

In The
Supreme Court
Of Virginia

Brian David Hill,

Appellant,

v.

**Commonwealth of
Virginia**

Appellee.

**ON APPEAL FROM THE CIRCUIT COURT OF
MARTINSVILLE**

**APPELLANT'S REPLY TO BRIEF IN
OPPOSITION TO PETITION FOR APPEAL**

U.S.W.G.O.

**Brian David Hill – Ally of Qanon
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No table of authorities necessary for this small reply.

I. STATEMENT OF THE CASE

Brian David Hill, (the “Appellant” or “Petitioner”) respectfully files with this Honorable Supreme Court of Virginia, his reply to the Appellee’s “BRIEF IN OPPOSITION TO PETITION FOR APPEAL” (attached to this reply as exhibit) in lieu of the oral argument under Rule 5:17(i)(5). Therefore Appellant requests reply brief with the 2,625 word limit in lieu of the oral argument. Appellant feels that it would be better addressing any lies or errors of the Appellee on paper rather than oral argument.

II. STATEMENT OF THE FACTS

Glen Andrew Hall ("Mr. Hall") has filed a counter "Statement of Facts" in his responsive opposition brief. The Appellant does not agree with Mr. Hall's rendition of the Facts, and shows how this Officer of the Court is confusing the case and defrauding the court (fraud upon the court). This further shows why the Petition for the Writ of Habeas Corpus in case no. CL19000331-00 should be reopened in the Circuit Court by Order and Remand by this Supreme Court.

The errors and misconceptions of the events that took place shall be reported to this Court for the record.

Citing pg. 6: “On September 21, 2018, Sgt. Robert Jones of the Martinsville Police Department responded to a 911 report that a naked man was seen running down the "Dick and Willie Trail," which is a hiking trail that runs through the city of Martinsville, Virginia, as well as neighboring Henry County. Mr. Hill had been observed running along the trail in the area of Hooker Street and Church Street in the city of Martinsville. As Sgt. Jones responded to the call, he observed Mr. Hill running towards him on the trail near Pine Street. Mr. Hill was completely naked, with the

exception of socks and boots. When he saw Sgt. Jones, he turned around and ran in the other direction. Sgt. Jones caught up with Mr. Hill. Mr. Hill had a camera on his person. He gave law enforcement permission to view the contents of the camera.”

The statements above were not even added to the record in the civil case that is being appealed. The Commonwealth did not even respond to the Writ of Habeas Corpus with these type of statements because the case was dismissed within two days after it was initially filed. In violation of Rule 3A:24 - Special Rule Applicable to Post-Conviction Proceedings: Circuit Court Orders Denying Petitions for Writs of Habeas Corpus, Va. R. Sup. Ct. 3A:24 (“Any Order of a circuit court denying a petition for a writ of habeas corpus shall include findings of fact and conclusions of law as required by Code § 8.01-654B(B)(5). The order shall identify the substance of the claims asserted in the petition, and state the specific reason for the denial of each claim. Any such order may adopt a trial court's written opinion explaining its decision or a transcribed explanation of the court's ruling from the bench; however, an order shall not deny the petition without explanation, or rely upon incorporation by reference of a pleading filed in the case.”). The photos were private (pg. 23 of WHC).

As far as those statements, it was not part of the record of the separate civil case as the Commonwealth was never given any opportunity to submit evidence or file any responsive pleading in the Circuit Court, the petition was simply dismissed without any explanation other than that it was considered but was then ordered dismissed. It had established no facts or case law that the Court was relying upon in order to dismiss the Habeas Corpus petition.

What the statement by Mr. Hall was doing was to defraud the Supreme Court

of Virginia to generate emotions or potential bias and make the Justices of this Court feel a certain way about the case when the facts are different than what the Commonwealth has produced to this Court in their opposition brief.

The Commonwealth did not state properly from the record in the Habeas Corpus petition case that the incident had happened at nighttime when hardly anyone would even be out on the road, and when nobody of the general public would even be on the “Dick and Willie” walking trail.

