish the Court of Appeals to consider. The parties may cite case law, but citations are not required.

**Issue 1.**

The District Court erred and abused discretion in denying Doc. #195 MOTION entitled "Motion to Disqualify Judge" filed by BRIAN DAVID HILL. Responses due by 10/21/2019. (Attachments: # 1 Envelope - Front and Back) (Civil Case number: 17CV1036) (Garland, Leah) (Entered: 10/01/2019). See JA 1. JA means Joint Appendix.

### **Supporting Facts and Argument.**

This judge has been citing lies and facts that cannot be sustained. This very same judge ignored any or all evidence in Brian David Hill's favor, but allowed the lies and frauds by the counsel Assistant U.S. Attorney Anand Prakash Ramaswamy. This judge is partial, biased, and is not acting fair and impartial. The judge should have acted when Document #169 was filed, accusing Anand Prakash Ramaswamy of fraud upon the court. Thomas D. Schroeder ignored that too when unopposed. This judge ignored evidence of Brian's innocence of Supervised Release Violation under Documents #181, ignored the Notice of Appeal under document #187 and after Renorda Pryor the attorney verbally brought up his interlocutory motion, and he denied it. He denied the motion to continue even though Brian's state trial de novo was still ongoing and ordered for Brian's imprison thus interfering with Brian's state criminal case and he usurped power against the state. He seems to be doing everything the Government wants. See JA 2. JA means Joint Appendix. JA 2 is the copy of the Notice of Appeal that was challenging Judge's lies.

**Issue 2. To protect the integrity and fairness and due process of the federal judicial machinery, the Court of Appeals should order and remand that the Hon. Judge Thomas Schroeder recuse himself.**

### **Supporting Facts and Argument.**

Judge Schroeder said in the transcript on Page 82, Document #123 *"So I want Mr. Hill to understand the importance of working with the probation officer. I want the family to understand the importance of him working with his officer to make sure he is in compliance."*

So he lectures Brian about working with his Probation Officer. However that is not the same lecturing he used at the hearing dated September 12, 2019. That same judge did not take Brian's good behavior with his Probation Officer into account, didn't take his compliance with the bond conditions into account, and gave him the maximum prison sentence which means that he didn't actually take Brian's autism into account and the fact that judge Schroeder didn't even accept home detention as alternative. Yet Brian is under ankle monitoring and is in compliance. That judge was very unreasonable that he refused to let Brian prove his legal innocence to the state charge when he filed VA case law in his favor. This judge ignored any evidence against the U.S. Attorney.

**Issue 3. To protect the integrity and fairness and due process of the federal judicial machinery, the Court of Appeals should order and remand that the Hon. Judge Thomas Schroeder recuse himself.**

### **Supporting Facts and Argument.**

Further evidence showed that when Kristy L. Burton had been nasty by lying and committing perjury, Judge Schroeder was okay with her lying in court and lying in the records of Petition for Warrant or Summons for Offender Under Supervision (See Document #137).

See transcript on Page 83, Document #123 *"THE COURT: All right. Please work with the probation office, members of the family. It is an unusual situation. I understand Mr. Hill's issues with autism. If you have ways that will help probation, approach them. I'm sure they will be interested in knowing that. On the other hand, they have a job to do, and please do everything you can to help the probation officer work with your son and grandson to make sure that probation can do the job that they need to do."* That lecture never occurred at the hearing dated September 12, 2019. He ignored the fact that USPO Jason McMurray said that Brian was respectful to him.

See Doc. #215 Transcript, Page 39: *"Q Okay. And when you've talked to Mr. Hill, I think you stated it, has he been respectful with you?"*

*"A He has."*

Brian's Probation Officer did acknowledge that Brian had been respectful to him. Judge Schroeder didn't take that into account in Brian's favor.

See Doc. #215 Transcript, Page 39:

"Q And did Mr. Hill tell you -- did you get an opportunity to speak to him about this particular violation hearing?"

"A In what regard?"

"Q Just has he talked to you about what happened or anything, that he spoke to the police officers and that nature?"

"A When he was incarcerated, he had submitted some letters. We have not spoken face to face or on the telephone regarding a violation."

"Q And other than this violation that we're here today,

Mr. Hill, to your recollection, has been in compliance with all of the conditions of his release?"

"A He's been in compliance since I have supervised him until his arrest."

Judge Schroeder also didn't take any of that into account to the disadvantage and hardship against his Probation Officer. He didn't just give Brian 9 months of imprisonment; he increased Brian's years of Supervised Release giving more paperwork and stress to the already-overwhelmed U.S. probation office in Roanoke, Virginia.

Also if Brian is legally innocent of indecent exposure, then he was compliant with his supervised release. He was honest with his Probation officer, but Judge Schroeder never took anything positive into account but took everything negative into account against Brian. That is partiality and may be an inherit bias. When a Probation office is lying against defendant Brian David Hill, the Judge lectures Brian and his family to be nice to his Probation Officer and respect her, but when U.S. Probation Officer Jason McMurray spoke any and at all in Brian's favor, it was ignored and not taken into consideration for sentencing. This same Judge ignored Brian's Notice of Appeal and denied the continuance which deprives Brian of procedural due process and deprived Brian of being allowed to prove his actual innocence in state court which would have subject the Document #157 violation to being dismissed as moot, as Brian had been compliant with his conditions. Brian is to only be considered a violator if he was proven beyond a reasonable doubt to have violated the state law. If Brian didn't violate the law by not being obscene (no obscenity means no prurient interest in sex) under Virginia state law, then the Judge had no reason to revoke, had no reason to violate his supervised release as an arrest is not proof of a violation of law, it is only proof of a charge. A charge does not warrant a conviction alone. The charge has to be proven beyond a reasonable doubt in order to sustain a conviction. It isn't just the errors and abuses of discretion by this Judge, Judge Schroeder seems to be ignoring evidence such as all of his pleadings in opposition to Government's Documents including #157 violation charge. This judge didn't take any of his pleadings into account in calculating his sentence or in determining by a preponderance of the evidence that Brian may or may not have violated the conditions of supervision. Documents #181, #178, #179, #174, #173, #172, #165, #164, #163 was ignored and not taken into consideration as to Brian's Supervised Release Violation charge under #157. Only negative things and lies were taken into consideration. If that isn't any evidence of partiality then I don't know what is.

