

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

Brian David Hill,)
Petitioner/Defendant)
)
v.) **Criminal Action No. 1:13-CR-435-1**
) **Civil Action No. _____**
United States of America,)
Respondent/Plaintiff)
)
)

**ADDITIONAL GROUNDS ATTACHED TO PETITIONER’S MOTION TO
VACATE, SET ASIDE, OR CORRECT A SENTENCE BY A PERSON IN
FEDERAL CUSTODY. MOTION UNDER 28 U.S.C. § 2255**

Petitioner is Brian David Hill (“Petitioner”) and is the Petitioner of the 2255 case.

GROUND V – FRAUD ON THE COURT

Was not raised on Appeal to the Revocation Final Judgment under Document #200 but was raised in Appeal separately because the Motion for Sanctions under Document #206, which was uncontested, was denied by the Judge but that Motion was filed after the conviction of the District Court in Document #200 revoking Supervised Release. The Motion was filed after timely Notice of Appeal.

Was raised in a Post-judgment motion under Doc. #206, other than that this ground was not brought on direct appeal.

However, this ground will be further argued in the Brief / Memorandum of Law in support of the attached 2255 Motion.

FACTS AND CASE LAW WILL BE ARGUED IN THE BRIEF /
MEMORANDUM OF LAW.

**GROUND VI – UNCONSTITUTIONAL INTERFERENCE WITH THE
STATE COURT PROCESS AND/OR UNWARRANTED USURPATION OF
POWER AGAINST THE STATE COURT PROCESS IN VIOLATION OF
THE TENTH AMENDMENT OF THE UNITED STATES CONSTITUTION**

This issue regarding the argued violation of the Tenth Amendment was not presented on appeal but the underlying issue was argued in appeal in one aspect, it was, as in the Appeal argument regarding “the district court abused its discretion when it denied Appellant’s motion to continue the revocation hearing until after the underlying criminal appeal was completed”. In a way, that issue was brought up on direct appeal but did not assert the violation of the Tenth Amendment of the U.S. Constitution. The appeal did not argue “interference”. Hopefully that is clarified in this ground on this pleading.

FACTS AND CASE LAW WILL BE ARGUED IN THE BRIEF /
MEMORANDUM OF LAW.

**GROUND VII – IT IS NOW POSSIBLE AND PETITIONER SUSPECTS
THAT THE ORIGINATING JUDICIAL OFFICER WHO REVOKED THE
SUPERVISED RELEASE ON DOCUMENT #200 MAY OR MAY NOT BE
A TARGET OF A BLACKMAIL SCHEME INVOLVING CHILD RAPE
AND MURDER DUE TO CLAIMS BY ATTORNEY L. LIN WOOD
ASSERTING IN PUBLIC STATEMENTS THAT “JUDGES” AND
“OFFICIALS” WERE BEING ORDERED TO RAPE AND MURDER
CHILDREN ON VIDEO RECORDINGS AND THUS WERE
COMPROMISED AND NO LONGER IMPARTIAL TO THE DECISIONS**

THEY MADE WHILE BEING BLACKMAILED. REGARDLESS OF WHETHER THE BLACKMAIL WAS MATERIAL TO ANY DECISIONS MADE AGAINST BRIAN DAVID HILL, IT WOULD STILL MAKE THE JUDGE PARTIAL AND/OR BIASED AND/OR COMPROMISED. THIS VIOLATES THE U.S. CONSTITUTION'S GUARANTEE THAT THE TRIER OF FACT REMAIN IMPARTIAL DURING THE CRIMINAL PROCEEDINGS OF A CASE

This issue cannot and could not have been raised on appeal due to it being new evidence from claims surfacing from Attorney L. Lin Wood in January, 2021 which has not been fully developed and requires expansion of the record. It requires that Attorney L. Lin Wood and his source or sources be subpoenaed to obtain the blackmail video recordings which he claimed allegedly to have the encrypted password or key. Attorney Lin Wood does not possess the actual videos but he received this information from his source or sources. His source or sources appear to be involved somehow with American Actor Isaac Kappy who was reportedly killed after falling off of a bridge and died. Attorney Lin Wood suggested or claimed that Isaac Kappy was murdered. Attorney Lin Wood must be subpoenaed to further develop the facts of this GROUND.