Citing WRIT OF HABEAS – WHC, pg. 11-201:

“He never masturbated when a vehicle went by while Brian was at the Dick and Willie hiking trail area at night”

The Commonwealth makes it sound like Brian was seen in the daytime or around any time of the day and does not specify the time of night. That is a misrepresentation of the facts.

Also the Commonwealth stating that “*Jones responded to the call, he observed Mr. Hill running towards him on the trail near Pine Street*” also misrepresents what had happened by blatant omission of all of the facts needed for a Court to render a fair and impartial decision. The police officer never announced himself, and again this was at night. The officer was hidden in the dark with only a flashlight, when a flashlight is not enough for Appellant to determine that it was even a law enforcement officer and ran from who he thought was a total stranger. Total opposite of somebody wanting to show nudity to somebody intentionally. When somebody runs away from somebody when naked, usually they fear being raped or molested.

Citing pg. 6: “The images showed Mr. Hill in several different areas of the city. In most of the pictures, Mr. Hill is completely nude, with the exception of his boots and socks. Mr. Hill is wearing a knit hat in some of the photos. Mr. Hill is seen posing and smiling for the camera. He sticks his tongue out in several of the pictures. He touches his genitals in several of the pictures. He can be seen sitting down and spreading his legs wide to expose his genitals. In several of the photos, he leans back and thrusts his genitals toward the camera, in other photos he bends over in front of the camera, exposing his buttocks while apparently spreading them for the camera. Mr. Hill admitted to taking the photos. He claimed that a black male with a hoodie had forced him to get naked and take pictures of himself. The police searched for a person matching this description, and could not locate anyone.”

It is hearsay as the alleged photographs were never submitted in the Writ of Habeas Corpus case. Maybe Mr. Hall got confused between this appeal and the Direct Criminal Appeal under case nos. 0129-20-3, 0128-20-3 in the Court of Appeals of Virginia. If the alleged photographs even contain what Mr. Hall has described regarding Appellant’s behavior in such photographs, the behavior sounds similar to that of a traditional strip search in public jails and prisons. They ask every inmate to take all clothes off, bend down and spread the butt cheeks and/or squat and cough, stick your tongue out, waive hands through your hair, touch your genitals and lift them showing the balls. The behavior that Mr. Hall had accused Appellant of is the same type behavior of what is done to inmates on a routine basis with strip searches. Brian was wrongfully convicted in federal court, however the case referenced in Appellant’s WHC petition (1:13-cr-435-1) proves that Brian was incarcerated. For Brian to be incarcerated, would mean that the Appellant would have had to submit to strip searches between every Federal Court hearing. Some jails may even videotape the strip searches. That can be humiliating and can cause mental health issues to a

person with Autism Spectrum Disorder. If somebody refuses to be strip searched, the officers can use force and rip the clothes off or even force somebody to be tied to a chair or cell until they comply. Officers will use whatever force necessary to ensure compliance. This can create devastating mental health damage to somebody who is on the Autism Spectrum Disorder. Of course strip searches are not sexual and not even meant to be sexual. Brian's behavior mimics that of somebody going through a prison or jail routine strip search and therefore is not sexual, not meant to be sexual, and is a routine that Appellant had been used to when he was an inmate in the Federal Court system. People with Autism can mimic behaviors and exhibit echolalia. That is a fact.

The alleged photographs were not even on the record for the WHC civil case referenced herein. This is an attempt by Mr. Hall to defame Appellant and not give him an opportunity to submit evidence and responsive arguments as appeals are limited only to what was on the record at the time the final judgment was entered. Mr. Hall is attempting to defame Appellant to ruin his appeal and make it sound as though it has no merits whatsoever and that it makes Appellant look bad in a desperate attempt to dismiss Appellant's appeal.