Judge Schroeder also ignored the facts verbally stated by witness USPO

McMurray: See Doc. #215 Transcript, Page 41:

"Q And did that Court find that he was not a flight risk at the time?"

"A Yes."

"Q And since he's been home, I believe you said May 14, 2019, has he been in violation of that particular conditions of that release?"

"A No, ma'am."

"Q Okay. And based on that release, that was -- based on that release on May 14, 2001 [sic], have you had a chance to visit him at home?"

A Yes, monthly."

So Brian's compliance under the bond conditions which were more strict than his regular Supervised Release conditions with curfew and additional conditions, Brian was compliant with all of it. Despite the hiccup that had happened on September 21, 2018, Brian had always been honest with his Probation Officer to the best of his knowledge and belief, yet the Hon. Judge Schroeder took none of that into account in Brian's favor.

Any reasonable Judge would have taken any of those facts into consideration. Brian's compliance on bond conditions and the approximately 3 years of compliance while under the supervision of USPO Jason McMurray. The evidence regarding carbon monoxide gas. **Yes, Brian doesn't have proof of the levels, but he had proof of carbon monoxide gas in his apartment and his mother's apartment.** The Judge didn't even enter its own motion for a forensic carbon monoxide expert or medical doctor to investigate Brian's claims of carbon monoxide poisoning as in Document #181. A reasonable Judge would have considered that Brian may be legally innocent of his charge of indecent exposure at the time of the hearing. A reasonable judge would have continued the final revocation proceedings until the state appeal had been over and done with, then hold Brian accountable after the final verdict of the state court in regards to whether Brian violated the indecent exposure statute or not based upon legal innocence.

**If a judge is angry at Brian and may be out to get him, to hurt him, to take out his anger and frustration on Brian, then that is the kind of stuff that would happen.** (1) A judge would give Brian the maximum imprisonment and not take any evidence or witnesses in his favor into account. (2) A judge would ignore evidence and refuse to put in it's own motion asking for an expert in carbon monoxide to determine if Brian was lying or telling the truth or simply that he has proof but not enough to establish a pure fact but would be a reasonable doubt. (3) A judge would punish his Probation Officer and the Roanoke, VA U.S. Probation Office by increasing Brian's years of probation over a technical violation over a state charge; thus adding more time to an already-overwhelmed Probation Office. The same Judge would lecture Brian's family and Brian to respect and be nice to his Probation Officer, but when he has been respectful to his Probation Officer the Judge ignores it as if that fact doesn't exist when in fact it does exist on the record.

**If a Judge is biased, partial, and out to get Brian and to hurt him, he would refuse home detention as a alternative to 9 months of imprisonment.** If a Judge was biased, partial, and out to get Brian, then that same Judge would ignore Brian's legal innocence issue in his state charge, state case, and trial de novo. That Judge should have been happy if Brian weren't a lawbreaker, then Brian was compliant with his supervised release condition, that Judge should have granted Brian's pro se motion to dismiss his supervised release violation under Document #165. Not violating Virginia law disproves Document #157 arrest and charge, and disproves it's allegation that Brian David Hill had violated Virginia law. If Brian is actually innocent of indecent exposure, the Court should have taken judicial notice of that fact and continued the hearing until Brian's state case was disposed of on the ground of innocence and no conviction could be entered. If a conviction was entered, then Brian technically did violate the conditions but his compliance and evidence still should have been taken into consideration. The fact that Brian was given the maximum imprisonment by the U.S. Attorney's recommendation shows that his Autism wasn't taken into consideration in Brian's favor, no evidence and no witnesses were ever taken into Brian's favor.

**The prejudice Brian had suffered under the Hon. Judge Thomas D. Schroeder proves that he was partial, biased, and/or should have disqualified himself out of respect to the judicial machinery.** A court is not a place to get revenge on somebody, the Court is not a place to retaliate against somebody, and the Court is not a place to openly lie about somebody. A court is not a place to ignore any valid evidence admissible under the Federal Rules of Evidence.

Again see JA 2. JA means Joint Appendix. JA 2 is the copy of the Notice of Appeal that was challenging Judge's lies. The lies and falsehoods stated on record by Judge Schroeder are defamatory to Brian. It isn't professional behavior.

**Issue 4. If Judge couldn't grant Brian's motion for stay under Doc. #192, he should have at least considered this an ineffective assistance of counsel issue. Why wasn't attorney Renorda Pryor filing a motion for stay??**

#### **Supporting Facts and Argument**

There were good issues raised in that motion for stay of judgment. Brian's state appeal, trial de novo, was still in effect and Brian being forced to turn himself into Federal Prison (self-report) by December 6, 2019, would interfere with any appeal of a bad decision that may have happened at the reported jury trial date of December 2, 2019. The Judge should have stayed the judgment or asked Renorda Pryor to adopt his pro se motion for stay and



then the motion could have been granted if Renorda Pryor was given an opportunity to adopt Brian's pro se motion. Ineffective counsel was at issue here. That denying Brian's motion for stay of judgment caused irrefutable harm and would cause any of his court appointed state defense lawyers' to consider not continuing on with his state trial de novo because the Federal imprisonment sends a message to the state court that his actual innocence does not matter in regards to Supervised Release Violation. That isn't true. If Brian didn't violate a law, he didn't violate the conditions of his supervised release. It is clear that a stay of judgment or any relief should have been warranted. The fact that the District Court didn't consider the motion for stay, using his counsel as excuse to deny motion is an error.