Petitioner also shown in **Exhibit 24**, that Attorney Susan Basko had emailed Brian's mother Roberta Hill and grandpa Kenneth and Grandma Stella Forinash regarding a threatening email message in 2015, and the threat had claimed that the set-up person or persons somehow will make former Chief Judge William Lindsey Osteen Junior wrongfully convict Brian David Hill a second time in 2015. Since it appears that the threatening email may be referencing the possible blackmail or manipulation of some kind of a Federal Judge or some criminal scheme to compel

this Judge to convict Brian David Hill in 2015, it may be relevant to the Attorney L. Lin Wood claims of a blackmail scheme involving “officials” and “judges”.

Part of the threatening message had said:
“JUDGE.....OSTEEN.....WILL.....CONVICT.....
...HIM.....AGAIN.....AS.....WE.....WILL.....MAK
E.....SURE.....OSTEEN.....
.....IS.....PROCIDING.....JUDGE.....OVER.....BRIAN
S.....N
EW.....INDICTMENT.
MORE.....CHILD.....PORN.....IS.....COMING.....TH
EN.....MORE.....CHARG
ES.....WILL.....BE.....BROUGHT”.

Petitioner requests that a Special Master be appointed to review over the blackmail video recordings to determine if Chief Judge Thomas David Schroeder was in any of the blackmail video recordings. There needs to be an investigation into whether Judge Osteen was also in any of the blackmail videos as it would demonstrate that Brian David Hill’s charge of Supervised Release Violation and maybe even the entire case itself was fixed from the very beginning using blackmail or bribery or coercion or maybe even threats behind the scenes.

Former Chief Judge Osteen is a person of interest to determine if he is possibly in one of the alleged videos, even though he wasn’t the Supervised Release Violation Judge under Document #200, because the Document #157 complaint against Brian David Hill did refer to Hon. William Lindsey Osteen Junior as the original sentencing Judge. It might as well all be investigated if both judges may or may not be involved in being targets of an alleged blackmail scheme, regardless of whether Judge Osteen was involved with the SRV charge under Document #157 or not.

However, this ground is potentially viable that the Judicial Officer, if the blackmail videos ever prove such issue after subpoena and investigation and review, that it proves violation of a Judge's impartiality and becomes an additional evidence of fraud on the court onto itself and not just the fraud claims which were asserted in Document #206 which was an uncontested motion. The evidence of the Attorney L. Lin Wood tweets was rightfully filed with the Clerk's Office and filed under Document #290.

See #290 NOTICE entitled "Notice of Evidence to Clerk, to file Regarding Possible Issues of Blackmail" filed by BRIAN DAVID HILL. (Attachments: # 1 Notification of Mandamus/Prohibition Petition in the U.S. Supreme Court, # 2 Petition for Rehearing, # 3 Envelope - Front and Back)(Garland, Leah) (Entered: 12/07/2021).

If the Judge aka the Trier of Fact in the Supervised Release Violation TRIAL was ever blackmailed in sex tapes or video recordings of a judge or official being ordered to rape a child on video; regardless of whether it is material directly to the underlying case; it makes the Judge's "impartiality" reasonably questioned and raises the ground that the Judge had engaged in criminal behavior by committing a sex crime and was a target of a blackmail scheme involving a sex crime of 10 U.S. Code § 920 - Art. 120. Rape and sexual assault generally; possibly violating 18 U.S.C. § 2252A or 2252 and/or Section 2251; and murder of a child in violation of 18 U.S. Code § 1111 – Murder. That is if the proof can be confirmed from Attorney L. Lin Wood or his source or sources himself. If Lin Wood refuses to allow his source or sources who actually are in possession of the alleged "blackmail" videos to be reviewed by the Court in further developing the FACTS alleged in GROUND VII, then this Court has the power to subpoena Attorney L. Lin Wood, subpoena his source or sources and compel him to testify before this

Court as to the alleged blackmail videos which he claimed about and require him to disclose his source or sources by Order of this Court and compel them to release the blackmail videos to a Judicial Officer and/or Special Master or any other appointed Investigator to review over the blackmail video recordings to confirm the blackmail video target's identities to determine if Thomas David Schroeder and/or William Lindsey Osteen Junior was ever involved in being a target of a blackmail scheme.

FACTS AND CASE LAW WILL BE ARGUED IN THE BRIEF /
MEMORANDUM OF LAW.