The Commonwealth dragging arguments not from the record gives Appellant the right to demonstrate from the Federal Appeal record that Mr. Hall is wrong or is lying. When Mr. Hall argued that "*images showed Mr. Hill in several different areas of the city*" goes against the transcript of what the prosecutor had said with an investigation sourced from that very same police officer of Martinsville Police Department, Sgt. Robert Jones, in Federal Court on the date of September 12, 2019.

Citing from Doc.#216, U.S. District Court, Middle-District-of-North-Carolina, pg. 18: “Further investigation from the initial incident, it looks like all of these were taking place at the Greene Company right behind the Mexican restaurant right in that area, Virginia Avenue, Memorial Boulevard, and Commonwealth Boulevard.”

Officer Robert Jones did admit that the photos were taken in a specific area and not all over the city.

Citing Id. Page 20, Transcript:

“Q And as it describes in numbered sequence one through five, does that accurately show, as to the files in Government’s Exhibit 1, the locations where those photographs were taken?

A Yes, sir. These are consistent with the photographs.”

The evidence shows that the photographs were all taken around one area, not all around the city, not in different areas of the city. The way that sounds makes it look like Brian went to different regions of the whole city to take nude photos of himself. Again citing evidence that isn’t on the record of the civil case. So Appellant has to respond with clear and convincing evidence disproving Mr. Hall’s rendition of the facts regarding matters in the criminal case but instead uses Mr. Hall’s rendition of the facts in the civil case that has those photos not on record anywhere in the civil WHC case.

III. REFUTATION OF THE REFUTATION OF ASSIGNMENTS OF ERROR

Appellant refutes the facts that are contradictory to the case of Writ of Habeas Corpus and therefore that refutation has no merit on its face.

i. Argument

- i. “The General District Court did not abuse its discretion in finding Mr. Hill guilty of Indecent Exposure (§18.2-387 Code of Virginia).”**

Mr. Hall erred on his refutation of this instance. There was no General District Court decision in the civil case of Writ of Habeas Corpus.

- ii. “Mr. Hill affirmed lower court ruling, and may not now appeal to this court”.**

Mr. Hall erred on his refutation of this instance. This Habeas Corpus appeal is a separate case and the argument above has no merit and should have been argued in the direct criminal appeal instead of in appeal of the dismissal of Appellant’s WHC.

- iii. “Mr. Hill already has a court appointed attorney, and is not entitled to a new attorney.”**

Mr. Hall erred on his refutation of this instance. Appellant was not appointed a court appointed attorney for the Writ of Habeas Corpus case being appealed here. Mr. Hall would do better as a “Officer of the Court” to file the right arguments in the right appeal cases CAV #0129-20-3 and CAV #0128-20-3, which in those cases Appellant was appointed counsel.

Mr. Hall even decided to make blatantly inaccurate or false statements on its face to make it appear that Appellant had the financial means to afford private counsel when that wasn’t the case.

Citing “Mr. Hill was appointed an attorney by the Circuit Court on August 1,2019. (Record of Proceedings page 385). He continues to have counsel. This Court has no standing to appoint counsel, which is typically done at the District Court or Circuit Court level. Moreover, in his Petition for Appeal, he admits that he has the financial means to retain private counsel. Mr. Hill is not entitled to a new court appointed attorney.”

The record of that Proceedings was in the criminal case and not the page numbers of the record for the Writ of Habeas Corpus. That is an attempt to distort and confuse the justices of this Court to believe that the appeal is over the criminal case rather than the Habeas Corpus dismissal of the civil case.

Page 23 of the Petition for Appeal had actually said that it was Brian’s family seeking private counsel to represent Appellant but they weren’t successful in finding any otherwise Matthew Clark would not be the attorney of record.