**4. Relief Requested**

Identify the precise action you want the Court of Appeals to take:

The Court of Appeals should order the U.S. District Court to reconsider denial of the Motion for recusal (Doc. 195 ), and remand the case back to the District Court with instructions for the Hon. Judge Thomas D. Schroeder to recuse himself so that a fair and impartial judicial officer can make fair and balanced decisions in Brian's criminal case and in Brian's 2255 Motion case. If it was just a few errors and abuses of discretion, that can be resolved easily on appeal. However evidence being ignored, witnesses in defendant's favor being ignored or not taken into consideration while anything in Government's favor is taken into consideration against Brian is evidence of partiality and bias. Courts are not one-sided outlets. Courts should be taking evidence and witnesses into account from both sides.

The Court of Appeals should order and remand that the U.S. District Court should reconsider denial of motion for stay (Doc.#192).

**5. Prior appeals (for appellants only)**

A. Have you filed other cases in this court? Yes [x] No [ ]

B. If you checked YES, what are the case names and docket numbers for those appeals and what was the ultimate disposition of each?

In Re: Brian Hill, #19-2077, dismissed as moot as the substance of relief that was requested had actually prevailed in favor of Appellant.

United States of America v. Brian David Hill, #15-4057, dismissed as untimely

Brian Hill v. EOUSA, #18-1160, decision affirmed

Brian Hill v. EOUSA, #17-1866, dismissed interlocutory

US v. Brian Hill, #19-4758, pending

US v. Brian Hill, #19-7483, pending

In Re: Brian Hill, #19-2338, pending

Brian D. Hill  
Signed

Signature  
[Notarization Not Required]

Brian David Hill

[Please Print Your Name Here]

**CERTIFICATE OF SERVICE**

\*\*\*\*\*

I certify that on 11/27/2019 I served the original of this Informal Brief on the Clerk, addressed as shown below, then request service of process under 28 USC § 1915(d):

Brian D. Hill  
Signed

Signature  
JusticeForUSWGO.wordpress.com

**U.S.W.G.O.**

Brian D. Hill - Ally of QANON  
310 Forest Street, Apartment 2  
Martinsville, Virginia 24112

**NO STAPLES, TAPE OR BINDING PLEASE**

To satisfy service of process, Appellant requests that the Clerk file the informal brief on CM/ECF system, and serve the party: United States of America through Notice of Electronic Filing which serves the document with the counsel(s) of the other party. This request is pursuant to 28 U.S. Code § 1915(d) "The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases."

**Additional Proof of prejudice:**

Brian was given the maximum imprisonment while another person convicted on the same charge of possession of child pornography was given the low end of the sentence, but in his case he was caught with child pornography and did not report it to law enforcement like Appellant Brian David Hill had done when an anonymous source attempted to text message that filth to Brian.

Supreme Court of the United States decided *United States v. Haymond*, 139 S. Ct. 2369

(2019). For example in that case, Haymond, the defendant was initially convicted of possession of child pornography, which is the same initial offense as Appellant. *Id.* at 2373.

As in the instant case,

Haymond was sentenced to a term of (10) years of supervised release. *Id.* at 2574. Haymond was later caught, while on supervised release, with additional child pornography and a revocation hearing was conducted before a district judge without a jury and under a preponderance of the evidence standard, not the beyond a reasonable doubt standard. *Id.* Similarly, in the instant case, Appellant appeared before a district judge in a revocation hearing based upon his alleged indecent exposure, without a jury and under a preponderance of the evidence standard. Both Haymond and Appellant were sentenced to an additional term of incarceration based upon the findings of fact of a district judge, without a jury, by a preponderance of the evidence.

Although Haymond's violation invoked the mandatory minimum provision of 18 U.S.C.

§3583(k), whereas Appellant's sentence for his alleged violation fell under 18 U.S.C. §3583(e), Appellant maintains that the expanded scope of trial by jury and the burden of proof being beyond a reasonable doubt also applies to Section 3583(e) violations, such as this case, either directly through Haymond or through an expansion and/or change in existing law.

"Together with the right to vote, those who wrote our Constitution considered the right to trial by jury the heart and lungs, the mainspring and the center wheel of our liberties, without which the body must die; the watch must run down; the government must become arbitrary. Just as the right to vote sought to preserve the people's authority over their government's executive and legislative functions, the right to a jury trial sought to preserve the people's authority over its judicial functions." *Haymond*, 139 S. Ct. at 2375. The atypical nature of the offense and the time of night, when few people would be present, greatly mitigate the seriousness of the alleged misconduct. Examination into his history and characteristics indicate a reduced need for lengthy incarceration.

In the decision of *Haymond*, being caught with child pornography and he did not report such material to a law enforcement agency, was given the mandatory minimum. So he gets minimum, but Brian gets the maximum imprisonment, and all evidence is ignored, witnesses are ignored.

**The prejudice is the unreasonable decisions being made against Brian and in absolute favor of the Government. Had the judge been fair and did reasonable actions, Brian never would have faced revocation if he was given an opportunity to prove his innocence in state court. If the judge were reasonable, he would have file the Court's own motion pursuant to the Federal Rules of Evidence that an expert witness of carbon monoxide gas and poisoning be appointed to make a report and testify in Court to determine the issues Brian was stating on the record. There were a lot of unreasonable actions Judge Schroeder had done against Brian. The 9 months of incarceration despite his Autism and OCD and brittle type 1 diabetes, the circumstances which greatly mitigate the seriousness of the alleged misconduct, the compliance time before and after his arrest**

on September 21, 2018. **For a Judge to take absolutely nothing into consideration in Brian's favor is prejudiced, biased, and/or impartial.**

Issues of the impartiality is that Judge Schroeder was dragging his feet after the Notice of Appeal (Doc. #190) was timely filed the same day as the final revocation hearing on September 12, 2019. The Judge had taken weeks without entering the written judgment. It took Appellant Brian Hill filing a Writ of Mandamus under case # 19-2077 and serving a copy with the Judge through the Clerk of the Court, and shortly after he had entered the written judgment on October 7, 2019 (Doc. #200) not stalling the case any further. Other appeals are caused issues coming from the Middle District of North Carolina. Three appeals under #19-7483, #19-4758, #19-2077 all concern the issues caused by any abuses of discretion by the Hon. Judge Thomas D. Schroeder.