GROUND VIII – SPOILIATION OF EVIDENCE AKA DESTRUCTION OF EVIDENCE BY (#1) MARTINSVILLE POLICE DEPARTMENT, (#2) SOVAH HEALTH MARTINSVILLE HOSPITAL (WHILE THEY KNEW BRIAN DAVID HILL WAS UNDER LAW ENFORCEMENT CUSTODY) (#3) AND/OR COMMONWEALTH ATTORNEY GLEN ANDREW HALL ESQUIRE VIOLATES THE CRIMINAL DEFENDANT'S CONSTITUTIONAL RIGHT TO DISCOVERY EVIDENCE MATERIAL PERTINENT TO HIS CRIMINAL CASE PURSUANT TO BRADY V. MARYLAND, 373 U.S. 83 (1963) AND GIGLIO V. UNITED STATES, 405 U.S. 150 (1972). DESTRUCTION OF EVIDENCE ALSO MAY BE FRAUD ON THE COURT

This issue cannot and could not have been raised on appeal due to it being new evidence being discovered after the hearing on September 12, 2019 because the State court appointed lawyers Matthew Scott Thomas Clark, Lauren McGarry, and

Scott Albrecht as court appointed lawyers for the Virginia criminal case initiated by the Virginia State charge of Indecent exposure all did not give copies of the court orders to their client Brian David Hill (“Petitioner”). Those lawyers kept Brian David Hill in the dark and asking for any paper copies of the court record are expensive at \$0.50 a page upon request to the Clerk’s office. Petitioner did not know what areas of the record had what. It was only until Petitioner had timely appealed his criminal conviction in the Circuit Court of Martinsville that the entire record of the criminal case was transmitted electronically through Portable Document Format (PDF) file. The appeal was timely filed after the final conviction on November 18, 2019. Notice of Appeal was filed on November 27, 2019. In 2021, Petitioner had requested access to the Record on Appeal as he had proceeded In Forma Pauperis under the Virginia law. As it was granted or allowed, Petitioner had requested access to the Record on Appeal. The Clerk emailed, to Roberta Hill, the PDF file of the entire case files of his criminal case, attempted Virginia Writ of Habeas Corpus, and attempted Petition for the Writ of Error Coram Vobis/Nobis. Petitioner had started reviewing over the case files to have discovered three different Court Orders. One in the General District Court and two in the Circuit Court of the City of Martinsville. All three Court Orders involving Brady material aka the discovery materials pertinent to a criminal case. See Brady v. Maryland, 373 U.S. 83 (1963). Since the discovery materials also concerns the Supervised Release Violation as well, it violates Giglio. See Giglio v. United States, 405 U.S. 150 (1972).

It was then and there that Petitioner started understanding that those three Virginia State Court Orders were violated. Petitioner suspects that the Martinsville Circuit Court Judge: Hon. Giles Carter Greer continues siding with the Commonwealth Attorney and has an inherit bias or prejudice or partiality, so

Petitioner had attempted to file a Motion for Contempt charge against Glen Andrew Hall, Esquire in the General District Court instead of the Circuit Court. However, that motion failed as the General District Court Clerk's Office refused to act on that motion and would not submit to the Judge because they claim they do not have jurisdiction after Petitioner had appealed the guilty verdict on December 21, 2018. Petitioner also suspects blackmail in regard to Hon. Giles Carter Greer as he denies every motion and ignored motions when Petitioner had court appointed counsel. So, Petitioner was stuck and could not pursue sanctions against the Commonwealth of Virginia for any contempt actions. However, on January 20, 2022, Petitioner had decided to just file a Motion based on new Virginia Law at risk of this Motion possibly being denied too as with all the others, but at least push under a new 2021st Virginia Law which creates a new criminal defense and possibly a need for acquittal to his charge. Petitioner had also filed additional Memorandum and Amended Memorandum in support of his Motion for Judgment of Acquittal. Petitioner is attempting to demonstrate that Brian David Hill is innocent of indecent exposure because he has Autism Spectrum Disorder which proves that he had "no intent" and this is the ground of being legally innocent of indecent exposure. So, Petitioner had filed a Motion asking for Judgment of Acquittal and had also asked for sanctions against the Commonwealth Attorney Glen Andrew Hall, Esquire for spoliation of evidence. Petitioner feels confident that this Motion has a better chance as it relies on a new Virginia Law, so even if the Judge decides to deny this Motion like all of the others, it can be appealed based on matters of law. It would have a better chance at prevailing on appeal since case law has yet to be thoroughly developed over this new law as far as Petitioner is aware of. All Petitioner has to prove is that he had Autism Spectrum Disorder and that at the time of the alleged offense he had Autism Spectrum Disorder. That can be proven with the mental evaluation of sanity or competency