Citing from the Appeal Petition, pg. 23: “*It will not be a fair trial and his legal innocence will not matter as various private lawyers had explained to Brian when **Brian’s family asked for free consultation with multiple private lawyers,** to see if any had opinions differing from the court appointed lawyers.” Appellant’s family has a right at their own discretion to ask private lawyers to consider helping out in Appellant’s case, and they can also decide to withdraw their financial support for a private lawyer as it is at their own discretion. So Mr. Hill has again misrepresented the record to make it appear that Appellant can afford private counsel when what was actually said was that his family sought private counsel under free consultation. No private attorney has appeared to have gotten involved on the record in his criminal case. Therefore Mr. Hill was wrong.*

CONCLUSION

For the reasons stated above, the Appellant urges this Court to not take any of Appellees opposition brief seriously as it had appeared to have been made for the Direct Criminal Appeal and is not relevant to the Writ of Habeas Corpus civil case appeal. Appellee, Officer of the Court Glen Andrew Hall, had submitted a brief referencing the criminal case but not referencing any of the evidence in the Writ of Habeas Corpus. Appellee did not file any valid refutation of the evidence and facts in the Writ of Habeas Corpus petition and did not properly refute the Assignments of Error mentioned in the "Petition for Appeal". Therefore Mr. Hall had wasted the time and resources of this Supreme Court by attempting to feed information, particularly false or inaccurate or deceptive information outside of the record for the appeal of the dismissal of the Writ of Habeas Corpus. Information that sounds like something better demonstrated for the Direct Appeal of the record of the criminal case. New evidence and information was submitted in the Writ of Habeas Corpus case. Mr. Hall had attempted to make Appellant's "Petition for Appeal" look invalid on its face over the criminal case and civil case in the Circuit Court. Both have separate appeals. Making inaccurate or false statements against Petitioner. Therefore Appellant/Petitioner has demonstrated to this Court that the opposition brief has no valid merits warranting that Petitioner is not entitled to appeal for the Writ of Habeas Corpus. Therefore Appellant asks this Honorable Court to disregard the opposition brief, and grant Appellant's Petition for Appeal.

Thank You!

Respectfully Submitted on this the 28th day
of February, 2020,

BRIAN DAVID HILL

Pro Se

Brian D. Hill
signed

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CERTIFICATE OF COMPLIANCE

1. This brief complies with type-volume limits (word limit 2,625, page limit 15) as required by Rule 5:19 - Reply Brief, Va. R. Sup. Ct. 5:19(a), excluding the parts of the document exempted by Rule 5A:12(e) (cover page, table of contents, table of authorities, and certificate, maybe the signature block):

[X] this brief contains [2,625] words.

[X] this brief is [10] pages long.

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

[X] 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: February 28, 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 28th day of February, 2020, I caused this “APPELLANT’S REPLY TO BRIEF IN OPPOSITION TO PETITION FOR APPEAL” I mailed the original and six copies of this brief to the Clerk of the Supreme Court of Virginia, located at 100 North Ninth Street, 5th Floor, Richmond, VA 23219-1315, and for a true and correct copy to be transmitted by facsimile (fax machine) to the Commonwealth of Virginia through the Commonwealth Attorney’s Office of Martinsville (Fax # 276-403-5478) and to the Attorney General of Virginia (Fax # 804-786-1991) and will attach proof of service (*Transmission ticket receipt for proof of transmission*) which shall satisfy proof of service as required by Rule 5A:12(b):

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**Exhibit attached: Appellee's BRIEF IN OPPOSITION TO PETITION FOR APPEAL
(16 pages)**

**IN THE
COURT OF APPEALS OF VIRGINIA**

Record No. 0128-20-3

**BRIAN DAVID HILL,
Appellant,**

v.