The typed issues in Appellant's Notice of Appeal (Doc. #203) outline Appellant's dissatisfaction with the lies and untruths being put on court record for any of the general public to see and not correct any of the lies. The lies are regurgitated, and when a judge lies, it is defamatory in nature and is a defamation of character. Any member of the media may take these lies and write news articles about it and it would further defame Brian David Hill, which will cause everlasting consequences. Judges should not utter things that are not true and are not true to the facts and law. Judges should argue facts and whatever truths are available to the Judge upon review of the arguments, evidence, and witnesses before him/her.

**Brian is tired of filing Notice of Appeals. Brian wants a Judge that is fair, impartial, and will adhere to the case laws, and to the Constitution, the facts and the law to the best of his/her abilities.**

**Brian doesn't just ask the Court of Appeals to vacate the order denying the motion for recusal, but begs the Court of Appeals in all due respect to order the Judge to recuse himself so that no further issues come up in this case of evidence being ignored, one-sided justice, and the only evidence and requests accepted are from the Government while not taking anything at all that is favorable to the other party.**

A Judge is like a referee in a sports game, a fair and impartial sports game officer who makes sure that there is no foul play by either team in a sports game. Like cheating would be prohibited. If any team members did anything unprofessional against the other side, the referee would stop that from happening any further by penalties. A Court however is not a sports game, but the job of the Judge is to resolve the dispute between two parties. **An impartial judge takes evidence from both sides into account when making a decision.** The reasonableness of questioning impartiality is when a Judge is completely one-sided and accepts evidence and witnesses from one side but ignores the same from the other side in favor of only one party.

The same Judge had also filed a premeditated order, See JA 3. JA means Joint Appendix. JA 3 is the copy of the premeditated order that was originally filed under Document #180 in the case before it was modified to be replaced with another document. This Document had the same factual basis for revocation as in Document #200 in the case in the District Court. That Brian David Hill had been arrested on September 21, 2018, for the commission of a crime. That order did not have any evidential facts listed in that order that the Court was relying upon the find Brian in violation which deprives Brian of due process as he cannot challenge the facts relied upon as to why Brian should prevail on appeal on the merits. Only the transcript contains what had happened (however Appellant still maintains that there were omissions in that transcript) but the facts and evidence that the Judge relied upon to revoke Brian's supervised release was not in his Document #200, but it had the same basis for revocation as the premeditated order. This Judge was clearly out to get Brian before the final revocation hearing.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
Effective 12/01/2016

No. 19-7483 Caption: US v. Brian Hill - INFORMAL BRIEF

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT  
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**Type-Volume Limit for Briefs:** Appellant's Opening Brief, Appellee's Response Brief, and Appellant's Response/Reply Brief may not exceed 13,000 words or 1,300 lines. Appellee's Opening/Response Brief may not exceed 15,300 words or 1,500 lines. A Reply or Amicus Brief may not exceed 6,500 words or 650 lines. Amicus Brief in support of an Opening/Response Brief may not exceed 7,650 words. Amicus Brief filed during consideration of petition for rehearing may not exceed 2,600 words. Counsel may rely on the word or line count of the word processing program used to prepare the document. The word-processing program must be set to include headings, footnotes, and quotes in the count. Line count is used only with monospaced type. See Fed. R. App. P. 28.1(e), 29(a)(5), 32(a)(7)(B) & 32(f).

**Type-Volume Limit for Other Documents if Produced Using a Computer:** Petition for permission to appeal and a motion or response thereto may not exceed 5,200 words. Reply to a motion may not exceed 2,600 words. Petition for writ of mandamus or prohibition or other extraordinary writ may not exceed 7,800 words. Petition for rehearing or rehearing en banc may not exceed 3,900 words. Fed. R. App. P. 5(c)(1), 21(d), 27(d)(2), 35(b)(2) & 40(b)(1).

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(s) Brian D. Hill  
signed

Party Name Brian David Hill

Dated: 11/27/2019

**U.S.W.G.O.**

Brian D. Hill - Ally of QANON  
310 Forest Street, Apartment 2  
Martinsville, Virginia 24112

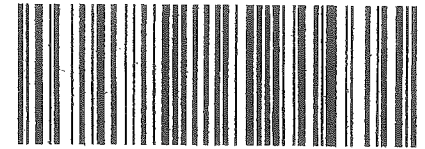
USCA4 Appeal: 19-7483 Doc: 11 Filed: 12/17/2019

**U.S.W.G.O.**

*Brian D. Hill*  
*Signed*

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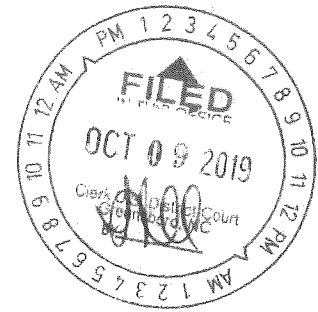
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United States Court of Appeals  
1100 East Main Street, Suite 50  
Richmond, VA 23219



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

	)	
<b>Brian David Hill,</b>	)	
<b>Petitioner/Defendant</b>	)	<b><u>Criminal Action No. 1:13-CR-435-1</u></b>
	)	
v.	)	<b>Civil Action No. 1:17-CV-1036</b>
	)	
<b>United States of America,</b>	)	<b>Mandamus: 19-2077, 4<sup>th</sup> Circuit</b>
<b>Respondent/Plaintiff</b>	)	
	)	
	)	

**PETITIONER’S NOTICE OF APPEAL**

NOW COMES the Petitioner, by and through Brian David Hill ("Brian D. Hill"), "Petitioner", or "Hill"), that is acting pro se in this action before this Honorable Court in the Middle District of North Carolina, and hereby respectfully moves to file this notice of appeal.

Notice is hereby given that Defendant/Petitioner Brian David Hill in the above named case hereby appeal to the United States Court of Appeals for the Fourth Circuit from an order entered in this action on October 4, 2019 (Document #198).

\*See Fed. R. App. P. 3(c) for permissible ways of identifying appellants.