which had been conducted in 2018 at the direction of the Judge in the General District Court. Petitioner is confident that this is the best ground he could raise on the basis of evidence he has undeniable evidence of since childhood. A better chance of this new motion succeeding as it would be more difficult for a Judge to have enough discretion allowed to just deny the motion like all of the others. Spoliation of evidence plays a role in asking for acquittal based on destruction of evidence and such destroyed evidence would have been favorable to the innocence of Brian David Hill.

However, Petitioner will raise this ground in the 2255 case as any impartial judge ever picked to be assigned to the 2255 case would be a better option than the partial local judge Hon. Giles Carter Greer. Petitioner's family did research on him and found out that the judge does not respect pro se filings. Petitioner's counsel was ineffective throughout the entire State criminal case proceedings. Petitioner filed pro se motions for new counsel and those were ignored because the Court restricted unofficially that the current counsel must file a motion to ask for new counsel which doesn't make any sense and kept Petitioner held hostage to his court appointed lawyer. The Judge did this by not acting on the pro se motions, a large majority of them and grant the counsel's motions and did grant or accept the motion to withdraw appeal or even denied the motion for vacating the fraudulent begotten judgment filed in November, 2019.

These are the pieces of evidence which Petitioner suspects and believes is destroyed and spoliated aka spoliation of evidence:

1. The body-camera footage (body-cam) recorded statements from Brian David Hill on September 21, 2018 by Officer Robert D. Jones, Martinsville Police Department. Petitioner had mailed multiple letters to Police Chief G. E.

Cassady in early 2019 asking for the body-camera footage to be turned over to the defense counsel but those letters were ignored.

2. The blood vials drawn from Brian David Hill's arm at the Sovah Health Martinsville Hospital; formerly Martinsville Memorial Hospital. The blood vials were drawn with Brian Hill's blood on September 21, 2018, after being arrested by Martinsville Police Department and taken to the Hospital in handcuffs under Police custody. Those blood vials were not laboratory tested despite being ordered but then cancelled and the blood vials destroyed. The police could have protected those vials as evidence, biological evidence. That evidence could have been subject to a drug test and if anything was found, could have led to a Carboxyhemoglobin (COHb) test. Because a drug test was never conducted and the blood vials were destroyed, the levels of Carbon Monoxide Poisoning is impossible to be determined by any scientific test due to the spoliation of the biological evidence. Carboxyhemoglobin (COHb) is a stable complex of carbon monoxide that forms in red blood cells when carbon monoxide gas is inhaled. COHb should be measured if carbon monoxide or methylene chloride poisoning is suspected.

Because Petitioner was already in Police custody while at the Hospital, it is downright stupid and unprofessional for a Law Enforcement officer arresting somebody for indecent exposure not to conduct a mandatory drug test or alcohol test or breathalyzer. Of course Petitioner was under Carbon Monoxide poisoning but it cannot be ruled out that Petitioner may have been drugged by an assailant. Therefore the U.S. Attorney and the Commonwealth Attorney cannot argue with merit that Petitioner had no gas, no substance, or no narcotic

aka being drugged in his body at the time he was found naked on September 21, 2018. Petitioner cannot prove he had any gas, substance, or narcotic aka being drugged in his system at the time of his arrest but they cannot claim with any merit that he had none either.

FACTS AND CASE LAW WILL BE ARGUED IN THE BRIEF /
MEMORANDUM OF LAW.

GROUND IX – IMPROPER VENUE, LACK OF TERRITORIAL JURISDICTION; IMPROPER JURISDICTION ACCORDING TO CHANGE OF JURISDICTION AS REQUESTED BY THE U.S. PROBATION OFFICE AND ACCORDING TO THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION; THIS 2255 MOTION AND CASE SHOULD ALSO BE TRIED IN THE JURISDICTION OF THE ALLEGED SUPERVISED RELEASE VIOLATION IN MARTINSVILLE, VIRGINIA; THE MIDDLE DISTRICT OF NORTH CAROLINA FEDERAL JUDGES HAD NO LEGAL AUTHORITY OR JURISDICTION TO INTERPRET VIRGINIA LAW AND ATTEMPT TO OVERRIDE VIRGINIA LAW; ALSO VIOLATES FEDERAL RULES OF CRIMINAL PROCEDURE 18

This was not argued on appeal but any challenge to a Court's jurisdiction over a case can be challenged at any time in any Court, as long as the claim is properly before the Court. A judgment without proper and valid jurisdiction is null and void.