**COMMONWEALTH OF VIRGINIA,
Appellee.**

**BRIEF IN OPPOSITION TO PETITION
FOR APPEAL**

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STATEMENT OF THE CASE

The Appellant (hereinafter “Mr. Hill”) was tried and convicted of Indecent Exposure in the Martinsville General District Court on December 21, 2018 before the Honorable Judge Marcus Brinks. The Commonwealth asked that Mr. Hill be sentenced to time served, and the Court agreed. Mr. Hill appealed the case to the Circuit Court on December 26, 2018. (Record of Proceedings, “GD PAPERWORK”). The case was continued a number of times on Mr. Hill’s motions. (Record of Proceedings, page 109, 393-396, 398). Mr. Hill was initially appointed the Public Defender to represent him in General District Court. (Record of Proceedings, “GD PAPERWORK”). The Public Defender withdrew on July 30, 2019. (Record of Proceedings page 383-384). Attorney Matthew Clark was appointed to serve as court appointed counsel on August 1, 2019. (Record of Proceedings page 385). The case was scheduled to be tried in front of a jury on December 2, 2019. (Record of Proceedings, page 398). Mr. Hill affirmed lower court ruling on November 15, 2019. (Record of Proceedings, page 433). Mr. Hill filed a notice of appeal to this Honorable Court on November 27, 2019. (Record of Proceedings, pages 465-470).

STATEMENT OF FACTS

Mr. Hill has filed a “Statement of Facts” in his Petition. No other transcript or Statement of Facts was filed by Mr. Hill. The Commonwealth does not agree

with Mr. Hill's rendition of the Facts, and as an Officer of the Court submits the following Statement of Facts.

On September 21, 2018, Sgt. Robert Jones of the Martinsville Police Department responded to a 911 report that a naked man was seen running down the "Dick and Willie Trail," which is a hiking trail that runs through the city of Martinsville, Virginia, as well as neighboring Henry County. Mr. Hill had been observed running along the trail in the area of Hooker Street and Church Street in the city of Martinsville. As Sgt. Jones responded to the call, he observed Mr. Hill running towards him on the trail near Pine Street. Mr. Hill was completely naked, with the exception of socks and boots. When he saw Sgt. Jones, he turned around and ran in the other direction. Sgt. Jones caught up with Mr. Hill. Mr. Hill had a camera on his person. He gave law enforcement permission to view the contents of the camera.

The images showed Mr. Hill in several different areas of the city. In most of the pictures, Mr. Hill is completely nude, with the exception of his boots and socks. Mr. Hill is wearing a knit hat in some of the photos. Mr. Hill is seen posing and smiling for the camera. He sticks his tongue out in several of the pictures. He touches his genitals in several of the pictures. He can be seen sitting down and spreading his legs wide to expose his genitals. In several of the photos, he leans back and thrusts his genitals toward the camera, in other photos he bends over in

front of the camera, exposing his buttocks while apparently spreading them for the camera. Mr. Hill admitted to taking the photos. He claimed that a black male with a hoodie had forced him to get naked and take pictures of himself. The police searched for a person matching this description, and could not locate anyone.

Mr. Hill later admitted that he was alone when he took the pictures. The pictures were submitted into evidence at trial. Judge Marcus Brinks, presiding Judge of the Martinsville General District Court, listened to all of the evidence, and viewed the photos. After reviewing all of the evidence, Judge Brinks found Mr. Hill guilty of violating §18.2-387 of the Code of Virginia.

REFUTATION OF ASSIGNMENTS OF ERROR

- I. Mr. Hill already has a court appointed attorney, and is not entitled to a new attorney.
- II. Mr. Hill affirmed lower court ruling, and may not now appeal to this court.
- III. Mr. Hill has not properly preserved any issues for appeal.
- IV. The General District Court did not abuse its discretion in finding Mr. Hill guilty of Indecent Exposure (§18.2-387 Code of Virginia).

STANDARD OF REVIEW

In any appeal by the defense, the evidence is to be viewed “in the

light most favorable to the Commonwealth, and (the appellate court is to) grant to it all reasonable inferences fairly deducible from the evidence.”

See, e.g., Hairston v. Commonwealth, 50 Va. App. 64, 67, 646 S.E.2d 32, ___ (2007); *Allison v. Commonwealth*, 27 Va. 810, 811, 153 S.E.2d 201, ___ (1967); *Archer v. Commonwealth*, 26 Va. App. 1, 11, 492 S.E.2d 826, 831 (1997). The trial court’s decision will not be disturbed unless plainly wrong or without evidence to support it. *Peterson v. Commonwealth*, 5 Va. App. 389, 401, 363 S.E.2d 440, 448 (1987).