This NOTICE OF APPEAL concerns the abuse of discretion, ignoring the evidence, ignoring Brian’s Probation officer Jason McMurray, ignoring the recommendation of the Western District of Virginia federal court that Brian David Hill be released on bond with curfew without requiring an ankle monitor, allowing frauds upon the court, and errors of the record by the Honorable U.S. District Court Chief Judge Thomas D. Schroeder.

Brian David Hill is illegally and unconstitutionally being ordered to turn himself into Federal Prison by December 6, 2019, and was done by the errors and usurpations of power by Judge Schroeder.

The Hon. Judge Schroeder is refusing to recuse himself from the case knowing that it is creating a conflict of interest and is allowing such prejudice and abuse to continue is not good for this case. Not good for the 2255 Civil case and not good for anything to do with this criminal case either. The Constitution and the law requires that a Judge be impartial and without prejudice and without bias, and for the Canons of Professional Conduct. It is also proper judicial conduct to follow the facts exactly and not making conclusory facts that cannot be proven on the record. It is also proper conduct to vacate any frauds upon the Court, even if such frauds were perpetuated by the Government.

**THIS IS A CONSTITUTIONAL CRISIS.**

**ERRORS of the record:**

**Error of law #1:**

Judge Schroeder; Page 1 of 8: *"The Defendant was convicted in state court in Virginia in 2018, and his federal revocation proceeding followed."*

In the motion the Hon. Judge Thomas D. Schroeder denied under Document #192, evidence exhibit was filed from the record of the Martinsville, Virginia Circuit Court that his conviction in General District Court on December 21, 2018, was vacated due to appeal to the Circuit Court which that court had not convicted him yet due to the ongoing Trial De Novo. See Exhibit 4 — Document #193, Attachment #4 (Doc. #193-4). It is on record in Defendant's/Petitioner's Motion for Stay of Judgment pending Appeal that the "Circuit Court case was filed on 01/09/2019 and was commenced by General District Court Appeal". According to

attorney Scott Albrecht who had formerly worked for the Martinsville Public Defender office, once an appeal has been filed to the lowest municipal court also known as a police court, aka the General District Court which is not an Article III compliant constitutional state court and doesn't follow the usual constitutional obligations and is not a state court of record, then it is appealed to the Circuit Court for Trial De Novo which is to be tried in front of a Jury or Bench Trial by Judge in a state court of record. So Brian's conviction in the "police court" was no longer valid and was vacated after Brian's timely filed notice of appeal in the General District Court. It is on record during the hearing in the Western District of Virginia case no. 7:18-mj-00149, during the hearing on Dec 26, 2018 that Brian had timely filed his Notice of Appeal automatically vacating the conviction from General District Court, please review the Transcript from that case. Once the appeal has been filed in the municipal court, it is a fact and procedure of law that the conviction be treated as if it had never taken place and a new finding of guilty must be entered by the Circuit Court prior to a conviction being valid on the record or the Defendant/Petitioner would have to withdraw his appeal voluntarily to reinstate his conviction in General District Court.

So the Hon. Judge Schroeder is wrong on that factual claim, had erred, and cannot be substantiated. It shouldn't even have been entered in his opinion of his order.

**Error of law #2:**

Judge Schroeder; Page 7 of 8: "*Defendant reportedly hit his grandfather. (Doc. 123 at 22-23, 48.)*"

Actually it distorts what had entirely happened. USPO Kristy L. Burton had said that "*At that moment, everybody was very agitated and flurried, but I wasn't in there long enough for -- whatever had happened had occurred before I got to the home.*" Page 23 of 84.



It even said that the family did not call the police because the entire family was agitated and stressed (or flurried) which is the way families are from time to time. Families go through arguments. Nobody called the police so nobody felt that Brian David Hill was dangerous or aggressive enough to call law enforcement.

Renorda Pryor asked USPO Burton "*Q Okay. And while you were there in that environment, did they call the police? Was anyone hurt?*"

Her response was "*A As far as I know, they never called the police, no.*"

So it was a small family feud where everybody was agitated which happens in families across the country. To use that against Brian was simply wrong and was an error of fact and an abuse of discretion.

Even witness Kenneth Forinash had this to say about the incident: "*...and his reflex action was that he turned around and hit me. It didn't hurt. And a few minutes later, we all apologized and everything was okay.*" Page 53 of 84.

It doesn't sound as bad as the way it had sounded in the Hon. Judge Schroeder's order. That was back in 2015 and should not have been used against Brian David Hill as yet another reason to deny his motion for Stay of Judgment pending Appeal. It is normal for families and even married couples to have arguments and feuds in today's climate with the extreme stress and anxiety of modern American life with jobs and the stress of life. People handle these things in different ways. To use something this small and stupid, of a small family feud, as one of the basis of the decision to deny the Motion for Stay of Judgment pending Appeal is inappropriate and is an abuse of discretion.

**Error of law #3:**

Judge Schroeder; Page 7 of 8: "*The Defendant maintained that the child pornography was sent to his cell phone unsolicited and anonymously, which seems unlikely in so far as the cell phone is a prepaid phone belonging to his*

*grandmother (Doc. 123 at 6, 35) and no one would likely have knowledge of the phone number.”*

That is not true as the Defendant/Petitioner had broken no law, and that Defendant/Petitioner had never asked for the child pornography, there is no evidence of it, there is no mentioning of it in this entire case. The only thing that happened was that Brian David Hill had received threatening text messages before the child pornography had allegedly been reportedly sent to his grandmother's cell phone. Brian immediately thereafter, in good faith, reported the cell phone to his Probation Officer Kristy L. Burton who acknowledged that Brian had voluntarily reported the matter to her, a federal “law enforcement officer” or “agent”, and gave her the cell phone. That is an affirmative defense under federal law to any child pornography charge under the federal law. That was why Brian had not been charged for giving the phone to Kristy L. Burton because he is actually innocent of such allegation by turning over the so-called unsolicited such material to a law enforcement officer or agent in good faith. Brian maintains that he complied with the law, and did not do anything wrong to warrant that being used against him.