The new legal evidence which could not have been presented in the hearing dated September 12, 2019, was on the date of October 27th, 2020, the U.S. Probation

Office had filed a Document #260 Petition to TRANSFER JURISDICION to the WESTERN DISTRICT OF VIRGINIA as follows:

CITATION (Document #260, Page 3 of 3): Mr. Hill is currently being supervised in the Western District of Virginia. In coordination with this district, a transfer of jurisdiction has been tentatively agreed to, as Mr. Hill lacks ties to the Middle District of North Carolina and has resided for a period within the Western District of Virginia. To initiate this transfer, the Western District of Virginia has requested that Mr. Hill's supervised release conditions be modified to align with local sentencing conditions regarding sex offenders. Mr. Hill has voluntarily agreed to the adoption of these conditions. After the addition of these conditions, a transfer of jurisdiction will be processed. We respectfully request the Court adopt the conditions as outlined above.

The judge agreed to the request for transfer of jurisdiction and venue in the Documents #261, granting the request; and the Transfer Out/Probationer under Document #262.

This issue could not have been preserved on appeal since the U.S. Probation Office filed the TRANSFER REQUEST a year after the appeal was timely filed.

Also the issues of raising jurisdictional defects can be raised at any time whether on appeal or on Mandamus or collaterally attacked. If jurisdiction was not valid or proper, if jurisdiction was not valid at all, then it can be challenged at any time in any court.

FACTS AND CASE LAW WILL BE ARGUED IN THE BRIEF /
MEMORANDUM OF LAW.

GROUND X – FILED EVIDENCE NOT TAKEN INTO CONSIDERATION AT TRIAL ON SEPTEMBER 12, 2019; WITNESSES FILED WITH THE COURT DIRECTLY MATERIAL TO THE TRIAL WERE NOT CALLED FOR TO TESTIFY AT TRIAL ON SEPTEMBER 12, 2019; FILED AFFIDAVITS NOT TAKEN INTO CONSIDERATION AT TRIAL; VIOLATION OF DUE PROCESS CLAUSE OF U.S. CONSTITUTION, DEPRIVATION OF CRIMINAL DEFENDANT’S DUE PROCESS RIGHTS UNDER THE CONSTITUTION

Simple but surely, filed evidence was never taken into consideration at the Trial Court on September 12, 2019. Evidence pertinent to and relevant to and material to the Supervised Release charge under document #156, #157, and #158.

A majority of evidence filed by Petitioner was never noted to being admitted under the Trial evidence under Trial Documents #186, #188, and #189. Petitioner had filed evidence which was never taken into consideration during the original Trial and Sentencing. See Documents #152, #153, #154, #155, #163, #164, #165, #178, #179, and #181. None of them were admitted at Trial despite being filed pursuant to the original charge of Supervised Release Violation under Documents #156, #157, and #158. Whether by ineffective assistance of counsel Renorda Pryor or by errors of due process of law by the Trial Court, those exhibits were never introduced into evidence at Trial. The Trial Court could have at least decided to admit those filings prior to making the final judgment under Document #200. Either admit them or make a determination on the admissibility of each evidence filing.

This was never brought up on Appeal because the Attorney Edward Ryan Kennedy never realized that evidence was excluded from the Trial. It is a very easy thing for an outside attorney to do when appointed by the court and is under limited money and resources compared to expensive private attorneys. However, the material and relevant evidence was never included in the Trial Exhibits. The filed Affidavits and evidence on the Docket filings #152, #153, #154, #155, #163, #164, #165, #178, #179, and #181 were never indexed in the Trial Exhibits. Never decided whether admissible or not. That needs to be corrected from the record in this 2255 case, there needs to be a modified Judgment referencing the issues in all filed evidence documents or the judgment needs to be vacated on deprivation of due process of law.

FACTS AND CASE LAW WILL BE ARGUED IN THE BRIEF /
MEMORANDUM OF LAW.