Furthermore, “the credibility of the witnesses and the weight accorded the evidence are matters solely for the factfinder who has the opportunity to see and hear that evidence as it is presented.” *DiMaio v. Commonwealth*, 46 Va. App. 755, 768, 621 S.E.2d 696, ___ (2005) (citations omitted); *Sandoval v. Commonwealth*, 20 Va. App. 133, 138, 455 S.E.2d 730, 732 (1995).

Appellate courts lack the direct contact with the witnesses and the evidence which puts the factfinder in the best position to judge the credibility and import of both. Finally, in an appellate analysis, the relevant question is whether “*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Holloway v. Commonwealth*, 56 Va. App. 667, ___, 696 S.E.2d 247,

251(2010). *Smith v. Commonwealth*, 26 Va. App. 620, 626, 496 S.E.2d 117, 120 (1998).

Moreover, in the Supreme Court of this Commonwealth, “[e]rror will not be sustained to any ruling of the trial court . . . unless the objection was stated with reasonable certainty at the time of the ruling, except for good cause shown to enable this Court to attain the ends of justice.” Va. R. 5:25. In the Court of Appeals, the same rule applies that “[n]o ruling of the trial court . . . will be considered as a basis for reversal unless the objection was stated together with the grounds therefor at the time of the ruling, except for good cause shown or to enable the Court of Appeals to attain the ends of justice.” Va. R. 5A:18.

ARGUMENT

- I. Mr. Hill already has a court appointed attorney, and is not entitled to a new attorney.

Mr. Hill was appointed an attorney by the Circuit Court on August 1, 2019. (Record of Proceedings page 385). He continues to have counsel. This Court has no standing to appoint counsel, which is typically done at the District Court or Circuit Court level. Moreover, in his Petition for Appeal, he admits that he has the financial means to retain private counsel. Mr. Hill is not entitled to a new court appointed attorney.

II. Mr. Hill affirmed lower court ruling, and may not now appeal to this court.

A person who is convicted in General District Court may appeal the conviction to Circuit Court. (§16.1-132 of the Code of Virginia). Such cases are to be heard “de novo.” (§16.1-136 of the Code of Virginia). Prior to the case being tried in Circuit Court, a defendant may withdraw the appeal and affirm lower court ruling. (§16.1-133 of the Code of Virginia). If the defendant does so, the case is not brought before the Circuit Court, no evidence is heard, and the ruling and the sentence of the General District Court stands. (*Id.*).

Mr. Hill may not appeal a case from Circuit Court that was never argued before a Circuit Court. Prior to his case actually being tried in Circuit Court, Mr. Hill affirmed the ruling of the Martinsville General District Court. The Circuit Court did not hear any evidence; it affirmed the lower court ruling. While a defendant may appeal a conviction in General District Court to the Circuit Court, a defendant may not appeal a conviction in General District Court to the Court of Appeals, which is what Mr. Hill is asking this Court to allow him to do.

III. Mr. Hill has not properly preserved any issues for appeal.

In the Supreme Court of this Commonwealth, “[e]rror will not be sustained to any ruling of the trial court . . . unless the objection was stated with reasonable

certainty at the time of the ruling, except for good cause shown to enable this Court to attain the ends of justice.” Va. R. 5:25. In the Court of Appeals, the same rule applies that “[n]o ruling of the trial court . . . will be considered as a basis for reversal unless the objection was stated together with the grounds therefor at the time of the ruling, except for good cause shown or to enable the Court of Appeals to attain the ends of justice.” Va. R. 5A:18.

In this case, however, there is no evidence that Mr. Hill made a timely, specific objection to *anything*. Accordingly, Mr. Hill has waived this issue, and it may not be considered as a basis for appeal.