According to Attorney Susan Basko on the record of Document #46 in this case:

*“The other purpose was to follow the provision in federal child porn law that gives an affirmative defense under this law.”*

*18 U.S. Code § 2252A - Certain activities relating to material constituting or containing child pornography*

*(d) Affirmative Defense. – It shall be an affirmative defense to a charge of violating*

*subsection (a)(5) that the defendant~*

*(1) possessed less than three images of child pornography; and*

*(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof~*

*(A) took reasonable steps to destroy each such image; or*

*(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.*

*8. Shortly after Luke's situation, a group of indie journalists and activists contacted me and said they had porn sent to them in trick emails where the sender opened an email account in the name of someone the activist trusted. The delivery technique had advanced to placing the images inside a pdf, so they images could not be previewed.*

*These men have access to a computer forensics expert who previewed the pdf in a "sandbox," and saw they were child porn. These men included Dan Johnson of People Against the NDAA, Stewart Rhodes of Oathkeepers, and several others. These men were aware that Brian David Hill had also had child porn downloaded onto his computer.*

According to the Document #123 Transcript, the Hon. Judge Schroeder forgot to bring up this part of the transcript in his order.

Page 38 of 84:

*"Q When you stated that he turned over the phone to you, did he voluntarily do that?"*

*"A Yes, ma'am."*

*"Q You didn't ask him any questions about it? He just voluntarily contacted you or how -- I'm sorry. Help me understand. How did you get the phone?"*

*"A He did contact me to indicate -- we'd had a previous incident where information -- I was told by the family and him that the Mayodan Police Department had returned evidence to them that contained child pornography. When I asked to see that, they indicated it had been destroyed. During that time, I indicated that if this ever happens again or anything like that ever happens to let me know. So he contacted me after receiving that email -- or text message, sorry, whatever it was, and he turned it over to me within a couple of days."*

*"Q So he voluntarily did it?"*

*"A Yes."*

That is an affirmative defense under “18 U.S. Code § 2252A - Certain activities relating to material constituting or containing child pornography”.

Brian David Hill was compliant with federal child pornography law in this instance and that should not have been an issue to be used against Defendant/Petitioner in denying his Motion to Stay of Judgment pending Appeal.

**Error of law #4:**

Judge Schroeder; Page 7 of 8: *“Not only was the court unaware of the error, more importantly the filing had no influence on the court’s independent determination it made based on the evidence presented at the revocation hearing.”*

That is interesting when the very Document #180 listed on pages 19 to 20 of Document #195, stated that Defendant/Petitioner was to have:

1. Been ordered to a high end of imprisonment (referring to the 10 months), and that it had been entered under the name of Brian David Hill and the correct case number for such a supposed template. The only reason why the Hon. Judge Schroeder ordered 9 months of imprisonment instead of 10 months was because of the statutory maximum that was requested by Assistant U.S. Attorney Anand Prakash Ramaswamy, the Government counsel in this case. So the 10 months was what Judge Schroeder apparently wanted but could only give 9 months, so that was similar.
2. Been ordered to the custody of the Federal Bureau of Prisons.
3. Finding that Brian David Hill was guilty of a commission of a crime on September 21, 2018, despite when the Martinsville Circuit Court has not yet come to such decision as Trial De Novo erases the conviction in General District Court and new trial had been ordered.
4. That Brian had been revoked of Supervised Release.

5. And that Brian had been represented by Attorney Renorda Pryor.

Judge Schroeder; Page 7 of 8: "*The Defendant's contention that the court pre-determined the case is false.*"

Document #180 (Pages 19 to 20 of Document #195) looked way too perfect to simply be some template. It will be up to the U.S. Court of Appeals and a judicial investigation into Judge Schroeder to determine whether Brian's contention was false or true. It is ironic that Judge Schroeder is having to defend himself against an allegation, when that has been all Brian David Hill has been able to do is consistently having to defend himself against false allegations right and left since 2012. Even if any element of an allegation was true against Brian, Judge Schroeder is seeing what it is like to being accused of something even though he has never reportedly been a criminal defendant and never got to experience what every criminal defendant has had to ever go through in the criminal justice system. Has he even wore their shoes? Has he ever been to prison and seen what it's like?

Also the fact that U.S. Probation Officer Kristy L. Burton was given more credibility and respect, but the good conduct of Brian David Hill with U.S. Probation Officer Jason McMurray was ignored and not taken into consideration by the same Judge Does In-Fact show evidence that it was premeditated/prejudice.

The fact that the Hon. Judge Schroeder gave the maximum imprisonment by (#1) didn't take his compliance under the bond conditions into account (*May 14, 2015 and is still compliant with all of the bond conditions till even this day of October 5, 2019, and beyond*); (#2) didn't take into account his compliance with the conditions of Supervised Release from the August 13, 2015 infraction under Document #124 (filed September 4, 2015) all the way until September 21, 2018 (calculated at 3 years, 1 month, and 8 days) when Brian exhibited a weird and abnormal behavior that he had never done before in the 28 years of Brian being

alive; (#3) didn't take into account that Brian and his family had respected Brian's Probation Officer Jason McMurray. Even before the infraction, Brian had been compliant and respectful with USPO McMurray during the home detention, an additional June 30, 2015 when released until August 13, 2015 before the day of infraction, 12 additional days calculated, in total would be 3 years, 1 month, and 20 days. The infraction should not count against Brian David Hill for the Final Revocation hearing because it conflicts with the affidavit of Brian's actual innocence inside of his 2255 Motion under Document #125 and #128 brief/memorandum and was filed in November, 2017, putting Brian at risk of multiple federal perjury charges just to simply get Brian to comply with sex offender treatment when that requires that Brian be forced against his will to commit criminal acts of multiple felony acts of perjury against his claims of actual innocence. None of Brian's good behavior, respect and compliance with Brian's Probation Officer Jason McMurray was taken into account at all in his decision on September 12, 2019, and none of anything at all was taken into account in Brian's favor. Sounds to me like Judge Schroeder is not exonerated of his premeditated order under Document #180 (Pages 19 to 20 of Document #195) and that simply him claiming Defendant's/Petitioner's contentions was "false" is not sufficient to prove that the Hon. Judge Schroeder is innocent of Brian's allegations of being partial, prejudicial, and biased towards Brian David Hill and is partially in favor of the Government and the liar/perjurer Kristy L. Burton. The Hon. Judge Schroeder was okay with picking at Brian's grandmother having a pre-paid cell phone with child pornography received on it but did not take Attorney Susan Basko's (Document #46) declaration into account that said anyone who receives unsolicited child pornography can report it to a law enforcement agency and turn in such device and is considered actual innocence under an affirmative defense to the child pornography law. Brian's conduct was lawful and in good faith. Judge Schroeder

jumped on any allegation against Brian that looks bad but the record says different. That is an abuse of discretion and is an error of law, false facts submitted on court record, a fraud upon the court. When Brian is complying with federal law and reporting any issues or knowledge of any criminal activity going on against Brian and his family, reporting the matter to law enforcement, that should not be used against him in denying his Motion for Stay of Judgment pending Appeal.