**GROUND XI – VIRGINIA’S GENERAL ASSEMBLY HAD CREATED
NEW LAW GIVING BRIAN DAVID HILL A NEW CRIMINAL DEFENSE
(WHICH IS LEGAL INNOCENCE WHEN A DEFENSE CAN BE PROVEN
TO A COURT AND PERMISSIBLE) WHICH WARRANTS ACQUITTAL
ON A VIRGINIA CONVICTION OR THAT BRIAN DAVID HILL
CANNOT BE CONVICTED OF INDECENT EXPOSURE UNDER
VIRGINIA CODE § 18.2- 387 DUE TO A NEW LEGAL DEFENSE FOR A
CRIMINAL CHARGE AUTHORIZED BY VIRGINIA CODE § 19.2-271.6
WHICH HAD BECAME LAW IN 2021**

This ground cannot possibly be raised on appeal since there was no such law during the time of direct appeal. Therefore this new law must be brought up in this 2255 Motion as it is a new law in 2021.

This ground is based on law, law not at the time of conviction on September 12, 2019 in the U.S. District Court, and thus this ground is also relevant to the 2255 since the entire Supervised Release Violation's basis for violation was based upon alleged violation of Virginia Code § 18.2- 387.

Virginia's General Assembly had passed a new law in 2021 (Virginia Code § 19.2-271.6), See **Exhibit 23**, which allows a criminal defendant with Autism Spectrum Disorder, Psychosis, or any other intellectual disabilities or mental illness or illnesses to be used as a defense to a criminal charge, in regard to INTENT, and intent is necessary to convict a criminal defendant of Virginia Code § 18.2- 387. A criminal defense is "Actual Innocence" and is legal innocence. A criminal defense can mean that a criminal conviction cannot be sustained and thus a defendant cannot be legally authorized to being punished by a Court of Law. This statute had not existed in the years of 2018 or 2019 when Petitioner was tried in front of Trial Court on September 12, 2019, and further adjudged on Document #200. This statute had not existed in the year of 2018 when Petitioner was tried and wrongfully convicted in the General District Court for the City of Martinsville on December 21, 2018. This statute had not existed in the year of 2019 when Petitioner was wrongfully convicted in the Circuit Court for the City of

Martinsville on November 18, 2019. Therefore, Petitioner is entitled to a criminal defense of no intent to commit any act which would violate Virginia Code § 18.2-387. If this Court wishes to decide whether Petitioner had violated his Supervised Release due to his Virginia state charge of violating Virginia Code § 18.2-387, then this Court has to also consider his LEGALLY AUTHORIZED criminal defense pursuant to Virginia Code § 19.2-271.6.

CITATION of NEW CODIFIED STATUTE CODIFIED IN 2021

(CITATIONS REFORMATTED):

§ 19.2-271.6. Evidence of defendant's mental condition admissible; notice to Commonwealth. (2021 updated section)

A. For the purposes of this section:

"Developmental disability" means the same as that term is defined in § 37.2-100.

"Intellectual disability" means the same as that term is defined in § 37.2-100.

"Mental illness" means a disorder of thought, mood, perception, or orientation that significantly impairs judgment or capacity to recognize reality.

B. In any criminal case, evidence offered by the defendant concerning the defendant's mental condition at the time of the alleged offense, including expert testimony, is relevant, is not evidence concerning an ultimate issue of fact, and shall be admitted if such evidence (i) tends to show the defendant did not have the intent required for the offense charged and (ii) is otherwise admissible pursuant to the general rules of evidence. For purposes of this section, to establish the underlying mental condition the defendant must show that his condition existed at the time of the offense and that the condition satisfies the diagnostic criteria for (i) a mental illness, (ii) a developmental disability or intellectual disability, or (iii) autism spectrum

disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

If a defendant intends to introduce evidence pursuant to this section, he, or his counsel, shall give notice in writing to the attorney for the Commonwealth, at least 60 days prior to his trial in circuit court, or at least 21 days prior to trial in general district court or juvenile and domestic relations district court, or at least 14 days if the trial date is set within 21 days of last court appearance, of his intention to present such evidence. In the event that such notice is not given, and the person proffers such evidence at his trial as a defense, then the court may in its discretion either allow the Commonwealth a continuance or, under appropriate circumstances, bar the defendant from presenting such evidence. The period of any such continuance shall not be counted for speedy trial purposes under § 19.2-243.