Mr. Hill has not argued that, despite his failure to state a timely and specific objection to the introduction of any evidence, the “ends of justice” require that this court consider argument now. Accordingly, this Court should not consider an argument that has not been made by Mr. Hill.

IV. The trial court did not abuse its discretion when it found Mr. Hill guilty of Indecent Exposure.

Assuming *arguendo* that this Court determines that Mr. Hill’s petition is properly before this Court, his argument is in essence a sufficiency of the evidence argument. Here, the evidence was sufficient to sustain a conviction. As a preliminary matter, it is clear that “the United States Constitution requires that the

jury, in a criminal case, determine beyond a reasonable doubt that the government has proven each element necessary to constitute the crime charged.” *United States v. Piche*, 981 F.2d 706, 716 (4th Cir. 1992).

However, “when considering the sufficiency of the evidence on appeal of a criminal conviction, we view the evidence ‘in the light most favorable to the Commonwealth and grant all reasonable inferences fairly deducible therefrom.’” *Flowers v. Commonwealth*, 49 Va. App. 241, 243, 639 S.E.2d 313, __ (2006), citing *Ellis v. Commonwealth*, 29 Va. App. 548, 551, 513 S.E.2d 453, __ (1999). Furthermore, “(t)he credibility of a witness, the weight accorded the testimony, and the inferences to be drawn from proven facts are matters to be determined by the fact finder.” *Clifford v. Commonwealth*, 48 Va. App. 499, 513, 633 S.E.2d 178, __ (2006) (citation omitted). Thus, all the evidence below must be taken in the most favorable possible light in support of the verdict of the General District Court, and all reasonable inferences from that evidence must be granted, when determining the sufficiency of the evidence. Furthermore, the Court's determinations on the credibility of witnesses, including “the weight accorded to their testimony,” must be respected as “matters *solely* for the factfinder's determination.” *DiMaio v. Commonwealth*, 46 Va. App. at 763.

Finally, “[t]he conclusions of the fact finder on issues of witness credibility may be disturbed on appeal only if this Court finds that the testimony accepted by

the court was 'inherently incredible, or so contrary to human experience as to render it unworthy of belief.'" *Clifford*, 48 Va. App. at 514.


In this case, Sgt.'s Jones testimony was perfectly credible. When he saw Mr. Hill, Mr. Hill ran. Pictures were introduced into evidence. Judge Brinks viewed the pictures and listened to evidence. Mr. Hill admitted that he was alone when he took the pictures. The pictures showed the appellant's genitals and buttocks. The appellant can be seen posing for the camera, smiling. At times, he sticks his tongue out at the camera. Several of the pictures show Mr. Hill touching his genitals. Mr. Hill told police that a black man in a hoodie forced him to take the pictures. Judge Brinks considered Mr. Hill's arguments, and properly rejected them.

CONCLUSION

This case has not been properly brought before this Court. The evidence in this case establishes that the trial court did not abuse its discretion when it found Mr. Hill guilty of Indecent Exposure.

WHEREFORE, the Commonwealth respectfully requests this Honorable Court dismiss this appeal as being unsupported by the facts, and contrary to the law, and to affirm the decision of the trial court.

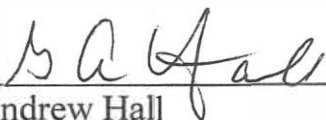
Respectfully submitted, on this 21st day of February, 2020.

By: 
G. Andrew Hall
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Pursuant to Rule 5A:12 (e) I hereby certify that the foregoing brief
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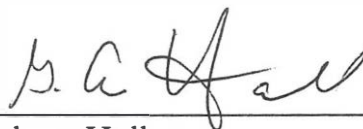


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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of February, 2020, I mailed the original and three copies of this brief to the Clerk of the Court of Appeals of Virginia, located at 109 North Eighth Street, Richmond, Virginia, 23219-2321, and the same day mailed a true copy to Mr. Brian Hill, *pro se*, at 310 Forest Street, Apt. 1, Martinsville, Virginia, 24112.



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