Last note here was that Brian had received threatening text messages in 2015, threatening emails in 2013, all about setting him up with child pornography. All of them were reported to a law enforcement agency or contact. That was before Brian had reported the child pornography being received from an anonymous person (unsolicited) on his grandmother's pre-paid cell phone.

The allegations against Judge Schroeder have still not been resolved. His answer is not sufficient to prove that he is not guilty of that misconduct of a premeditated order under Document #180.

Threatening message #1: Exhibit A — Document #71, Attachment #1

Threatening message #2: Exhibit B — Document #71, Attachment #2

Whistleblower message #1: Exhibit D — Document #71, Attachment #4

Proof from Defendant's/Petitioner's side that Tracfone was voluntarily given to USPO Kristy L. Burton and goes along with her statement on that regard under oath: Exhibit E — Document #71, Attachment #5

Threatening text messages reported to law enforcement agency N.C. State Bureau of Investigation: Exhibit F — Document #71, Attachment #6

Threatening message #3: Document #84, Attachment #7

Threatening message #4: Document #84, Attachment #8

After all of this gets argued before the U.S. Court of Appeals on the records in this case, it is clear that the Hon. Judge Thomas D. Schroeder has abused his discretion,

ignored evidence, ignored witnesses like USPO Jason McMurray, made errors of law and made errors of record, and took no evidence into consideration in Brian's favor on September 12, 2019. Prejudice, partiality, dereliction of duty?

It is clear that the U.S. Court of Appeals will rule in favor of Brian's appeals including the Writ of Mandamus.

It is also interesting that the Hon. Judge Thomas D. Schroeder and any of his legal staff had taken the time and research into producing 8 pages of order under (Document #198) dated October 4, 2019, that the error under Document #180 was already reportedly by the Order as a template that looked as though it wouldn't take long to produce a written judgment for the Notice of Appeal under Document #187 and Document #190 to finally be docketed. Despite the Court of Appeals reminding Judge Schroeder through the Clerk's office on September 20, 2019, to file the written judgment (USCA4 Appeal: 19-2077, Doc: 3, Filed: 10/02/2019, Pg: 54 of 68). Despite being served with a copy of the petitioned Writ of Mandamus (USCA4 Appeal: 19-2077, Doc: 2, Filed: 10/02/2019, all pages: 1 through 21). Instead of making sure to do his duty and file the written judgment, he is taking the time to deny two motions and write a lot of errors of law, conclusory facts by assumptions, and abuses of discretion. He rather file an order denying two motions rather than make sure that Defendant's/Petitioner's right to direct appeal under the Constitution and as of matter of law, matter of right, being protected by the court.

It is clear that the Hon. Judge Thomas D. Schroeder of Winston-Salem, North Carolina, has decided to rebel against the U.S. Court of Appeals which is disrespect and mockery of the higher courts, that may be willing to flaunt his contempt and disrespect to the higher court, out of fear that his judgment or judgments may be remanded and vacated as a matter of facts and/or as a matter of law. He is mocking the Appellate Court by failing or refusing to file the written



judgment. It normally takes a week, especially after allegedly admitting in his order as to Document #180 (Pages 19 to 20 of Document #195) being simply a template from another case as he argued in his defense to Brian's allegations in Document #195. He and his staff has allegedly taken the time to already have a template as he had claimed, took the time to file 8 pages of an order denying motions, but doesn't seem to be filing the written judgment necessary for the direct appeal of the Final Revocation hearing on September 12, 2019. In eight (8) days, it will be an entire month that Judge Schroeder may or may not file his written judgment. It is as if he is flaunting his disrespect towards the U.S. Court of Appeals in Richmond, Virginia, because they may not view his decision favorable in another state outside of North Carolina State Senator Philip Edward Berger Senior's and his son Phil Berger Jr.'s jurisdiction (Phil Berger was allegedly called a dictator by a law professor in North Carolina).

I think it is about time for the Court of Appeals to order the Hon. Judge Thomas D. Schroeder to enter his written judgment by a fixed time period or he should face contempt of a higher court. No judge should disobey his superiors that are honorable judges of a higher court. The whole judicial system of Government is about following the rules and following your duties.

The Honorable Judge Thomas D. Schroeder needs to remember to follow the law.

Respectfully filed with the Court, this the 5th day of October, 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



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

I stand with QANON/Donald-Trump – Drain the Swamp

Brian asks Donald Trump for a full pardon of innocence, asks Qanon for help

Make America Great Again

Defendant/Petitioner also requests with the Court that a copy of this pleading be served upon the Government as stated in 28 U.S.C. § 1915(d), that "The officers of the court shall issue and serve all process, and preform all duties in such cases.

Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases". Petitioner requests that copies be served with the U.S. Attorney office of Greensboro, NC via CM/ECF Notice of Electronic Filing ("NEF") email, by facsimile if the Government consents, or upon U.S. Mail.

Thank You!

#### CERTIFICATE OF SERVICE

Petitioner hereby certifies that on October 5, 2019, service was made by mailing the original of the foregoing:

"PETITIONER'S NOTICE OF APPEAL"

by deposit in the United States Post Office, in an envelope (certified mail), Postage prepaid, on October 5, 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, Greensboro, NC 27401.