If a defendant intends to introduce expert testimony pursuant to this section, the defendant shall provide the Commonwealth with (a) any written report of the expert witness setting forth the witness's opinions and the bases and reasons for those opinions, or, if there is no such report, a written summary of the expected expert testimony setting forth the witness's opinions and bases and reasons for those opinions, and (b) the witness's qualifications and contact information.

C. The defendant, when introducing evidence pursuant to this section, shall permit the Commonwealth to inspect, copy, or photograph any written reports of any physical or mental examination of the accused made in connection with the case, provided that no statement made by the accused in the course of such an examination disclosed pursuant to this subsection shall be used by the Commonwealth in its case in chief, whether the examination was conducted with or without the consent of the accused.

D. Nothing in this section shall prevent the Commonwealth from introducing relevant, admissible evidence, including expert testimony, in rebuttal to evidence introduced by the defendant pursuant to this section.

E. Nothing in this section shall be construed as limiting the authority of the court from entering an emergency custody order pursuant to subsection A of § 37.2-808.

F. Nothing in this section shall be construed to affect the requirements for a defense of insanity pursuant to Chapter 11 (§ 19.2-167 et seq.).

G. Nothing in this section shall be construed as permitting the introduction of evidence of voluntary intoxication.

2021, Sp. Sess. I, cc. 523, 540.

This issue was not brought up on direct appeal because that law had not existed and could not have been used for Federal direct appeal due to the fact that Appeal Courts could only make findings based on the Record on Appeal at the time of final judgment or based upon law itself at the time the Petitioner was convicted whether wrongfully or rightfully. The law had changed and it concerns the Supervised Release Violation over a charge of violating Virginia Law when such law authorizes a new criminal defense which was not legally authorized previously.

On or about January 20, 2022, Petitioner had filed a Motion for Judgment of acquittal with the Clerk of the Circuit Court of the City of Martinsville under case no. CR19000009-00; entitled: "MOTION FOR JUDGMENT OF ACQUITTAL BASED UPON NEW EVIDENCE WHICH COULD NOT BE ADMISSIBLE AT THE TIME OF CONVICTION; NEW EVIDENCE OF SPOILIATION OF EVIDENCE COMMITTED BY COMMONWEALTH OF VIRGINIA; REQUEST FOR SANCTIONS AGAINST COUNSEL GLEN ANDREW HALL, ESQUIRE (OFFICER OF THE COURT) FOR VIOLATING COURT ORDERS FOR NOT

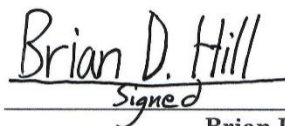
TURNING OVER BODY-CAMERA FOOTAGE AND IT IS LIKELY DESTROYED AND BIOLOGICAL EVIDENCE OF BLOOD VIALS OBTAINED ON DAY OF CHARGE, ALSO LIKELY DESTROYED”. Petitioner can also use this new law in a Petition for a Writ of Actual Innocence. Petitioner will file an appeal regardless of whether this motion is denied or granted unless it is granted and the Commonwealth of Virginia does not file an appeal to the decision of acquittal. This will directly affect the Supervised Release Violation charge under document #157, would prove that Brian David Hill did not engage in the commission of a crime on September 21, 2018, and thus the Document #200 judgment would need to be nullified on the grounds that Brian David Hill did not commit a crime on that day. If the motion is denied and based upon new law, then there may or may not be enough case law to make a determination based upon the appellate Courts as of yet. Any appeal will render a legal decision which may or may not acquit Brian David Hill of his charge of violating Virginia Code § 18.2-387. This Court should request the records of the Circuit Court and the Court of Appeals of Virginia when expanding the record for this ground. If Petitioner fails on appeal and on the motion, Petitioner can file another Motion requesting a New Trial based upon previously unavailable evidence due to the previous Virginia Laws regarding admissibility of evidence in mounting a criminal defense to the criminal charge as a matter of law. Then upon new trial, Petitioner can be found

not guilty and that decision can carry on to the U.S. Probation Office in a written request to reverse the Violation charge as entered on Document #157 requesting vacatur of the original charge and of the conviction on Document #200.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. That is an attachment for this Motion under 28 U.S.C. § 2255 and was attached to the original Motion.

Executed on January 25, 2022

Respectfully submitted,



Brian D. Hill

Signed

Brian D. Hill (Pro Se)

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

I stand with Q – Drain the Swamp

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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 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”. 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!