

In The
Supreme Court
Of Virginia

Brian David Hill,

Appellant,

v.

**Commonwealth of
Virginia**

Appellee.

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

**SUPPLEMENT TO FILL DEFICIENCY FOR
PETITION FOR APPEAL OF APPELLANT**

U.S.W.G.O.

**Brian David Hill – Ally of Qanon
Founder of USWGO Alternative News
310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505**



Brian David Hill, (the “Appellant” or “Petitioner”) files this supplement to fill the deficiencies/defect pursuant to Rule 5:17(c)(1) of the Rules of this Court, and the order from the Clerk dated July 15, 2020.

There is no transcript as the Clerk of the Circuit Court had filed a record transmittal to the Court of Appeals of Virginia:

Citing from record: “Your Digital Appeal Record for Brian David Hill has been successfully submitted to the Court of Appeals of Virginia (CAV) on Tuesday, January 14, 2020, at 01:04:34 PM.” Confirmation Number: 226965. The record stated that “No Transcript and Appellant did not submit a Statement of Facts”

The statement of the facts “statement of facts” was submitted in Petitioner’s original “Petition for Appeal” to the Court of Appeals of Virginia as Page 2 “II. STATEMENT OF THE FACTS” and that part of the record will be cited in regards to the statement of the facts.

The Petitioner will show exactly from the record where the “Assignment of Errors refers to”. If a particular “Assignment of Error” had already complied with the Rule by pointing to the exact page of the record, then Petitioner will make note of it and move on to the next “Assignment of Error”.

I. Assignments of Error

i. Argument

- i. The Circuit court erred as a matter of law or abused discretion in dismissing the Writ of Habeas Corpus petition in only two days after its initial filing. Not enough time to have reviewed over the 201 pages of the Writ of Habeas Corpus**

Page 8 of Petition for Appeal: *“The Circuit Court erred as a matter of law or abused discretion in dismissing the entire Writ of Habeas Corpus petition when there was plenty of evidence and the statements under penalty of perjury warranting a need to review over the entire petition and then ordering the Commonwealth Attorney to file a response.”*

Citation of the record:

Manuscripts: WRIT OF HABEAS - WHC: Date Filed: 11/18/2019; Page no. 1 -201. That record proves that the Writ of Habeas Corpus was filed on November 18, 2019, from that part of the record.

"FINAL ORDER- ORDER TO DISMISS", Date Filed: 11/20/2019, Pg. no. 202-202. That part of the record shows a 1-page order that was entered dismissing the Writ of Habeas Corpus after two days, that is what assignment of error is talking about. There was no evidentiary hearing, no attorney of record was appointed for Petitioner in that case. That order was just simply an order considering the Writ of Habeas Corpus but dismissed it. That should suffice in pointing to the record for that “Assignment of Error”.

- ii. The Circuit Court erred or abused discretion in dismissing the Writ of Habeas Corpus petition by failing to recognize or**

refusing to recognize any and all cumulative evidence concerning Appellant's actual innocence and that his guilty plea may not have been valid and true.

Page 9 of Petition for Appeal: *“The Circuit Court erred or abused discretion in dismissing the Writ of Habeas Corpus (Order entered: 11/20/2019) without holding any evidentiary hearing to find whether the cumulative filed evidence was sufficient to find that Appellant was actually innocent of the original charge and conviction of indecent exposure under Virginia Code § 18.2-387, and to disprove any factual basis of guilt which part of that would be sufficient to withdraw a falsely entered guilty plea due to ineffective counsel (See pages 12-13 of the record of Writ of Habeas Corpus). There was enough cumulative evidence to establish that there was enough to possibly demonstrate any fact whatsoever of actual innocence or justifies an evidentiary hearing to sort out all of the cumulative evidence, possibly even appoint counsel to Petitioner to aid in sorting the evidence out if the Circuit Court does not have the time to sift through the evidence, and allow for any further investigation and inquiry to finalize any further facts for actual innocence if necessary to allow the Circuit Court to grant the Writ of Habeas Corpus on the ground of actual innocence that is not subject to the statute of limitations. Actual innocence overrides any procedural bar including any procedural bar that the Commonwealth of Virginia may prescribe. The U.S. Supreme Court overrides all inferior Court's decisions. If the ground of “Actual Innocence” can be used to override any procedural*

bars, then the courts' of the Commonwealth of Virginia must allow actual innocence claims by a Petitioner or criminal defendant to prevent any miscarriages of justice."

Citation of the record:

"The Circuit Court erred or abused discretion in dismissing the Writ of Habeas Corpus (Order entered: 11/20/2019) without holding any evidentiary hearing to find whether the cumulative filed evidence was sufficient to find that Appellant was actually innocent of the original charge and conviction of indecent exposure under Virginia Code § 18.2-387" and again it refers to "FINAL ORDER- ORDER TO DISMISS", Date Filed: 11/20/2019, Pg. no. 202-202. That part of the record shows a 1-page order that was entered considering the petition but then had dismissed the Writ of Habeas Corpus after two days of its filing.

"(See pages 12-13 of the record of Writ of Habeas Corpus)" is referring to "WRIT OF HABEAS – WHC": Date Filed: 11/18/2019; Page no. 1 -201.

Also Petitioner's citation of the exact pages of the record may be a little off because the Clerk filed a few more pages on the record (201 pages from the record on appeal) than what Petitioner had filed (199 pages from the originally filed petition for WHC from Petitioner's records), stating that two extra pages were filed than what was on Petitioner's copy of his original Writ of Habeas Corpus filing, so Petitioner will cite from the record's exact page/pages as best as he can but just in case the page number is off,

Petitioner will also cite the lower page number in the original document and even the Exhibit page marker so that the Supreme Court of Virginia can locate the right page number and not be led to the wrong page. Petitioner does not have over \$100 laying around to ask the Clerk of the Circuit Court for an entire copy of the record of appeal, at \$0.50 a page as his only source of income is his SSI disability and he had proceeded in forma pauperis. So Petitioner asks this Court to forgive if the page number is a little off and will do the best that he can to cite the exact page referenced from the record on appeal.

As to the “*pages 12-13 of the record of Writ of Habeas Corpus*” Page 12 to 13 of the original document, as it may appear to be 1 or two pages off in the record on appeal. The page number of 12 and 13 as typed in the bottom page numbers of the Writ of Habeas Corpus record refers to the information quoted from the record of those pages:

“15. List the grounds set forth in 14, which has been presented in any other proceeding:

Only in filings did Petitioner's legal innocence and other issues were brought in pro se filings. However these issues were not brought up by counsel orally or in writing in any proceedings except in Martinsville General District Court on December 21, 2018, Attorney Scott Albrecht brought up that I wasn't being obscene but the Commonwealth Attorney had argued that I wasn't charged with obscenity. Scott Albrecht never showed any case law to back up his arguments, so he lost. Scott Albrecht was ineffective.”

Page 13 of the original Writ of Habeas Corpus of the record:

“16. If any ground set forth in 14 has not been presented to a court, list each ground and the reason why it was not:

a. GROUND ONE: Legal Innocence

Legal Innocence was brought up in pro se pleadings and was brought up at the hearing dated December 21, 2018, but attorney Scott Albrecht was so ineffective that he didn't present any case law showing that obscenity is required in order to convict me on indecent exposure. The case laws were all researched by me when I was at the law library system at the Western Virginia Regional Jail in December,

2018. My friend Eric found the other case law. My family researched the case law pdf files, and I cited them in pleadings. However all pro se pleadings were ignored because Petitioner was represented by counsel who was ineffective.”

Again as from the original Petition for Appeal that was transferred from the Court of Appeals of Virginia under record no. 0079-20-3 to the Supreme Court of Virginia under Record No. 200267, I again cite the following statement already on the Petition of Appeal from that record:

“McQuiggin v. Perkins, 569 U.S. 383 (2013) (“1. Actual innocence, if proved, serves as a gateway through which a petitioner may pass whether the impediment is a procedural bar, as it was in Schlup v. Delo, 513 U.S. 298, 115 S. Ct. 851, 130 L. Ed. 2d 808, and House v. Bell, 547 U.S. 518, 126 S. Ct. 2064, 165 L. Ed. 2d 1”). The Virginia Court of Appeals cannot contradict the United States Supreme Court, especially over constitutional matters as constitutional matters apply in all 50 states of the United States including but not limited to the Commonwealth of Virginia. When the Supreme Court rules that actual innocence can overcome a procedural bar in a Writ of Habeas Corpus, then the same should apply in state courts as well due to the Fourteenth Amendment of the United States Constitution

(due process clause, guaranteeing federal constitutional rights apply in all state courts and actions)."

As already explained in the Petition for Appeal, the Commonwealth of Virginia Courts cannot use any procedural bar to prevent Petitioner from overturning his wrongful conviction upon evidence of actual innocence. The Supreme Court said that no procedural bar may be used to prevent a criminal defendant from overturning his wrongful conviction in a court by demonstrating actual innocence in a Writ of Habeas Corpus petition.

"Also by Appellant having ineffective counsel, Appellant is also mandated to pay (See pages 81-82, Exhibit 2, attached to Writ of Habeas Corpus) over \$1,000 despite his only income being of Social Security Disability payments. Appellant was not instructed by court appointed counsels that withdrawing his appeal would cause him to be held financially liable for legal fees totaling over \$1,000 not including the legal fees of Matthew Clark another court appointed lawyer."

In reference to the *"(See pages 81-82, Exhibit 2, attached to Writ of Habeas Corpus)"* from the record on appeal, 81-82 is the best that Petitioner has in regards to the referenced exact page number. If it is a few pages off due to the petition for WHC having a few extra pages from the Circuit Court record versus the Petitioner's copy of the WHC of what was on the record, just look for the page "Exhibit 2" and "Exhibit in attachment to "BRIEF AND EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS

CORPUS” If it is one or two pages off, Petitioner doesn’t know of the exact page number due to the record having the few extra pages added by the Circuit Court Clerk and was not aware of such until Petitioner had reviewed the page number of his digital PDF file of his “Writ of Habeas Corpus” petition that was filed in the Circuit Court. Petitioner is doing the best he can to cite the exact page of the record without any access to the digital appellate records sent to the Court of Appeals of Virginia and then was transferred to the Supreme Court of Virginia.

“See Exhibit 8 in attachment to the Appellant’s Writ of Habeas Corpus: “COMES NOW criminal Defendant Brian David Hill (“Brian”, “Hill”) respectfully requests to withdraw the Appeal of the December 21, 2018, General District Court finding of guilty. However Brian does NOT waive his right to collaterally attack/challenge his conviction in General District Court and also does NOT waive his right to file a Writ of Actual Innocence.”

Petitioner apologies for not citing the pages of the record for Exhibit 8, pages number 113-125. If the page number is a bit off, the Supreme Court of Virginia can simply flip over one or two pages to match the area of the record, again where the Clerk filed a few more pages than the Petitioner had filed, so if it is a few pages off, just locate “Exhibit 8” of the record on page 113 or a few pages from that number to locate it. It isn’t Petitioner’s fault when the Circuit Court Clerk filed a higher page number than the copy of the Writ of Habeas Corpus in Petitioner’s possession as being used for the Petition for

Appeal in this case. Petitioner again apologizes.

“According to the Court, a hearing was entered on 11/15/2019, 09:00 AM, APPEAL WITHDRAWN, PLEA, GUILTY”. Appellant was not actually at a hearing but appeared before the Clerk of the Court to verbally state that he withdraws his appeal. There is no transcript on record for that day unless the Clerk’s Office created a transcript of Brian verbally withdrawing his appeal. He was not informed that it would even enter a guilty plea but assumed that it withdrawn the appeal to the earlier verdict of guilty by the Martinsville General District Court. He was misinformed from the words of his “Motion to Withdraw Appeal” that was filed with the Clerk’s office before it was withdrawn on November 15, 2019.”

That part of the record was not within the Writ of Habeas Corpus appeal manuscripts but was referenced in the original Writ of Habeas Corpus and would be "ORDER IN MISDEMEANOR OR TRAFFIC INFRACTION PROCEEDING", Date Filed: 11/15/2019, page nos. 433-433, the case no. CR19000009-00, the criminal case records referenced in the original Writ of Habeas Corpus petition to which that decision was appealed originally to the Court of Appeals of Virginia and then transferred to the Supreme Court of Virginia.

- iii. **The Circuit court erred as a matter of law or abused discretion in dismissing the Writ of Habeas Corpus petition by not making a determination over ineffective assistance of counsel which is evident on the record in both the Writ of Habeas Corpus and the criminal case of which it was challenging its legality/constitutionality.**

Page 24 of Petition for Appeal: “*The Circuit Court made an assignment of error and/or abused its discretion in completely dismissing the Writ of Habeas Corpus petition, when its contents had shown that counsel was ineffective (note: ineffective assistance of counsel leads to false guilty pleas and giving up on jury trials), from the record.*” Again the Assignment of Error listed under Page 24 of the original Petition for Appeal, Petitioner will cite the areas of the record deficient in the Petition.

Citation of the record:

The page number range of the reference citation: “*See pages (WRIT OF HABEAS – WHC) 173-201 (Exhibit 16, Exhibit 17), Exhibit 15 pages 171-172.*” Are exactly that of the record on appeal. Again if the page number is one or two pages off due to the Clerk’s additional pages, Petitioner can only suggest to flip over one or two pages to find “Exhibit 16”, “Exhibit 17” and “Exhibit 18” page markers to make it easy for the Supreme Court of Virginia to review over those exhibits of the record on appeal.

The page number range of the reference citation: “See pages (WRIT OF HABEAS – WHC) 113-125 (Exhibit 8).” Which would be pages 113 through 125, page marker identified as “Exhibit 8” and can be easy to locate even if a few pages off. Again, the state court system does not have an electronic system where Petitioner’s family can cheaply access the entire record on appeal like with the Federal Court’s PACER.GOV system.

Petitioner is not an attorney and cannot afford to ask the Clerk for the entire record on appeal as the costs billed would be well over \$100 at \$0.50 a page while PACER.gov bills pages at \$0.10 a page of a document of the record and caps the page fee at a maximum of \$3.00 for 30 billable pages for any documents 30 pages or higher. The state court does not have such a system that can be accessible by Petitioner or his family so Petitioner again asks this Court for forgiveness if the page number is off by one or two pages.

“Also on the day that petitioner had withdrawn his appeal, which is November 15, 2019, it was close to the deadline period for counsel to have filed an “Exhibit and Witness List” at least 15 days before the scheduled jury trial. Counsel had nothing prepared and no witnesses. Even if Pete Compton was accepted as a witness from his testimony exhibited in the Writ of Habeas Corpus (Exhibit 15 of the record) petition, it was less than 30 days to ask the Court for the designation of Pete Compton an expert witness to testify at trial about the carbon monoxide in Petitioner’s home. Counsel did none of that on the record.” That references pages 170 through 172 of the record. That includes the page marker of “Exhibit 15”.

- iv. **The Circuit court erred as a matter of law or abused discretion in allowing potential frauds upon the Court by dismissing the Writ of Habeas Corpus petition and not ordering a response from the Commonwealth to get some answers as to why they would fraudulently prosecute an innocent man even when the record consisted of evidence of ineffective counsel but continued prosecution which led to the wrongful conviction of Brian David Hill, an innocent man. That is a fraud upon the**

court perpetuated by Commonwealth Attorney Glen Andrew Hall.

Page 29-30 of Petition for Appeal: *“The Circuit Court made an assignment of error and/or abused its discretion in completely dismissing the Writ of Habeas Corpus petition, when its contents had shown that counsel was ineffective (note: ineffective assistance of counsel leads to false guilty pleas and giving up on jury trials), that there was absolutely no evidence of obscenity and no evidence of intent to being obscene, and that Virginia’s highest case law from this very Court itself had ruled in different cases that one cannot be guilty of Virginia Code § 18.2-387 without there being obscenity. Even if the evidence by the Commonwealth was weighed greatly in favor of the Commonwealth in criminal cases, there is still no evidence of obscenity. There was only evidence of Petitioner being naked at night time when there would hardly be anyone out and about in any public places. If Brian had any intent of enjoying the conduct of being naked on the Dick and Willie hiking trail at night and had any intent of being sexually gratified and obscene, Brian would have done so during the daylight hours when more people would encounter Brian’s nudity. There is no evidence of any tests for drugs or any substances when an unusual situation like Brian’s warrants a blood drawn for lab tests. No laboratory tests by the Commonwealth. They do not know for a fact whether Petitioner was in his right state of mind. The Hospital that cleared him and discharged him to jail did not conduct any laboratory tests, didn’t even test his blood glucose level, but blood was drawn*

from his arm or wrist. The Hospital clearly did not clear him to be possibly free of any substances or drugs or medications at the time of his arrest that could have caused him to have been naked out in the middle of the night until around 3:00AM when Martinsville Police arrived over one phone call of a nude male running. If a jury trial had been conducted and those facts would have been brought up, the jury as a matter of law would have had to acquit him over no evidence of obscenity and no intent of obscenity. Both Matthew Clark and Lauren McGarry in the case record never filed any motions favorable to Petitioner in the criminal case that the Writ was challenging. Never filed a motion to dismiss, never asked for an evidentiary hearing. Never asked the Commonwealth in open court as to whether there was any laboratory tests done, and if they had failed to do any, then that would be reasonable doubt that Petitioner may have been on a substance since his behavior was abnormal and unprecedented. The court appointed counsel(s) of Brian David Hill had failed to ask the Commonwealth's witness Sergeant Officer Robert Jones on record in the Circuit Court about whether Brian had masturbated when he was out on a nature trail in the middle of the night, whether there was any evidence of Brian enjoying his conduct. The counsel was ineffective because they failed and refused to prove that Brian was innocent of his charge and never intended to break the law at all and no law was ever broken."

No page numbers were referenced in this portion of the Petition for

Appeal as it references the entire petition itself and all exhibits cumulatively but the paragraph seems to reference the entire Petition for Writ of Habeas Corpus from pages no. 1-201 of the WHC case.

- v. **The Circuit court erred as a matter of law or abused discretion in dismissing the Writ of Habeas Corpus petition after supposedly holding a hearing for dismissal without giving notice to the Petitioner to appear before the hearing to make any arguments and/or submit any additional evidence as to why the Writ should not be dismissed as a matter of law.**

Page 34-35 of Petition for Appeal: *“The Circuit Court made an assignment of error and/or abused its discretion n completely dismissing the Petition after a supposed hearing had been held on 11/20/19, 9:00AM, hearing Type was “Dismiss”. Appellant/Petitioner does not know what was orally brought up at that hearing, and was not given an opportunity to make any arguments at that hearing. So a hearing was held in the civil Writ of Habeas Corpus case, but Appellant was not told to appear there, wasn’t given any notice of that hearing to have an opportunity to appear there, and did not even know until his family checked the case information online and saw that a hearing was held and the case was dismissed without the Appellant knowing. Appellant quickly filed the Notice of Appeal, which had caused this very appeal case to have been opened up.”*

That was not placed on the Table of Contents Document Index and list of manuscripts of what Petitioner had received a copy of, but was on the record of the transmittal of the record by the Circuit Court Clerk Ashby Pritchett.

“Your record was submitted to be processed on: 01/14/2020 12:01:14”
“From: DigitalRecordsSystem@vacourts.gov”
“Sent: Tuesday, January 14, 2020 1:05PM”
“To: ER Hamilton; Ashby Pritchett”
“Subject: Digital Appeal Record for Brian David Hill has been submitted”
“Submitter Notes:”
“No Transcript and Appellant did not submit a Statement of Facts”

The hearing was listed on the docket online case information system OCIS that was operated by the Office of the Executive Secretary, retrieved by Petitioner’s family. That is the part of the record that was cited. That was in reference to the “*11/20/19, 9:00AM, hearing Type was “Dismiss”*”. The record transmittal did not seem to include that information so either there was no actual hearing or there was a hearing but it was not properly placed on the record on appeal.

All of the Assignments of error should reflect to the areas of the record as listed. This supplement should fill the deficiencies. To make sure that Petitioner complies with this rule, Petitioner shall also copy and paste the “Statement of the Facts” and cite the areas of the record that it regards to in order to make sure that Petitioner complies with the order of the Clerk of the Court, dated “on Wednesday the 15th day of July, 2020”.

Statement of the facts was already in the Petition for Appeal but Petitioner wishes to cite areas of the record on appeal where the

statement of the facts points to within the record on appeal.

Again citing from page 2 of the Petition for Appeal:

II. STATEMENT OF THE FACTS

The facts that were presented to the Circuit Court of Martinsville are as follows:

1. Appellant had timely filed the Petition for the Writ of Habeas Corpus on the date of November 18, 2019. Three days after the conviction and judgment was entered in the Circuit Court under case no. CR19000009-00, entered on November 15, 2019.

a. Record cited from case no. CR19000009-00, and from pg. 1-1 of the original WHC, again if the page is a little off, it is the cover page of the Petition for the Writ of Habeas Corpus within the record. The Clerk entered on the record of appeal that the “WRIT OF HABEAS - WHC:” was filed on 11/18/2019.

2. There was a hearing entered on 11/20/19, 9:00AM, to “dismiss” the Habeas Corpus Petition of Appellant. Appellant was not notified of this hearing and was not served with any notices of the hearing, and the Appellant was not notified by any electronic means of this hearing. This hearing had been

conducted without the Appellant's knowledge.

- a. That was not placed in the manuscripts, but the hearing information was located using the Online Case Information System that is operated by the Office of the Executive Secretary for case no. CL19000331-00, was printed by Petitioner's family and given to Petitioner, so it is on the record but not within the manuscript. The word "hearing" and date and time of that hearing was found on the OCIS system (Circuit Court Case Information) for Martinsville Circuit Court.

3. A final order was entered on November 20, 2019, stating that the petition was considered but was dismissed. Two days after it was initially filed.

- a. That area of the record was simply on "FINAL ORDER-ORDER TO DISMISS", Date Filed: 11/20/2019, and page: 202-202.

4. Appellant had filed a Notice of Appeal on November 20, 2019, which was timely filed and thus had commenced the appeal case no. 0079-20-3, the very appeal that Appellant is petitioning for.

- a. The record refers to "APPEAL NOTICE - NOTICE OF APPEAL", Date filed: 11/20/2019, page: 203-203. Then

the case was transmitted to the Court of Appeals of Virginia (“CAV”) and then was transferred to the Supreme Court of Virginia under case no. 200267.

5. A Petition for the Writ of Habeas Corpus was filed with evidence, and was filed under penalty of perjury including the exhibits. A photocopy of this very Petition for the Writ of Habeas Corpus of Appellant was also filed in Appellant’s federal criminal case no. 1:13-cr-435-1, Middle District of North Carolina, United States District Court, Document #221, “DECLARATION of BRIAN DAVID HILL in Opposition of Documents # 157 and # 200. (Attachments: # 1 Supplement 1, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5, # 7 Exhibit 6, # 8 Exhibit 7, # 9 Exhibit 8, # 10 Exhibit 9, # 11 Exhibit 10, # 12 Exhibit 11, # 13 Exhibit 12, # 14 Exhibit 13, # 15 Exhibit 14, # 16 Exhibit 15, # 17 Exhibit 16, # 18 Exhibit 17, # 19 Envelope - Front and Back)(Daniel, J) (Entered: 11/20/2019)”. The reason why is because the criminal case at issue for this state Writ of Habeas Corpus can and will affect Appellant’s sentence of Supervised Release by the United States Probation Office. If Appellant is not acquitted of the state criminal conviction to which the Writ of Habeas Corpus was filed to challenge,

Appellant risks revocation of Supervised Release which includes a term of up to 9 months of imprisonment and additional term of Supervised Release, as well as being considered a higher risk offender. Appellant had also been under the strict Federal Bond conditions due to the state criminal charge and conviction under case no. CR19000009-00. The state charge triggered the Supervised Release Violation and thus placing Appellant further under custody where the Appellant cannot come and go as he pleases. The bond conditions include mandatory curfew which is similar to that of home detention but except during certain time periods. Therefore the right to be able to file a Writ of Habeas Corpus in this state case should apply to Appellant as the state charge and conviction had placed the Appellant under Federal Bond Conditions. See Document #176, "Rule 32.1 Documents Received from the WESTERN DISTRICT OF VIRGINIA as to BRIAN DAVID HILL. (Attachments: # 1 WDVA Competency/Detention Minutes, # 2 WDVA Order Setting Conditions of Release, # 3 WDVA Appearance Bond, # 4 WDVA Waiver of Rule 32.1 Hearings, # 5 WDVA Docket Sheet) (Daniel, J) Modified on 6/26/2019 to correct typo. (Engle, Anita) (Entered: 05/15/2019)" That filing is in

criminal case no. 1:13-cr-435-1, Middle District of North Carolina, United States District Court. There is an ongoing appeal in the Fourth Circuit of the United States Court of Appeals that if succeeded, then the bond conditions for the Supervised Release Violation (“SRV”) concerning the state charge and conviction will be reinstated until disposition of the SRV causing the Appellant to be under more strict conditions that will go away upon acquittal of Appellant of the state charge and conviction, U.S.C.A. 4th Cir. Case Number 19-4758. Therefore since the state charge led up to the strict conditions of Bond by the Federal Court, the state case had directly caused these more restrictive bond conditions and therefore the Appellant is not free to come and go as he pleases and is entitled to Habeas Corpus relief on that ground.

- a. The records cited are of “WRIT OF HABEAS - WHC:”, date Filed: 11/18/2019, and pg. no. 1-201. Also citing case number 19-4758 from U.S. Court of Appeals for the Fourth Circuit in connection with the Supervised Release Violation charge that was triggered by the criminal case within the Circuit Court of Martinsville, Virginia, connected to the Writ of Habeas Corpus case

referenced and appealed from the final decision herein. It also cites from the record of criminal case no. 1:13-cr-435-1, Middle District of North Carolina, United States District Court, as the Supervised Release Violation charge was triggered by the very criminal case where Habeas Corpus petition was originally filed to challenge.

6. Appellant had asserted valid grounds for the Writ of Habeas Corpus on the record. The grounds asserted are: (1) Legal Innocence, (2) Due Process Deprivation, (3) Ineffective Assistance of Counsel, (4) Prosecutorial Misconduct by violating State Bar Rule 3.8, and (5) Guilty Plea invalid caused by ineffective counsel.

a. Again, cites from the record of “WRIT OF HABEAS - WHC:”, date Filed: 11/18/2019, and pg. no. 1-77 of the record. With the full exhibits included is 1-201 pages of the record.

7. Exhibits were filed with the Petition to further demonstrate the claims in the petition.

a. Citing pages 72-201 (may be page 74-201 due to the difference of one or two pages between the Clerk’s record on appeal and pages count of Petitioner’s copy of

that petition that was filed within the record. The page Exhibits of the WHC referenced within the statement of the facts.

8. *The state charge and conviction which the Petition for Writ of Habeas Corpus had focused on, was the cause and trigger for a Federal Supervised Release Violation charge under Document #157, criminal case no. 1:13-cr-435-1, Middle District of North Carolina, United States District Court, entitled "USPO PROB 12C - Offender Under Supervision as to BRIAN DAVID HILL. (Bailey, Jeanne) Modified on 5/15/2019 to unseal. (Daniel, J) (Entered: 11/13/2018)".*

a. That was brought up within the record on appeal.

Exhibit 1 which is likely pages 77-79, shows the judgment from the Supervised release Violation hearing, so that Federal Case was referenced within the "Statement of the facts" and it is backed by the record on appeal.

9. *There is state case law as well as federal case law and Supreme Court case law that explains why the Circuit Court made errors in the state case, assignments of error are stated below:*

a. That was properly referenced after each "Assignment of

error” explaining what error the Circuit Court had made and was pointing to various case law cases as to why they erred and made abuses of discretion.

Petitioner has demonstrated to the Supreme Court of Virginia that this supplement shall cure the defect cited in the letter of the order dated July 15, 2020, received by Petitioner on July 18, 2020.

“Appellant may cure this defect by filing with the Clerk of this Court, within 21 days from the date of this order, four copies of a pleading, not in the form of a petition for appeal, setting forth each assignment of error included in the petition, with the exact reference to the page(s) of the transcript, written statement of facts, or record where the alleged error has been preserved. The assignment(s) of error in this document shall be identical to the assignment(s) of error in the petition.”

Each assignment of error was copied from the original “Petition for Appeal” and placed in the supplement to make sure to point to the record of appeal to the exact reference to the page(s) of the record and a statement of facts was not submitted by the Clerk to the Court of Appeals of Virginia, so the written statement of facts was already filed in the Petition for Appeal but did not cite the areas of the record where the facts are within the record. Petitioner made sure to point to the record what the Statement of Facts had referenced to. There is no transcript as

the Clerk of the Circuit Court had stated to the Court of Appeals that there is no statement of facts and no transcript within their record and so the record was transmitted as is. Appellant did file a proposed statement of facts within the "Petition for Appeal".

Petitioner was proceeding pro se throughout the entire Writ of Habeas Corpus case as Petitioner was not appointed a lawyer for the Habeas Corpus case. Petitioner's pro se filings including those to the Supreme Court of Virginia should be held to a more lenient standard compared to that expected of lawyers. Usually the Federal Courts and other courts interpret pro se filings more liberally compared to the expectation of those who file as licensed attorneys who know and understand the rules and formats of drafting appellate documents. Petitioner requests with the Clerk of this Court that his pleadings be treated more liberally interpreted as Petitioner is doing the best that he possibly can do within his own mental state and limited resources to comply with the Rules of the Supreme Court of Virginia.

Hopefully this supplement is sufficient to fill any deficiencies to comply with Rule 5:17(c)(1) of the Rules of this Court. If the Clerk has any further requests or orders for Petitioner, then the Petitioner will comply with any future requests and orders as asked by this court. If there are any other defects not specifically covered as Petitioner made sure to cite the specific areas of the record and specific pages of the record, then

please feel free to send me another letter asking to cure those defects as well.

REQUEST FOR ORAL ARGUMENT

Again, pursuant to Rule 5:17(j), As this appeal raises important constitutional and statutory interpretation issues in an evolving area of law of actual innocence, procedural due process of law which could have broad effects on those accused of state crimes which could then lead to supervised release revocations and other consequences such as mandatory legal fees, the Appellant requests oral argument. Appellant also requests that counsel be appointed to represent Appellant for oral argument.

This supplemental pleading to fill the deficiencies cited in the order of the Clerk of the Court, dated “on Wednesday the 15th day of July, 2020”, shall be filed with this Court by Priority Mail Express which usually guarantees an 1-day overnight delivery. As Petitioner was ordered a 21 day deadline from the date of July 15, 2020, the calendar shows that 21 days, which is three weeks after the order, that the deadline to file such pleading ends on August 5, 2020. As the pleading and copies to opposing counsel shall be mailed on August 4, 2020, this should suffice as timely filing of the requested pleading.

Respectfully Submitted on August 4,
2020,

BRIAN DAVID HILL

Pro Se

Brian D. Hill
Signed

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505

Pro Se Appellant

JusticeForUSWGO.wordpress.com

U.S.W.G.O.



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Dated: August 4, 2020



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Founder of USWGO Alternative
News

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Martinsville, Virginia 24112
(276) 790-3505
JusticeForUSWGO.wordpress.com

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 4th day of August, 2020, I caused this original “SUPPLEMENT TO FILL DEFICIENCY FOR PETITION FOR APPEAL OF APPELLANT” and four (4x) extra copies to be mailed to the Supreme Court of Virginia through priority Mail Express.

I hereby certify that on this 4th day of August, 2020, I caused copies of this “SUPPLEMENT TO FILL DEFICIENCY FOR PETITION FOR APPEAL OF APPELLANT” to be mailed to the Commonwealth of Virginia through the

Commonwealth Attorney's Office of Martinsville City (Certified Mail tracking no. 7019-2280-0000-8211-8186) and to the Attorney General of Virginia (Certified Mail tracking no. 9402-8092-0212-1514-9421-35) which shall satisfy proof of service as required by Rule 5A:12(b):

Glen Andrew Hall, Esq.
Martinsville City Commonwealth's Attorney's Office
P.O. Box 1311
Martinsville, VA 24114
Telephone: 276-403-5470
Fax: 276-403-5478

Counsel for Appellee/Respondent

Mark Rankin Herring (Esq.)
Office of the Attorney General of Virginia
202 North Ninth Street
Richmond, Virginia 23219
(804)786-2071

Counsel for Appellee/Respondent

Brian D. Hill
Signed



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