Then pursuant to 28 U.S.C. §1915(d), Petitioner 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	Angela Hewlett Miller U.S. Attorney Office
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Civil Case # 1:17 -cv-1036 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 <a href="mailto:Anand.Ramaswamy@usdoj.gov">Anand.Ramaswamy@usdoj.gov</a>	Civil Case # 1: 17 -cv-1036 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 <a href="mailto:angela.miller@usdoj.gov">angela.miller@usdoj.gov</a>
JOHN M. ALSUP U.S. Attorney Office 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401 <a href="mailto:john.alsup@usdoj.gov">john.alsup@usdoj.gov</a>	

This is pursuant to Petitioner'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.

<p>Date of signing:</p> <p><u>October 5, 2019</u></p>	<p>Respectfully submitted,</p> <p><u>Brian D. Hill</u> <i>Signed</i></p> <p>Signed Brian D. Hill (Pro Se) 310 Forest Street, Apartment 1 Martinsville, Virginia 24112 Phone #: (276) 790-3505</p> <p><b>U.S.W.G.O.</b></p> <p>I stand with QANON/Donald-Trump – Drain the Swamp I ask Qanon and Donald John Trump for Assistance (S.O.S.) Make America Great Again</p>
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I ask Department of Defense ("DOD") military Constitutional oath keepers, alliance, Qanon for help in protecting me from corruption and criminal behavior of Government. There needs to be an investigation. There needs to be an investigation into this "dictator" NC Senator Philip Edward Berger as one law professor has called him in his own opinion.

Certified Mail tracking no: 7019-1120-0001-4751-4757

**U.S.M.**

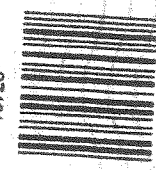
**Brian D. Hill - Ally of QANON**  
310 Forest Street, Apt. 1  
Martinsville, VA 24112

*Brian D Hill*  
signed

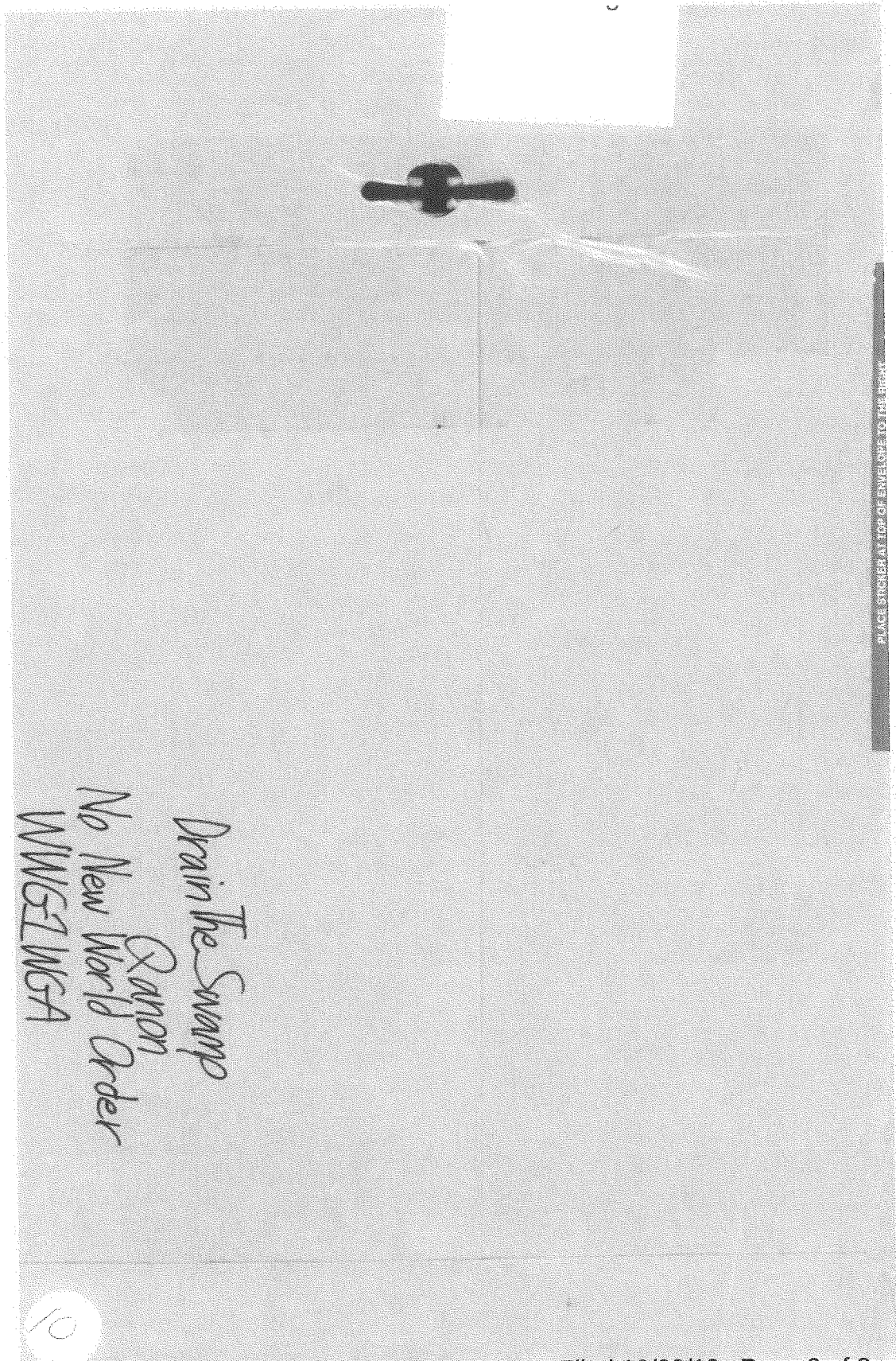
*Notice of Appeal - Order 198*  
**Clerk of the Court**  
**U.S. District Court**  
**324 West Market Street, Suite 1**  
**Greensboro, NC 27401**

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Drain the Swamp  
Ramon  
No New World Order  
WWG1WGA

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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT