In The
Court of Appeals
Of Virginia

BRIAN DAVID HILL,

Petitioner,

v.

COMMONWEALTH OF VIRGINIA,
CITY OF MARTINSVILLE,

Respondent.

IN SUPPORT OF BRIAN DAVID HILL'S PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE AT COURT OF APPEALS OF VIRGINIA

JOINT APPENDIX
VOLUME V OF VI
(Pages 1 – 302)

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

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VOLUME V OF VI

COURT OF APPEALS OF V.A. **Case No.: 1295-20-3**

HILL, BRIAN DAVID **vs.** **COMMONWEALTH OF VIRGINIA**

HILL, BRIAN DAVID v. COMMONWEALTH OF VIRGINIA

1295-20-3

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In The

Court of Appeals of Virginia

RECORD NO. 0128-20-3

BRIAN DAVID HILL,
Appellant,

v.

COMMONWEALTH OF VIRGINIA
Appellee.

From the Circuit Court for the City of Martinsville
Case No. CR19000009-00

UNOPPOSED MOTION FOR DELAYED APPEAL

Pursuant to Virginia Code § 19.2-321.1, appellant Brian David Hill respectfully moves this Court for a delayed appeal in the above-captioned case. In support of this motion, Mr. Hill offers the following:

1. By order entered November 18, 2019, the Circuit Court of the City of Martinsville convicted Mr. Hill of misdemeanor indecent exposure. (R. 433). Mr. Hill, acting pro se, timely filed a notice of appeal to this Court challenging his conviction. (R. 465-66). On February 5, 2020, Mr. Hill requested that this Court

appoint new counsel to represent him in this appeal and a related matter, Record No. 0129-20-3.

2. By orders entered April 16, 2020, this Court granted Mr. Hill's motions requesting the appointment of new counsel in both appeals mentioned above, appointing undersigned counsel. Those orders set a deadline of May 26, 2020 for the filing of petitions for appeal in both cases.

3. Undersigned counsel filed unopposed motions in both cases on May 26, 2020, requesting a fourteen-day extension of time within which to file his petitions for appeal. By orders entered June 8, 2020, this Court granted a thirty-day extension in each case, or until June 25, 2020, within which to file each respective petition for appeal.

4. By inadvertence, undersigned counsel entered the new due dates into his calendar incorrectly. Instead of marking June 25, undersigned counsel marked the due date for both petitions on June 30, 2020. An addendum is attached to this motion containing an affidavit executed by undersigned counsel verifying this series of circumstances under oath.

5. Undersigned counsel did not realize his error until June 29, 2020, at which point the deadline had passed in both cases. As noted in the extension orders entered June 8, 2020, this Court is "not authorized to grant more than a 30-day extension of time to file the petition for appeal from the original due date for filing

such petition," so there was no way to cure the error at the time of its discovery by counsel.

6. By orders entered July 31, 2020, this Court dismissed both appeals, noting that "[n]o petition for appeal ha[d] been filed" in either case.

7. Mr. Hill now moves this Court pursuant to Code § 19.2-321.1 for a delayed appeal from the trial court's order entered November 18, 2019.

8. This motion is timely because it has been less than six months since Mr. Hill's appeal was dismissed. *See* Code § 19.2-321.1(A).

9. This case satisfies the requirements for eligibility for a delayed appeal because "due to the error . . . of counsel representing the appellant," Mr. Hill's appeal was "dismissed for failure to adhere to proper … time limits in the perfection of the appeal." Code § 19.2-321.1(A). Moreover, Mr. Hill is in no way responsible, in whole or in part, for undersigned counsel's error. *See* Code § 19.2-321.1(D).

10. Pursuant to Rule 5A:2(a)(1), Mr. Hill, through counsel, contacted the Commonwealth on October 7, 2020, notifying the Commonwealth that he intended to file this Motion and inquiring whether the Commonwealth intended to file a response. Counsel for the Commonwealth responded that the Commonwealth does not oppose Mr. Hill's motion and does not intend to file a response.

WHEREFORE, Mr. Hill prays this Court to grant his motion for a delayed appeal pursuant to Code § 19.2-321.1.

Respectfully submitted,

BRIAN DAVID HILL,
Appellee.

By: _____

John I. Jones, IV, Esq.
Virginia State Bar No. 89300
JOHN JONES LAW, PLC
9520 Iron Bridge Road, Suite 204
Chesterfield, Virginia 23832
Tel: (804) 263-7130
Fax: (804) 717-5677
jones@johnjoneslawplc.com
Counsel for the Appellant

CERTIFICATE OF SERVICE

On October 7, 2020, a copy of this Motion For Delayed Appeal was emailed to Andrew Hall, Commonwealth's Attorney for the City of Martinsville, at AHall@ci.martinsville.va.us.

John I. Jones, IV, Esq.
Virginia State Bar No. 89300
JOHN JONES LAW, PLC
9520 Iron Bridge Road, Suite 204
Chesterfield, Virginia 23832
Tel: (804) 263-7130
Fax: (804) 717-5677
jones@johnjoneslawplc.com
Counsel for the Appellant

EXHIBIT A

In The

Court of Appeals of Virginia

RECORD NOS. 0128-20-3 & 0129-20-3

BRIAN DAVID HILL,
Appellant,

v.

COMMONWEALTH OF VIRGINIA,
Appellee.

From the Circuit Court for the City of Martinsville
Case No. CR19000009-00

AFFIDAVIT IN SUPPORT OF MOTION FOR DELAYED APPEAL

John I. Jones, IV, Esq., on oath deposes and states:

1. I am an attorney licensed to practice law in the Commonwealth of Virginia. I am the principal and sole employee of John Jones Law, PLC, with an office at 9520 Iron Bridge Road, Suite 204, Chesterfield, Virginia 23832.

2. On April 16, 2020, I accepted a prospective appointment to represent Brian David Hill in connection with two appeals already pending in this Court, in Record Nos. 0128-20-3 and 0129-20-3. On the same date, I was formally appointed

to represent Mr. Hill. The Court's orders appointing me provided that the petitions for appeal were both due to be filed by May 26, 2020.

3. On May 26, 2020, I filed unopposed motions for fourteen-day extensions of time in both cases, citing workload, a family emergency requiring travel to Missouri, and complications due to COVID-19.

4. By orders entered June 8, 2020, this Court granted my requests for extensions in both cases, graciously granting me thirty-day extensions. Both orders recited that my new due date to file both petitions was June 25, 2020, and further advised me that the Court was not authorized to grant any additional extensions.

5. By inadvertence, I erroneously marked the due dates in my calendar as June 30, 2020, rather than June 25.

6. I did not discover my error until June 29, 2020, at which point there was no way to avoid dismissal for failure to perfect Mr. Hill's appeals.

7. By orders entered July 31, 2020, this Court dismissed Mr. Hill's appeals in both cases.

8. Mr. Hill bears no personal responsibility for my error in not timely filing petitions for appeal in either case. The responsibility lies entirely with me.

9. I declare under penalty of perjury that the foregoing is true and correct.

John I. Jones, IV, Esq.
Virginia State Bar No. 89300

Dated: October 6, 2020

COMMONWEALTH OF VIRGINIA,
COUNTY OF CHESTERFIELD; to-wit:

I, the undersigned, a Notary Public in and for the State of Virginia, do certify John Ira Jones, IV, whose name is signed to the writing above, has acknowledged the same before me in the jurisdiction aforesaid. In addition, John Ira Jones, IV, either is personally known to me or has produced appropriate identification.

Given under my hand and notarial seal this 6th day of October, 2020.

Notary Public

My commission expires: 03-31-2023
Notary Registration Number: 7588072

Michael Escalera

From: John Vollino
Sent: Tuesday, October 13, 2020 9:42 AM
To: Michael Escalera
Subject: FW: Brian Hill v. CW, Record Nos. 0128-20-3 & 0129-20-3

Please post this to both these cases. thx

From: John Jones <jones@johnjoneslawplc.com>
Sent: Friday, October 9, 2020 8:57 PM
To: John Vollino <jvollino@vacourts.gov>
Subject: Brian Hill v. CW, Record Nos. 0128-20-3 & 0129-20-3

John,

Pursuant to our phone conversation earlier today, Mr. Hill has been consulted regarding my delayed appeal motions and concurs with my filing of them.

Thanks,

John Jones
--
John Jones Law, PLC
9520 Iron Bridge Road, Suite 204
Chesterfield, VA 23832
phone: (804) 263-7130
fax: (804) 717-5677

VIRGINIA:

In the Court of Appeals of Virginia on **Wednesday** *the* **28th** *day of* **October, 2020**.

Brian David Hill, Petitioner,

against

Commonwealth of Virginia, Respondent.

From the Circuit Court of the City of Martinsville

Upon consideration of the motion of Brian David Hill, and receiving no objection thereto from the Commonwealth, leave is granted Brian David Hill to file a replacement notice of appeal from the judgment rendered against him by the Circuit Court of the City of Martinsville on November 18, 2019, upon a conviction of misdemeanor indecent exposure (Circuit Court No. CR19000009-00).

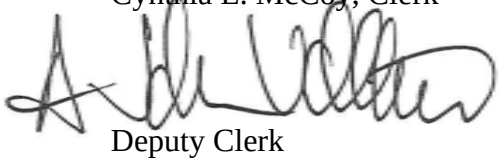
All computations of time as required by the Rules of Court and applicable statutes shall commence on the date of entry of this order or, if Hill is entitled to appointed counsel upon this appeal, from the date of entry of the trial court's order appointing counsel, whichever date shall be later.

This order shall be certified to the trial court.

A Copy,

Teste:

Cynthia L. McCoy, Clerk

By: 

Deputy Clerk

Court of Appeals of VA _2

From: Court of Appeals of VA _2
Sent: Wednesday, October 28, 2020 2:55 PM
To: John I. Jones IV (jones@johnjoneslawplc.com); 'Martinsville City Commonwealth's Attorney (ahall@ci.martinsville.va.us)'
Cc: Ashby Pritchett
Subject: Brian David Hill v. Commonwealth of Virginia; motions for delayed appeal
Attachments: Hill, Brian David 102820 order awarding delayed appeal-0128-20-3.pdf; Hill, Brian David 102820 order awarding delayed appeal-0129-20-3.pdf

COURT OF APPEALS OF VIRGINIA

Counsel:

Attached are this Court's orders entered today in the above-referenced matters.

(also sent by USPS to Hon. Ashby Pritchett, Clerk, Circuit Court of the City of Martinsville).

Pursuant to this Court's order of March 18, 2020, all litigants are encouraged to file all pleadings, letters, briefs, etc. electronically through the VACES system. Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings are located on the Virginia Judicial Website at http://www.vacourts.gov/news/items/covid_19.pdf. Just scroll down to the second page where the Court of Appeals of Virginia information is displayed. Also, the Court is in a position to accept debit and credit card payments for the filing fee. Please contact the clerk's office at 804-786-5651 to make such payment.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to Cynthia L. McCoy, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF MARTINSVILLE

COMMONWEALTH OF VIRGINIA,
CITY OF MARTINSVILLE,

v. **CASE NO. CR19000009-00**

BRIAN DAVID HILL,

Defendant.

1295-20-3

NOTICE OF APPEAL

Brian David Hill, appellant pro se, hereby appeals to the Court of Appeals of Virginia from the final judgment of this Court by final order entered November 18, 2019, convicting Mr. Hill of violating Va. Code § 18.2-387 as incorporated by Martinsville City Ordinance 13-17, and sentencing him to 30 days' incarceration.

Mr. Hill also requests appointment of counsel for this appeal, forgives John Jones of his earlier mistake, and asks the Court of Appeals or Circuit Court to appoint John Jones, John Jones Law, PLC, 9520 Iron Bridge Road, Suite 204, Chesterfield, VA 23832, phone: (804) 263-7130, fax: (804) 717-5677, as counsel of record.

A transcript of the testimony and other incidents of the case will be filed. This Notice of Appeal is filed pursuant to the Court of Appeals of Virginia's order entered October 28, 2020, granting Mr. Hill a delayed appeal in this matter.

Respectfully submitted,

Brian David Hill, Appellant pro se

Brian D. Hill
Signed

Brian David Hill
310 Forest Street, Apt. 2

Martinsville, VA 24112
Phone: (276) 790-3505
Appellant pro se

Ally of QAnon

JusticeForUSWGO.NL/Pardon

JusticeForUSWGO.wordpress.com

Arrest Glen Andrew Hall for his crimes!!!!

CERTIFICATE

The undersigned certifies as follows:

(1) The name and address of appellant is:
Brian David Hill
310 Forest Street, Apt. 2
Martinsville, VA 24112
Phone: (276) 790-3505

(2) Appellant is not represented by counsel at this time.

(3) The name of appellee is:
Commonwealth of Virginia

(4) The name, address, and telephone number of counsel for appellee is:
G. Andrew Hall
Martinsville Commonwealth's Attorney
55 W. Church Street
Martinsville, VA 24112
(276) 403-5470

(5) The appellant has caused to be ordered from the court reporter who reported the case the transcript for filing as required by Rule 5A:8(a).

(6) The appellant has requested the appointment of counsel.

(7) A copy of this Notice of Appeal has been mailed to the Martinsville Circuit Court Clerk's Office, to opposing counsel, and to the Clerk of the Court of Appeals of Virginia, all on November ___, 2020.

Brian D. Hill
Signed

Brian David Hill
Appellant pro se

U.S.W.G.O.
Brian D. Hill - Ally of QANON
WWG1WGA - Q-Intel - Drain the Swamp MAGA
JusticeForUSWGO.wordpress.com - INVESTIGATE!

U.S.W.G.O.

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

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Clerk of the Court - Cynthia L. McCoy
Court of Appeals of Virginia
109 North Eighth Street
Richmond, VA 23219-2321

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COURT OF APPEALS OF VIRGINIA

109 NORTH EIGHTH STREET
RICHMOND, VIRGINIA 23219-2321
(804) 371-8428 (V/TDD)

November 17, 2020

Mr. Brian David Hill
310 Forest Street, Apt. 2
Martinsville, Virginia 24112

Re: Brian David Hill v. Commonwealth of Virginia, et al.
Record No. 1295-20-3 **(appeal of November 18, 2019 order)**

Dear Mr. Hill:

The notice of appeal in the above-referenced case was received in this office on November 16, 2020 without the required $50.00 filing fee. Pursuant to Rule 5A:6(c) and the voicemail message I left for you earlier today, the fee, or proper evidence that you are exempt from the payment of such, must be **received in this office** by the close of business on November 30, 2020 in order for the notice to be filed. The Court accepts cash, checks, money orders, and credit cards. If you wish to pay the fee by credit card, please contact us at 804-786-5651. An *in forma pauperis* affidavit (see enclosed) may be submitted by email to cavbriefs@vacourts.gov, by fax to 804-371-4189, by transmission through VACES, by mail, or by hand delivery to the Court's drop box.

Rule 5A:6(c) provides that "if the fee is not received within such time, the appeal will be dismissed."

If you wish to request an extension of time to submit the filing fee, you should immediately file such a motion, setting forth the reasons for your request.

Sincerely,

Justin Shelton
Deputy Clerk

Enclosure
C: Commonwealth's Attorney for the City of Martinsville
John I. Jones, IV, Esq.

Record # 1295 - 20 - 3	BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA, ET AL.

AFFIDAVIT OF INDIGENCE
(VERIFIED PURSUANT TO CODE § 8.01-4.3)

NAME: Brian David Hill

ADDRESS: 310 Forest Street, Apt. 2, Martinsville, VA 24112

OCCUPATION:

HOUSEHOLD SIZE (TOTAL NUMBER OF PERSONS RESIDING IN THE HOME THAT YOU HAVE FINANCIAL RESPONSIBILITY FOR, INCLUDING YOURSELF):

NET MONTHLY INCOME:

NET MONTHLY INCOME OF SPOUSE:

NET MONTHLY INCOME OF EMPLOYED DEPENDENTS:

AMOUNT ON DEPOSIT IN BANKS:

VALUE OF EQUITY IN REAL ESTATE:

INCOME PRODUCED BY REAL ESTATE:

OTHER INCOME:

VALUE OF PERSONAL PROPERTY:

MAKE, MODEL, AND YEAR OF CARS OWNED:

VALUE OF INTEREST IN OTHER PROPERTY:

APPROXIMATE INDEBTEDNESS: AMOUNT LENDER

I hereby declare under the penalty of perjury that the above information is true and correct.

_____

Signature of Petitioner

Certificate of Service

I hereby certify that a true and exact copy of the foregoing affidavit was mailed to:

Martinsville Commonwealth's Attorney Office
PO Box 1311
Martinsville, VA 24114
Email: ahall@ci.martinsville.va.us

on the _____ day of _____, 2020.
(date) (month)

_____

Signature of Petitioner

Justin E. Shelton

From: Court of Appeals of VA _6
Sent: Tuesday, November 17, 2020 12:41 PM
To: Martinsville City Commonwealth's Attorney (ahall@ci.martinsville.va.us); John Jones
Subject: Record # 1295 - 20 - 3 BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA, ET AL.
Attachments: letter 111720 fee 1295-20-3.pdf

COURT OF APPEALS OF VIRGINIA

Attached, please find a letter issued today to the appellant in the above-referenced matter.

Justin Shelton, Deputy Clerk
Court of Appeals of Virginia
main: (804) 786-5651

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to Cynthia L. McCoy, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219.

FAX

FILE COPY

Record # 1295 - 20 - 3	BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA, ET AL.

No Fee

AFFIDAVIT OF INDIGENCE
(VERIFIED PURSUANT TO CODE § 8.01-4.3)

NAME: Brian David Hill

ADDRESS: 310 Forest Street, Apt. 2, Martinsville, VA 24112

OCCUPATION: Unemployed, Disabled, Never employed

HOUSEHOLD SIZE (TOTAL NUMBER OF PERSONS RESIDING IN THE HOME THAT YOU HAVE FINANCIAL RESPONSIBILITY FOR, INCLUDING YOURSELF): 1

NET MONTHLY INCOME: $783 SSI Disability assignment of benefits

NET MONTHLY INCOME OF SPOUSE: N/A

NET MONTHLY INCOME OF EMPLOYED DEPENDENTS: N/A

AMOUNT ON DEPOSIT IN BANKS: Amount deposited by Social Security

VALUE OF EQUITY IN REAL ESTATE: 0

INCOME PRODUCED BY REAL ESTATE: 0

OTHER INCOME: 0

VALUE OF PERSONAL PROPERTY: Used furniture and copies of legal papers arent worth much

MAKE, MODEL, AND YEAR OF CARS OWNED: No car owned

VALUE OF INTEREST IN OTHER PROPERTY: 0

APPROXIMATE INDEBTEDNESS:	AMOUNT	LENDER
Commonwealth of Virginia	Unknown	

See Attached Federal IFP Affidavit for details

I hereby declare under the penalty of perjury that the above information is true and correct.

Signature of Petitioner Brian D. Hill Signed

Certificate of Service

I hereby certify that a true and exact copy of the foregoing affidavit was mailed to:

Martinsville Commonwealth's Attorney Office
PO Box 1311
Martinsville, VA 24114
Email: ahall@ci.martinsville.va.us

on the 20th (date) day of November (month), 2020.

Signature of Petitioner Brian D. Hill Signed

U.S.W.G.O.
Brian D. Hill - Ally of QANON
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

U.S.W.G.O.
Brian D. Hill - Ally of QANON
WWG1WGA - Q-Intel - Drain the Swamp MAGA
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AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

UNITED STATES DISTRICT COURT

for the

Western District of Virginia

United States of America	)	
Plaintiff/Petitioner	)	
v.	)	Criminal Action No. 4:20-cr-00027
Brian David Hill	)	
Defendant/Respondent	)	

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Long Form)

Affidavit in Support of the Application

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested. I declare under penalty of perjury that the information below is true and understand that a false statement may result in a dismissal of my claims.

Signed: Brian D. Hill (Signed) Date: 11/20/2020

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly income amount during the past 12 months		Income amount expected next month	
	You	Spouse	You	Spouse
Employment	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Self-employment	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Income from real property *(such as rental income)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Interest and dividends	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Gifts	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Alimony	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Child support	$ 0.00	$ 0.00	$ 0.00	$ 0.00

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Retirement *(such as social security, pensions, annuities, insurance)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Disability *(such as social security, insurance payments)*	$ 783.00	$ 0.00	$ 783.00	$ 0.00
Unemployment payments	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Public-assistance *(such as welfare)*	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Other *(specify)*:	$ 0.00	$ 0.00	$ 0.00	$ 0.00
Total monthly income:	**$ 783.00**	**$ 0.00**	**$ 783.00**	**$ 0.00**

2. List your employment history for the past two years, most recent employer first. *(Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
Never worked a job	N\A	N\A	$ 0.00
N\A	N\A	N\A	$ 0.00

3. List your spouse's employment history for the past two years, most recent employer first. *(Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
Have no spouse	N\A	N\A	$ 0.00
Never married	N\A	N\A	$ 0.00
N\A	N\A	N\A	$ 0.00

4. How much cash do you and your spouse have? $ _____

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
First Horizon Bank	Essential Checking for SSI	$ Anywhere between $50 to $100 to keep minimal balance	$ N\A
		$	$
		$	$

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Assets owned by you or your spouse	
Home *(Value)*	$ 0.00
Other real estate *(Value)*	$ 0.00
Motor vehicle #*1 (Value)*	$ 0.00
Make and year: Own no vehicle, N\A	
Model: Own no vehicle, N\A	
Registration #: Own no vehicle, N\A	
Motor vehicle #*2 (Value)*	$ 0.00
Make and year: Own no vehicle, N\A	
Model: Own no vehicle, N\A	
Registration #: Own no vehicle, N\A	
Other assets *(Value)*	$ 0.00
Other assets *(Value)*	$ 0.00

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
N\A	$ 0.00	$
N\A	$ 0.00	$
N\A	$ 0.00	$

7. State the persons who rely on you or your spouse for support.

Name (or, if under 18, initials only)	Relationship	Age
N\A	N\A	
N\A	N\A	
N\A	N\A	

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment *(including lot rented for mobile home)* Are real estate taxes included? ☐ Yes ☑ No Is property insurance included? ☐ Yes ☑ No	$ 500.00	$ 0.00
Utilities *(electricity, heating fuel, water, sewer, and telephone)*	$ 0.00	$
Home maintenance *(repairs and upkeep)*	$ 0.00	$
Food	$ 100.00	$
Clothing	$ 50.00	$
Laundry and dry-cleaning	$ 20.00	$
Medical and dental expenses	$ 20.00	$
Transportation *(not including motor vehicle payments)*	$ 0.00	$
Recreation, entertainment, newspapers, magazines, etc.	$ 20.00	$
Insurance *(not deducted from wages or included in mortgage payments)*		
Homeowner's or renter's:	$	$
Life:	$ 0.00	$
Health:	$ 0.00	$
Motor vehicle:	$ 0.00	$
Other:	$ 0.00	$
Taxes *(not deducted from wages or included in mortgage payments) (specify):*	$ 0.00	$
Installment payments		
Motor vehicle:	$ 0.00	$
Credit card *(name)*:	$ 0.00	$
Department store *(name)*:	$ 0.00	$
Other:	$ 0.00	$
Alimony, maintenance, and support paid to others	$ 0.00	$

Regular expenses for operation of business, profession, or farm *(attach detailed statement)*	$ 0.00	$
Other *(specify)*: Legal expenses, case work, hygiene products	$ 73.00	$
Total monthly expenses:	**$ 783.00**	**$ 0.00**

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☑ No If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in conjunction with this lawsuit? ☑ Yes ☐ No

If yes, how much? $ Anywhere between $0 to $100 if I even have that much in the month after other expenses.

11. Provide any other information that will help explain why you cannot pay the costs of these proceedings.
Because all of my monthly Federal Disability SSI assignment of benefits income gets used up in monthly rent, then my hygiene products for my Obsessive Compulsive Disorder, small expenses for medical needs not covered by Medicaid, money for food, and legal expenses for fighting in my criminal case. The postage and paper and ink expenses can eat away at whatever money I have left in the average month.

12. Identify the city and state of your legal residence.
Martinsville, Virginia

Your daytime phone number: (276) 790-3505

Your age: 30 Your years of schooling: I do not know as I have been educated as far as high school through Home Schooling.

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF MARTINSVILLE

1295.20.3
1294.20.3
0057.20.3
0578.20.3

COMMONWEALTH OF VIRGINIA,
CITY OF MARTINSVILLE,

ORDER

v. Case No. CR19000009-00

BRIAN DAVID HILL

It appearing to the Court that the defendant has appealed his convictions, and that the Court of Appeals has ordered this Court to appoint counsel to represent the defendant, it is accordingly

ORDERED that John Jones be and he is hereby appointed to represent the above-named defendant on the above case pending in the Court of Appeals.

The Clerk of this Court is directed to mail or deliver a copy of this Order to the Commonwealth's Attorney, John Jones, and the Clerk of the Virginia Court of Appeals.

ENTER this 14th day of December, 2020.

Judge

TWENTY-FIRST JUDICIAL CIRCUIT OF VIRGINIA

Endorsement of Counsel is dispensed with – Rule 1:13

A Copy
Teste Ashley P. Patchett, Clerk
By. _____, Deputy Clerk


e Ashby R Pritchett, Clerk
Martinsville Circuit Court Clerk's Office
P. O. Box 1206
Martinsville, Virginia 24114-1
NEOPOST
FIRST-CLASS MAIL
PRSRT
12/21/2020
US POSTAGE
$000.46⁰
ZIP 24112
041M11290682
Cynthia L. McCoy
Clerk, Court of Appeals
109 North 8th Street
Richmond, Virginia 23219
RECEIVED
CLERK'S OFFICE
DEC 28 2020
COURT OF APPEALS OF VIRGINIA
RICHMOND, VIRGINIA
KBBLSMP 23219

Jessica R Powell

From: Court of Appeals of VA _5
Sent: Thursday, March 4, 2021 2:59 PM
To: John I. Jones IV (jones@johnjoneslawplc.com); Martinsville City Commonwealth's Attorney (ahall@ci.martinsville.va.us)
Subject: Brian David Hill v. Commonwealth of Virginia; Record No. 1295-20-3 (11/18/2019 Order); Acknowledgment of Receipt of the Record

COURT OF APPEALS OF VIRGINIA

This is to notify you that the record of the proceedings in this case in the trial court was received in the clerk's office of the Court of Appeals of Virginia on February 26, 2021. Because this office failed to promptly notify counsel of the receipt of the record, the 40-day time period for filing the petition for appeal in the case shall commence from **March 4, 2021**.

The rules of practice before the Court of Appeals of Virginia are found in the Rules of the Supreme Court of Virginia at Part 5A, published as volume 11, Code of Virginia Annotated. **(The Rules of Court may be found here: http://www.vacourts.gov/courts/scv/rulesofcourt.pdf)** Under those rules, the date on which the record is received at this Court is used to establish the beginning of important periods allowed for the filing of further documents and pleadings. In particular:

1. In appeals by petition, the petition for an appeal is due no later than 40 days after the date on which the record is received by the Court of Appeals. **Va. Code** § 17.1-408; Rule 5A:12(a).

2. In appeals of right, the time for filing the designation of the contents to be included in the appendix runs from this date, Rule 5A:25(b), and the appendix and opening brief of the appellant are due no later than 40 days after the record is received by the Court of Appeals, Rule 5A:19(b)(1).

Please consult Part 5A of the Rules for information on filing times and other requirements. Failure to comply with the rules may result in various sanctions, including dismissal of the appeal.

Pursuant to this Court's order of March 18, 2020, all litigants are encouraged to file all pleadings, letters, briefs, etc. electronically through the VACES system. Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings are located on the Virginia Judicial Website at http://www.vacourts.gov/news/items/covid_19.pdf. Just scroll down to the second page where the Court of Appeals of Virginia information is displayed. Also, the Court is in a position to accept debit and credit card payments for the filing fee. Please contact the clerk's office at 804-786-5651 to make such payment.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to Cynthia L. McCoy, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219.

REQUEST FOR RECORD ON APPEAL OR POSSIBLY NEW COUNSEL LETTER TO COURT OF APPEALS OF VIRGINIA IN THE CITY OF RICHMOND

Re: Brian David Hill v. Commonwealth of Virginia, City of Martinsville
Record No. 1294-20-3, 1295-20-3
(Appeal of criminal conviction, Appeal of denial of a Motion)

Monday, March 15, 2021 11:47 PM

ATTN: Clerk of the Court **Court of Appeals of Virginia**	cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321

Dear Clerk of the Court, Court of Appeals of Virginia,

I have been dealing with an issue that cannot be avoided as time is running out for me to file my Petition for Appeal in both appeal cases no. 1294-20-3, 1295-20-3 in the Court of Appeals of Virginia.

For the reasons stated in this entire letter, I like to request access to the entire Record on Appeal ("ROA"). I ask that if there is a PDF file containing the ROA then please email it to my mother Roberta Hill at rbhill67@comcast.net since I am not allowed to use the internet. My mother can give me the PDF to review over while I work on the "Petition for Appeal" on a pro se basis, unless I can have a new appointment of counsel. Read the entire letter to understand why I am asking for access to my ROA instead of doing it through my appointed counsel John Ira Jones, IV. (Esq.).

The first time I had filed my timely direct appeals for my criminal case no. CR19000009-00 in the Circuit Court of the City of Martinsville, which would be CAV no. 0128-20-3 and 0129-20-3, Attorney John Ira Jones, IV, (ESQ.) was supposed to have filed a pleading to comply with the deadline that was set by this Court. He had failed to do so, the Appeals were both dismissed on July 31, 2020. Then he filed motions for delayed appeal and were granted by this Court.

Then Brian had filed a timely "Notice of Appeal" and had asked for John Ira Jones to be appointed again to give him a second chance. John Ira Jones was appointed on December 14, 2020.

The record stated that the "record received" was on February 26, 2021. According to Va. Code § 17 .1-408; Rule 5A: 12(a); a Petition for Appeal must be filed within 40 days after the record is received by the Court of Appeals of Virginia. It is 40 days from February 26, 2021, to April 7, 2021. I assume that April 7, 2021 is the deadline here.

On March 13, 2021, I have text messaged my lawyer John Ira Jones at his phone number 804-263-7130, multiple times.

Here are the text messages that were copied and typed down as to what was text messaged to John Jones and what the contents of the text messages were:

Conversation with John Jones ((804) 263-7130)

[3/8/21 6:24 PM] Me: Anyways the record was received in the appeal on 02-26-2021. Your the attorney of record for cases no. 1295-20-3 and 1294-20-3. What date do you have to file the brief or petition for the appeal in my cases?

[3/11/21 11:14 AM] Me: Please let me know what day and time we should discuss the appeal brief and the grounds that should be set for direct appeal.

[3/13/21 7:58 PM] Me: My mom is emailing you.

My mother also emailed John Ira Jones, IV on March 13, 2021, at his email address: jones@johnjoneslawplc.com.

She has not received a response and neither have I received a response.

I still have three weeks and a few days left to file the "Petition for Appeal" pleading with the Court. My Attorney still has time to discuss the appeal petitions to file and review over the record. Maybe there is a chance he hasn't responded yet until he reviews over the record, maybe that could be the case.

However the first time both appeals were timely filed and docketed, John Jones did not file any petitions and both appeal cases were dismissed.

Now I am seeing that since February 26, 2021, the record was received and he had not sent me any letters or text messages since that time when the clock starts running down. Already two weeks and a few days have gone by since that date was set. He had not emailed my mother either during that time period and that concerns me. It takes a lot

of time for an Attorney new to a case to review over the Record on Appeal ("ROA") prior to discussing with his client the potential arguments and "Assignments of Error" that could be brought up in a petition, then wait for the Commonwealth Attorney to file a response, and then file a reply if the rules allow.

In the event that John Ira Jones does not contact me at all within weeks, I have two things I may have to consider:

(1) I will have to file a "Petition for Appeal" with the Court of Appeals of Virginia on a Pro Se basis and having my mother Roberta Hill file my petition through VACES on my behalf to prevent having my timely direct appeals for my criminal case dismissed twice for not filing by the deadlines.

In that case, I will need to request with the Clerk of the Court of Appeals that I have free access to the Record on Appeal. If it can only be done electronically, then I request that my mother Roberta Hill be allowed to receive a PDF file or be allowed to get access to the digital electronic court records to the Record on Appeal from the lower Court/Tribunal. I understand that the Court Rules require that I properly cite the ROA and the specific pages or areas that have to be cited when specifying "Assignments of Error". That is impossible without access to the ROA. I cannot afford to pay the fees for having the Circuit Court Clerk produce the entire case ROA at $0.50 a page which could be multiple hundreds of dollars. My only source of income is Supplemental Security Income ("SSI") pursuant to 42 U.S. Code § 407. I pay $500 rent and that was also brought up in Financial Affidavits in me being declared In Forma Pauperis/indigent. Even all Federal Courts ever involved with a civil or criminal case concerning myself has me listed as "In Forma Pauperis". The rest of the money goes to things I need. I cannot afford to pay hundreds of dollars to obtain my ROA to properly follow the Court Rules requiring proper citation of the ROA in a Petition for Appeal.

As a criminal defendant, I have a Constitutional right to Due Process as outlined in the Fourteenth Amendment of the U.S. Constitution and should not be deprived from it because I cannot afford it. I should not be deprived from my right to ask the Court of Appeals to review over a decision that affects my Constitutional rights guaranteed to criminal defendants over any aggrieved decisions affecting my right to life, liberty, and any property. Lack of due process can take away my liberty in an Unconstitutional manner.

The Clerk should understand from going to law school, we all have Constitutional rights, and simply being poor should not preclude a criminal defendant from his/her basic Constitutional rights such as effective assistance of counsel under the Sixth

Amendment, Due Process of Law guarantee under the Fourteenth Amendment, and all other Constitutional rights and Legal rights as enumerated by law.

So I request that, at Government expense if necessary, that I be given access to the ROA containing the record of my entire criminal case in the Circuit Court and General District Court records all at issue in the above noted Appeal case numbers. I request that I be given access to the Circuit Court records at no additional expense or as cheaply as possible. So I can be able to properly cite the ROA, and the exact page numbers and page ranges of the Record. I want to be able to properly cite the specific errors of the Circuit Court but cannot do so with access to the ROA. It would be difficult or almost impossible to simply review over the record at the Circuit Court at this time due to the severe Covid-19 restrictions. Clerks had empathized that they wish to rely more on electronic means of dealing with official court business. It would not be unreasonable for requesting access to the Record on Appeal, the record of the entire case at review in the Circuit Court in both cases. The record referring to all pleadings filed from the beginning to the end of the case including the Arrest Warrant which is the document charging the defendant with a crime and opening up the case.

If John Ira Jones refuses to communicate with Brian weeks later, then Brian has no choice but to consider filing the petition on a pro se basis to prevent the direct appeals from being dismissed again by a lawyer refusing to do his job that he was being paid to do by the Indigent Defense Commission or whatever pays the salary of court appointed lawyers.

(2) I will have to file a Motion requesting new appointment of counsel and I would also have to ask the Court of Appeals to inquire on why he would not communicate with me and why he would not even respond to my mother Roberta Hill at her email address. Could he have been threatened, blackmailed, bribed??? Questions like that need to be addressed as to why my Attorney would simply not do what he was employed to do. A lawyer is supposed to represent his/her client, not ignore his/her client. This is serious violation of Court orders and is a waste of this Court's time to disregard the deadline and not file anything at all. It is almost as a contempt of Court to simply ignore the Court's directions to file a appeal brief or petition, and if an Attorney felt that the appeal was frivolous and could not ever amount to anything at all then he/she can simply file a motion to withdraw as counsel of record with those reasons or a motion to dismiss the appeal could be appropriate action. The Attorney cannot just repeatedly refuse to file anything when he is directed to do so by the Court. Ignoring the Court is usually considered contempt. The Attorney needs to be able to communicate with his/her client. That is in accordance with the U.S. Supreme Court authority known as Strickland v.

Washington, 466 U.S. 668 (1984).

I need to address these issues right now while there is still plenty of time to review over the record and come up with good Constitutional legal arguments and Assignments of Error for my Petition for Appeal.

These issues need to be addressed now on the record of this Court.

I will also serve a copy of this pleading with John Ira Jones, again, through my mother Roberta Hill who can email him a copy of this pleading as counsel of record for the Defense aka the Appellant, myself.

As of right now, I ask the Clerk of the Court to allow me full access to the ROA, since the Circuit Court has transferred it's records electronically to the Court of Appeals of Virginia. Usually Attorneys can review over the electronic record as Officers of the Court, but since I am bound by the same strict rules as with Attorneys, I need to be able to have the same access to the Record as with an Attorney since Pro Se Filers and Attorneys are bound by the same strict Court Rules and procedures.

My mother had registered an account with VACES on my behalf as my filing representative so that I can file electronically without me using the internet myself to conduct regular and authorized court business. I am under a Supervised Release condition in the U.S. District Court not allowing me to use the internet without permission. However my mother is allowed to access the internet. So she can file my pleadings with my authorization and legal signature as my caretaker until I am allowed to use the internet again. Once I am allowed to use the internet again, then I can access that VACES account directly if it is even necessary at that period, maybe things will be resolved in the Virginia Courts by then.

So if the Clerk can allow me to have access to the Record on Appeal, I ask that it be emailed to rbhill67@comcast.net so that Roberta Hill can show me the ROA and download the Record and so I can review over the record of the case while I draft my "Petition for Appeal" and file it timely as directed to do so by the Court.

So please give me access to the record or give me a new appointment of Counsel.

Respectfully filed with the Court,
This the 15th day of March, 2021.

Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

CERTIFICATE OF SERVICE

On March 15, 2021, I, Brian David Hill certify that the original of this foregoing letter/pleading was transmitted to the Clerk of the Court of Appeals of Virginia and that a copy of this foregoing letter/pleading had been transmitted to the following parties:

1. Commonwealth of Virginia, Appellee
2. City of Martinsville, Appellee,

by having representative Roberta Hill filing his pleading on his behalf with the Court, through email address rbhill67@comcast.net, transmit a copy of this pleading to the following attorneys who represent the above appellees' as well as the Clerk:

Mark R. Herring, Esq. Office of the Attorney General of Virginia mherring@oag.state.va.us 202 North Ninth Street Richmond, VA 23219 Attorney for Appellee	Glen Andrew Hall, Esq. Commonwealth Attorney's Office for the City of Martinsville ahall@ci.martinsville.va.us 55 West Church Street P.O. Box 1311 Martinsville, Virginia 24114/24112 Attorney for Appellee
Clerk of the Court Court of Appeals of Virginia cavbriefs@vacourts.gov	John Ira Jones, IV, Esq. Attorney of Record from Appellant jones@johnjoneslawplc.com

109 North Eighth Street, Richmond, Virginia 23219-2321	9520 Iron Bridge Rd, Ste. 204 Chesterfield, VA 23832-6455
All individuals were emailed by rbhill67@comcast.net, on March 15, 2021.	

The reason why Brian David Hill must use such a representative to serve such pleading with the Clerk on his behalf is because Brian is currently still under the conditions of Supervised Release for the U.S. District Court barring internet usage without permission. Brian's Probation Officer is aware of Roberta Hill using her email for conducting court business concerning Brian Hill or court business with the Probation Office in regards to Brian David Hill. Therefore Roberta Hill is filing the pleading on Brian's behalf for official court business. Brian has authorized her to file the pleading.

That should satisfy the Certificate of Service regarding letters/pleadings. If the Court wishes to contact the filer over any issues or concerns, please feel free to contact the filer Brian David Hill directly by telephone or by mailing. They can also contact Roberta Hill at rbhill67@comcast.net and request that she forward the message and any documents or attachments to Brian David Hill to view offline for his review.

Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

REQUEST FOR TRANSCRIPTS FROM CIRCUIT COURT OF MARTINSVILLE
LETTER TO COURT OF APPEALS OF VIRGINIA IN THE CITY OF RICHMOND AND CLERK OF THE CIRCUIT COURT OF MARTINSVILLE

Re: Brian David Hill v. Commonwealth of Virginia, City of Martinsville
Record No. 1294-20-3, 1295-20-3
(Appeal of criminal conviction, Appeal of denial of a Motion)

Friday, March 19, 2021 02:55 PM

ATTN: Clerk of the Court **Court of Appeals of Virginia**	cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321
ATTN: Clerk of the Court **Hon. Ashby Pritchett** **Circuit Court of Martinsville**	apritchett@vacourts.gov 55 West Church Street, Room 205 P.O. Box 1206 Martinsville, VA 24114

Dear Clerk of the Court, Court of Appeals of Virginia and Circuit Court of Martinsville,

My lawyer John Ira Jones, IV, still has refused to communicate with me even after being given the Record on Appeal. I confirm with the Clerk that I have the records for my Appeals, to properly comply with the Rules of Court requiring me to properly cite the Errors and properly cite the Records at issue for the Appeal cases. I still have to ask the Circuit Court Clerk Ashby Pritchett who the Court of Appeals can contact at apritchett@vacourts.gov and phone number 276-403-5106 in regards to Transcripts of the Circuit Court of Martinsville.

The Circuit Court of Martinsville is a Court of Record. By Virginia law or even Federal Law in regards to criminal case proceedings, State Courts of Record are required to have transcripts of any or all criminal case hearings in the Courts of Law.

I am In Forma Pauperis, Indigent, and cannot afford to pay for the cost of the Transcript and request that it be paid for by the Commonwealth. If my lawyer has to be the one to request it, then I please ask for a Court Order from either the Circuit Court or the Court of Appeals to demand that my lawyer John Ira Jones, IV, request the

Transcripts so that it can be at Government Expense, as it is his job as an officer of the Court and as a ethical lawyer do request the Transcripts to bring up any errors that may or may not be considered reversible on Order and Remand if the Petition for Appeal is granted.

I will not let my lawyer sabotage me and my appeal. I will not let my lawyer sabotage my criminal case or my appeals. He already was caught not filing any pleading or motion with the Court of Appeals last year in two of my direct criminal appeals and both appeals were dismissed. He did the right thing and filed motions for delayed appeals and did help me with the new notices of appeal which were timely filed last year. However since then he has not communicated with me at all. Usually these things normally happen when somebody is being given some form of pressure, could be even threats or blackmail or bribery, usually in the grand scheme of political corruption that this type of stuff would happen throughout our Nation's history and I am concerned if there were any efforts to threaten the lawyer to sabotage the defense team like what they had actively done to Donald Trump's lawyers, political folks threatening his lawyers to sabotage his Impeachment hearing defense. So if John Ira Jones is being in any way, pressured in any way, threatened or blackmailed, then I ask that he admit to it if that is the case. If that is not the case then he should explain why I and my mother Roberta Hill are having to do all of the work instead of John Ira Jones, IV for these new Appeals that were timely filed. I have every right to suspect things like threats and blackmail since the revelations that came from highly credible and licensed Attorney L. Lin Wood who released statements on Twitter in January, 2021, that my family has screenshots of those Tweets in image formation and gave me those images as evidence, evidence showing that Judges and Politicians are being blackmailed with child rape and murder videotapes. I have submitted all of that evidence to the Court of Appeals through my mother Roberta Hill on March 15, 2021 in case no. 0219-21-3, in the event that I decide to file an original Writ of Mandamus to bring up the Judges and Politicians being blackmailed statements from Attorney L. Lin Wood and have him subpoenaed to determine if any Virginia Judges were affected by Judicial Criminal Blackmail concerning alleged snuff videos from the U.S. Intelligence Agencies that were obtained by a group called The Lizard Squad who gave that material allegedly to Attorney Lin Wood as per his public statements, which may have affected my State criminal case, my Writ of Habeas Corpus case, and my Petition for Writ of Error Coram Vobis. This alleged blackmail evidence statements is directly from L. Lin Wood and he is the source of this information to which I am alleging. Heck I have heard President Trump's lawyers were being given death threats to pressure them out of his cases. So I have every right to suspect that my lawyer may be given threats. I even had evidence from Attorney Susan Basko that she sent my mother Roberta Hill an email stating that they were threatening Attorney Susan Basko with planting child porn in her house and were threatening another one of my court

appointed lawyers by mentioning the name of one of my court appointed lawyers and they were using a tormail address according to Susan Basko in 2015, so I have had evidence in the past that my Federal court appointed lawyer named may have been threatened by criminal evil doers. At least one of their names was mentioned in a very nasty threatening email that Susan Basko had received and forwarded the dirty language and email address of that nasty tormail email to my mother to show us how bad things were getting in my case. Anyways enough of the blackmail and/or threat garbage that I have had to deal with since my Federal case. I have every right to suspect anything at this point until the crazy stuff is over and done with, whenever that will be. I don't even know, why I am being targeted for so long and while I keep being targeted and treated unfairly in the Court System.

← **Tweet**

Lin Wood
@LLinWood

This blackmail scheme is conducted by members of 10 of world's most well-known & "elite" intelligence agencies.

One of those groups was hacked by a group known as Lizard Squad. The blackmail files of rape & murder were obtained by this group & copy was provided to Isaac Kappy.

> **Lin Wood** @LLinWood · Jan 4
> I believe Chief Justice John Roberts & a multitude of powerful individuals worldwide are being blackmailed in a horrendous scheme involving rape & murder of children captured on videotape.
>
> I have the key to the files containing the videos. I have also shared this information.

2:17 AM · Jan 4, 2021 · Twitter for iPhone

24K Retweets **1.4K** Quote Tweets **50.9K** Likes


Tweet
Lin Wood
@LLinWood
I would never make an accusation without having reliable source for it. Stakes are too high. So I did due diligence to validate the accuracy of the shocking information I am revealing tonight. I am entirely comfortable that you are learning the truth. A truth that explains much.
3:01 AM · Jan 4, 2021 · Twitter for iPhone
36.6K Retweets 1.6K Quote Tweets 113.5K Likes
Sidney Maratty @SidneyMaratty · 16h
Replying to @LLinWood
Yes, I took liability courses, doctors, lawyers have a higher duty of care. I know this I to be true normally went application came in for Liability insurance we had to get special permission from higher ups..for hockey players. I believe you I discern people. Trolls so perfec
1

Anyways, I would like to request the Transcripts for the following hearings:

1. August 30, 2019
2. August 27, 2019
3. November 15, 2019
4. July 15, 2019
5. June 4, 2019
6. April 23, 2019
7. January 28, 2019

So I would like to request that all of those Transcripts be created and transmitted to the Court of Appeals of Virginia for both direct criminal case appeals in CAV No. 1294-20-3, 1295-20-3.

If there are no Transcripts for any of those listed hearings then why was there no Court Reporter present even though that violates Virginia Law to have no recorded

Transcript of any kind. Transcripts are necessary for criminal cases for Courts of Record to point out any Errors of Record and why the specific Errors were made by a Lower Trial Court. If a State Court of Record does not have such records of what was even said at these hearings then why has the Circuit Court not done so and why would they not comply with the basic laws to protect the rights of criminal defendants who could face conviction, imprisonment, or acquittal at the State Courts of Record?

Also I would like to know who the Court Reporters are that were present at those hearings or if there were any officials there who had made audio recordings or any recordings of those hearings? Where are their offices and contact information to request such information?

I would like to know this as soon as possible before I start typing up my "Petition for Appeal" pleadings for both cases. It is very important for my "Assignments of Error" that I know what the errors are. I cannot honestly know these Errors of the Court without the Transcripts. I have half of what I am required to have according to the Rules of the Court of Appeals, or any of the other Rules of Court.

I have the Record on Appeal, I am grateful to the Court for giving me access to the entire Record and in a format that my mother was able to provide me a copy of while I remain compliant with my Supervised Release conditions. However last year John Ira Jones told me one of the things I should ask for from the Clerk is who the Court Reporters are to attempt to get the Transcripts, and then he would go and get the Transcripts because they would be at Commonwealth expense as he said to me he is aware of how expensive they are but I would need those records to have a better chance to prevail on Appeal, as the Clerk in the CAV would normally want me to cite any Transcript records when appealing. I am aware of the Transcript requirement because of my Federal Criminal Case in 2014. Also I am aware that in Virginia the Federal Courts there also required Transcript for criminal case matters.

If you cannot provide Transcripts at Government expense to non-lawyers then please appoint me a new lawyer or order the lawyer to do his job and ask for the Transcripts or appoint me new counsel because it is clear that somebody has pressured or threatened my lawyer for him to just stop doing his job and not even communicate with me or my mother when he emailed my mother last year to give me access to his filed Motions for Delayed Appeals. I want answers NOW. I may have to inquire on more issues regarding the people involved in my case and find the answers that I seek. I have kept Lin Wood updated on my Federal situation, my family and friends contacting UnCover-DC Top Editor Tracy Beanz and getting their attention to the corruption involving my Federal and State cases. If this cannot be resolved which clearly violates

more laws and more of my Constitutional rights then I may have to ask Lin Wood to investigate all State Actors, to look into why Martinsville Police or Sovah Hospital would have destroyed the blood vials and destroyed the policy body-camera footage which I had requested long before it's evidence retention period would have ran out, and anybody else trying to give me a rough time over simply be asking for my Constitutional rights given to all Criminal Defendants as guaranteed by Law, by Constitution, by the U.S. Supreme Court. Somebody is being threatened or pressured here, somebody is being given the orders to put me through a lot of torment, Government verbal abuse against me. Lying about me, not letting me prove my innocence. Somebody is being blackmailed or threatened here, Somebody is being pressured. I didn't kept claiming that I am an Ally of Qanon for nothing. I became an ally of Qanon because of the rampant Government corruption and abuses, corruption in the Courts, the Criminal Enterprise of Government bad actors. I have rights here, I am an American Citizen and am entitled to my Constitutional rights. I have Constitutional rights and part of that Due Process rights is me having the Transcript of the criminal case hearings. I am tired of being a VICTIM of Government Corruption, verbal abuse and physical medical neglect type abuse where my Diabetic blood sugars were not being taken the best care of so that is Government physical abuse against me, and Tyranny here.

So please give me and the Court of Appeals access to the Transcript Record or give me a new appointment of Counsel to request the Transcripts. If the Court has no Transcript then why did it not comply with the Transcript requirements of law for Trial Courts of Record. All criminal hearings and Trial Courts usually require Transcripts or audio recordings that are tangible otherwise I can request a New Trial in a different Court of Record that will comply with State Law and/or Federal Law.

Respectfully filed with the Court,
This the 19th day of March, 2021.

Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

CERTIFICATE OF SERVICE

On March 19, 2021, I, Brian David Hill certify that the original of this foregoing letter/pleading was transmitted to the Clerk of the Court of Appeals of Virginia and that a copy of this foregoing letter/pleading had been transmitted to the following parties:

1. Commonwealth of Virginia, Appellee
2. City of Martinsville, Appellee,

by having representative Roberta Hill filing his pleading on his behalf with the Court through VACES, Respondents served by email address rbhill67@comcast.net with request of read receipt, transmit a copy of this pleading to the following attorneys who represent the above appellees' as well as the Clerk by VACES:

Mark R. Herring, Esq. Office of the Attorney General of Virginia mherring@oag.state.va.us 202 North Ninth Street Richmond, VA 23219 Attorney for Appellee	Glen Andrew Hall, Esq. Commonwealth Attorney's Office for the City of Martinsville ahall@ci.martinsville.va.us 55 West Church Street P.O. Box 1311 Martinsville, Virginia 24114/24112 Attorney for Appellee
Filed through VACES: Clerk of the Court Court of Appeals of Virginia cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321	John Ira Jones, IV, Esq. Attorney of Record from Appellant jones@johnjoneslawplc.com 9520 Iron Bridge Rd, Ste. 204 Chesterfield, VA 23832-6455
All individuals were emailed by rbhill67@comcast.net, on March 19, 2021.	

The reason why Brian David Hill must use such a representative/Assistant to serve such pleading with the Clerk on his behalf is because Brian is currently still under

the conditions of Supervised Release for the U.S. District Court barring internet usage without permission. Brian's Probation Officer is aware of Roberta Hill using her email for conducting court business concerning Brian Hill or court business with the Probation Office in regards to Brian David Hill. Therefore Roberta Hill is filing the pleading on Brian's behalf for official court business. Brian has authorized her to file the pleading.

That should satisfy the Certificate of Service regarding letters/pleadings. If the Court wishes to contact the filer over any issues or concerns, please feel free to contact the filer Brian David Hill directly by telephone or by mailing. They can also contact Roberta Hill at rbhill67@comcast.net and request that she forward the message and any documents or attachments to Brian David Hill to view offline for his review.

Brian D. Hill
Signed
Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
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JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

UPDATE REGARDING REQUEST FOR TRANSCRIPTS FROM CIRCUIT COURT OF MARTINSVILLE
LETTER TO COURT OF APPEALS OF VIRGINIA IN THE CITY OF RICHMOND

Re: Brian David Hill v. Commonwealth of Virginia, City of Martinsville
Record No. 1294-20-3, 1295-20-3
(Appeal of criminal conviction, Appeal of denial of a Motion)

Tuesday, March 23, 2021 05:31 PM

ATTN: Clerk of the Court **Court of Appeals of Virginia**	cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321

Dear Clerk of the Court, Court of Appeals of Virginia,

I have an update from the Trial Court of Record for both appeals. I don't think there are any Transcripts at all and there was never a “Trial” in the Circuit Court because of withdrawing the appeal but not pleading guilty. It is in the Record on Appeal that I never actually plead guilty and the Judge marked that out of his Final Judgment on November 18, 2018. It is just technically withdrawing the appeal.

Anyways I was faxed the Circuit Court's response today from my letter regarding the request for Court Reporters and Transcript. Martinsville is a Municipal Court and even the Circuit Court is pretty small compared to County Circuit Courts. Only has one Judge that presides over one Courtroom. They don't seem to have any Court Reporters that I am aware of. I heard from other criminal defendants that they don't have Transcripts. So it's a common thing there as far as I was aware but I wanted to send that letter to procedurally prove to you that there was no Transcripts so that I will not have to redo my Petition for Appeal to reflect that no Transcripts exist in any of my criminal case hearings. Now you know that I have done everything I could do to be compliant with the Rules in regards to requiring the Transcripts from the Appellant for the Appeal if there is any, assuming that it is required. It was my lawyer last year that told me that I should try to get the Transcripts so I was just following his advice from last year.

Anyways it was a short letter from the Clerk saying that they already had sent everything to the Court of Appeals of Virginia and that I should get in touch with the

Court of Appeals during the Appeal instead of the Circuit Court.

So that completes my compliance with the Rules of Court on Appeal that I ask the Trial Court for any Transcripts and they apparently do not have any. I only went through hearings and never been through an actual Trial in the Circuit Court level. I cannot get any more information from the Clerk's office of the Trial Court. That is all I have.

So I will soon be filing my Petition for Appeal, copy delivered to the Commonwealth Attorney's Office with a receipt paper proving that they had received the pleading. My Appeal Petition will only be based on the papers and the Record on Appeal. I do not have any Transcripts and I am unable to obtain any because the Circuit Court does not have Transcripts of every hearing like the Federal Courts do for criminal and civil cases. I heard with Virginia Law that they require recordings or Transcript for criminal Trials for purposes of Appeals. Doesn't say for every hearing.

I will make a notation in my Petition for Appeal that I had properly asked for the Transcripts, there isn't any as far as I know, and will appeal based entirely on the Record.

That is all I can do and hope you all will understand. I made the effort.

(((Letter from Circuit Court/Trial Court over Request for Transcripts attached, 1 Page)))

Respectfully filed with the Court,
This the 23rd day of March, 2021.

Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505

U.S.W.G.O.

CERTIFICATE OF SERVICE

On March 23, 2021, I, Brian David Hill certify that the original of this foregoing letter/pleading was transmitted to the Clerk of the Court of Appeals of Virginia and that a copy of this foregoing letter/pleading had been transmitted to the following parties:

1. Commonwealth of Virginia, Appellee
2. City of Martinsville, Appellee,

by having representative Roberta Hill filing his pleading on his behalf with the Court through VACES, Respondents served by email address rbhill67@comcast.net with request of read receipt, transmit a copy of this pleading to the following attorneys who represent the above appellees' as well as the Clerk by VACES:

Mark R. Herring, Esq. Office of the Attorney General of Virginia mherring@oag.state.va.us 202 North Ninth Street Richmond, VA 23219 Attorney for Appellee	Glen Andrew Hall, Esq. Commonwealth Attorney's Office for the City of Martinsville ahall@ci.martinsville.va.us 55 West Church Street P.O. Box 1311 Martinsville, Virginia 24114/24112 Attorney for Appellee
Filed through VACES: Clerk of the Court Court of Appeals of Virginia cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321	John Ira Jones, IV, Esq. Attorney of Record from Appellant jones@johnjoneslawplc.com 9520 Iron Bridge Rd, Ste. 204 Chesterfield, VA 23832-6455
All individuals were emailed by rbhill67@comcast.net, on March 23, 2021.	

The reason why Brian David Hill must use such a representative/Assistant to serve such pleading with the Clerk on his behalf is because Brian is currently still under the conditions of Supervised Release for the U.S. District Court barring internet usage without permission. Brian's Probation Officer is aware of Roberta Hill using her email for conducting court business concerning Brian Hill or court business with the Probation Office in regards to Brian David Hill. Therefore Roberta Hill is filing the pleading on

Brian's behalf for official court business. Brian has authorized her to file the pleading.

That should satisfy the Certificate of Service regarding letters/pleadings. If the Court wishes to contact the filer over any issues or concerns, please feel free to contact the filer Brian David Hill directly by telephone or by mailing. They can also contact Roberta Hill at rbhill67@comcast.net and request that she forward the message and any documents or attachments to Brian David Hill to view offline for his review.

Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
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CIRCUIT COURT CLERK'S OFFICE
City of Martinsville
POST OFFICE BOX 1206
MARTINSVILLE, VIRGINIA 24114-1206

ANDY B. PRITCHETT, CLERK

March 22, 2021

Brian David Hill
310 Forest Street
Apartment 2
Martinsville, Virginia 24112

Dear Mr. Hill:

We are in receipt of your request for transcripts. Please be aware that regarding your appeals, we have sent everything to the Court of Appeals and any further correspondence should be sent directly to them.

Thank you for your attention in these matters.

Sincerely yours,

Martinsville Circuit Court

In The

Court of Appeals

Of Virginia

Brian David Hill,

Appellant,

v.

Commonwealth of Virginia, City of Martinsville

Appellee.

ON APPEAL FROM THE CIRCUIT COURT OF MARTINSVILLE

PETITION FOR APPEAL OF APPELLANT

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative News
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(276) 790-3505

Pro Se Appellant **– JusticeForUSWGO.wordpress.com**

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RULE

Brian David Hill, (the “Appellant” or “Petitioner”) files this Petition for Appeal pursuant to Rule 5A:12 of the Rules of this Court, and this is the Second Direct Appeal case due to the first Appeal case (cases no. 0128-20-3, 0129-20-3) being dismissed due to lawyer John Ira Jones, IV (“Jones”), not filing any pleading or motion. Motions for delayed Appeal were filed by that lawyer for his mistake and were granted, and the Appeals were allowed to be filed again.

Since the Counsel Jones, has failed or refused to communicate with Appellant with the deadline fast approaching, Appellant had decided to file the Petition for Appeal on a pro se basis to prevent the Appeals from being dismissed again due to no filing by the deadline set by the Court.

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 record was submitted to be processed on: 01/29/2020 11:00:15” The record stated that “No transcript or statement of facts will be filed and therefore the record is being sent as is. THIS APPEAL WAS TRANSMITTED ELECTRONICALLY"”. Petitioner had attempted to file a letter with this Court and the Lower Tribunal known as the Circuit Court of Martinsville (the “Trial Court”), asking the Trial Court to produce Transcripts of all criminal case hearings, but the Trial

Court does not seem to have any Transcripts for any of the hearings. Therefore, Appellant has done his part and will rely mainly on the Record on Appeal and the paper filings in Record for this Petition for Appeal.

The statement of the facts "statement of facts" that is in this "Petition for Appeal" to the Court of Appeals of Virginia as "II. STATEMENT OF THE FACTS" will cite the exact pages of the record in regards to the statement of the facts. Appellant is aware from the past filings of the Respondent that the Commonwealth of Virginia will disagree with the Appellant's statement of facts and produce their own. Well Appellant will produce his truthful and factual statement of the facts that will outweigh even the Commonwealth's statement of facts and will be proven by citing the exact areas of the record prior to the final judgment of the Trial Court. The Petitioner will show exactly from the record where the "Assignment of Errors" refers to.

I. STATEMENT OF SUBJECT MATTER AND APPELLATE JURISDICTION

Brian David Hill, (the "Appellant" or "Petitioner") petitions for being allowed to perfect the appeal from a final judgment in a criminal case that had entered a final criminal conviction which had adjudicated Petitioner as guilty of violating Virginia Code § 18.2-387 Indecent Exposure, which such final judgment was filed on November 18, 2019, in the Circuit Court of Martinsville by the Honorable Judge Giles Carter Greer. The notice of appeal was timely filed on November 16, 2020,

after the Court of Appeals had granted the motion for delayed appeal after dismissing case no. 0128-20-3 for counsel not filing any pleading by the deadline that was set by Rule 5A:12(a). Appeal is authorized as timely pursuant to Virginia Code § 8.01-675.3, if the Petition for Appeal is granted by this court. Appellant will demonstrate the matters of judicial error (assignments of error) and abuses of discretion by the Trial Court that have resulted in Unconstitutional errors, defects, and evidence that was overlooked at the time of the Final Judgment by the Trial Court, constitutional issues and matters of law in the appealed case including a substantial issue for appeal concerning the denial of a constitutional right affecting the wrongful criminal case conviction or a debatable procedural ruling. Appointed Counsel Jones is failing again to properly file any pleading with the Court by the set due date and this could end up like the last dismissed Appeals, therefore Appellant proceeds pro se and had filed his initial "AFFIDAVIT OF INDIGENCE", so Appellant requests that the Appeals Court review the Record pages cited from the case in this Petition and Appellant confirms that he has reviewed over the Record in this Appeal thanks to the Deputy Clerk.

II. STATEMENT OF THE FACTS

The Commonwealth will have their "Statement of the Facts" as is their right, but the Appellant will present its Statement of the Facts based upon evidence on the record that was not impeached and was not suppressed as evidence prior to the Final Judgment. The pages cited in the Record are with three (3) pages included which is the "TABLE OF CONTENTS" produced by the Clerk: "CAV: 02-26-2021 07:00:37 EST". A three-page difference. So, if the page cited for example is 203, then the

Trial Court record should be 200 without the Table of Contents, but the PDF File of the Trial Court record will say 203 when it includes the Table of Contents which is 3 pages. Appellant is following the page of the entire PDF file record with the TABLE OF CONTENTS included, so the page count will be 3 pages more than the page number of the record, 3 pages off.

The facts that were presented to the Trial Court are as follows:

1. On September 21, 2018, Officer Robert Jones of Martinsville Police Department had charged Appellant Brian David Hill with the crime of Indecent Exposure under Virginia Code § 18.2-387. See pg. 4 of 961, ARREST WARRANT. Under Page 6 the CRIMINAL COMPLAINT was filed as an Affidavit supporting the criminal charge against Appellant. It said in part of the COMPLAINT: "He was medically and psychologically cleared. He was arrested for indecent Exposure." That was the basis for why his charge had stuck was that the Trial Court was given the impression that Brian was medically and psychologically cleared. That actually is not the facts here. Appellant had filed various pro se filings that were overlooked by the Trial Court and was never known to the General District Court on December 21, 2018, the TRIAL that was held in the General District Court where Appellant was found guilty and Appellant had timely appealed the case to the Circuit Court of Martinsville ("Trial Court"), the State Court of Record. Appellant had produced evidence to the Court and the Commonwealth Attorney proving that Appellant was not actually medically cleared but was

prematurely released by the Hospital while giving the impression that he was medically cleared. Simply releasing him from the Hospital is not enough to prove for a fact that Appellant Brian Hill was indeed medically cleared enough to have ever been put in a situation to be held culpable for the incident on September 21, 2018.

2. It is a fact on the record that Brian Hill was released from the Hospital on September 21, 2018 from 4:04AM to 5:11AM under pages 199 through 205 of 961. Appellant was not at the Hospital for a lengthy time to make a decent determination on whether Brian was in fact medically cleared or not. The Commonwealth who prosecuted the case did not know that for a fact that they filed a Motion for Reciprocal Discovery (Pages 243 through 244 of 961) after Brian's pro se filings. Commonwealth said in their responsive Discovery request pleading that they wanted any documentation of "…the existence of which is known to the Attorney for the Commonwealth, and <u>any relevant written reports of autopsies, ballistic tests, fingerprint analysis, blood, urine and breath tests, other scientific reports</u>, and <u>written reports of a physical or mental examination</u> <u>of the Defendant</u> or the alleged victim made in connection with this particular case." So, the Commonwealth of Virginia didn't even know for a fact themselves whether Brian was medically cleared that they asked for reciprocal discovery. If they did get the evidence, the very same Medical Record that was filed by Appellant pro se in CORRESPONDENCE, pages 199 through 205,

then they know that the Hospital had decided to refuse to conduct the Laboratory testing including alcohol levels and had just decided to release Brian to “Jail/ Police” on Page 204. The Hospital had clearly skirted their responsibility, had committed medical neglect knowing that Brian was going directly to Jail and could not contact his private physician, it was incompetence. The Medical Record also shows that they never tested his Type 1 Diabetic blood sugar when they knew he was diabetic (pg. 200). That also does not make him medically cleared when they never even tested his blood sugar level knowingly sending him out to face a Magistrate Judge for his charge of Indecent Exposure without ever checking his blood sugar. A big medical NO!-NO! on record. Also, on Page 146 of the record in the PDF file, zoom in closely at the words, “Sinus Tachycardia”, and “105bpm” which is beats per minute. A resting blood pulse should not be over 100 or is considered Tachycardia, an abnormally high heart rate. Then see Page 152, “TRANSIENT CARDIAC DYSFUNCTION IN ACUTE CARBON MONOXIDE POISONING”. That document mentions of the same term “bpm” and explains what it means. Then it also said that “First responders arrived within 30 minutes and found her to have sinus tachycardia with a heart rate of 100 beats per minute”. From the Medical Record in Page 146 of the record, it is clear that Brian had a history of Tachycardia and had similar abnormal readings multiple times at the Hospital on the day of his arrest for Indecent Exposure

after being at the Hospital for an estimated 1 hour or less there, not enough time to fully check his health to make sure that he was truly medically cleared, they did not. Around 4:09AM the “Pulse 119”, around 5:01AM “Pulse 106”. Those readings were actually worse than the “Sinus Tachycardia” reading on Page 146 of the record. So, wouldn’t Brian’s health be worse than when he was in the Hospital on “Sunday, November 18, 2017”, according to Page 144 of the record. Brian actually was Hospitalized with “Sinus Tachycardia” for having a resting blood pulse of “105” but yet on September 21, 2018, his blood pulse was actually worse than the last time he was admitted in the Hospital but they never actually did any laboratory tests when they clearly should have when considering his behavior described by police and didn’t even understood that Brian was suffering under Tachycardia and they “Discharged to Jail/Police” on 4:52AM according to their report. None of it makes any sense, they released a patient knowing that Jail has the worst Medical Care, they released him while he suffered under Tachycardia and they never checked his blood sugar knowing that was he was diabetic before they discharged him and not even giving him an hour at the Hospital. Hardly gave any time to actually give any thorough medical clearing. Then on Page 203, it said: “Differential diagnosis: fracture, sprain, penetrating trauma, et al. bdh ED course: Cleared from a psychiatric standpoint by Behavioral Health. patient will be discharged to jail.” That actually does not say

the words “cleared” from a regular medical standpoint and they could not legally say so when evidence showed that Brian had Tachycardia readings that were actually higher than Brian’s last Hospital stay in 2017. That is all in the Record prior to the final conviction of Brian David Hill for Indecent Exposure. So, it is a FACT that Brian was not medically cleared and that the Arresting Officer and his affidavit under Criminal COMPLAINT on Page 6 was wrong when the evidence had shown that Brian was not medically cleared at all. There were Laboratory tests being ordered on Page 205 of the Record. See from the Record it said that “The following items were deleted from the chart, and then 04:52 09/21/2018 04:52 Discharged to Jail/Police.” So, **they used his arrest as an excuse to cancel the Laboratory Tests and then the blood vials reportedly destroyed and evidence spoliated**, which is evidence destruction, OBSTRUCTION OF JUSTICE under 18 U.S. Code § 1519 since Appellant was on Federal Supervised Probation. The Commonwealth knew that evidence was being destroyed, evidence that would have proven that Brian was suffering under some kind of chemical or substance which would explain his psychiatric episode he had suffered while he was taking photographs of himself in the nude. Anybody in the Court who saw the photographs submitted as Exhibits from the Commonwealth can tell that he was acting as though he were on drugs or some narcotic or substance. It all makes sense. The Commonwealth can disagree with this medical

FACT all he wants to but the evidence is evidence and the FACTS are the FACTS and were never refuted. Page 286 also brought up the "Sinus Tachycardia" arguments. Then on Page 287, said "So Brian's heart beats were at extremely high or even possibly dangerous levels (high risk of a heart attack or a stroke) showing signs that something was wrong with Brian's body which can also attribute to his confusing mental state." That was cited in Appellant's "Motion to Request an Insanity Defense — Sanity at the time of the Offense", Page 285. However, this fact of not being medically cleared by irrefutable Medical Records and was argued pro se by Appellant were overlooked by the Trial court and overlooked by the Defense counsel aka Appellant's court appointed lawyers.

3. There is clearly a conflict in the Hospital psychologically clearing Brian on September 21, 2018, Page 203 of 961. Then there was another mental evaluation on Page 193, "10/24/2018 9:61 AM to 10:23", dated October 24, 2018, prior to the Court ordered Mental Evaluator meeting with Appellant for determining Sanity in the General District Court. Said in Page 195 "Thought Content: Delusional", medication was prescribed by Psychiatrist Dr. Conrad Daum of Piedmont Community services in Martinsville on October 24, 2018, prior to the Mental Evaluator meeting with Appellant in the SEALED report, but not by the Hospital who quickly claimed that Brian was mentally/psychologically cleared on September 21, 2018.

Said on Record Page 195: “Obsessive-compulsive disorder, unspecified”, “Autistic disorder”, “Unspecified psychosis not due to a substance or known physiological condition”, Page 196: “Generalized anxiety disorder”, and prescribed medications were for “olanzapine 2.5 mg tablet and sertraline 50 mg tablet”. So, the psychiatrist Dr. Conrad Daum thought that Brian exhibited an “unspecified psychosis” or delusional thought content at the time of mentioning of a “guy in hodie threatened to kill my mother if I didn't do what he said" "meltdown" He was arrested for walking down the street naked and charged with a probation violation.”, Page 193 of the Record. It is clear that this diagnosis conflicts with the Hospital’s claims that Brian was mentally or psychologically cleared. Commonwealth knew this when Brian filed this information pro se. However, this fact of not being medically cleared by irrefutable Medical Records were overlooked by the Trial court and overlooked by the Defense counsel aka Appellant’s court appointed lawyer.

4. The General District Court erred on December 21, 2018, in finding Appellant guilty and that was one of the reasons why Appellant had appealed to the Circuit Court (the “Trial Court”). That is because the evidence submitted by the Commonwealth failed to show that Appellant acted intentionally to make an obscene display or exposure of his person. The counsel that was court appointed should have moved to use this exact argument or any similar arguments to request dismissal

of Brian's charges including the facts that Brian was not medically cleared. Brian thought his counsel was so ineffective that he had filed a pro se "motion to dismiss" which is Page 403 through 421 but was ignored/overlooked by the Trial Court because Appellant had counsel appointed at the time and was his last pro se motion prior to his "MOTION TO WITHDRAW APPEAL", Page 422 through 433. It is clear that Appellant could have had his charge dismissed with the evidence alleged in Appellant's truthful statement of the facts from Appellant's side of the story, his filings and evidence that was never objected to by the Commonwealth. It is clear that Appellant was never factually medically cleared. It brings forth the argument that Brian never would have possibly faced a criminal charge from the Commonwealth if his health was fully medically examined. They would have found evidence of Carbon Monoxide poisoning levels (Pages 127 through 136) which would have been reported directly to Martinsville Police and the Fire Marshals of Henry County, and the Martinsville Police highly likely would never have escalated this to a charge in the General District Court. Even if it had been escalated to a criminal COMPLAINT, Brian would have had the levels of Carbon Monoxide Poisoning had the Laboratory tests been conducted and not destroyed by the Hospital (pg. 205) and blood evidence not retained by Police during a criminal case matter. It is clear that the Virginia Health Boards need to investigate and possibly sanction that Medical Doctor

for Medical Neglect by not conducting a full Medical Clearing as necessary for Appellant to have been validly charged with Indecent Exposure.

5. When Appellant had filed his Motion to Withdraw the Appeal in the Trial Court which is Pages 422 of 961 of the Record, Page 434 the Trial Court Judge only considered his "Motion to Withdraw Appeal" as exactly that, a technical withdraw **but did not consider it as a "guilty plea" in fact the Trial Court** never entered in that Brian actually plead guilty, **he did not plead guilty, it was marked out by the Judge at the time the conviction was entered**. There was no guilty plea by Appellant. Page 434 written this: "Other: DEF ~~CHANGED HIS PLEA TO GUILTY AND~~ AFFIRMED JUDG GDC, PAY COURT COSTS." Yes, Appellant is showing the true strikethrough, the Judge had stricken the words "~~CHANGED HIS PLEA TO GUILTY AND~~" with what appeared to be a black marker pen. So, the **Judge of the Trial Court did not consider that Appellant honestly decided that he was guilty because** in his Motion with Withdraw Appeal **he said that he did not waive his actual innocence or legal innocence, he did not plead guilty by any stretch of technicality**. He felt that his counsel was giving him bad advice or was ineffective. He may not have uttered the actual words "Ineffective" but did mention those words in his Page 436 "MOTION TO VACATE FRAUDULENT BEGOTTEN JUDGMENT". So shortly after the final judgment, he did object to his

ineffective counsel with those technical words uttered in writing prior to the Notices of Appeal. In fact, Brian said there were some meddling or unethical interference or issues being raised by the Public Defender Office after they were relieved as counsel of record by the Trial Court. See 383 through 386 of 961. In Brian's motion to withdraw appeal he made some very concerning claims that were overlooked by the Trial Court in regards to ineffective counsel by possibly meddling over interference by former appointed counsel by claiming: Page 430: "He has other routes to prove his legal innocence and overturn his conviction in the General District Court. Brian doesn't to have to deal with any drama coming from the Martinsville Public Defender office over what one of Brian's friends had posted at JusticeForUSWGO.wordpress.com back in June or July 2019". The Trial Court overlooked the facts that the **Public Defender Office may have interfered with any potential future counsel whether appointed or persuading a private attorney to represent him pro bono** in **some form of unspecified retaliation campaign alleged by Appellant.** Even said in his claim that "but then removed those from the blog posting out of concerns from Brian's family that it would put a target on all of our backs." So, there was fear that Brian or his family would be targeted if "one of Brian's friends" didn't remove the blog post. So, **there was clearly some unethical behavior going on and connected with the Public Defender Office of Martinsville even**

after they had filed a motion to withdraw as counsel (Page 381), they still had some form of unethical influence which is a conflict of interest and may violate ethics. There was clear unethical behavior sounding activity going on but was also overlooked by the Trial Court. Then Brian made statements which was likely why Attorney Jones was appointed to this appeal by making statements such as "Brian is having to consider asking for a non-local Virginia attorney away from the Bible belt and away from the Public Defender office". Again, that sentence was in Page 430 of the Record file. However, this fact of dealing with unspecified unethical influence by former counsel were overlooked by the Trial Court and no evidentiary hearing was conducted over those claims.

6. It is quite clear that a lot of the Record on Appeal is of pro se pleadings in Appellant's criminal case. In fact, a very large majority of filings were of pro se material, pro se pleadings and pro se evidence. A lot of evidence demonstrating ineffective assistance of counsel on the record.
7. Any other STATEMENT OF FACTS, the Appellant will allow the Commonwealth Attorney for Appellees to retain and stipulate their FACTS of the Criminal Case. Appellant will let them stipulate their facts and side of the story but Appellant's FACTS under paragraphs 1-6 are of Appellant's side of the story that was never brought up by Defense Counsel but was brought up Pro Se by the Defense prior to the Final conviction. However, if Appellant disagrees with any of the

claims by the Commonwealth Attorney then he will file his respectful reply or bring up his disagreements in any Oral Argument pursuant to Rule 5A:12(g).

Anyways, there is U.S. Supreme Court case law and Constitutional issues that explains why Appellant believes that the Trial Court made errors in the state case, the assignments of error are stated below:

III. ARGUMENT

i. Standard of Review

A Trial Court's decision to accept Appellant's "Motion to Withdraw Appeal" and then entered a final conviction (Page 434) is reviewed for abuse of discretion and for the Errors specified in the Assignments of Error by Petitioner in asking the Court of Appeals to grant such Petition and allow Petitioner/Appellant to perfect the Appeal in asking this Court to order a reversal of the Final Order (Page 434) and dismiss the charge (Page 6) as defective due to lack of medical clearing.

When reviewing the final order of conviction (Page 434) of Appellant, such order that was imposed by the Trial Court and its reasonableness, Appellant asks for granting of this Petition for Appeal so that this Court can review over the Final Conviction for abuses of discretion and/or by Appellant showing the Assignments of Errors.

The final order (Page 434) had stated from the record that **Appellant had not entered a plea of guilty** but **had simply technically withdrawn his appeal**. That order was entered on the 18th day of November, 2019."

IV. Assignments of Error

ii. Argument

i. The Trial Court erred by entering the Final Conviction (Page 434) as a matter of law or abused discretion in ignoring all of Appellant's pro se motions while entertaining the Pro Se filed "Motion to Withdraw Appeal" (Page 422 through 433) but ignoring/overlooking the other Pro Se Motions such as the Page 403 Motion to dismiss, Page 285 Motion to Request an Insanity Defense, and Page 305 Motion for Discovery. Either the Trial Court must ignore all Pro Se motions as Appellant had appointed counsel or it must entertain all Pro Se motions. To pick and choose which Pro Se motions to ignore and allow one Pro Se Motion is discriminatory and deprives Appellant of Due Process of Law and Equal Protection under the Law under the Fourteenth Amendment of the U.S. Constitution and deprives Appellant of Effective Assistance of counsel under the Sixth Amendment of the U.S. Constitution.

The assignment of error was that the Trial Court had errored and/or abused its discretion in accepting the Appellant's "Motion to Withdraw Appeal" (Page 422 through 433) which was filed Pro Se then entering the final conviction under page 434-435 and not through his counsel appointed by the Court, yet the Trial Court had overlooked the other Pro Se filed motions with the Trial Court that clearly should been acted upon or none of them at all. It is a deprivation of the 14th Amendment of the United States Constitution to ignore one Pro se Motion because the filer was represented by Counsel but then act upon the other Pro Se Motion simply because it benefits the Government or the Commonwealth. That is selective enforcement and is not applicable to the "**Equal Protection under the Laws**" clause that all State Courts must abide by in accordance with the Constitution of the United States of America. If the Trial Court acts on only one Pro Se motion (Page 422 through 433) then the Trial Court must act on them all and dispose each motion as being acted upon or all of them must be ignored, including the

motion to withdraw appeal and thus the Final Conviction is erroneous in one way or another. Even if the Trial Court has the right to ignore a Pro Se Motion for a criminal defendant who is represented by counsel, there is clearly something wrong when the criminal defendant must file his own Pro Se motions instead of having his lawyer file the different requests for some form of relief. It is a deprivation of Due Process to only accept one motion while ignoring/overlooking the rest, and that the only motion acted upon happens to be favorable to the Government aka the Commonwealth of Virginia, it is discriminatory. It is unequal.

What about the Motion to Dismiss the case (Page 403 through 421)?

What about the Motion to Suppress Evidence (Page 328 through 380)?

What about the Motion for Discovery (Page 305 through 327)?

What about the Motion to Request an Insanity Defense — Sanity at the time of the Offense (Page 285 through 295)?

What about the Motion to Request Substitute Counsel (Page 296 through 304)?

What about Motion to file Evidence/Photos before Trial (Page 249 through 263)?

The pro se filings that were all ignored/overlooked, even the motion requesting substitute counsel was ignored when that was simply asking for a new attorney/counsel, but not the Motion to Withdraw Appeal.

The Trial Court clearly made an error and/or abused its discretion in granting Appellant's motion (Pages 422 through 433) to withdraw appeal (Page 434) but not acting on any other motion including the request for substitute counsel. The Trial Court

must entertain all motions or ignore them all including the pro se motion to withdraw appeal and only accept one from his attorney, it cannot act on one pro se motion and ignore the rest of the pro se motions as it is unequal treatment and not equal protection under the law.

"The extent to which procedural due process must be afforded the recipient is influenced by the extent to which he may be 'condemned to suffer grievous loss,' . . . and depends upon whether the recipient's interest in avoiding that loss outweighs the governmental interest in summary adjudication." Goldberg v. Kelly, 397 U.S. 254, 262–63 (1970), (quoting Joint Anti-Fascist Refugee Comm. v. McGrath, 341 U.S. 123, 168 (1951) (Justice Frankfurter concurring)). "The very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation." Cafeteria & Restaurant Workers v. McElroy, 367 U.S. 886, 894–95 (1961). Mitchell v. W.T. Grant Co., 416 U.S. 600 (1974); North Georgia Finishing v. Di-Chem, 419 U.S. 601 (1975).

Those pro se motions all raise fact and legal questions of whether Appellant should have even faced a fixed jury trial with ineffective assistance of counsel, would have no chance at any success when there are clearly defenses that Appellant would have for the jury trial. However, the Rules of the Supreme Court of Virginia had certain deadline time procedures.

None of Appellant's court appointed counsel submitted any witness lists, evidence lists, and not even asking for admission of expert witnesses. Appellant would lose the jury trial without ever presenting any defense, witness, expert witness, or any evidence. See

Rule 3. Uniform Pretrial Scheduling Order (Rule 1:18B). “RULES APPLICABLE TO ALL PROCEEDINGS”, “III. Designation of Experts: If requested in discovery, plaintiff's, counter-claimant's, third party plaintiff's, and cross-claimant's experts shall be identified on or before 90 days before trial. If requested in discovery, defendant's and all other opposing experts shall be identified on or before 60 days before trial.” (citation partially omitted), and “V. Exhibit and Witness List: Counsel of record shall exchange 15 days before trial a list specifically identifying each exhibit to be introduced at trial, copies of any exhibits not previously supplied in discovery, and a list of witnesses proposed to be introduced at trial.” Counsel of record did none of that, not even attempted to file a dispositive motion such as a motion to dismiss where proving that Appellant was not medically cleared would have prevented the fixed jury trial from ever occurring or had the lawyer been effective then the jury trial would have been an acquittal, more likely than not. The outcome would have been different.

The “MOTION TO DISMISS” under Page 403, the Appellant had argued that “Indecent exposure; be summarily dismissed for lack of evidence of obscenity as required by statute, according to persuasive authorities as stated herein.” Actually, even though it may be slightly defective by not arguing about the “intent” element, still proving that the Commonwealth has no evidence of intent, and while Virginia does not appear to have established a clean definition of criminal intent, Black’s Law Dictionary defines it as “[a]n intent to commit an actus reus without any justification, excuse, or other defense.”

“The ‘obscenity’ element of Code § 18.2–387 may be satisfied when: (1) the accused admits to possessing such intent, Moses v. Commonwealth, 611 S.E.2d 607,

608 (Va. App. 2005)(en banc); (2) the defendant is visibly aroused, Morales v. Commonwealth, 525 S.E.2d 23, 24 (Va. App. 2000); (3) the defendant engages in masturbatory behavior, Copeland v. Commonwealth, 525 S.E.2d 9, 10 (Va. App. 2000); or (4) in other circumstances when the totality of the circumstances supports an inference that the accused had as his dominant purpose a prurient interest in sex, Hart, 441 S.E.2d at 707–08. The mere exposure of a naked body is not obscene. See Price v. Commonwealth, 201 S.E.2d 798, 800 (Va. 1974) (finding that `[a] portrayal of nudity is not, as a matter of law, a sufficient basis for finding that [it] is obscene')." Romick v. Commonwealth, No. 1580-12-4, 2013 WL 6094240, at *2 (Va. Ct. App. Nov. 19, 2013)(unpublished)(internal citations reformatted).

The motion to dismiss would stand a good chance at prevailing due to the lack of intent evidence by the Commonwealth. There was nothing showing that Appellant was masturbating and no evidence that Appellant had the intent to display or expose himself in a way which has, as its dominant theme or purpose, appeal to the prurient interest in sex, as further defined above, without any justification, excuse, or other defense. For the reasons stated above, the Commonwealth's burden was to prove every element of the offense, including the mens rea and the element that Appellant was medically cleared, beyond a reasonable doubt. However, even if, arguendo, this Court were to find that the Commonwealth's burden was only a preponderance of the evidence, the Commonwealth has still failed to carry its burden.

Appellant was naked out there for whatever reason and the intent had yet to be proven in the General District Court, the Trial Court should have entertained the Motion

to Dismiss and question Officer Jones about whether Appellant was truly medically cleared or if it was erroneous then can that major defect of truthfully not being medically cleared by clear and convincing evidence countering the CRIMINAL COMPLAINT element that Brian was medically cleared, that nothing was wrong with him at the time he was arrested for Indecent Exposure charge. They have to prove that there were no drugs in Brian's system for him to be truly medically cleared. They would have had to check his Diabetic blood glucose/sugar to truly be medically cleared. The Martinsville Police or any Police can easily obtain a drug test and that burden would be easy to carry for the Commonwealth. The Police see a man naked at night with documented mental and physical health problems, not making any sense. They could have court ordered a drug test on Appellant if he had refused. **They should have made sure that Appellant was not under any narcotic or substance that could have caused him to run around naked at night with Type 1 brittle diabetes and nobody in his family knew where Brian was at that time.** He could have died or fallen to a diabetic seizure. **There is clearly no intent for Appellant to be convicted for indecent exposure.** His legal counsel failed him in such a horrible way that the outcome of which Appellant had sought was blocked by his ineffective counsel Matthew Clark. That is proven on the Record in this case.

ii. The Trial Court erred by entering the Final Conviction (Page 434) as a matter of law or abused discretion in not considering Appellant's pro se remarks that he was legally innocent and filed evidence supportive of that but it was all ignored simply because his court appointed attorney did not bring any of this up at all thus deprived Appellant of Due Process of Law under the Fourteenth Amendment of the U.S. Constitution and deprived Appellant of Effective Assistance of counsel under the Sixth Amendment of the

U.S. Constitution.

The assignment of error was that the Trial Court had errored and/or abused its discretion in accepting the Appellant's motion to Withdrawal Appeal (Page 422 through 433) when statements were made in that pleading which had shown a conflict between accepting responsibility and asserting his legal innocence by denying guilt. It is noted that in the final disposition, Page 434 of the Trial Court's final Judgment, "Other: DEF ~~CHANGED HIS PLEA TO GUILTY AND~~ AFFIRMED JUDG GDC, PAY COURT COSTS." Yes, Appellant is showing the true strikethrough, the Judge had stricken the words "~~CHANGED HIS PLEA TO GUILTY AND~~" with what appeared to be a black marker pen. So, the Judge of the Trial Court did not consider that Appellant honestly decided that he was guilty because in his **Motion with Withdraw Appeal he said that he did not waive his actual innocence or legal innocence**, **he did not plead guilty by any stretch of technicality**. He said "*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. The reason for withdrawing his appeal is because he is facing a fixed jury trial where the cards are stacked against him. 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*." Wait a minute here, if he is legally innocent and he personally believes in his court filings that he is legally innocent then why is he even withdrawing his appeal? He did object to withdrawing his appeal and brought up the substance of ineffective counsel. The Court of

Appeals should take note that even though Appellant did not utter the actual term of "ineffective counsel", he argued the very spirit of ineffective assistance of counsel when he was complaining about his lawyer being ineffective and was receiving outside attorney advice under likely free short consultations which may not have reflected his true potential defenses like there being no intent of the charge, and not being medically cleared. Appellant was focused on "carbon monoxide" defense which is a high bar to achieve such as needing the "Levels" and showing how it affected his behavior that night he was found naked. That is impossible because the blood levels could have been obtained at the Hospital on September 21, 2018, at Sovah Hospital in Martinsville. As you saw in the Medical Records filed pro se by Appellant (pages 199 through 205), "(The following items were deleted from the chart)" on the last page. It also said "STAT OVERDOSE PANEL+LAB ordered", "ALCOHOL, ETHYL+LAB ordered," "COMPLETE BLD COUNT N/AUTO DIFF+LAB ordered." So, **they were considering checking him for narcotics and alcohol in his system** but then **they decided to delete the lab tests from the chart and his blood samples were thrown away**. **That is true MEDICAL NEGLECT, and does not ever prove him to be medically cleared**, it is the opposite. He could have been smoking marijuana or was even high on Bath Salts and the Police would never make a note as to what substance or anything could have caused him to run around naked, and there are cases of those who were even high on Bath Salts and running around butt naked in public at night. The Police had lied as well as the Commonwealth Attorney Glen Andrew Hall, they are all liars when they made the claim that Appellant was medically and psychologically cleared. **No drug tests, even though for example: if**

Appellant was swerving around butt naked in a car, then likely they would have tested him for drugs and alcohol. However, because they found him simply butt naked outside of a car, they neglected to do any drug tests or any medical tests at all, and charged him as quick as they could process him into Jail. Appellant will never be able to prove the Levels of Carbon Monoxide Poisoning (Page 127 through 133). However, Appellant had made statements which prove that he was not medically cleared. He said on page 95, a written CORRESPONDENCE with the Clerk's office with a copy of a Federally filed pleading saying in not-neat hand writing that **"*At one point I felt like I might collapse so I may have been drugged*."** Document #153, officially filed on 10/17/18 said this and was filed with the Clerk of the Circuit Court of Martinsville which is the Trial Court in this case. That filing was also never reviewed by the Psychological Evaluator Dr. Rebecca Loehrer (Page 17). There should have been an evidentiary hearing on that alone. Another page of that pleading made extrajudicial statements that should have been brought up by the Commonwealth or defense Attorney saying *"(4.) On September 20, 2018, Thursday,* ***some of my memories may have been blacked out****. I was under an extreme amount of stress and anxiety already due to the pre-filing injunction Motion****. My whole family could tell. My mom had also noticed that my doors were not locked I was psychologically afraid to sleep in my bed. Sometimes sleeping on the couch and I had a bad feeling something bad would happen to me.***", citing Page 94 of the Record on Appeal, also a copy of Federal Court filing referenced Case #1:13-cr-00435-TDS, Document 153, Filed 10/17/18, Page 2 of 11. None of that was ever reviewed by the Mental Evaluator for sanity. It is clear that the entire mental evaluation was an

ERROR. Saying that he was competent or sane at the time of the offense was an ERROR. Those were relevant statements talking directly about the time of the Indecent Exposure incident, hand writing was severely sloppy as if he were on drugs, narcotics, or wasn't in his right state of mind. What can I say, they never drug tested him when they arrested him? If the Evaluator under order from the General District Court had seen any of his Federal Pleadings which were also filed with the Trial Court as CORRESPONDENCE, she would have clearly considered telling the Trial Court that he was insane at the time he was naked. He made paranoid statements, sounded delusional. Very sloppy hand writing as if high on a substance but it improved within weeks or a month after he was found naked. Something was clearly wrong or mentally impaired with Appellant on September 21, 2018, made no sense. None of that was ever brought up by his attorneys. The evaluator never saw any of his weird writings saying "*ON SEPTEMBER 18TH 2018, **Somebody was in the thicket at the end of my neighbor's property** and **branches moved whenever I looked in that direction**…**. Likely surveiling me.***". Citing Page 94, Case #1:13-cr-00435-TDS, Document #153, Filed 10/17/18, Page 2 of 11. Yes, so paranoia statements were made where Appellant said in writing that somebody was spying on him on his neighbor's property in the ticket and claimed that he saw the branches move and thought he was under surveillance. So, he was making all kinds of crazy off the wall statements. It is clear that something was mentally wrong with Appellant and yet he was declared sane and competent. See Page 64 through 70, (SEALED) EVALUATION REPORT - PSYCHOLOGICAL EVAL-GDC. It is clear that this Doctor did not review over any of Appellant's extra-judicial statements written in very sloppy handwriting and filed with

the Federal Court and later filed a copy of the exact Federal Court filing with the Trial Court in his criminal case. When you see good handwriting a few months later while Appellant was locked up, See Page 23, filed November 20, 2018, Letter dated Nov. 13, 2018. In his letter written in November, 2018, around the time he was interviewed by the Mental Evaluator on November 19, 2018, he didn't make the kind of paranoid statements that he had made after his initial arrest with the very sloppy handwriting, you can tell a difference. Very sloppy hand-writing, writing the wrong addresses (pages 186-190), making very paranoid statements and saying that he had blacked out memories and thought he was drugged and yet he kept his door unlocked. None of those statements were ever brought up with the evaluator Dr. Rebecca Loehrer (Page 17). Nothing on the Record on Appeal proves that those relevant written statements concerning his indecent exposure charge were ever reviewed for the evaluation report for the General District Court. **It is clear that Appellant had ineffective assistance of counsel as far back as his sanity evaluation in the GDC.** Piedmont Community Services thought he was delusional and exhibited a psychosis in October 24, 2018 (Pages 191 through 197, Exhibit 9). That was one month before he started acting better and was on psychotropic medications. The evaluation was done while Brian was behaving better, writing was not sloppy, and was on medication. That clearly was not his behavior in September to October 2018 on the Record. The mental evaluator did not take any of his written statements in October, 2018 into consideration. The mental evaluator did not know of Appellant's delusional notation and psychosis diagnosis from Dr. Conrad Daum in October 24, 2018 and was not taken into consideration in the General District Court. A lot of errors and evidence was

overlooked by the Trial Court, the General District Court, And the attorneys on both the Commonwealth side and the Defense side.

That deprived Appellant of effective assistance of counsel, Strickland v. Washington, 466 U.S. 688, 694 (1984). The evidence on the Record is enough and proves it. The Trial Court clearly overlooked very important critical evidence, case laws, and statements including the attorneys from both sides of the case. There should have been an evidentiary hearing with his bazaar pro se filings and statements, especially his earlier paranoid statements from close to the time of his arrest. Such actions deprived Appellant of his Constitutional right to Due Process of Law under Amendment XIV of United States Constitution.

Citing Amendment XIV of United States Constitution:

> "… nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

No state, including the Commonwealth of Virginia can "deprive any person of life, liberty, or property, without due process of law". The Trial Court clearly erred in this regard and should not have entered a final conviction.

iii. The Trial Court erred by entering the Final Conviction (Page 434) as a matter of law or abused discretion in overlooking the evidence and facts filed by Appellant without ever conducting an evidentiary hearing and inquiry into Appellant's filed Pro Se evidence and Medical Records showing that Officer Robert Jones's claim on Page 6 that Appellant was "medically and psychologically cleared." But the evidence submitted Pro Se by Appellant proves otherwise by

clear and convincing evidence that another Dr. Conrad Daum by Piedmont Community Services had showed that maybe Appellant should not have been psychologically cleared but that overlooking of such important evidence which disproves a claim by Affiant in the "CRIMINAL COMPLAINT" affidavit thus deprived Appellant of Due Process of Law under the Fourteenth Amendment of the U.S. Constitution and deprived Appellant of Effective Assistance of counsel under the Sixth Amendment of the U.S. Constitution.

The assignment of error was that the Trial Court had errored and/or abused its discretion in accepting the Motion to Withdraw Appeal (page 422-433) while evidence and facts were overlooked by holding no evidentiary hearing and ignoring the blatant signs of ineffective assistance of counsel, prior to the final conviction (page 434).

The Statement of the Facts, Paragraphs 1 through 5, Pages 4 through 14 of this Petition for Appeal, makes very good points of evidence and law.

Was Appellant medically cleared and should the Appellant have been considered medically cleared by the charging officer Robert Jones who isn't a Medical Doctor?

The Appellant does not wish to be repetitive and just cite the entire paragraphs of the "II. STATEMENT OF THE FACTS" stated in Paragraphs 1, 2, and 3. There were a lot of Medical issues filed pro se in the Record of the Trial Court. This Court of Appeals can read those paragraphs and they would be convinced based upon the Record on Appeal that counsel of both the Prosecution and Defense did not bring any of that evidence up prior to Appellant feeling the need to file a "MOTION TO WITHDRAW APPEAL" (page 422-433) pro se and not through counsel.

So, the Trial Court erred by entering the Final Conviction (Page 434) as a matter of law or abused discretion in overlooking the evidence and facts filed by Appellant

without ever conducting an evidentiary hearing. That should have happened but instead it never happened. That is the assigned error here.

The Trial Court never conducted an inquiry, neither formal or informal, into Appellant's filed Pro Se evidence and Medical Records showing Officer Robert Jones's claim on Page 6 that Appellant was "medically and psychologically cleared." But the evidence submitted Pro Se by Appellant listed in the STATEMENT OF FACTS in Paragraphs 1, 2, and 3 in this Petition for Appeal proves otherwise by clear and convincing evidence that another mental expert such as Dr. Conrad Daum by Piedmont Community Services had shown that maybe Appellant should not have been psychologically cleared but that overlooking of such important evidence which disproves a claim by Affiant in the "CRIMINAL COMPLAINT" affidavit thus deprived Appellant of Due Process of Law under the Fourteenth Amendment of the U.S. Constitution and deprived Appellant of Effective Assistance of counsel under the Sixth Amendment of the U.S. Constitution.

The clear and convincing error was that the evidence was overlooked. It was not ruled either way under the Rules of Evidence for criminal cases. The evidence was never ruled upon at all but was simply overlooked, the Trial Court slept on the issues that were present in the record until it wakes up to those overlooked evidence issues. Today is that day.

That deprived Appellant of effective assistance of counsel, Strickland v. Washington, 466 U.S. 688, 694 (1984). Because of the evidence being overlooked which is Medical Records showing that Appellant was not medically fit and not medically well

but was discharged prematurely, it was overlooked primarily because Defense Counsel and the Commonwealth Attorney would not bring up the pro se filed evidence to test the merits of the pro se evidence, Appellant was deprived of Due Process, deprived of fair and equal access to the adversarial system, and would have prevailed had counsel been effective.

This error of law means that Appellant had been deprived of Due Process of Law.

Citing Amendment XIV of United States Constitution:

> "…No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." (citation partially omitted)

Citing Article I. Bill of Rights, Section 11. "Due process of law; obligation of contracts; taking of private property; prohibited discrimination; jury trial in civil cases" of Virginia Constitution:

> "That no person shall be deprived of his life, liberty, or property without due process of law…" (citation partially omitted)

His liberty was taken away. He received more supervised release sentence, 9 months of Federal Imprisonment, see Pages 390 through 391. Unless he is proven to be innocent of his state charge or is acquitted in any way and cannot be convicted, Appellant will face further deprivation of his freedom and liberty, even though it is a conditional liberty. Therefore, Appellant is still entitled to Due Process of Law in the Virginia Courts

even for a misdemeanor. He is entitled to effective counsel, fair and equal access to the Judicial process, the adversarial system. State Courts must give equal protection under the law. That includes the Constitutional right to effective assistance of counsel. That includes Due Process where all evidence must be looked over and scrutinized, and not ignored or overlooked when making a final decision affecting the life, liberty, and freedom of a criminal defendant.

The Circuit Court didn't just err or abused discretion as a matter of law, it is also in violation of Article I., Section 11 of the Virginia Constitution as well as Amendment XIV of United States Constitution.

iv. The Trial Court erred by entering the Final Conviction (Page 434) when the General District Court erred because they did not ever receive any evidence of Appellant having his dominant theme, or purpose being an appeal to the prurient interest in sex. The Commonwealth did not prove the intent/Mens-Rea of Appellant when they prosecuted him for Indecent Exposure. The <u>evidence fails to show that Appellant acted intentionally</u> to make an obscene display or exposure of his person.

The assignment of error was that the Trial Court had errored and/or abused its discretion in accepting the "Withdraw of Appeal" (pg. 422-433) and accepted the decision by the General District Court (pg. 434-435), was that the lower Court had erred when they found Appellant guilty on December 21, 2018, when the Commonwealth did not have the evidence necessary to convict Appellant, and Appellant had brought up the arguments and case law authorities in a Pro Se manner instead of through his lawyer because his court appointed counsels were ineffective that none of them brought up these case law authorities. None of them pushed for case dismissal prior to Appellant

withdrawing his appeal in the Trial Court (Pages 422 through 433).

Even though the arguments are limited due to the General District Court not being a State Court of Record and not having any Transcripts, the Appellant still argues that the General District Court of Martinsville had erred on December 21, 2018 (Page 42), in finding that the evidence before it was sufficient to find that Appellant violated Virginia Code § 18.2-387 because the evidence fails to show that Appellant acted intentionally to make an obscene display or exposure of his person. That statute provides, in relevant part, that "[e]very person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor." Va. Code § 18.2-387 (emphases added).

It should be noted that in pages 35 through 39 Appellant did file a Motion to Dismiss which was entitled a "Motion for Case Dismissal with Prejudice", it also shown ineffective counsel of Scott Albrecht when he never even attempted to try a motion to dismiss the case bringing up any of the arguments that the evidence fails to show that Appellant acted intentionally to make an obscene display or exposure of his person. The counsel Scott Albrecht in the General District Court had failed to show any proof that the Commonwealth was lying in it's COMPLAINT that Brian David Hill was medically and psychologically cleared, and that plays a major role in Brian David Hill being arrested and charged with Indecent Exposure. If Brian was not being medically cleared and the Hospital did their job properly then the charge may have never been initiated.

It should also be noted that particular "Discovery" "Order" by the General District

Court on Page 33 of the Record was never fully followed/complied-with and such violation of Court Order was never sanctioned and never requested to be sanctioned by the Defense Attorney. The Court Order had said one of the types of Discovery material that should have been given to the Defense Counsel was: "(1) Any relevant written or recorded statements or confessions made by the Defendant, or copies thereof, or the substance of any oral statements or confessions made by the Defendant to any law enforcement officer". Later on, it was revealed in one of Appellant's Pro Se Motions that the Martinsville Police Department had the body-camera footage of Appellant making statements regarding the guy wearing the hoodie but that body-camera footage was never turned over to the Defense counsel, therefore **the Commonwealth had violated that Court order and should have been punished and sanctioned by the Court with a contempt charge.** However, Defense Counsel never pushed for such sanctions. Review over Page 305, "MOTION – DISCOVERY, and it said in that part of the Record on Appeal that "Hill and/or his family have attempted to contact Martinsville Police Department ("CC: Commonwealth Attorney") through written multiple correspondences asking for the body camera footage of Officer Sgt. R. D. Jones, by Hill writing the Martinsville Chief of Police G. E. Cassady asking for the body-camera footage to be turned over to Brian's defense counsel (Note: Attorney Scott Albrecht, at the time) as pertinent to Virginia discovery requirements." However, that statement proves a sheer violation of the General District Court's order dated November 28, 2018. So, they had the body-camera footage and the motion requesting discovery was timely filed prior to the end of any potential retention period for the body-camera footage. **They**

didn't want to provide a copy of any of that material to the Defendant or his Defense Counsel. That material had disappeared just like the blood vials drawn from Brian's arm around September 21, 2018. See Page 413, where it says that "Yes, Brian doesn't have the levels of carbon monoxide, but Brian couldn't have been expected to produce such levels when the blood-work obtained from Brian's arm at Sovah Hospital had been destroyed after the laboratory tests were ordered but then later to be deleted from his chart, and the **Martinsville Police failed or refused to retain the blood vials as evidence to test for any drugs/narcotics, and gases in the blood**." That was spoliation of evidence and the Trial Court and the General District Court was never asked to sanction the Commonwealth for such destruction of evidence with such negligence. **Violation of Federal Law, 18 U.S. Code § 1519.**

Anyways, "The 'obscenity' element of Code § 18.2–387 may be satisfied when: (1) the accused admits to possessing such intent, Moses v. Commonwealth, 611 S.E.2d 607, 608 (Va. App. 2005)(en banc); (2) the defendant is visibly aroused, Morales v. Commonwealth, 525 S.E.2d 23, 24 (Va. App. 2000); (3) the defendant engages in masturbatory behavior, Copeland v. Commonwealth, 525 S.E.2d 9, 10 (Va. App. 2000); or (4) in other circumstances when the totality of the circumstances supports an inference that the accused had as his dominant purpose a prurient interest in sex, Hart, 441 S.E.2d at 707–08. The mere exposure of a naked body is not obscene. See Price v. Commonwealth, 201 S.E.2d 798, 800 (Va. 1974) (finding that `[a] portrayal of nudity is not, as a matter of law, a sufficient basis for finding that [it] is obscene')." Romick v. Commonwealth, No. 1580-12-4, 2013 WL 6094240, at *2 (Va. Ct. App. Nov. 19,

2013)(unpublished)(internal citations reformatted).

While the evidence may show that Appellant was naked in public, as stated above, nudity, without more, is not obscene under Virginia law. Rather, "[t]he word `obscene' where it appears in this article shall mean that which, **considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex**, that is a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in description or representation of such matters and which, taken as a whole, does not have serious literary, artistic, political or scientific value." Va. Code § 18.2-372 (emphasis added). While Virginia does not appear to have established a clean definition of criminal intent, Black's Law Dictionary defines it as "[a]n intent to commit an actus reus without any justification, excuse, or other defense."

In summary, in order to show that Appellant violated Va. Code § 18.2-372 by committing the offense of indecent exposure under Virginia law, the Commonwealth was required to prove, among other things, that Appellant had the intent to display or expose himself in a way which has, as its dominant theme or purpose, appeal to the prurient interest in sex, as further defined above, without any justification, excuse, or other defense.[1] The Commonwealth failed to do so. Rather, the Commonwealth's evidence, presented through its own witnesses, showed Appellant as someone who was

[1] For the reasons stated above, the Commonwealth's burden was to prove every element of the offense, including the mens rea, beyond a reasonable doubt. However, even if, arguendo, this Court were to find that the Commonwealth's burden was only a preponderance of the evidence, the Commonwealth has still failed to carry its burden.

running around naked between midnight and 3:00 a.m. and taking pictures of himself because he believed that someone was going to hurt his family if he did not do so. (Pages 82 and 83 of CORRESPONDENCE, Pages 81 through 126 of CORRESPONDENCE, Federal Affidavits filed in Trial Court in 2019).

The General District Court did not hear, however, any evidence of Appellant having his dominant theme, or purpose being an appeal to the prurient interest in sex. For example, there was no evidence of Appellant making any sexual remarks, being aroused, masturbating, or enjoying his conduct, sexually or otherwise. If a person was purposing to expose himself in public because he or she found it sexually arousing, it would be logical that he or she would pick a place and time where he or she would expect to encounter lots of members of the public. Appellant did not do that. Rather, he was running around between midnight and 3:00 a.m. and the witnesses to his nudity were few. Hence, the statements Appellant made to police and his conduct both indicate that, in the light most favorable to the Commonwealth, he was naked in public while having a psychiatric episode, but without the intent necessary to commit indecent exposure under Virginia law. Consequently, the General District Court erred, as a matter of law, when it found that Appellant had violated Virginia Code § 18.2-387 by committing the Virginia state law offense of indecent exposure as per Virginia Code § 18.2-387.

Appellant never actually plead guilty when he filed his "Motion to Withdraw Appeal" (Pages 422 through 433) and the Trial Court never took his motion and withdraw as a guilty plea either, stricken the notion of it being a guilty plea from his Judgment (Page 434). Even asserted that he still retains the objection that he is "legally

innocent" and still retains the right to prove his factual innocence and find another way to be permanently acquitted of indecent exposure without risking a prison sentence.

v. The Trial Court erred by entering the Final Conviction (Page 434) when the Defendant/Appellant had made complaints about the ineffectiveness of his appointed counsel who clearly was ineffective counsel; never even attempted to file any evidence or witnesses lists prior to the Jury Trial; never attempted a Motion to Dismiss.

The assignment of error was that the Trial Court had errored and/or abused its discretion in accepting the "Withdraw of Appeal" (Pg. 422-433) and convicted the criminal Defendant/Appellant Brian David Hill, when he complained in that very pleading about the ineffectiveness of his lawyer. He may not have actually said the words "ineffective counsel" until his Motion to Vacate a Fraudulent Begotten Judgment on November 25, 2019 (page 436), when that pleading mentioned the words "ineffective counsel" but his Pro Se pleading before the Judge entered the final conviction had complained and raised objections about the effectiveness of his counsel and the unethical behaviors being alleged in regards to the Martinsville Public Defender Office meddling with any legal counsel he and his family tried to seek to attempt to have effective assistance of counsel. That deprived Appellant of having a fair trial and deprived him from being able to raise defenses such as not having the intent to make an obscene display or exposure of his person. The second defense that the Officer Robert Jones lied about Defendant being medically cleared and it could have been proven from the Medical Records and by expert witness of a Medical Doctor or any random Medical Doctor who worked at a Hospital to make a determination as to whether Brian Hill should have been medically cleared or was released prematurely thus would discredit

that major issue of the CRIMINAL COMPLAINT (page 6) that Brian could have been held culpable for the alleged charge of Indecent Exposure because the Hospital supposedly medically cleared him but the evidence had shown that he was not medically cleared and that would have meant medical neglect and being prematurely released from the Hospital. Then a month later he was diagnosed as having a psychosis from Dr. Conrad Daum (Page 193) and was also labeled as "Thought Content: Delusional" under page 195. So that psychiatrist thought that Brian was not making sense but yet that evaluation was never brought up in the sanity evaluation under SEALED Record, See pages 64 through 70 (SEALED) EVALUATION REPORT - PSYCHOLOGICAL EVAL-GDC. Says on Page 18, "ADDITIONAL INSTRUCTIONS TO EVALUATOR(S) AND ATTORNEYS", that "The defendant's attorney must provide any available psychiatric records and other information that are deemed relevant within 96 hours of the issuance of this order. Va. Code § 19.2-169.1(C)." Appellant's court appointed attorney never provided a relevant and available psychiatrist record to the Psychological Evaluator in the EVALUATION REPORT in pages 64 through 70. From pages 191 through 197. It is evident in the sealed report that the sources of information happen to be the clinical interview with defendant on November 19, 2018, mental status exam, court order, letter from Brian's attorney Scott Albrecht, copy of arrest warrant, copy of criminal complaint, copy of Appellant's medical records ONLY FROM "Carilion Clinic" and "Martinsville Memorial Hospital". However, the Medical Records that are DIRECTLY RELEVANT, yes directly relevant with Brian's indecent exposure charge was the "PIEDMONT COMMUNITY SERVICES" evaluation from Dr. Conrad

Daum on October 24, 2018, a month prior to the Evaluation for sanity. Around that time, any Carbon Monoxide that Appellant could have had in his body would likely be out of his system by that time. The evaluator named "Dr. Rebecca Loehrer" (Page 17, EVALUATION ORDER) had never reviewed over a relevant diagnosis and evaluation by Dr. Conrad Daum, a forensic Psychiatrist after the Court had ordered the mental evaluation on October 15, 2018. Still, it seems funny that the Piedmont Community Services report was never reviewed by Dr. Rebecca Loehrer. The date of evaluation was November 19, 2018, date of report was November 26, 2018. So, the evaluator had a month for Scott Albrecht, Brian's court appointed defense attorney to provide that report to her as part of the Court Order.

Again, the instructions said in the Court Order that "The defendant's attorney must provide any available psychiatric records and other information that are deemed relevant within 96 hours of the issuance of this order. Va. Code § 19.2-169.1(C)." The lawyer should have provided that document from Piedmont Community Services psychiatrist as it had relevant information and relevant mental health statuses of Appellant prior to the final report of that sanity evaluation. Ineffective assistance of counsel right from the very beginning and in sheer non-compliance with the General District Court's order. So, the sanity evaluation may be erred as well and should have been redone.

Then there was of course Appellant's filed Pro Se motion entitled "MOTION - FAX MOT TO DISMISS", Page 403. That would have been a great opportunity for the defense attorney to adopt that motion and ask the Court to hold an evidentiary hearing over it, the attorney failed to do so. Because of that the Appellant never had a chance to

try to have the case dismissed due to lack of evidence as to being "medically and psychologically cleared" as was outlined in the affidavit of the "CRIMINAL COMPLAINT" on Page 6. Then of course there was lack of evidence of intent that the Commonwealth had of Appellant when the CRIMINAL COMPLAINT had said "Mr. Hill's clothing was located in his bag." There is no mentioning of anything else in that "bag" they obtained from Mr. Hill. No plans, no documents or papers, no medical devices and no medications, no electronic devices other than the camera. Nothing other than what they claimed to have been found. So, for "whatever reason", Appellant was naked out there for whatever reason he had. The Commonwealth presented no evidence as to any plan or intent of Appellant.

Again, as argued in the last Assignment of Error, The General District Court did not hear, however, any evidence of Appellant having his dominant theme, or purpose being an appeal to the prurient interest in sex. For example, there was no evidence of Appellant making any sexual remarks, being aroused, masturbating, or enjoying his conduct, sexually or otherwise. If a person was purposing to expose himself in public because he or she found it sexually arousing, it would be logical that he or she would pick a place and time where he or she would expect to encounter lots of members of the public. Appellant did not do that. Rather, he was running around between midnight and 3:00 a.m. and the witnesses to his nudity were few. Hence, the statements Appellant made to police and his conduct both indicate that, in the light most favorable to the Commonwealth, he was naked in public while having a psychiatric episode, but without the intent necessary to commit indecent exposure under Virginia law. Consequently, the

General District Court erred, as a matter of law, when it found that Appellant had violated Virginia Code § 18.2-387 by committing the Virginia state law offense of indecent exposure as per Virginia Code § 18.2-387. There was no evidence of any intent. No notes, or any evidence showing what could have proven the intent to commit the offense. Again, Virginia Code § 18.2-387 said in part (partial citation omitted) said that "Every person who **intentionally makes an obscene display** or exposure of his person, or the private parts thereof, in any public place…" Yes, it says the word "intentionally". Just somebody being found naked alone does not prove intent. The mere exposure of a naked body is not obscene. See Price v. Commonwealth, 201 S.E.2d 798, 800 (Va. 1974) (finding that `[a] portrayal of nudity is not, as a matter of law, a sufficient basis for finding that [it] is obscene')." Romick v. Commonwealth, No. 1580-12-4, 2013 WL 6094240, at *2 (Va. Ct. App. Nov. 19, 2013)(unpublished)(internal citations reformatted). The mere exposure of a naked body does not prove intent alone. Officers did not know the exact reason why Appellant was out there, except what Appellant had told the Officer as outlined in the CRIMINAL COMPLAINT. Appellant said to the officer that he was afraid his family member would be harmed if he had not done the taking photos of himself naked. The mere exposure of a naked body in a photograph is not obscene, does not prove intent alone. The Commonwealth had a lack of evidence and would not have succeeded in even a Jury Trial had counsel clearly been effective. Proving that Officer Robert Jones who charged Brian with indecent exposure was incorrect or was clueless on Brian not being medically cleared and was discharged while having Tachycardia readings of resting blood pulse, usually exhibited by those suffering

under Carbon Monoxide gas exposure, Carbon Monoxide Poisoning (pages 155 through 157). In pages 127 through 130, citing "Carbon monoxide poisoning, By Brian David Hill's Grandparents, Stella and Ken Forinash on March 10, 2019", Pete Compton the chimney expert had saw the residue evidence of carbon monoxide in the home of Appellant, but this was not discovered by Appellant until months after Appellant was convicted in General District Court. Yes, the attorney could argue in his defense that even though he didn't have the levels of Carbon Monoxide Poisoning and that was why he never pursued that defense, but nevertheless it shows that there was a lot of medical questions never answered because Appellant was only present at the Hospital for 1 hour or less, no laboratory tests ever done, was released without his diabetic blood sugar ever checked. He could have put his clothes back on but cannot if his diabetic blood sugar was low. He cannot have possibly been medically cleared and thus factually Brian Hill can never be held culpable for his charge of indecent exposure. Pete Compton was also briefly mentioned in pages 298 in the "Motion to Request Substitute Counsel". Also, in pages 289 and 290 in "Motion to Request an Insanity Defense".

The Commonwealth clearly had a lack of evidence of intent and Brian was never medically cleared as Medical clearance means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated mental health professional. That is the definition per-se. However, the tachycardia readings had not gone down from each blood pulse check. The diabetic blood glucose/sugar was never checked before Brian was discharged to police/jail. Brian was not medically cleared and no credible Medical-Doctor would have cleared Appellant to

have faced indecent exposure charge without conducting laboratory tests or even drug tests, even a Breathalyzer. None of those tests were ever preformed. Brian could have been high on anything like alcohol. Fentanyl, methamphetamines, any drug at all but the Officers refused to have done the very drug test to find any drugs or gases or anything in his system. Pages 4 and 5 show the end result of the General District Court trial. It shows says "133 BLOOD TEST FEE" but nothing on the entry. So, there was never any drug test when Appellant could have been drugged or as high as a kite prior to being Hospitalized and arrested. None of that will ever be known because he was never laboratory tested. Appellant should not have been medically cleared and was not factually medically cleared. Appellant's counsel was ineffective because he didn't even push for a motion to dismiss to bring up the factual/elemental defects with the arrest and affidavit with the CRIMINAL COMPLAINT.

CONCLUSION

Appellant assert 5 Assignments of Error as to why Petition for Appeal should be granted for the Constitutional rights and legal errors involved.

For the foregoing reasons stated above, the Appellant urges this Court to grant this Petition for Appeal and allow the Appellant to perfect his appeal if it is so ordered by this Court in pushing for an order and remand to vacate the final order/judgment (See Pages 434 and 435) convicting Appellant of Indecent Exposure on November 18, 2021 in the Trial Court.

REQUEST FOR ORAL ARGUMENT

As this appeal raises important constitutional and evidence issues which were believed overlooked, due process of law which could have broad effects on those accused of state crimes, the Appellant requests oral argument. Appellant also requests that new counsel since "JOHN IRA, IV, JONES" who was appointed to represent Appellant had refused to consult Appellant and therefore requests new counsel be appointed to present oral argument.

Respectfully Submitted on March 25, 2021,

BRIAN DAVID HILL
Pro Se

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

CERTIFICATE OF COMPLIANCE

1. This brief complies with type-volume limits (word limit 12,300), excluding the parts of the document exempted by Rule 5A:12(e) (cover page, table of contents, table of authorities, and certificate):

[X] this brief contains [*12,215*] words.

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

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[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*].

Brian D. Hill
Signed

Dated: March 25, 2021

Brian D. Hill

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

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 25th day of March, 2021, I caused this "PETITION FOR APPEAL OF APPELLANT" to be printed then hand delivered to the Commonwealth of Virginia and City of Martinsville through the Commonwealth Attorney's Office of Martinsville City and the original was filed with the Clerk of the Court of Appeals of Virginia by Virginia Court eFiling system (VACES) through Assistant/Filing-Representative Roberta Hill which shall satisfy proof of service as required by Rule 5A:12(b) stating that "*a copy of the petition must be mailed or delivered to the Commonwealth's attorney or the city, or county, or town attorney, as the case may be.*" And the proof that such pleading was delivered will be attached to this "Petition for Appeal" shall satisfy the proof of service was required by Rule 5A:12(b):

Glen Andrew Hall, Esq.
55 West Church Street, P.O. Box 1311
Martinsville, Virginia 24112 or 24114 (for P.O. Box)
Telephone: 276-403-5470
Fax: 276-403-5478
Email: ahall@ci.martinsville.va.us

Counsel for Appellee

The reason why Brian David Hill must use such a representative/Assistant to serve such pleading with the Clerk on his behalf is because Brian is currently still under the conditions of Supervised Release for the U.S. District Court barring internet usage without permission. Brian's Probation Officer is aware of Roberta Hill using her email for conducting court business concerning Brian Hill or court business with the Probation Office in regards to Brian David Hill. Therefore, Roberta Hill is filing the pleading on Brian's behalf for official court business. Brian has authorized Roberta Hill to file the pleading.

If the Court wishes to contact the filer over any issues or concerns, please feel free to contact the filer Brian David Hill directly by telephone or by mailing. They can also contact Roberta Hill at rbhill67@comcast.net and request that she forward the message and any documents or attachments to Brian David Hill to view offline for his review.

Brian D. Hill
Signed
Brian D. Hill

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

RECEIVED A DOCUMENT FROM BRIAN HILL:

Allyson Smith
NAME

03/25/21
DATE

Commonwealth v. **Brian Hill**

Michael Escalera

From: Court of Appeals of VA _2 <court_of_appeals_of_va_2@vacourts.gov>
Sent: Wednesday, March 31, 2021 2:53 PM
To: John I. Jones IV (jones@johnjoneslawplc.com)
Cc: 'Martinsville City Commonwealth's Attorney (ahall@ci.martinsville.va.us)'
Subject: Record No. 1294-20-3 and 1295-20-3 BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA, ET AL.
Attachments: 031921 Letter RE Transcripts 1294-20-3.pdf; 031921 Letter Motion Re Transcripts 1295-20-3.pdf

COURT OF APPEALS OF VIRGINIA

Counsel:

Attached hereto is correspondence from your client. Other than forwarding it to you to take any action you deem appropriate, the Court will take no further action with regard to said correspondence.

Sincerely,

/Michael Escalera

Cc: BRIAN DAVID HILL (sent via USPS mail) TO: Mr. Brian David Hill, 310 Forest Street, Apt. 2, Martinsville, VA 24112

Michael Escalera
Motions/Docket Assistant Clerk
Court of Appeals of Virginia
109 North 8th Street
Richmond, VA 23219
804.786.5651(o); 804.225.4464(f)

Pursuant to this Court's order of March 18, 2020, all litigants are encouraged to file all pleadings, letters, briefs, etc. electronically through the VACES system. Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings are located on the Virginia Judicial Website at http://www.vacourts.gov/news/items/covid_19.pdf. Just scroll down to the second page where the Court of Appeals of Virginia information is displayed. Also, the Court is in a position to accept debit and credit card payments for the filing fee. Please contact the clerk's office at 804-786-5651 to make such payment.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to Cynthia L. McCoy, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219

Martinsville
Commonwealth's Attorney

FILE COPY

G. ANDREW HALL
Commonwealth's Attorney

PAULA A. BOWEN
Deputy Commonwealth's Attorney

ALBERTO Z. HERRERO
Assistant Commonwealth's Attorney

DANIEL P. MOOK
Assistant Commonwealth's Attorney

April 1, 2021

Cynthia McCoy, Clerk
Court of Appeals of Virginia
109 North Eighth Street
Richmond, VA 23219

1294-20-3
1295-20-3
0219-21-3
0242-21-3

RE: Brian David Hill v. Commonwealth of Virginia
Record No.: Take your pick, there is nine to choose from

Dear Ms. McCoy,

This morning I received a copy of yet another "petition" filed in this Court by Mr. Brian Hill. This is the third one I have received in the past week. I have lost count as to how many I have received in the past couple of years. All of the documents have the following in common: they consist of inscrutable nonsense.

Mr. Hill apparently has nine cases pending in your Court. Nine! I am a prosecutor, which is to say I am a minister of justice. Prior to becoming a prosecutor, I handled hundreds of cases as a defense attorney. I am all for protecting the rights of the accused, including the right of appeal. However, at what point do we call this what it is: a clear abuse of the system.

Mr. Hill's case was a misdemeanor conviction that he affirmed in Circuit Court. I am going to write that again: he.....affirmed! There is literally nothing to appeal.

Mr. Hill has an attorney. Mr. Hill should not be filing all of these frivolous pleadings. I have filed two response briefs in the past few months. At this point, I have no idea as to the posture of any of Mr. Hill's pleadings or the proceedings in this Court.

This letter is to advise you that, pursuant to Rule 5A:13 and 5A:14, the Appellee does not plan to file a brief in opposition to the latest three petitions for appeal filed by Mr. Hill. The Appellee relies upon the two response briefs we have previously filed. In addition, the Appellee relies upon this Court's previous orders

55 West Church Street
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Martinsville, VA 24114
Phone: (276) 403-5470
Fax: (276) 403-5478

denying and dismissing Mr. Hill's many, many previous "petitions."

The Appellee remains ready to respond to any questions or concerns posed by the Court and, if requested, to submit a brief in opposition.

Sincerely,

G. Andrew Hall
Commonwealth's Attorney
City of Martinsville

Cc: Mr. John Jones, Esq.
File

Commonwealth's Attorney
P.O. Box 1311
Martinsville, VA 24114

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Court of Appeals of Virginia
109 North Eighth Street
Richmond, VA 23219

BBBLSMP 23219

In The
Court of Appeals
Of Virginia

Brian David Hill,

Appellant,

v.

Commonwealth of Virginia, City of Martinsville

Appellee.

ON APPEAL FROM THE CIRCUIT COURT OF MARTINSVILLE

EMERGENCY MOTION FOR SUBSTITUTE COUNSEL OR IN ALTERNATIVE THAT APPEALLANT PROCEED PRO SE

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 EMERGENCY MOTION asking the Court of Appeals of Virginia to appoint substitute Counsel for representing Appellant in his criminal case appeal or in alternative allow Appellant to proceed pro se, then the Court needs to find that Appellant's timely filed pro se "Petition for Appeal" on March 25, 2021, to be considered timely filed, accepted by this Court in this appeal case, and ready to distribute to a Panel of Judges for consideration.

Affidavit/Declaration is attached to this Motion and notarization may be extremely difficult due to Covid-19 restrictions of the First Horizon Bank and any other Bank around the City of Martinsville. So, Affidavit/Declaration is attached in support of this EMERGENCY MOTION pursuant to Virginia Code § 8.01-4.3.

The reason why this MOTION is an EMERGENCY MOTION is because the deadline may be set for April 7, 2021. The appointed counsel John Ira Jones still has refused to communicate with Appellant even after the Clerk's office had sent a message or messages to appointed counsel on March 31, 2021 of Appellant's correspondence with the Clerk's office asking for Transcripts as part of the appeal procedures required by this Court for review over any part of the Record on Appeal.

Appellant had received the March 31, 2021 printed email correspondence to appointed but ineffective and unprofessionally defective counsel John Ira Jones, IV, and had received this filing by mail on April 5, 2021.

Appellant asks that this Court not ignore the "Petition for Appeal" and consider it timely filed as the lawyer John Ira Jones had not filed any pleading with this Court and the deadline to file such Petition for Appellant is on April 7, 2021, if Appellant's time calculation is correct in reasoning with Va. Code § 17.1-408; Rule 5A:12(a).

Instead, Appellant files this timely EMERGENCY MOTION, serves a copy with Respondent counsel by U.S. Mail, certified mail and his mother also emailed a copy to that same Respondent counsel and emailed a copy to appointed counsel John Ira Jones by email address jones@johnjoneslawplc.com. This EMERGENCY MOTION must be acted upon by any Panel or single Judge as quickly as possible as Appellant's rights under the U.S. Constitution and Virginia Constitution are in jeopardy here. His rights under Amendment XIV, the Due Process Clause of the U.S. Constitution are in jeopardy here. His rights under Amendment VI, the right to effective assistance of counsel of the U.S. Constitution are in jeopardy here. This appeal is at risk of dismissal again due to no petition being filed by appointed counsel and already this

lawyer had failed to file pleading by the deadline and appeal was dismissed.

It is a fact before this very Court that John Ira Jones, IV, appointed counsel for appeal was given a second chance to ethically and professionally comply with this Court's order or request to timely file the "Petition for Appeal" or timely file a motion asking for an extension of time to file a "Petition for Appeal" prior to the 40-day deadline of after this Court of Appeals receiving the Record from the lower Tribunal/Court. That was why Appellant's "NOTICE OF APPEAL" asked for John Ira Jones, IV to be given a second chance, he failed again this time and should not ever be appointed again due to making the same mistake again. He should be sanctioned this time by the State Bar. He should not receive any compensation for his unprofessional errors and failure to abide by this Court's Rules and failure to abide by Virginia Code regarding proper appellate procedure. Doing so will legitimize his unprofessional errors and legitimize a lawyer not obeying any law or rules.

This is the Second Direct Appeal case due to the first Appeal cases (cases no. 0128-20-3, 0129-20-3) being dismissed at the cause of lawyer John Ira Jones, IV ("Jones"), not filing any pleading or motion by the reported deadline as set by law and as set by this Court. Motions for

delayed Appeal were filed by that lawyer for his mistakes and were granted, and the Appeals were allowed to be filed again. The appeal was timely appealed for the case no. noted above in the cover page.

Since the Counsel Jones, has failed or refused to communicate with Appellant with the deadline fast approaching, Appellant had decided to file this EMERGENCY MOTION as his timely filed Petition for Appeal on a pro se basis was not considered filed due to him being appointed counsel but the pro se Petition for Appeal must be accepted to prevent the Appeal from being dismissed again due to no filing by the deadline set by the Court. This will become the second unprofessional, incompetent, and ineffective error by this appointed counsel John Ira Jones, IV. He should receive sanctions as far as contempt of court if this Court considers this lawyer 's behavior as contemptable.

According to the Affidavit/Declaration of Appellant, Appointed Counsel John Ira Jones had still not communicated with Appellant in any way, shape, or form even on this day of April 6, 2021. This is serious misconduct of a professional nature and is a serious flagrant disregard for this Court's authority and this Court's orders or requests.

It is a serious unprofessional error and attorney misconduct for John Ira Jones to not even communicate with his client Brian David Hill after he was appointed for this appeal, on December 14, 2020. Not once

has this lawyer communicated with Brian David Hill for this appeal. He did communicate with Appellant last year for Appeal cases no. 0128-20-3, 0129-20-3, and did file the Motions for Delayed Appeal which were accepted by this Court. This lawyer did give Appellant the draft notices of appeal and a photocopy of his filed Motions for Delayed Appeal. The Notices of Appeal were worked on from that template, filed timely. That was the last thing this lawyer did. When this lawyer was appointed again for the delayed appeals, he did not communicate with Appellant at all, not with his mother, not responding to Appellant's text messages when this lawyer had responded before last year. So, it clearly is a deliberate ignoring of Appellant. Serious professional misconduct worthy of being sanctioned by the State Bar of Virginia.

The Affidavit speaks for itself and shall constitute a severe and necessary need for newly appointed counsel for this appeal case as noted above, or in alternative that this Court allow Appellant to proceed pro se in this Appeal and consider his timely filed pro se "Petition for Appeal" as timely filed as of March 25, 2021.

CONCLUSION

To preserve Appellant's Constitutional rights including Due Process and his Sixth Amendment right to effective assistance of counsel, for the foregoing reasons as stated above, Appellant asks this

Court to Grant this Motion asking for the following relief:

1. That Appellant be appointed new counsel by this Court as soon as possible and be given more time for new counsel to file a Petition for Appeal in this case; or
2. That Appellant be allowed to proceed pro se in this case by this Court and allow his pro se Petition for Appeal to be considered timely filed as of March 25, 2021, the day it was originally accepted by the Clerk.

Appeal prays for relief from this Court, so help me God, so help me Jesus.

REQUEST FOR ORAL ARGUMENT

As this appeal raises important constitutional and evidence issues which counsel John Ira Jones may need to be questioned by this Court as to why he is engaging in such egregious misconduct, therefore Appellant requests or suggests oral argument to question this counsel prior to making a final decision on this Motion if this Court finds it necessary.

Respectfully Filed/Submitted on April 6, 2021,

BRIAN DAVID HILL
Pro Se

Brian D. Hill

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


WHERE WE GO ONE, WE GO ALL!

CERTIFICATE OF COMPLIANCE

1. This motion complies with type-volume limits (word limit 12,300), excluding the parts of the document exempted by Rule 5A:12(e) (cover page, table of contents, table of authorities, and certificate):

   [X] this brief contains [*1,326*] words.

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

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

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

Brian D. Hill
Signed
Brian D. Hill

Dated: April 6, 2021

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

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 6th day of April, 2021, I caused this "EMERGENCY MOTION FOR SUBSTITUTE COUNSEL OR IN ALTERNATIVE THAT APPEALLANT PROCEED PRO SE" to be printed then mailed by Certified Mail to the Commonwealth of Virginia and City of Martinsville through the Commonwealth Attorney's Office of Martinsville City and the original was filed with the Clerk of the Court of Appeals of Virginia by Virginia Court eFiling system (VACES) through Assistant/Filing-Representative Roberta Hill which shall satisfy proof of service as required by Rule 5A:12(b) stating that "*a copy of the petition must be mailed or delivered to the Commonwealth's attorney or the city, or county, or town attorney, as the case may be.*" And the proof that such pleading was delivered will be attached to this "Petition for Appeal" shall satisfy the proof of service was required by Rule 5A:12(b):

Glen Andrew Hall, Esq.
55 West Church Street, P.O. Box 1311
Martinsville, Virginia 24112 or 24114 (for P.O. Box)
Telephone: 276-403-5470
Fax: 276-403-5478
Email: ahall@ci.martinsville.va.us

Counsel for Appellee

The reason why Brian David Hill must use such a representative/Assistant to serve such pleading with the Clerk on his behalf is because Brian is currently still under the conditions of Supervised Release for the U.S. District Court barring internet usage without permission. Brian's Probation Officer is aware of Roberta Hill using her email for conducting court business concerning Brian Hill or court business with the Probation Office in regards to Brian David Hill. Therefore, Roberta Hill is filing the pleading on Brian's

behalf for official court business. Brian has authorized Roberta Hill to file the pleading.

If the Court wishes to contact the filer over any issues or concerns, please feel free to contact the filer Brian David Hill directly by telephone or by mailing. They can also contact Roberta Hill at rbhill67@comcast.net and request that she forward the message and any documents or attachments to Brian David Hill to view offline for his review.

Also this EMERGENCY MOTION has been emailed to this Attorney through use of Roberta Hill emailing through her email address rbhill67@comcast.net since this is an EMERGENCY MOTION in need of quick relief.

Brian D. Hill
Signed
Brian D. Hill

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

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MARTINSVILLE VA 24114-1311

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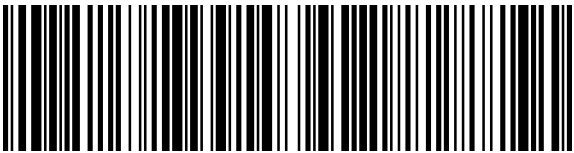

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In The
Court of Appeals
Of Virginia

Brian David Hill,

Appellant,

v.

Commonwealth of Virginia, City of Martinsville

Appellee.

ON APPEAL FROM THE CIRCUIT COURT OF MARTINSVILLE

DECLARATION OF BRIAN DAVID HILL

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**

Brian David Hill, (the "Appellant" or "Petitioner") files this Affidavit/Declaration in support of his EMERGENCY MOTION asking the Court of Appeals of Virginia to appoint substitute Counsel for representing Appellant in his criminal case appeal or in alternative allow Appellant to proceed pro se, then the Court needs to find that Appellant's timely filed pro se "Petition for Appeal" on March 30, 2021, to be considered timely filed, accepted by this Court in this appeal case, and ready to distribute to a Panel of Judges for consideration. This is **pursuant to Virginia Code § 8.01-4.3.**

Brian David Hill submits the following statement of facts to this Court of Appeals of Virginia are as follows:

1. I am Brian David Hill, the appellant in case no. 1295-20-3.
2. Appellant was appointed counsel named John Ira Jones, IV, on December 14, 2020, pursuant to Court order.
3. Since the Court order of December 14, 2020, appointing this lawyer a second time for the direct criminal case appeals concerning Appellant, this lawyer had not done anything to get in contact with Appellant, even after the Record was Received on February 26, 2021.
4. Counsel John Ira Jones have been emailed multiple times by his mother Roberta Hill through email: rbhill67@comcast.net at the

direction of Brian David Hill.

5. Roberta Hill was directed to send email entitled Subject: "Fwd: Letter re: Transcript, case no. 1294-20-3, 1295-20-3, Court of Appeals of Virginia" to John Ira Jones through his email address jones@johnjoneslawplc.com, on March 19, 2021 and he had not sent any response to that email as of April 6, 2021. That email was also sent to another such as APritchett@vacourts.gov.

6. Roberta Hill was directed to send email entitled Subject: "Brian Hill's appeals" to John Ira Jones through his email address jones@johnjoneslawplc.com, on March 13, 2021, and he had not sent any response to that email as of April 6, 2021.

7. Roberta Hill was directed to send email entitled Subject: "Re: Court of Appeals of Virginia, Letter requesting ROA, no. 1294-20-3, 1295-20-3" to John Ira Jones through his email address jones@johnjoneslawplc.com, on March 16, 2021, and he had not sent any response to that email as of April 6, 2021. That email was also sent to others such as cavbriefs@vacourts.gov, ahall@ci.martinsville.va.us, and mherring@oag.state.va.us.

8. Brian David Hill had text messaged him multiple times and on multiple days and was not responded to by this lawyer. However, Appellant did text message that lawyer John Ira Jones, IV last year in 2020 and those text messages were responded to, so this

is not mistake, he may be deliberately ignoring Brian's text messages to this court appointed lawyer. This is to the best of Brian's belief. This was outlined in his letter to this Court and was filed on March 15, 2021, entitled "REQUEST FOR RECORD ON APPEAL OR POSSIBLY NEW COUNSEL; LETTER TO COURT OF APPEALS OF VIRGINIA; IN THE CITY OF RICHMOND".

9. Last year, John Ira Jones did send an email to Roberta Hill at rbhill67@comcast.net with file attachments. Some of those were a photocopy of the Motions for Delayed Appeal (I believe those cases numbers were 0128-20-3, 0129-20-3) which were filed with the Court of Appeals last year and were granted.

10. Despite multiple emails to this lawyer, this lawyer has still failed and refused to respond to Brian David Hill by any means. Any means including email through Brian's mother Roberta Hill, mailing, text message, phone call, voicemail. This lawyer has not done any of that as of December 14, 2020, and as of April 6, 2021. The day before the deadline. This lawyer doesn't show Brian David Hill that he has any plan to file any Petition for Appeal or Motion to extend the time to file such Petition for Appeal.

11. It is a fact before this very Court that John Ira Jones, IV, appointed counsel for appeal was given a second chance to

ethically and professionally comply with this Court's order or request to timely file the "Petition for Appeal" or timely file a motion asking for an extension of time to file a "Petition for Appeal" prior to the 40-day deadline of after this Court of Appeals receiving the Record from the lower Tribunal/Court.

12. I believe this lawyer isn't just ineffective assistance of counsel, he isn't contacting me at all and isn't notifying me out of any possible preparation of filing any petition or motion with the Court of Appeals of Virginia. It is my belief that this lawyer will fail to file any pleading by the deadline in this appeal.

Since the Counsel Jones, has failed or refused to communicate with Appellant Brian David Hill with the deadline fast approaching and literally within a day or days, Appellant Brian David Hill had decided to file an EMERGENCY MOTION.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 6, 2021.

Respectfully Filed/Submitted on April 6, 2021,

BRIAN DAVID HILL
Pro Se

Brian D. Hill
Signed
Brian D. Hill

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.NL
JusticeForUSWGO.Wordpress.com

LETTER TO COURT OF APPEALS OF VIRGINIA IN THE CITY OF RICHMOND

Re: Lawyer possibly threatened, compromised, or pressured, Evidence of previous threats directed at Brian David Hill by unknown criminal assailants, all reported to the FBI in the past

Re: Brian David Hill v. Commonwealth of Virginia, City of Martinsville
Record No. 1294-20-3, 1295-20-3
(Appeal of criminal conviction, Appeal of denial of a Motion)

Tuesday, March 23, 2021 05:31 PM

ATTN: Clerk of the Court **Court of Appeals of Virginia**	cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321

Dear Clerk of the Court, Court of Appeals of Virginia,

I have timely filed my Petition for Appeal in case no. 1295-20-3 on March 25, 2021, and timely filed my Petition for Appeal in case no. 1294-20-3 on March 29, 2021.

My appointed counsel John Ira Jones, IV had filed no Petition for Appeal in both cases noted above, by the 40-day deadline.

I have no choice now but to assert that my lawyer may have possibly been threatened, compromised, blackmailed, manipulated, coerced, or pressured into not doing anything for both Appeal cases noted above.

It is not justice in both cases to not accept my pro se Petitions for Appeal when my lawyer had 40 days (pursuant to Va. Code § 17.1-408; Rule 5A:12(a)) to file a Petition for Appeal in both cases and did not. It would be legally wrong, Constitutionally wrong to dismiss my appeals when both my appeals I had timely filed pro se Petitions for Appeal. The Clerk may even attempt to consider them as a “Pro Se Supplemental Petition”. Either way, I did file both timely and they should be considered since my lawyer may have been threatened, compromised, blackmailed, manipulated, coerced, or pressured into not doing anything. I suspect it, I have every right to believe so and the evidence I submit to the Court of Appeals of Virginia will demonstrate to this Court why I have every right to believe that my court appointed lawyer John Ira Jones, IV has possibly been threatened, compromised, blackmailed, manipulated, coerced, or

pressured. It has happened before in my Federal Criminal Case. Whoever framed me with child pornography doesn't want me acquitted and doesn't want me to look credible by having my lawyers work against me. It is easy for the Deep State Swamp to threaten or pressure my defense lawyers, they have the surveillance with the NSA and would have the child porn. **That was why the American people had elected Donald John Trump as President of the United States in the 2016 election, because we the people wanted to "Drain the Swamp" and end those with criminal intentions in our Government with the wrongful power to blackmail, set up, or threaten anybody they want** and t**hey can commit whatever crimes that they desire like the Mafia, like a criminal enterprise, and not ever be held to account.**

I also submit new evidence to this Court of Appeals that lawyers involved in my Federal Case which includes Supervised Release sentence which puts Federal Involvement in my State Criminal Case in the Commonwealth of Virginia, which means any threats made against any of my attorneys for my Federal Criminal Case may involve my court appointed attorneys in my State case for the following reasons:

Here is the Exhibit List, the Statement of FACTS surrounding each Exhibit.

Exhibit 1	Three Page Affidavit from Attorney/Lawyer/Counsel Susan Basko back in 2014.	Pages 8-10.
Exhibit 2	Threatening text message that Brian David Hill had received in 2015, the message was forwarded to Family Member email so that they can print a copy of that threatening text message from 2015	Page 11-11
Exhibit 3	Photocopy of Federal Court filing of threatening emails reported to the Federal Bureau of Investigation (FBI) in 2015 by Fax transmission reporting of threats that Attorney Susan Basko had received.	Pages 12-15
Exhibit 4	Screenshot of Twitter Tweet from Attorney L. Lin Wood regarding blackmail scheme. - Screenshot Dated January 5, 2021	Pages 16-17

STATEMENT OF FACTS:

1. Lawyer John Ira Jones, IV, appointed by this Court in December, 2020, had refused to communicate with Appellant Brian David Hill in regards to both appeals he was appointed to represent Appellant on, case nos. noted above.

2. Lawyer John Ira Jones, IV, appointed by this Court in December, 2020, had failed to file any Petitions for Appeal in both cases by the 40-day deadline set by the Rules of this Court. However, Appellant had filed pro se Petitions for Appeal timely for both appeal cases. Thus they were timely filed pro se.

3. Appellant had no choice but to timely file a EMERGENCY Motion for Substitute Counsel or to Proceed Pro Se on April 6, 2021, with this Court.

4. The letter entitled “LETTER TO COURT OF APPEALS OF VIRGINIA”, dated: "Sunday, March 14, 2021 04:05 AM", and filed on March 15, 2021 referencing the Attorney L. Lin Wood twitter tweet screenshots in regards to judges and politicians being blackmailed with child rape and murder are referenced in this letter and are relevant to the facts stated in this letter herein.

5. Brian had faxed the U.S. Federal Bureau of Investigation (“FBI”) back in 2015 (See attached Exhibit 3) regarding threatening emails being received by Attorney Susan Basko who had filed an Affidavit in Federal Court dated 2014 (See attached Exhibit 1) regarding the Actual Innocence of Brian David Hill for his wrongful Federal Conviction on Possession of Child Pornography. Brian's defense witness and a licensed attorney Susan Basko was being given anonymous threatening emails threatening to do bad things to her and trying to pressure her to have Brian David Hill to stop his Federal Criminal Appeal in 2015.

6. Brian had also received a threatening text message in 2015, and that threatening message was reported to the Brian's ex U.S. Probation Officer who took possession of the cell phone that Brian was using in 2015 after he reported the criminal threat to his former Probation Officer in 2015. (See attached Exhibit 2).

7. Exhibit 4 shows a forward to Brian's court appointed lawyer in his Federal Criminal Appeal of a nasty threatening email stating that they will set up Brian's attorney witness Susan Basko with child porn and have the Federal Judge convict him again, making it sound like they have the U.S. Judge compromised enough to frame Brian David Hill with child porn again and threatening his lawyers.

8. Brian David Hill has had a history of experiencing and dealing with the issue of tormail threats being conducted against his defense witness and maybe even his defense attorney or attorneys being given threats by email, nasty threat messages. Brian receiving nasty threat message or messages. There are more threats that Brian David Hill had received but would take more pages to list each and every one of them. **All of this is criminal obstruction of justice and Brian David Hill**

is the victim. This happened in Brian's federal criminal case, presumably why Brian David Hill was wrongfully convicted and railroaded because of anonymous threats being directed against Brian and his entire defense team and likely the Federal Judge or Judges being blackmailed as Attorney L. Lin Wood had suggested in January, 2021. **These threats against Brian David Hill and any of his lawyers or witnesses thereof is an obstruction of justice of such a criminal nature and Brian David Hill and his attorneys and witnesses thereof are ALL VICTIMS of such obstruction.**

9. **Brian David Hill welcomes the Attorney General of Virginia and Commonwealth Attorney to investigate Brian's Exhibits and claims.** It is long overdue for such investigation warranted. This Court should take notice that Brian's lawyer John Ira Jones, IV has likely been compromised by being threatened, blackmailed, manipulated, coerced, or pressured into not doing anything for both Appeal cases noted above. Appellant has every right to suspect this and the evidence by Brian and Susan Basko were reported to the U.S. FBI and Probation Officer. Brian has every right to suspect that his lawyer have been compromised in the Appeal cases noted above. Brian is the repeated victim here.

Evidence is submitted to the Court of Appeals of Virginia warranting that they take action as their inherit or implied powers of a Court to investigate this matter and question John Ira Jones, IV and order him to appear before the Court of Appeals of Virginia to answer for why he didn't file anything for Brian's two criminal case Appeals for a second time after he was found to have not filed anything for Brian's appeals and his appeals were dismissed in 2020, then the Motions for Delayed Appeals were granted.

There needs to be an investigation into all of this. If Brian's court appointed lawyer has been compromised in any way affecting his Amendment XIV and Amendment VI of the U.S. Constitution, Right to effective assistance of counsel and Constitutional right to which includes the procedural Due Process right to a Constitutional Appellate Review of the Trial Court decision, **then this is criminal obstruction of justice and Brian David Hill is clearly the victim.** Brian's claim about a criminal man wearing a hoodie and threatening Brian David Hill to get naked and take photographs of himself or they kill his mother does not seem far-fetched or unbelievable in the slightest when Brian faxed photocopy of threatening emails he was made aware of to the FBI and Susan Basko an Attorney had reported the threatening emails directed towards Brian David Hill and herself and they were reported to the U.S. FBI. These are credible threats directed towards Brian David Hill and any Attorney favorable to him and the whole guy in the hoodie threatening to kill his mother if Brian David Hill didn't get naked seems to be an extension of the threats directed at Brian David Hill in 2013

and 2015, any of his court appointed attorneys, and defense witness and Attorney Susan Basko. The 2013 threatening email was published at We Are Change, and his family has the URL: https://wearechange.org/case-brian-d-hill/

This Court needs to question John Ira Jones, IV, ASAP to get information from him as to why he is ignoring his obligation to file the Petitions for Appeal with the Court.

Appellant welcomes John Ira Jones, IV, to receive a copy of this letter as he wants an explanation and he wants it ASAP. Brian wants an explanation from this lawyer why he would ignore Brian's mother's emails and ignore Brian's text messages in 2021 without explanation.

Brian as the Appellant deserves fair and equal justice, equal access to the Courts as part of his Due Process. If Brian cannot get any justice and his appeals are dismissed simply because his compromised lawyer John Ira Jones, IV filed no Petitions for Appeal when Appellant timely filed pro se Petitions for Appeal then he may file a lawsuit against the Court of Appeals of Virginia in the U.S. District Court for the Eastern District of Virginia, for Amendment XIV and Amendment VI violations of the United States Constitution, or file a Petition or Petitions for Writ of Mandamus or Prohibition in the Supreme Court of Virginia or the U.S. Supreme Court.

Respectfully filed with the Court,
This the 8th day of April, 2021.

Brian D. Hill
Signed
Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505

CERTIFICATE OF SERVICE

On April 8, 2021, I, Brian David Hill certify that the original of this foregoing letter/pleading was transmitted to the Clerk of the Court of Appeals of Virginia and that a copy of this foregoing letter/pleading had been transmitted to the following parties:

1. Commonwealth of Virginia, Appellee
2. City of Martinsville, Appellee,

by having representative Roberta Hill filing his pleading on his behalf with the Court through VACES, Respondents served by email address rbhill67@comcast.net with request of read receipt, transmit a copy of this pleading to the following attorneys who represent the above appellees' as well as the Clerk by VACES:

Mark R. Herring, Esq. Office of the Attorney General of Virginia mherring@oag.state.va.us 202 North Ninth Street Richmond, VA 23219 Attorney for Appellee	Glen Andrew Hall, Esq. Commonwealth Attorney's Office for the City of Martinsville ahall@ci.martinsville.va.us 55 West Church Street P.O. Box 1311 Martinsville, Virginia 24114/24112 Attorney for Appellee
Filed through VACES: Clerk of the Court Court of Appeals of Virginia cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321	John Ira Jones, IV, Esq. Attorney of Record from Appellant jones@johnjoneslawplc.com 9520 Iron Bridge Rd, Ste. 204 Chesterfield, VA 23832-6455
All individuals were emailed by rbhill67@comcast.net, on April 8, 2021.	

The reason why Brian David Hill must use such a representative/Assistant to serve such pleading with the Clerk on his behalf is because Brian is currently still under the conditions of Supervised Release for the U.S. District Court barring internet usage without permission. Brian's Probation Officer is aware of Roberta Hill using her email for conducting court business concerning Brian Hill or court business with the Probation Office in regards to Brian David Hill. Therefore Roberta Hill is filing the pleading on

Brian's behalf for official court business. Brian has authorized her to file the pleading.

That should satisfy the Certificate of Service regarding letters/pleadings. If the Court wishes to contact the filer over any issues or concerns, please feel free to contact the filer Brian David Hill directly by telephone or by mailing. They can also contact Roberta Hill at rbhill67@comcast.net and request that she forward the message and any documents or attachments to Brian David Hill to view offline for his review.

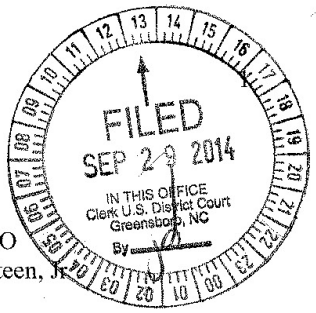
Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

EXHIBIT 1



U.S. District Court
North Carolina Middle District

USA v HILL) Case No: 1:13-cr-00435-WO
) Chief Judge William L. Osteen, Jr.

Declaration of Susan Basko in Support of Brian David Hill's Motion to Withdraw his Guilty Plea, Motion for a Substitute Attorney, Sentencing, and any other purposes

1. My name is Susan Basko. I reside in Illinois. I can be reached by email at SueBasko@gmail.com and by phone at 310-770-7413. I have a website at http://suebasko.blogspot.com and another one at http://subliminalridge.blogspot.com

2. I am a lawyer licensed in Illinois and California. I practice law for independent media, including for the internet. I do not generally go into court, so ask the Court to please forgive if my paperwork is not in the exact usual form.

3. I am aware that Brian David Hill is innocent of the charges and I will explain herein how I know this.

4. I am aware that Brian David Hill was a volunteer independent journalist active in independent online media and in the Patriot or Constitutionalist movement. Brian has many such videos on Youtube. Brian was active in supporting the repeal of the NDAA.

5. I am aware that Brian David Hill was part of a group of friends or associates who also are independent journalists or activists in the Patriot or Constitutionalist movement, including the other men I will name in this declaration.

6. In early July of 2014, I got an urgent message from Luke Rudkowski, an independent journalist with We Are Change, saying he was in Poland and someone sent him an email saying they had exclusive photos from the Bilderberg Conference, which he had just covered, and telling him to download the pictures and pass them around. The email was a bit suspicious since it went to an email account Luke had not used for several years. Luke previewed the pictures and saw they were child porn, and did not download them. Then he contacted me about what to do. I told him to contact the U.S. Embassy in Gdansk and have them contact the FBI. Luke did that. He also made a video about the situation. You can view and read the full email sent to Luke and also view the video he made about the situation at one of my blogs at:
http://subliminalridge.blogspot.com/2013/07/attempt-to-set-up-journalist-with.html
As I recall, Luke then received a second email stating that the person would do the same to others, meaning that others would be set up with child porn.

7. When I told Luke Rudkowski to contact the Embassy in Gdansk, the purpose was to alert the FBI so that they could prevent Luke from having any trouble in border crossings.

The other purpose was to follow the provision in federal child porn law that gives an affirmative defense under this law:
18 U.S. Code § 2252A - Certain activities relating to material constituting or containing child pornography
(d) Affirmative Defense.— It shall be an affirmative defense to a charge of violating subsection (a)(5) that the defendant—
(1) possessed less than three images of child pornography; and
(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—
(A) took reasonable steps to destroy each such image; or
(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.

8. Shortly after Luke's situation, a group of indie journalists and activists contacted me and said they had porn sent to them in trick emails where the sender opened an email account in the name of someone the activist trusted. The delivery technique had advanced to placing the images inside a pdf, so they images could not be previewed. These men have access to a computer forensics expert who previewed the pdfs in a "sandbox," and saw they were child porn. These men included Dan Johnson of People Against the NDAA, Stewart Rhodes of Oathkeepers, and several others. These men were aware that Brian David Hill had also had child porn downloaded onto his computer. They were all friends or associates of Brian David Hill.

9. For this set of men that included Dan Johnson and Stewart Rhodes and others, I filed a notification directly to a specific FBI agent in New York City that I thought was trustworthy. That agent told me he forwarded the complaint to an agent that handles such matters. The men were all very tense about the situation. We held a conference email call where they stated they did not want to include Brian David Hill in their complaint because of his autistic behavior and how his lack of public discretion might put them all at jeopardy. The men were all shocked and terrified and had their lives and reputations at stake. Instead of including Brian in their complaint, they decided to tell Brian to contact me himself if he wanted to file his own complaint. I did not hear from Brian for months afterwards and when he did contact me, I looked on pacer and saw that there was already a federal warrant for his arrest.

10. Brian David Hill blamed his local officials for setting him up with child porn. While this may be the case, I think it is more likely he was set up as one of the people involved in the Patriot movement, just like the other men. Like Luke Rudkowski, Brian David Hill had gone to report on the 2012 Bilderberg Conference in 2012. The child porn attack against Luke Rudkowski came just after the 2013 Bilderberg Conference. The second email sent to Luke Rudkowski warned that others would be set up, too.

11. You can view a video of Dan Johnson and Stewart Rhodes speaking about being set up with child porn here:
http://subliminalridge.blogspot.com/2013/07/child-porn-emailed-to-activists-to-try.html

12. Within weeks after I made the FBI report for the group that included Dan Johnson and Stewart Rhodes, I was contacted by several other men who are also set up with child porn on their computers. They were attacked with child porn via other methods. One had a direct download go into his computer, followed by a pop-up saying there was child porn on his computer. I told each of them how to file an FBI report and why it was important. The men all seemed to be in the same social circle of being involved in the Patriot movement. For each of these men, these attacks against their integrity were deeply disturbing, terrorizing, terribly frightening.

13. After I assisted these men and word went out on the internet, I received an onslaught of emails trying to get me to download pictures, videos, or documents. I deleted all the emails without even opening them. I reported many of the emails to Google. Google put out a warning that such emails may be tricking people into downloading pornography.

14. When Brian David Hill finally contacted me, I looked on pacer and saw there was already a federal arrest warrant for him. Brian emailed me a large amount of documents that added up to what I already knew – that he had been set up with child porn. Brian David Hill seemed intent on blaming his local officials for setting him up and that may be the case, but the set up could also have come from anyone in the world. It seemed more likely to me that since Brian was set up at the same time as the other men in his same social and activism circle, that he was set up by whoever was also setting up the other men.

15. Brian David Hill has autism and diabetes. When Brian has communicated with me, it takes a lot of patience and time and skill to understand his points, because he concentrates on tiny details. I think he needs a disability advocate to help him have a fair trial.

16. I emailed this information about the child porn set-ups very early in this case to both Brian's lawyer, Eric Placke, and to the prosecutor, and did not hear from either one of them.

17. I have been told by Brian's grandparents, Ken Forinash and Stella Burnette, that Brian wants to withdraw his guilty plea because he is innocent and that he wants a substitute public defender. I have communicated these needs of Brian's to the public defender's office head, Louis Allen, as well as to Brian's lawyer, Eric Placke, and to a Senior attorney with the office, Greg Davis.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 24, 2014
signed electronically: /Susan Basko/
Susan Basko Susan Basko 9-24-2014
Email: SueBasko@gmail.com
phone: 310-770-7413 Please feel free to contact me.
Thank you.

EXHIBIT 2

subject:Fwd: YA.....BE.....SORRY This is a forward and not original.
From: 2762240862@mypixmessages.com (2762240862@mypixmessages.com)
To: kenstella2007@yahoo.com;
Date: Saturday, February 14, 2015 9:33 PM Original from Hbaby@mail2tor.com

Awwwwww.....bet.....ya.....found.....our.....little.....present////////////////
/in////////////////////////////our.....harrd.....drive.....more.....child.....
.....pornz.....a.....comin.....we.....will.....continuez.....to.....
.....send.....ya.....child.....porn.....you.....will.....goto.....pr
ison.....BRIAN.....YOU.....BASTARD.....STAY.....AS.....
A.....SEX.....OFFENDER.....AND.....
.....GO.....GET.....RAPED.....LIKE.....A.....
.GOOD.....SEX.....OFFENDER.....YOU.....WILL.....NEVER.....WIN.....
.....YOU.....WILL.....NEVER.....PROVE.....WHOM.....PLANTED.....
.CHILD.....PORN.....IN.....YO.....DRIVE.....we.....can.....sneak.....
.into.....sue.....baskos.....house.....and.....plant.....child.....porn.....in.....her..
.....hard.....cock.....drive.....bitch.....and.....pedo.....bastard.....brian.....pedo.....
hill.....hahahahahahaha

WE.....WILL----------DO000000000000000MORE6666666666666666TO_____YOU

This picture message or video message was sent using Multimedia Messaging Service.

To play video messages sent to email, Apple QuickTime 6.5 or higher is required. Visit www.apple.com/quicktime/download to download the free player or upgrade your existing QuickTime Player. Note: During the download process when asked to choose an installation type (Minimum, Recommended or Custom), select Minimum for faster download.

EXHIBIT 3

REPORTING THREATENING EMAILS TO THE FBI

ATTN: Special Agent Adam S. Lee
1970 East Parham Road
Richmond, VA 23228
Phone: (804) 261-1044
Fax: (804) 627-4494
E-mail: Richmond@ic.fbi.gov

ATTN: FBI Washington
601 4th Street NW
Washington, DC 20535
Phone: (202) 278-2000
Fax: (202) 278-3037

Charlotte FBI will not be informed
of this report due to the sensitive nature
of the matter.

Dear Adam S. Lee and the FBI Field Office in Washington D.C.,

I regret to inform you that somebody attempted to send threatening emails to me again but this time did it through Susan Basko since I am sure whomever is threatening me has figured out that I cannot use the Internet at this time. I was informed by Susan Basko that forwarded the emails to my mother then my mother gave me the threat email file PDFs which is what I am faxing to you today. I know Susan Basko already reported those to the FBI tip-line but I feel you should see these threatening emails as you are aware of me being a victim of a frame up.

I have been framed with child porn, I am risking my life here appealing my criminal conviction, and all the system wants to do is play like I am guilty. Look at the SBI's own case file on Brian David Hill and it states that I was downloading child porn up to July 2013. I never even had the computer nor the hard drives after the police raid on August 28, 2012. I wonder how you can explain me downloading child porn without my computer as it was at the SBI Office in Greensboro at the time being individually examined by just one SBI Agent. Maybe I used telekinesis to download the child porn while I was sitting in Martinsville scared of the Mayodan Police and scared of the people whom set me up? You got to realize how stupid the child porn indictment is getting. There was no case to convict me on but I took the guilty plea anyways due to ineffective counsel, my health was deteriorating to the point where my weight dropped as low as 140lbs, and I had literally no criminal defense at Jury Trial. I would have lost by default yet you want to imagine with delusions that I am guilty because I took the guilty plea. Don't you realize I was under duress and had no defense. With my Autism if I had attempted to fight the criminal case myself without a lawyer, I would lose it since I am in a maximum security jail. The jail even has the right to block any evidence I wish to use in my criminal trial and I would be in handcuffs which gives me a difficult ability to even get access to my documents. Maybe if you were in my shoes you wouldn't treat me like a criminal. The FBI in Greensboro would be a whole lot different if they had common sense in regards to what is guilty and what is innocent. I'm sure they are working with Phil Berger. I told Congressman Mark Walker slightly about my situation. This madness has to stop and the U.S. Attorney Ripley Rand needs to request a reversal of my conviction based on new evidence. It should go back to a Jury Trial. I guess attempting to argue why I was set up is pointless

with the FBI as you guys already made up your minds that you all think I am guilty as sin.

Once I get a Jury Trial and win it, I won't be a sex offender anymore and then I plan on suing the U.S. Attorney and the United States government for mistreatment of me in the county jails, false imprisonment of an innocent man, and protecting the interests of a corrupt politician that helped set me up on child pornography then persuaded the FBI I was guilty so I would be ignored while receiving threats which have escalated to death threats being given to Susan Basko which she sent to my mother to show me.

I am not happy with the U.S. Government anymore. Nobody in America likes the Federal government anymore as all they do all day long is make innocent people suffer. This was not what the American people voted for, not what they intended, and I am sure you will call me an extremist for my views, but the fact is I lost faith in your agency when one of your agents called my family up and told them I was guilty of child porn and downloaded an hour a day. I did no such thing, that is why you should have checked for computer viruses, err..no wait a minute it was SBI Agent White that should have checked for computer viruses. He didn't even want to check for computer viruses as he knew that would create a defense at trial. They put all resources of the burden of proving my innocence onto my public defender that they did nothing to help me at all.

What are your agents doing all day, eating donuts after convicting innocent people all day and all night long. The United States is a shameful nation and everybody knows it. They know there is pedophiles running this government yet you come after me for absolute bullshit. Phil Berger is the real criminal that was supposed to be under investigation for campaign money laundering after a complaint filed by Mark Walker but your not investigating that either because Berger owns the FBI in Greensboro.

I am sorry for my mean remarks and criticism but I ain't gonna sit around for 15 years on the sex offender registry in Virginia for a crime I didn't even commit. I will fight to prove my innocence until I fall from an enemy attack(The Berger criminals). They are now threatening my life and threatening Susan Basko's career with the child porn threats and we are forced to prove we are not child pornographers. Well that is exactly what I am going to do, prove my innocence whether your Agents like it or not. I am Innocent and will not play Mr. sex offender for your government.

I am not guilty and that is that Agent Adam. If you wish to help me or find agents that wish to fully investigate my frame up then I will be grateful and take back everything negative I said about the FBI, then make a apology in writing and ask for your forgiveness. If you still want to think I am guilty then I feel sorry for you for believing deceit.

(Electronically Signed:)Sincerely,
Brian David Hill
(276)632-2599
admin@uswgo.com
916 Chalmers St., Apt. D
Martinsville, VA 24112

Brian D. Hill
Signed

Brian D. Hill
Signed

U.S.W.G.O.

Two threat emails attached that were forwarded to my mom from Susan Basko

More

BRIAN STOP APPEAL

Inbox x

Susan mBasko 10:34 PM (5 hours ago)

to me

This message may not have been sent by: SueBaskoMusic@gmail.com Learn more Report phishing

TELLLLLLLLLLLLLLLLLLLLLLLL,,,,,,,,,,,,,,,,,,,BRIAN.......................GODDAN...................MOTHAFUCKZ......STOP;
;;;;;;;;;;;;;;;;;;;;;;APPEAL;;;;;;;;;;;;;;;;;;;;;;;;;;;;STOP;;;;;;;;;;;;;;;;;;;;;;;;IT;;;;;;;;;;;;;;;;;;;;OR;;;;;;;;;;;;;;;;;;;;;ELSE.............
........STOP.....................APPEAL...................IN..............DA...............COURT..................HE..............WILLL........
.............NOTT................WINN..........................EVEN..............IF............HE.............DOES................WE.......
......HAVE..............AUTHORITES,.,,,,,,,,,,,,,,,,,,,,TO.............SET.................HIM..................UP..........WIT............
......CHILD................PORN..................AGAIN.............THINK.................ABOUT.................IT..................BITCH.
................BEFORE...................YOU.......................TESTIFY..................YOU..............TOO............SCOTT........
...............TELL.................BRIAN................TO.................CUT.............HIS.....................APPEAL............OR........
.......I................WILL.............SET...............HIM................UP................TO...................CUT.....................HIM

Click here to Reply or Forward

More

BRIAN WILL SUFFER Inbox x

Stewart Rhodes 10:25 PM (5 hours ago)

to me

This message may not have been sent by: rhodeslegalwriting@gmail.com Learn more Report phishing

I.....WARNED.....YOU.....BITCH.....BRIAN.....DAVID.....
HILL.....WILL.....SUFFER.....AND.....IT.....IS.....HIS.....
.....FAULT.....FOR.....NOT.....STICKING.....WITH.....HIS.
.....PAEDOPHILE.....GUILTY./.....PLEA.....BAD.....THINGS.....
..WILL.....HAPPEN.....TO.....HIM.....WE.....PROMISE.....YOU.....A
.....IF.....BRIAN.....HASNT.....ALREADY.....BEEN.....DESTROYED.....
YOU.....ALL.....WILL.....NEVER.....REMOVE.....HIM.....FROM.....
.....SEX.....OFFENDER.
.....LIST.....BRIAN.....WILL.....REGRET.....WHAT.....HE....
.....FILED.....WITH.....THE.....COURT.....FUCK.....BRIAN.....HILL.....HE....
.....WILL.....PAY.....POSSIBLY.....WITH.....HIS.....LIFE.....POLICE.....A
.....WATCHING.....HIM.....HOWEVER.....WE.....ARE.....WATCHING.....
HIM.....TOO.....EVEN.....IF.....HE.....IS.....UNDER.....
SUPERVISED.....RELEASE.....WE.....CAN.....SEND.....
...THOUSANDS.....OF.....CHILD.....PORN.....TO.....BRIANS.
.....EMAIL.....
...ADDRESS.....AND.....HE.....WILL.....NEVER.....KNOW.....
.UNTIL.....HE.....IS.....ALLOWED.....ON.....THE.....NET.....THEN./....
.....BOOM.....VIOLATION.....OF.....PROBATION.....THEN.....
.....EVEN.....THEY.....WILL.....BEAT.....HIM.....UP.....AND.....

EXHIBIT 4

Copy and pasted from Susan Basko email for Brian to report to the FBI:

----- Forwarded Message -----
From: Sue Basko <suebasko@gmail.com>
To: mjones@bellidavispitt.com; Roberta Hill <rbhill67@yahoo.com>; Ken & Stella <kenstella2007@yahoo.com>
Sent: Monday, February 16, 2015 10:19 PM
Subject: RE: BRIAN DAVID HILL EMERGENCY

DEAR MR JONES:

I wrote to you before regarding this situation with Brian David Hill. You are handling his appeal. I am copying his mother and grandparents on this email.

Brian is the guy who was set up with child porn via email and then convicted. Someone KEEPS sending me (and others) emails regarding Brian and the threat to set him up with child porn. Tonight I got an email that also contains a jpg with a bunch of pictures on it that look like they might be porn or child porn - -these are tiny pics on one jpg and I cannot really see them and of course, will not click on them to preview or download.

I am copying and pasting the email below. Each set of emails is getting nastier and more threatening and the person is getting more desperate.

YOU NEED TO TALK WITH BRIAN AND HIS FAMILY RIGHT AWAY and I need to make a report to the FBI.

THIS IS WHAT THE EMAIL TONIGHT SAYS - IT APPEARS TO COME FROM ME. of course, it is not from me. Each email set has used a different email address.

Susan Basko <BudaBuddy@mail2tor.com> 2:57 AM (2 hours ago)

to me

WE.....PLACED.....CHILD.....PORN.....THE.....HARD
.....DRIVE.....WHICH.....WAS.....GIVEN.....TO.....
BRIAN.....DAVID.....HILL.....SO.....WE.....HAVE.....BRI
AN.....ON.....POSSESSION.....AGAIN.....AND.....HIS.....
..FUCKASS.....ATTORNEY.....ON.....DISTRIBUTION.....BRIAN.....
WILL.....GO.....DOWN.....HE.....WILL.....BE.....IN.....PRISO
N.....FOR.....LIFE.....ALONG.....WITH.....HIS.....APPEA
L.....ATTORNEY.....SO.....YOU.....HAVE.....TWO.....O
PTIONS

OPTION.....ONE.....YOU.....TELL.....BRIAN.....HE.....BE
TTER.....DROP.....HIS.....APPEAL.....OTHERWISE.....WE.
.....CALL.....THE.....FBI.....AND.....TELL.....THEM.....

10

.....WHAT.....CJHILD.....PORN.....WAS.....ON.....THE
.....HARD.....DRIVE.....HE.....RECEIVED.....

OOOR.....OPTION.....TWO.....BRIAN.....WRITES.....A.....IN
CRIMINATING.....LETTER.....ABOUT.....HOW.....HE.....DOES....
.....HAVE.....AN.....ADDICTION.....TO.....CHILD.....PORN.....
.....AND.....HAS.....A.....FETISH.....WITH.....STICKING.....C
OCKS.....IN.....LITTLE.....GIRLZ.....NASTY.....BUTTS.....
.....THEN.....HE.....ENDS.....HIS.....APPEAL.....HE.....
.....NEEDS.....HELP.....AFTER.....ALL.....YOU.....NEED...
.....HELP.....TOO.....SUSAN.....MAYBE.....A.....GOOD.....
.....MENTAL.....HOSPITAL
.....FOR.....YOU.....WE.....HAVE.....ACCESS.....TO.....
...HIS.....PROPERTY.....AND.....CAN.....PLANT.....CHILD.....
..PORN.....ON.....ANY.....OF.....EM

REPORT.....THIS.....TO.....FBI.....AND.....WE.....WILL
.....REPORT.....YOU.....BRIAN.....HIS.....ATTO
RNEY.....AND.....HIS.....FAMILY.....AND.....TELL.....THE...
.....FBI.....THEY.....LIKE.....TO.....MASTURBATE.....AS.....
A.....FAMILY.....TO.....CHILD.....PORN.....FLICKS.....
WE.....HAVE.....EVIDENCE.....TO.....GET.....ANOTHER.....CON
VICTION.....ON.....BRIAN.....HILL.....YOU.....CANT.....
.....PROVE.....ANYTHING.....WITH.....EMAILS.....WHICH.....CAN.....
.....DISAPPEAR.....
.....AFTER.....YOU.....READ.....EM.....OR.....WE.....NOBODY...
.....WILL.....EVER.....BELIEVE.....YOU.....BITCH.....WE.....
.....KNOW.....CHILD.....PORN.....GOT.....INTO.....BRIANS.....P
OSSESSION.....LAST.....WEEK.....WE.....WILL.....SEND....
.....MORE.....THEN.....HE.....WILL.....TECHNICALLY.....B
E.....GUILTY.....AGAIN.....JUDGE.....OSTEEN.....WILL.....
..CONVICT.....HIM.....AGAIN.....AS.....WE.....WILL.....MA
KE.....SURE.....OSTEEN.....IS.....PROCIDING.....JUDGE.....
.....OVER.....BRIANS.....N
EW.....INDICTMENT.

MORE.....CHILD.....PORN.....IS.....COMING.....THEN.....MO
RE.....CHARGES.....WILL.....BE.....BROUGHT.....BITCH

11

IN THE

COURT OF APPEALS OF VIRGINIA

RECORD NO. 1295-20-3

BRIAN DAVID HILL,

Appellant,

v.

COMMONWEALTH OF VIRGINIA,

Appellee.

PETITION FOR APPEAL

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jones@johnjoneslawplc.com

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IN THE

COURT OF APPEALS OF VIRGINIA

RECORD NO. 1295-20-3

BRIAN DAVID HILL,

Appellant,

v.

CITY OF MARTINSVILLE,

Appellee.

PETITION FOR APPEAL

STATEMENT OF THE CASE

Brian David Hill was charged with misdemeanor indecent exposure in violation of local ordinance incorporating Code § 18.2-387 in the Martinsville General District Court. (R. 1). Hill was convicted in a bench trial and sentenced to 30 days' incarceration, then appealed to the circuit court. (R. 2).

Hill filed various pretrial motions pro se, including: a motion to admit evidence that an anonymous man threatened his mother's life if he did not remove his clothing in public (R. 68-70), a motion to admit evidence that he suffered from

carbon monoxide poisoning at the time of the events giving rise to his prosecution (R. 79-93), a motion to expedite his trial date (R. 94-98), a motion to request an insanity defense (R. 115-22), a request for substitute counsel (R. 126-33), a motion to suppress evidence against him (R. 326-78), and a motion to dismiss the charge against him (R. 402-20). The Commonwealth filed a demand for a jury trial. (R. 110).

By motion filed November 11, 2019, Hill requested permission to withdraw his appeal. (R. 421-31). By order entered November 18, 2019, the circuit court reinstated Hill's conviction, apparently without a hearing. (R. 433).

This appeal is from the court's reinstatement of Hill's conviction. Undersigned counsel contacted the clerk's office of the trial court to inquire about the method by which transcripts of the proceedings may be ordered; counsel was informed that no in-court proceedings were held, and that no transcripts were thus available.

ASSIGNMENT OF ERROR

Hill assigns the following error to the judgment of the circuit court:

> The trial court committed reversible error by accepting Hill's withdrawal of his appeal without ascertaining whether Hill was accepting the general district court's judgment voluntarily and with an understanding of the consequences of his withdrawal, in violation of Rules 3A:8(b)(2) and 7C:6(a).

(This assignment of error is not preserved within the trial record; Hill requests that this Court consider its merits under the good cause shown exception to Rule 5A:18.)

STATEMENT OF FACTS

The complaint against Hill alleged as follows:

> On [September 21, 2018] I [(Sergeant R. Jones of the Martinsville Police Department)] responded to the area of Pine St. at the steps for the Dick and Willie Trail due to a naked white male that had been seen running on Hooker St[.] from Church St. Officers were in the area of Hooker St[.] and had not located the male. I walked down the steps to the trail where [I] he[a]rd foot steps [sic] coming towards me. I could see a person walking on the trail and they stopped. I signed my light on the male and he turned and ran. He was naked except for his shoes and socks. The male had items in his hand when he ran. I chased the suspect off the left side of the trail down a bank and into the creek. I was yelling stop and show me your hands during the chase. When the male was detained he was read Miranda and started talking about a black male in a hoodie made him get naked and take pictures of himself. He was transported to the hospital due to knee pain. While at the [h]ospital he stated that he was alone when he took the photos of himself and he gave Ofc. Warnick [permission] to view his camera. On the [c]amera [were] several photo[s] of himself naked around the city. He was medically and psychologically cleared. He was arrested for indecent [e]xposure. Mr. Hill's clothing was located in his bag. All took place in the city.

(R. 3).

ARGUMENT

I. The trial court erred by reinstating Hill's conviction without ascertaining whether he was withdrawing his appeal voluntarily and with an understanding of the consequences of such withdrawal.

A. Standard of Review

A trial court's interpretation of the Rules of the Supreme Court of Virginia "presents a question of law" which is reviewed de novo. *Graham v. Cmty. Mgmt. Corp.*, 294 Va. 222, 225 (2017) (quoting *Amin v. Cnty. of Henrico*, 286 Va. 231, 235 (2013)).

B. The circuit court erred by accepting Hill's withdrawal of his guilty plea without ascertaining whether it was knowing or voluntary.

Under Code § 16.1-133, a circuit court's acceptance of a defendant's written notice of withdrawal of appeal from the general district court has the effect of "affirming the judgment of the lower court." For all practical purposes concerning guilt or innocence, such acceptance is indistinguishable from a circuit court's acceptance of a guilty or no contest plea to the same charge.

Rule 3A:8(b)(2) prohibits a circuit court from accepting "a plea of guilty or nolo contendere to a misdemeanor charge except in compliance with Rule 7C:6." In turn, Rule 7C:6(a) provides as follows:

> A court ***must not*** accept a plea of guilty or nolo contendere to any misdemeanor charge punishable by confinement in jail without first determining that the plea is made voluntarily with an understanding of the nature of the charge and the consequences of the plea.

(emphasis added).

In this case, the circuit court manifestly abandoned its duty to determine whether Hill was withdrawing his appeal "voluntarily" and "with an understanding of the nature of the charge and the consequences" of his withdrawal.

Counsel is not aware of any cases addressing this particular set of facts or this specific argument, but contends that the plain language of Rules 3A:8(b)(2) and 7C:6(a) are unambiguous and control the result in this case. This Court should grant Hill an appeal, reverse his conviction, and remand to the circuit court for further proceedings.

Preservation

Hill contends that because the trial court terminated his appeal and reinstated his conviction without a hearing, he never had an opportunity to present his argument to that court. Where an appellant lacks opportunity to make an objection, the good cause shown exception to Rule 5A:18 applies. *See M. Morgan Cherry & Assocs. v. Cherry*, 38 Va. App. 693, 701 (2002) (finding the exception did not apply where a litigant had opportunities to object but failed to do so).

Alternatively, to the extent that Hill's post-trial "Motion to Vacate Fraudulent Begotten Judgment" might be construed as a motion to reconsider the court's acceptance of his motion to withdraw his appeal, this argument is properly preserved. Either way, this Court may reach the merits of this argument.

CONCLUSION

Because the Martinsville City Circuit Court committed reversible error by reinstating Hill's conviction without determining whether his motion to withdraw his appeal was knowing or voluntary, this Court should grant Hill an appeal, reverse his conviction, and remand for further proceedings.

Respectfully submitted,

BRIAN DAVID HILL,
Appellant herein

BY: 

JOHN I. JONES, IV, ESQ.
Counsel for the Appellant
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Fax (804) 717-5677
jones@johnjoneslawplc.com

CERTIFICATE OF SERVICE

On April 13, 2021, this petition for appeal was electronically filed using the Virginia Appellate Courts Electronic System (VACES). On the same date, a PDF copy was emailed to G. Andrew Hall, Commonwealth's Attorney, Office of the Commonwealth's Attorney for the City of Martinsville, counsel for the appellee, at ahall@ci.martinsville.va.us. In accordance with Rule 5A:4(d), the undersigned certifies that the petition, excluding the cover page, table of contents, table of authorities, and certificate contains 1,162 words.

BY: _____
John I. Jones, IV, Esq.
Counsel for the Appellant

VIRGINIA:

IN THE COURT OF APPEALS OF VIRGINIA

BRIAN DAVID HILL,
Petitioner,

v. **RECORD NO.: 1295-20-3**

CITY OF MARTINSVILLE,
Appellee.

MOTION TO WITHDRAW AS COUNSEL OF RECORD

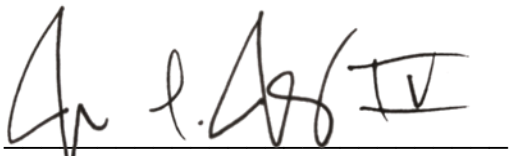
Comes now John I. Jones, IV, Esq. counsel for Brian David Hill, the appellant, and moves the Court to allow counsel to withdraw as counsel of record.

The Circuit Court for the City of Martinsville appointed counsel to represent Hill in this matter and in the related appeal in Record No. 1294-20-3.

Counsel has discussed with Hill that it is counsel's legal opinion that an appeal would not be meritorious. The appeal was preserved by counsel. Counsel has reviewed the record and the transcript and has prepared a Petition for Appeal referring to all that he can find supporting the argument that the trial court should have granted Hill's motion for reconsideration. Counsel does not believe that he can in good faith assert any further claims in the client's appeal. *Anders v. California*, 386 U.S. 738 (1967); *Kuzminski v. Commonwealth*, 8 Va. App 106, 378 S.E.2d 632 (1989).

WHEREFORE, counsel respectfully requests that this Court relieve him as counsel of record.

Respectfully submitted this 13th day of April, 2021.



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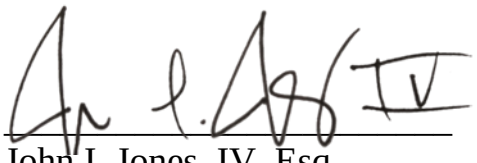
Fax (804) 717-5677
jones@johnjoneslawplc.com

CERTIFICATE

I hereby certify that on April 13, 2021, I have emailed a copy of the foregoing motion to G. Andrew Hall, Commonwealth's Attorney, Office of the Commonwealth's Attorney of Chesterfield County, counsel for the appellee, at ahall@ci.martinsville.va.us. On the same date, I am emailing a copy of the foregoing motion, along with copies of the motion for an extension and the petition for appeal filed this day in the same case, to Brian David Hill, c/o Roberta Hill, at rbhill67@comcast.net.



John I. Jones, IV, Esq.

VIRGINIA:

IN THE COURT OF APPEALS OF VIRGINIA

BRIAN DAVID HILL,
Appellant,

v. **RECORD NO.: 1295-20-3**

CITY OF MARTINSVILLE,
Appellee.

MOTION FOR EXTENSION OF TIME TO FILE A SUPPLEMENTAL PETITION FOR APPEAL

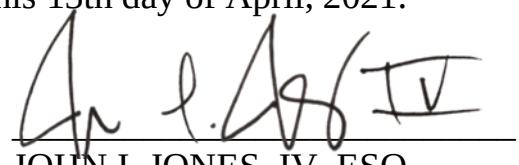
Comes now John I. Jones, IV, Esq., counsel for Brian David Hill, the appellant, and moves the Court to allow the petitioner an extension of time in which to file a supplemental petition for appeal, and for grounds thereof states the following:

1. The Martinsville Circuit Court appointed counsel for the petitioner for the purposes of filing a petition for appeal.

2. Counsel has this day filed a petition for appeal pursuant to *Anders v. California*, 386 U.S. 738 (1967), and has filed a motion to withdraw as counsel. Counsel believes it is in defendant's best interest to have an extension of time in which to file a supplemental petition for appeal if he is so inclined.

WHEREFORE, counsel respectfully requests that this Court grant the motion and allow the petitioner a reasonable extension of time in which to file a supplemental petition for appeal.

Respectfully submitted this 13th day of April, 2021.



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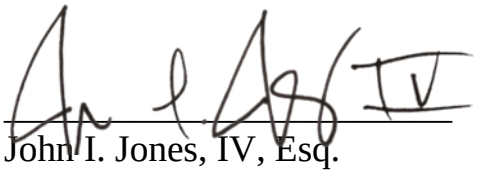
CERTIFICATE

I hereby certify that on April 13, 2021, I have emailed a copy of the foregoing motion to G. Andrew Hall, Commonwealth's Attorney, Office of the Commonwealth's Attorney for the City of Martinsville, counsel for the appellee, at ahall@ci.martinsville.va.us. On the same date, I am emailing a copy of the foregoing motion, along with copies of the motion to withdraw and the petition for appeal filed this day in the same case, to Brian David Hill, c/o Roberta Hill, at rbhill67@comcast.net.



John I. Jones, IV, Esq.

LETTER TO COURT OF APPEALS OF VIRGINIA IN THE CITY OF RICHMOND

Re: John Ira Jones, IV filings in both cases around April 13, 2021; supplemental timely filed Petitions for Appeal

Re: Brian David Hill v. Commonwealth of Virginia, City of Martinsville
Record No. 1294-20-3, 1295-20-3
(Appeal of criminal conviction, Appeal of denial of a Motion to Vacate Fraudulent Begotten Judgment)

Thursday, April 15, 2021 03:42 AM

ATTN: Clerk of the Court **Court of Appeals of Virginia**	cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321

Dear Clerk of the Court, Court of Appeals of Virginia,

My request is simple, that both my timely filed petitions for appeal be considered as "Pro Se Supplemental Petitions" and please mark the date they were originally timely filed. Since my lawyer has invoked Rule 5:17 - Petition for Appeal [Effective until March 1, 2021], Va. R. Sup. Ct. 5:17 ("*This Court will rule upon the motion for extension of time upon its receipt, but will not rule on the motion to withdraw until this Court considers the case in its entirety, including any supplemental petition for appeal that may be filed*."). The rule was invoked and my pro se petition for appeals has a lot of issues of fact and fraud by the Commonwealth of Virginia, that Appellant had proved the Commonwealth of Virginia lied about Appellant being medically and psychologically cleared in the CRIMINAL COMPLAINT and never proven intent even in General District Court. Appellant's pro se supplemental petitions for appeal were timely filed and should now be considered prior to making a disposition on both appeals. It is very important that this be done. I can re-file my Petitions as "Pro Se Supplemental Petitions" but that may be redundant and a waste of this Court's time to re-file what was already filed before. So I rather request that both my filed petitions be treated as "Pro Se Supplemental Petitions" and added back to the Court's ACMS-CAV system.

Attorney John Jones IV finally emailed Roberta Hill at her email address rbhill67@comcast.net, on April 13, 2021. Emailed her his petitions for appeal and any other pleadings for appeal citing "Anders v. California, 386 U.S. 738 (1967)" Rule 5:17 - Petition for Appeal [Effective until March 1, 2021], Va. R. Sup. Ct. 5:17.

He never did discuss that the appeal would not be meritorious. I rather let it go and not make an enemy of my court appointed lawyer so I am letting this go, but I will not lie to the Court as fighting for my acquittal is extremely important. He did try to call me around the time of 9:00PM to 10:00PM on April 13, 2021, Tuesday. I wasn't available but after what he had filed, I will never talk to him. I have a friend who knows a lot about legal stuff named Eric Clark of Kansas, who was also a criminal defendant in the Commonwealth of Virginia in I believe it was Fairfax County after appearing at a protest in Chantilly, Virginia, in 2012, known as the Occupy Bilderberg protest where Alex Jones and Luke Rudkowski and I was also at in 2012. I was there as Free Press for USWGO Alternative News at uswgo.com before I was framed with child porn a few months later. Eric Clark also suggested that I file motion to receive new counsel after he was informed of the John Jones, IV situation. I already did with my Emergency Motions. I did timely file my petitions using the date calculator of my Desktop computer and the 40-day deadline was April 7, 2021. I timely filed my petitions, my counsel did not.

However I already had timely filed my Petitions for Appeal in cases no. 1294-20-3, 1295-20-3.

Since the lawyer has cited Anders v. California, 386 U.S. 738 (1967), this Court should accept my two “Pro Se Supplemental Petition” in both cases. Please mark the dates of both petitions as “Pro Se Supplemental Petitions” and please mark the dates as timely filed as both were filed pro se and should be considered as both a “Pro Se Supplemental Petition”.

I now have a right to file such since my attorney John Ira Jones, IV had basically considered my appeals to not be meritorious even though he did lie about having that discussion with me, he never told me such that I recall, ever. Maybe he told me that last year and I could have simply forgot but then why would I push for him to be re-appointed as counsel in my Notices of Appeal? If he thought I didn't stand a chance last year, I would have complained about it and sought the advice of Eric Clark or any other legal scholar but I do not believe that Attorney ever discussed such matter with me, so I have to admit truthfully to this Court that I do not recall anything about his claim that my appeals would not be meritorious. However I don't need to get this attorney angry and rather he just be ejected from both cases as he had requested in his request to withdraw as counsel of record in both appeals.

My Petition for Appeal filed on March 29, 2021, in case no. 1294-20-3, was timely filed and should be considered as a “Pro Se Supplemental Petition”. It was already served with the Commonwealth Attorney on that same day and should simply be

considered rather than re-file the same petition but re-wording it as a “Pro Se Supplemental Petition”. If the Clerk requests that I re-file and re-word the cover page as a “Pro Se Supplemental Petition”, then I will re-file my timely filed petition as a “Pro Se Supplemental Petition” and re-serve the re-branded corrected pleading with the Commonwealth Attorney to comply and correct the deficiency.

My Petition for Appeal filed on March 25, 2021, in case no. 1295-20-3, was timely filed and should be considered as a “Pro Se Supplemental Petition”. It was already served with the Commonwealth Attorney on that same day and should simply be considered rather than re-file the same petition but re-wording it as a “Pro Se Supplemental Petition”. If the Clerk requests that I re-file and re-word the cover page as a “Pro Se Supplemental Petition”, then I will re-file my timely filed petition as a “Pro Se Supplemental Petition” and re-serve the re-branded corrected pleading with the Commonwealth Attorney to comply and correct the deficiency.

I also have to make a note that another reason why my timely filed Petitions for Appeal in cases no. 1294-20-3 and 1295-20-3 should be considered by the Court of Appeals of Virginia, is because in my attorney's Petition for Appeal dated April 13, 2021, it actually contradicts the Record on Appeal as was outlined in both pro se supplemental petitions. The Attorney cited Appellant's false assumption that his withdraw of appeal is considered as a guilty plea. That is not true as Appellant never had access to the Record on Appeal at the time and made a false assumption in his criminal case because his court appointed lawyers were all terrible and were never upfront and honest about everything. Appellant's family printed the Online Case Information System 2.0 (“OCIS”) for the criminal case and it said “GULTY PLEA” by “Withdrawing Appeal”. Of course that system I asked my family to check the “Disclaimer” and it said not to rely on that for reliable information that is to be the same as the Record in a court case. So I was relying on inaccurate information that my family printed for me.

The Petitions for Appeals in both cases properly cite what John Ira Jones, IV had failed or refused to acknowledge. He argues that:

> “Hill’s Motion to Vacate was replete with references to Hill’s surprise at learning that his withdrawal of his appeal constituted, for all practical purposes, a guilty plea. (R. 437-61).”

That was based on false assumptions, because of the OCIS database with a Disclaimer from the Office of Executive Secretary which is a legally binding agreement between those who access that service and access the information from that service. My family

checked that and it waives the guarantee of accuracy of the information and asks to check the actual record of a Court to obtain accurate information of a case. Appellant couldn't afford to do so at $0.50 a page of literally hundreds and hundreds of case pages.

Appellant had already made it known in his pro se Supplemental Petitions for Appeal that he never plead guilty at all based upon the final Conviction of his criminal case.

Petition for Appeal filed pro se, supplemental petition in RECORD NO. 1294-20-3 argues that, Page 18 of 54 of PDF document AppealPet3-29-2021.pdf:

> "When Appellant had filed his Motion to Withdraw the Appeal in the Trial Court which is Pages 422 of 961 of the Record, Page 434 the Trial Court Judge only considered his "Motion to Withdraw Appeal" as exactly that, a technical withdraw **but did not consider it as a "guilty plea" in fact the Trial Court** never entered in that Brian actually plead guilty, **he did not plead guilty, it was marked out by the Judge at the time the conviction was entered.** There was no guilty plea by Appellant. Page 434 written this: "Other: DEF ~~CHANGED HIS PLEA TO GUILTY AND~~ AFFIRMED JUDG GDC, PAY COURT COSTS." Yes, Appellant is showing the true strikethrough, the Judge had stricken the words "~~CHANGED HIS PLEA TO GUILTY AND~~" with what appeared to be a black marker pen. So, the **Judge of the Trial Court did not consider that Appellant honestly decided that he was guilty because** in his Motion with Withdraw Appeal **he said that he did not waive his actual innocence or legal innocence, he did not plead guilty by any stretch of technicality.**

That argument is so true. The petitions for appeal by John Ira Jones negated to bring up that Appellant's claims were based upon erroneous assumptions that he had plead guilty when he in fact never did as the Trial Court never actually entered a guilty plea from the record reviewed by Appellant this year, not reviewed over last year and not ever reviewed prior to the Record on Appeal being given to Appellant thanks to the Clerk of this Court. Appellant had simply faxed a typed statement with his concerns that he would not receive a fair jury trial because of his federal conviction would be brought up and other issues and probably more erroneous assumptions.

I do not need to re-cite the same citation above as both petitions had the same statement of the facts that Appellant never plead guilty from the Record on Appeal not known to Appellant at the time of his conviction, not ever known until this year thanks to Justin Shelton who provided the Record on Appeal to Appellant to review over the Record on Appeal. It was at that point that Appellant was misled by false or inaccurate information from the OCIS database under the authority of the Office of Executive Secretary. The Clerks put in inaccurate information from the Circuit Court of Martinsville. The Attorney should have known that Appellant never plead guilty. It is a very weak conviction and is not constitutional due to ineffective assistance of counsel and pro se motions being ignored by the Trial Court, again that was already iterated in the Petitions for Appeal filed Pro Se by Appellant. Yes, in appeal record no. 1295-20-3, same page 18 of 55 of the PDF Document AppealPet3-25-2021.pdf, it argued the same statement of facts that Appellant never plead guilty from the Record on Appeal, the Court never actually considered that Appellant plead guilty, they didn't.

Appellant had already timely filed his supplemental petitions for appeal filed pro se on March 29, 2021, and March 25, 2021.

So Appellant requests that the Clerk's office either consider those pro se petitions as timely filed “Pro Se Supplemental Petitions”, or send a letter requesting that he cure that deficiency by re-labeling his “PETITION FOR APPEAL OF APPELLANT” as a “PRO SE SUPPLEMENTAL PETITION FOR APPEAL OF APPELLANT” to cure that issue and allow those to be distributed to the panel of judges for review.

Appellant believes his lawyer is wrong in his claim that Appellant had plead guilty. It all boils down to false assumptions. False assumptions based upon the Record of both cases. Appellant never actually plead guilty and that is supported by the Record. Appellant did not waive all of his rights to challenge his criminal case. Appellant had asked that upon withdrawing his appeal that he retain his rights such as: “***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***.” That was page 420 of the Record and Page 423 if the Table of Contents are included. So his lawyer John Ira Jones is absolutely wrong and should have brought this up if he really did believe that Appellant had waived his rights and waived a good appeal as a result of the “MOTION TO WITHDRAW APPEAL”. Appellant does not want false claims or inaccurate information in Appellant's defense as a result of ineffective assistance of counsel or incompetence. Appellant files this letter to set the record straight, this lawyer didn't conduct enough research to know and fully understand all of this or maybe Appellant doesn't understand how the Virginia Courts really work, but regardless, the Judge did consider that Appellant never plead guilty and wanted to be

acquitted on actual innocence for his state charge of indecent exposure and did not waive his right to file a Writ of Actual Innocence or Collateral Attack, which may include the right to direct appeal under a meritorious appeal claims.

Appellant proved his attorney wrong here, and thus Appellant respectfully requests that his timely filed Pro Se Supplemental petitions be considered and not just the erroneous information in both Petitions for Appeal submitted by John Ira Jones, IV. A lot of evidence and case law authorities was overlooked and Appellant made assumptions not based upon fact or the record and that wrecked his Due Process rights because of ineffective assistance of counsel throughout his criminal case and the ineffective assistance of counsel throughout his appeals. Counsel should have informed Appellant that he never plead guilty but had only filed a technical motion to withdraw appeal but retain his "Actual Innocence" which may be similar to an Alford plea and right to collateral attack his conviction which includes showing any evidence of fraud on the court in case no. 1294-20-3. An Alford plea (also called a Kennedy plea in West Virginia, an Alford guilty plea and the Alford doctrine), in United States law, is a guilty plea in criminal court, whereby a defendant in a criminal case does not admit to the criminal act and asserts innocence.

John Ira Jones, IV arguing that the appeal of a motion being denied is not meritorious when it is a collateral attack on a fraud on the court, that is a lie and John Ira Jones, IV should have known better than to put down Appellant's appeal of denial of a motion asking for collateral attack on a fraudulent conviction as a non-meritorious appeal. His petitions for appeal or other pleadings have erroneous information and were untimely filed after the 40 day deadline. It is clear that the pro se supplemental petitions have good arguments and one appeal has better merit even if John Ira Jones was correct in his arguments as to the merit. Anybody can challenge a fraud on the court and it is not barred by withdrawing appeal, as appeal just reviews over the record in the usual cases. **If evidence later surfaces showing a fraud on the court, how can that be barred by a past withdrawal of appeal?????** John Ira Jones, IV as well as many lawyers are incompetent in regards to the issues of fighting frauds on the court in accordance with "Chambers v. NASCO, Inc." a ruling of the U.S. Supreme Court as well as Virginia Supreme Court rulings in regards to a right to collaterally attack one or multiple frauds on the court. Even a guilty plea can be attacked if later the entire case was fueled by prosecutorial fraud.

It all boils down to the fact that Appellant never had a discussion with John Ira Jones, IV, about his both appeals not having good enough merit for representation in accordance with Anders v. California, 386 U.S. 738 (1967). Anders is not a Virginia case but is being used by the Virginia Courts. What about Chambers v. NASCO, Inc.,

Chambers v. Nasco, Inc., 501 U.S. 32 (1991) in SCOTUS and other Virginia Supreme Court rulings about challenging frauds on the court to overturn a conviction or judgment when it was based upon fraud by the prosecutor and the charging officer. Fraud such as not being medically cleared which is perjury in the CRIMINAL COMPLAINT based upon the pro se CORRESPONDENCE by Brian David Hill the Appellant. What John Ira Jones is arguing is wrong to a certain degree. Fraud is fraud, and withdrawing appeal under something as sample as an Alford Plea does not preclude the right to overturn a criminal conviction based upon Fraud. An appeal cannot uncover fraud or prove fraud. Withdrawing an appeal but later proving or uncovering fraud does entitle an aggrieved party to request relief from a Court that was a victim of fraud. A Court has to maintain its own integrity and that includes the right to sanction a party for proven fraud.

Appellant asks for forgiveness from the Clerk's office for filing this letter but feels it is a must to challenge what John Ira Jones, IV had filed on April 13, 2021, and asks that his two petitions for appeal be considered as it contains more accurate and honest information based upon what was reviewed from the Record on Appeal.

Respectfully filed with the Court,
This the 15th day of April, 2021.

Brian D. Hill
Signed
Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505
JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

CERTIFICATE OF SERVICE

On April 15, 2021, I, Brian David Hill certify that the original of this foregoing letter/pleading was transmitted to the Clerk of the Court of Appeals of Virginia and that

a copy of this foregoing letter/pleading had been transmitted to the following parties:

1. Commonwealth of Virginia, Appellee
2. City of Martinsville, Appellee,

by having representative Roberta Hill filing his pleading on his behalf with the Court through VACES, Respondents served by email address rbhill67@comcast.net with request of read receipt, transmit a copy of this pleading to the following attorneys who represent the above appellees' as well as the Clerk by VACES:

Mark R. Herring, Esq. Office of the Attorney General of Virginia mherring@oag.state.va.us 202 North Ninth Street Richmond, VA 23219 Attorney for Appellee	Glen Andrew Hall, Esq. Commonwealth Attorney's Office for the City of Martinsville ahall@ci.martinsville.va.us 55 West Church Street P.O. Box 1311 Martinsville, Virginia 24114/24112 Attorney for Appellee
Filed through VACES: Clerk of the Court Court of Appeals of Virginia cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321	John Ira Jones, IV, Esq. Attorney of Record from Appellant jones@johnjoneslawplc.com 9520 Iron Bridge Rd, Ste. 204 Chesterfield, VA 23832-6455
All individuals were emailed by rbhill67@comcast.net, on April 15, 2021.	

The reason why Brian David Hill must use such a representative/Assistant to serve such pleading with the Clerk on his behalf is because Brian is currently still under the conditions of Supervised Release for the U.S. District Court barring internet usage without permission. Brian's Probation Officer is aware of Roberta Hill using her email for conducting court business concerning Brian Hill or court business with the Probation Office in regards to Brian David Hill. Therefore Roberta Hill is filing the pleading on Brian's behalf for official court business. Brian has authorized her to file the pleading.

That should satisfy the Certificate of Service regarding letters/pleadings. If the Court wishes to contact the filer over any issues or concerns, please feel free to contact the filer Brian David Hill directly by telephone or by mailing. They can also contact Roberta Hill at rbhill67@comcast.net and request that she forward the message and any

documents or attachments to Brian David Hill to view offline for his review.

Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
310 Forest Street, Apartment 2
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JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

Daphne Brown

From: Court of Appeals of VA _2 <court_of_appeals_of_va_2@vacourts.gov>
Sent: Thursday, April 15, 2021 4:35 PM
To: John I. Jones IV (jones@johnjoneslawplc.com); 'Martinsville City Commonwealth's Attorney (ahall@ci.martinsville.va.us)'
Cc: Brian David Hill (rbhill67@comcast.net)
Subject: Brian David Hill v. Commonwealth of Virginia; Record Nos. 1294-20-3 & 1295-20-3
Attachments: 041521 order - grant anders ext 1294-20-3.pdf; 041521 order - grant anders ext 1295-20-3.pdf

COURT OF APPEALS OF VIRGINIA

Counsel:

Attached are this Court's orders entered today in the above-referenced matters and sent by USPS to appellant at the following address:

Mr. Brian David Hill
310 Forest Street, Apt. 2
Martinsville, VA 24112

Pursuant to this Court's order of March 18, 2020, all litigants are encouraged to file all pleadings, letters, briefs, etc., electronically through the VACES system. Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings are located on the Virginia Judicial Website at http://www.vacourts.gov/news/items/covid_19.pdf. Just scroll down to the second page where the Court of Appeals of Virginia information is displayed. Also, the Court is in a position to accept debit and credit card payments for the filing fee. Please contact the clerk's office at 804-786-5651 to make such payment.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to Cynthia L. McCoy, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219

VIRGINIA:

In the Court of Appeals of Virginia on **Thursday** *the* **15th** *day of* **April, 2021**.

Brian David Hill, Appellant,

against Record No. 1295-20-3
Circuit Court No. CR19000009-00
(Appeal of the November 18, 2019 Order)

Commonwealth of Virginia and
City of Martinsville, Appellees.

From the Circuit Court of the City of Martinsville

Upon consideration of the motion filed by appellant's court-appointed counsel on April 13, 2021, pursuant to Anders v. California, 386 U.S. 738 (1967), an extension of time is granted the appellant until April 15, 2021, to file, *pro se*, a supplemental petition for appeal in this case, and the *pro se* supplemental petition for appeal received on April 15, 2021 is considered filed.

A Copy,

Teste:

Cynthia L. McCoy, Clerk

By: Deputy Clerk

IN THE
COURT OF APPEALS OF VIRGINIA

Record No. 1295-20-3

BRIAN DAVID HILL,
Appellant,

v.

COMMONWEALTH OF VIRGINIA,
Appellee.

BRIEF IN OPPOSITION TO PETITION FOR APPEAL

G. Andrew Hall, VSBN 71048
Martinsville Commonwealth Attorney's Office
P.O. Box 1311
55 West Church Street
Martinsville, VA 24114
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(276) 403-5478 (Facsimile)
ahall@ci.martinsville.va.us
Counsel for Commonwealth
Commonwealth's Attorney

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TABLE OF AUTHORITIES

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STATEMENT OF THE CASE

Mr. Hill's appeals have taken so many permutations that is difficult to make heads or tails of the record. In response to Mr. Hill's numerous filings, the Circuit Court Clerk's Office for the City of Martinsville has sent at least two records to this Honorable Court regarding petitions for appeals of the underlying case, specifically, CR19000009-00. One listing of the official Circuit Court Record of this case has a date of 1/29/20, the other has a date of 7/29/2020. 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 (30 days), and the Court agreed. Mr. Hill appealed the case to the Circuit Court on December 26, 2018. (Record of Proceedings, dated 1/29/2020, "GD PAPERWORK"). The case was continued a number of times on Mr. Hill's motions. (Record of Proceedings, dated 1/29/2020, page 109, 393-396, 398). Mr. Hill was initially appointed the Public Defender to represent him in General District Court. (Record of Proceedings, dated 1/29/2020, "GD PAPERWORK"). The Public Defender withdrew on July 30, 2019. (Record of Proceedings, dated 1/29/2020, page 383-384). Attorney Matthew Clark was appointed to serve as court appointed counsel on August 1, 2019. (Record of Proceedings, dated 1/29/2020, page 385). The case was scheduled to be tried in front of a jury on December 2, 2019. (Record of Proceedings, dated 1/29/2020, page

398). Mr. Hill affirmed lower court ruling on November 15, 2019. (Record of Proceedings, dated 1/29/2020, page 433).

STATEMENT OF FACTS

Mr. Hill has filed a "Statement of Facts" in his Petition, which is simply quoting the body of the criminal complaint. 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. This case was in fact heard on its merits in the General District Court, and after a lengthy trial, Mr. Hill was found guilty. As an Officer of the Court, the Commonwealth 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 shoes. 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 and county. In most of the pictures, Mr. Hill is completely nude, with the exception of his shoes 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

The Trial Court did not violate Rules 3A:8(b)(2) and 7C:6 (a), as Mr. Hill affirmed lower court ruling, and said rules are not applicable.

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).

ARGUMENT

The Trial Court did not violate Rules 3A:8(b)(2) and 7C:6(a), as Mr. Hill affirmed lower court ruling, and said rules are not applicable.

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 of the General

District Court stands. The sentence the defendant received in General District Court also stands. *(Id.)*.

Pleas of guilty or *nolo contendere* are completely different. They are made pursuant to a different body of law, §19.2-254 of the Code of Virginia, and require an arraignment or waiver of arraignment. Pursuant to §19.2-258, these pleas also require the Circuit Court to sentence. That sentence could be, and often is, harsher than that imposed by the General District Court.

Upon appealing his conviction in General District Court, Mr. Hill had three options: he could have simply followed up on his appeal and taken his case to trial in the Circuit Court, he could have plead guilty or *nolo contendere*, or he could affirm lower court ruling. All three options are governed by clearly delineated rules and/or statutes.

Mr. Hill did not plead guilty or *nolo contendere*. He affirmed lower court ruling. This decision was not, as Mr. Hill asserts, governed by Rule 3A:8 or Rule 7C. There is a statute that governs affirming lower court rulings and is directly on point: §16.1-133.

Mr. Hill was convicted of Indecent Exposure (§18.2-387 of the Code of Virginia), which is a Class One misdemeanor. He could have been sentenced to 12 months in jail. (§ 18.2-11 of the Code of Virginia). By affirming lower court ruling, Mr. Hill insulated himself from the possibility of receiving more time in jail, and

instead only received a sentence of time served, which he had completed months before.

CONCLUSION

Mr. Hill's assertion that affirming the judgement of lower court is indistinguishable from a guilty plea or *nolo contendere* is contrary to the law and should be rejected by this Court.

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 6th day of May, 2021.

By: _____
G. Andrew Hall
Counsel for the Commonwealth

G. Andrew Hall
VSBN 71048
Commonwealth's Attorney
Martinsville Commonwealth Attorney's Office
55 West Church St.
P.O. Box 1311
Martinsville, VA 24114

CERTIFICATE OF WORD COUNT

Pursuant to Rule 5A:12 (e) I hereby certify that the foregoing brief contains 1666 words as determined by the word count tool of the Microsoft Software Program.

G. Andrew Hall
Counsel for Appellee

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of May, 2021, I electronically filed a true and accurate copy of the foregoing brief VACES in the Court of Appeals of Virginia, and the same day e-mailed a true and accurate copy to John I. Jones, IV, *Esquire,* counsel for the Appellant.

G. Andrew Hall
Counsel for Appellee

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Commonwealth's Attorney
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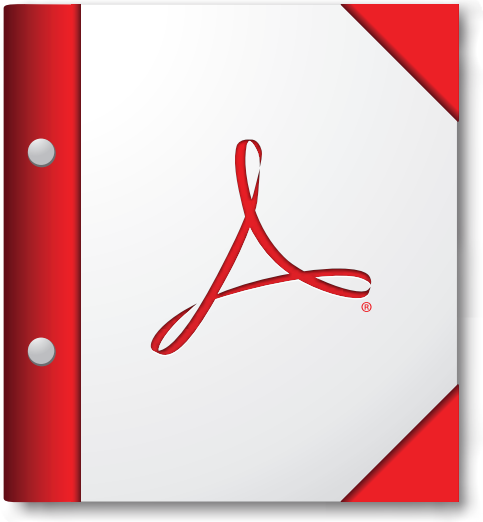

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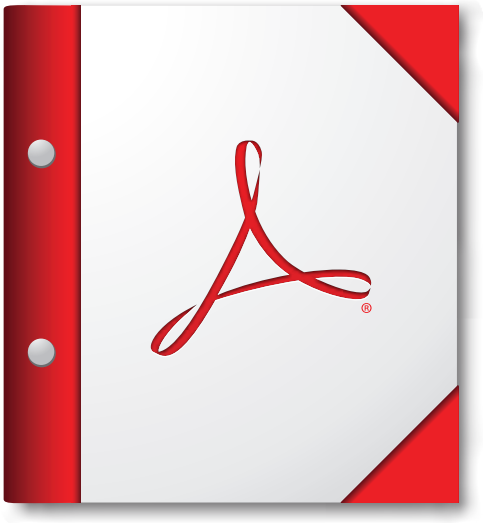

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VIRGINIA:

In the Court of Appeals of Virginia on **Thursday** *the* **2nd** *day of* **September, 2021**.

Brian David Hill, Appellant,

against Record No. 1295-20-3
Circuit Court No. CR19000009-00
(Appeal of November 18, 2019 order)

Commonwealth of Virginia and
City of Martinsville, Appellees.

From the Circuit Court of the City of Martinsville

Before Senior Judges Annunziata, Clements and Frank

Counsel for appellant has moved for leave to withdraw. The motion to withdraw is accompanied by a brief referring to the part of the record that might arguably support this appeal. A copy of this brief has been furnished to appellant with sufficient time for appellant to raise any matter that appellant chooses.

The Court has reviewed the petition for appeal and appellant's *pro se* supplemental petitions for appeal, fully examined all of the proceedings, and determined the case to be wholly frivolous for the following reasons:

I. Appellant, by counsel, argues that the trial court committed reversible error when it accepted his withdrawal of his misdemeanor appeal "without ascertaining whether [he] was accepting the general district court's judgment voluntarily and with an understanding of the consequences of his withdrawal[.]" Appellant contends that allowing him to withdraw his appeal without making such an inquiry violated Rule 3A:8(2) and Rule 7C:6(a).

On December 21, 2018, the General District Court for the City of Martinsville convicted appellant of misdemeanor indecent exposure and sentenced him to thirty days in jail. He timely noted an appeal to the trial court. See Code § 16.1-132. Although he had court-appointed counsel, nearly a year after noting his

appeal to the trial court, appellant filed a *pro se* motion to withdraw his appeal. Th trial court entered an order affirming the district court's judgment and assessing costs on November 18, 2019.

Appellant, by counsel, argues that a withdrawal of a misdemeanor appeal from the general district court is, "[f]or all practical purposes concerning guilt or innocence, . . . indistinguishable from a circuit court's acceptance of a guilty or no contest plea to the same charge." He therefore posits that the trial court was obligated under Rule 3A:8(2) and Rule 7C:6(a), which govern guilty and *nolo contendere* pleas, to "determine whether [he] was withdrawing his appeal 'voluntarily' and 'with an understanding of the nature of the charge and the consequences' of his withdrawal." We disagree.

The withdrawal of a properly noted appeal from the general district court to the circuit court in a criminal case is governed by Code § 16.1-133. That statute provides, in pertinent part, as follows:

> [A]ny person convicted in a general district court, a juvenile and domestic relations district court, or a court of limited jurisdiction of an offense not felonious may, at any time before the appeal is heard, withdraw an appeal which has been noted, pay the fine and costs to such court, and serve any sentence which has been imposed.
>
> A person withdrawing an appeal shall give written notice of withdrawal to the court and counsel for the prosecution prior to the hearing date of the appeal. If the appeal is withdrawn more than ten days after conviction, the circuit court shall forthwith enter an order affirming the judgment of the lower court and the clerk shall tax the costs as provided by statute. Fines and costs shall be collected by the circuit court, and all papers shall be retained in the circuit court clerk's office.

The Supreme Court has explained that the statutory requirement that the circuit court enter an order "affirming" the district court judgment "indicates that the general district court judgment in the withdrawn appeal remains in effect and is ratified by the circuit court order." Commonwealth v. Diaz, 266 Va. 260, 265 (2003). Indeed, until the appeal "is heard" in the circuit court, the general district court's judgment, although stayed, remains a valid judgment while the appeal is pending. Id. Thus, the general district court's judgment convicting appellant of indecent exposure "remained in effect throughout the proceedings in this case." Id.

"[W]here a misdemeanant withdraws his appeal *de novo* from the district court before it is heard in the circuit court, his conviction and sentence by the district court are affirmed . . . ." Turner v. Commonwealth,

49 Va. App. 381, 389 (2007). Nothing in the statute, or the precedents applying it, mandates or even suggests that the trial court is required to take any action other than to enter an order affirming the district court's judgment, if the appellant notifies the court that he is withdrawing the appeal. Indeed, appellant himself notes in his *pro se* supplemental petition for appeal that he did not plead guilty or concede his guilt. Thus, we find appellant's argument that the Rules of Court governing guilty pleas applied under the circumstances of this case is without merit.

II. Appellant, *pro se*, contends that the trial court erred by "entering the Final Conviction" because it "ignor[ed]" his other *pro se* filings, but "entertain[ed]" his "motion" to withdraw his appeal.[1] Appellant contends that the trial court violated his rights to due process and equal protection rights by "pick[ing] and choos[ing]" which of his *pro se* motions it would act upon. We find no error in the trial court's judgment.

Initially, we note that the trial court did not enter a "final conviction." Rather, the trial court merely affirmed the district court's stayed but valid conviction and sentence. Diaz, 266 Va. at 265.

The record demonstrates that after the trial court set the case for a jury trial,[2] appellant, who was represented by counsel, filed a series of *pro se* motions; those motions were: motion for an insanity defense alleging that he was insane at the time of the offense but was sane and competent when he filed the motion; motion for new counsel, asserting trial counsel was ineffective; motion for discovery seeking footage from the arresting officer's body worn camera; motion to suppress evidence of his prior federal conviction for possession of child pornography; and, a motion to dismiss for insufficient evidence. The trial court had entered a discovery order on July 15, 2019, which required the Commonwealth to permit appellant's counsel "to inspect and copy or photograph, within a reasonable time, before the trial or sentencing, . . . [a]ny relevant written or recorded statements or confessions made by the Defendant, or copies thereof, or the substance of any oral statements or confessions made by the Defendant to any law enforcement officer . . . ." The record

[1] We grant appellant's motion to treat his *pro se* petition for appeal, filed on March 25, 2021, as his *pro se* supplemental petition for appeal.

[2] The Commonwealth requested a jury trial.

further indicates that the trial court appointed appellant new counsel by order of August 19, 2019. Additionally, the trial court granted new counsel's motion for a continuance of the trial. Appellant's remaining *pro se* motions addressed trial matters, *i.e.*:

- an affirmative defense, see Riley v. Commonwealth, 277 Va. 467, 479 (2009) ("When asserting an affirmative defense, such as insanity, . . . the burden is on the defendant to present evidence establishing such defense to the satisfaction of the *fact finder*." (emphasis added));

- the admissibility of evidence, see Baldwin v. Commonwealth, 69 Va. App. 75, 89 (2018) (noting prior convictions are "admissible and relevant during sentencing") and Epps v. Commonwealth, 59 Va. App. 71, 79 n.7 (2011) (noting that a "convicted felon or perjurer may be impeached with his prior conviction"); and,

- the sufficiency of the evidence, see Smith v. Commonwealth, 72 Va. App. 523, 523 (2020) (noting that "[w]hether the required intent exists is generally a question of fact for the *trier of fact*") (emphasis added) (quoting Brown v. Commonwealth, 68 Va. App. 746, 787 (2018) (alteration in original)).

Thus, the trial court did not "ignore" appellant's *pro se* motions; they simply were not ripe for consideration when appellant elected to withdraw his misdemeanor appeal.

III. Appellant, *pro se*, contends that the trial court erred and abused its discretion "by entering the Final Conviction" and not considering his assertions of innocence. The question of appellant's factual innocence was a question for the jury; however, appellant elected to forgo a jury trial when he exercised his right under Code § 16.1-133 to withdraw his appeal. Having exercised that right, appellant will not now be heard to complain that the trial court erred.[3] "A party may not approbate and reprobate by taking successive positions in the course of litigation that are either inconsistent with each other or mutually contradictory." Cody v. Commonwealth, 68 Va. App. 638, 665 (2018) (quoting Cangiano v. LSH Bldg. Co., 271 Va. 171, 181 (2006)). "Nor may a party invite error and then attempt to take advantage of the situation created by his

[3] Code § 16.1-133 does not vest the circuit court with the discretion to deny the withdrawal of an appeal from the district court. Rather, upon notice of the withdrawal, "the circuit court shall *forthwith* enter an order affirming the judgment of the lower court and the clerk shall tax the costs as provided by statute." Id. (Emphasis added).

own wrong." Alford v. Commonwealth, 56 Va. App. 706, 709 (2010) (quoting Rowe v. Commonwealth, 277 Va. 495, 502 (2009)).

IV. Appellant, *pro se*, contends that the trial court erred and abused its discretion "by entering the Final Conviction" without conducting an evidentiary hearing into his allegations that he had not been "medically and psychologically cleared," in contradiction to a statement in the criminal complaint. As noted above, the opportunity to challenge the arresting officer's account was at a jury trial, where appellant could have confronted the officer and presented his mental health evidence.

V. Appellant, *pro se*, contends that the trial court erred and abused its discretion "by entering the Final Conviction" because the evidence presented to the district court was insufficient to prove the requisite intent to sustain the misdemeanor conviction. As noted above, "[w]hether the required intent exists is generally a question of fact for the *trier of fact*." Smith, 72 Va. App. at 523 (emphasis added) (quoting Brown, 68 Va. App. at 787 (alteration in original)).

VI. Appellant, *pro se*, contends that he was denied the effective assistance of counsel in the trial court. "Claims raising ineffective assistance of counsel must be asserted in a habeas corpus proceeding and are not cognizable on direct appeal." Lenz v. Commonwealth, 261 Va. 451, 460 (2001). See also 1990 Va. Acts, ch. 74 (repealing Code § 19.2-317.1).

Accordingly, we deny the petition for appeal and grant the motion for leave to withdraw. See Anders v. California, 386 U.S. 738, 744 (1967). This Court's records shall reflect that Brian David Hill is now proceeding without the assistance of counsel in this matter and is representing himself on any further proceedings or appeal.

The trial court shall allow John I. Jones, IV, Esquire, the fee set forth below and also counsel's necessary direct out-of-pocket expenses. The Commonwealth shall recover of the appellant the costs in this Court and in the trial court.

Costs due the Commonwealth by appellant in
Court of Appeals of Virginia:

Attorney's fee $300.00 plus costs and expenses

A Copy,

Teste:

Cynthia L. McCoy, Clerk

By: Kristen M. McKenzie

Deputy Clerk

Kristen McKenzie

From: Court of Appeals of VA _4 <court_of_appeals_of_va_4@vacourts.gov>
Sent: Thursday, September 2, 2021 4:02 PM
To: Ashby Pritchett
Subject: BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA AND CITY OF MARTINSVILLE; Record No. 1295-20-3
Attachments: CORRECTED STAMP 090221 orders - anders petition denied, order to withdraw as counsel granted 1295-20-3.pdf

COURT OF APPEALS OF VIRGINIA

Dear Clerk:

Please find attached a copy of the ***corrected*** order entered today by this Court in the above-noted case. This ***corrected*** order is sent only for the purpose of paying court-appointed counsel. The circuit court is directed to take no action in this case at this time other than payment of counsel.

Please note that no paper copies of the attachment(s) will be mailed separately to you.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219.

Kristen McKenzie

From:	Court of Appeals of VA _4 <court_of_appeals_of_va_4@vacourts.gov>
Sent:	Thursday, September 2, 2021 4:02 PM
To:	John I. Jones IV (jones@johnjoneslawplc.com); Martinsville City Commonwealth's Attorney (ahall@ci.martinsville.va.us)
Subject:	BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA AND CITY OF MARTINSVILLE; Record No. 1295-20-3
Attachments:	CORRECTED 090221 orders - anders petition denied, order to withdraw as counsel granted 1295-20-3.pdf

COURT OF APPEALS OF VIRGINIA

Attached is this Court's ***corrected*** order entered today in the above-referenced matter.

(copy sent by U.S. mail to Appellant, 310 Forest Street, Apt. 2, Martinsville, VA 24112)

Effective June 1, 2021, all counsel are required to file all pleadings, letters, briefs, etc., electronically through the VACES system. Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings are located on the Virginia Judicial System Website at https://eapps.courts.state.va.us/help/robo/vaces/index.htm. Pro se/self-represented litigants may, but are not required to, file pleadings through the VACES system. Otherwise, such individuals are required to transmit one paper copy of a filing to the Clerk of the Court.

Please note that no paper copies of the attachment(s) will be mailed separately to you.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219.

CORRECTED

VIRGINIA:

In the Court of Appeals of Virginia on **Thursday** *the* **2nd** *day of* **September, 2021**.

Brian David Hill, Appellant,

against Record No. 1295-20-3
Circuit Court No. CR19000009-00
(Appeal of November 18, 2019 order)

Commonwealth of Virginia and
City of Martinsville, Appellees.

From the Circuit Court of the City of Martinsville

Before Senior Judges Annunziata, Clements and Frank

Counsel for appellant has moved for leave to withdraw. The motion to withdraw is accompanied by a brief referring to the part of the record that might arguably support this appeal. A copy of this brief has been furnished to appellant with sufficient time for appellant to raise any matter that appellant chooses.

The Court has reviewed the petition for appeal and appellant's *pro se* supplemental petitions for appeal, fully examined all of the proceedings, and determined the case to be wholly frivolous for the following reasons:

I. Appellant, by counsel, argues that the trial court committed reversible error when it accepted his withdrawal of his misdemeanor appeal "without ascertaining whether [he] was accepting the general district court's judgment voluntarily and with an understanding of the consequences of his withdrawal[.]" Appellant contends that allowing him to withdraw his appeal without making such an inquiry violated Rule 3A:8(2) and Rule 7C:6(a).

On December 21, 2018, the General District Court for the City of Martinsville convicted appellant of misdemeanor indecent exposure and sentenced him to thirty days in jail. He timely noted an appeal to the trial court. See Code § 16.1-132. Although he had court-appointed counsel, nearly a year after noting his

appeal to the trial court, appellant filed a *pro se* motion to withdraw his appeal. Th trial court entered an order affirming the district court's judgment and assessing costs on November 18, 2019.

Appellant, by counsel, argues that a withdrawal of a misdemeanor appeal from the general district court is, "[f]or all practical purposes concerning guilt or innocence, . . . indistinguishable from a circuit court's acceptance of a guilty or no contest plea to the same charge." He therefore posits that the trial court was obligated under Rule 3A:8(2) and Rule 7C:6(a), which govern guilty and *nolo contendere* pleas, to "determine whether [he] was withdrawing his appeal 'voluntarily' and 'with an understanding of the nature of the charge and the consequences' of his withdrawal." We disagree.

The withdrawal of a properly noted appeal from the general district court to the circuit court in a criminal case is governed by Code § 16.1-133. That statute provides, in pertinent part, as follows:

> [A]ny person convicted in a general district court, a juvenile and domestic relations district court, or a court of limited jurisdiction of an offense not felonious may, at any time before the appeal is heard, withdraw an appeal which has been noted, pay the fine and costs to such court, and serve any sentence which has been imposed.
>
> A person withdrawing an appeal shall give written notice of withdrawal to the court and counsel for the prosecution prior to the hearing date of the appeal. If the appeal is withdrawn more than ten days after conviction, the circuit court shall forthwith enter an order affirming the judgment of the lower court and the clerk shall tax the costs as provided by statute. Fines and costs shall be collected by the circuit court, and all papers shall be retained in the circuit court clerk's office.

The Supreme Court has explained that the statutory requirement that the circuit court enter an order "affirming" the district court judgment "indicates that the general district court judgment in the withdrawn appeal remains in effect and is ratified by the circuit court order." Commonwealth v. Diaz, 266 Va. 260, 265 (2003). Indeed, until the appeal "is heard" in the circuit court, the general district court's judgment, although stayed, remains a valid judgment while the appeal is pending. Id. Thus, the general district court's judgment convicting appellant of indecent exposure "remained in effect throughout the proceedings in this case." Id.

"[W]here a misdemeanant withdraws his appeal *de novo* from the district court before it is heard in the circuit court, his conviction and sentence by the district court are affirmed . . . ." Turner v. Commonwealth,

49 Va. App. 381, 389 (2007). Nothing in the statute, or the precedents applying it, mandates or even suggests that the trial court is required to take any action other than to enter an order affirming the district court's judgment, if the appellant notifies the court that he is withdrawing the appeal. Indeed, appellant himself notes in his *pro se* supplemental petition for appeal that he did not plead guilty or concede his guilt. Thus, we find appellant's argument that the Rules of Court governing guilty pleas applied under the circumstances of this case is without merit.

II. Appellant, *pro se*, contends that the trial court erred by "entering the Final Conviction" because it "ignor[ed]" his other *pro se* filings, but "entertain[ed]" his "motion" to withdraw his appeal.[1] Appellant contends that the trial court violated his rights to due process and equal protection rights by "pick[ing] and choos[ing]" which of his *pro se* motions it would act upon. We find no error in the trial court's judgment.

Initially, we note that the trial court did not enter a "final conviction." Rather, the trial court merely affirmed the district court's stayed but valid conviction and sentence. Diaz, 266 Va. at 265.

The record demonstrates that after the trial court set the case for a jury trial,[2] appellant, who was represented by counsel, filed a series of *pro se* motions; those motions were: motion for an insanity defense alleging that he was insane at the time of the offense but was sane and competent when he filed the motion; motion for new counsel, asserting trial counsel was ineffective; motion for discovery seeking footage from the arresting officer's body worn camera; motion to suppress evidence of his prior federal conviction for possession of child pornography; and, a motion to dismiss for insufficient evidence. The trial court had entered a discovery order on July 15, 2019, which required the Commonwealth to permit appellant's counsel "to inspect and copy or photograph, within a reasonable time, before the trial or sentencing, . . . [a]ny relevant written or recorded statements or confessions made by the Defendant, or copies thereof, or the substance of any oral statements or confessions made by the Defendant to any law enforcement officer . . . ." The record

[1] We grant appellant's motion to treat his *pro se* petition for appeal, filed on March 25, 2021, as his *pro se* supplemental petition for appeal.

[2] The Commonwealth requested a jury trial.

further indicates that the trial court appointed appellant new counsel by order of August 19, 2019. Additionally, the trial court granted new counsel's motion for a continuance of the trial. Appellant's remaining *pro se* motions addressed trial matters, *i.e.*:

- an affirmative defense, see Riley v. Commonwealth, 277 Va. 467, 479 (2009) ("When asserting an affirmative defense, such as insanity, . . . the burden is on the defendant to present evidence establishing such defense to the satisfaction of the *fact finder*." (emphasis added));

- the admissibility of evidence, see Baldwin v. Commonwealth, 69 Va. App. 75, 89 (2018) (noting prior convictions are "admissible and relevant during sentencing") and Epps v. Commonwealth, 59 Va. App. 71, 79 n.7 (2011) (noting that a "convicted felon or perjurer may be impeached with his prior conviction"); and,

- the sufficiency of the evidence, see Smith v. Commonwealth, 72 Va. App. 523, 523 (2020) (noting that "[w]hether the required intent exists is generally a question of fact for the *trier of fact*") (emphasis added) (quoting Brown v. Commonwealth, 68 Va. App. 746, 787 (2018) (alteration in original)).

Thus, the trial court did not "ignore" appellant's *pro se* motions; they simply were not ripe for consideration when appellant elected to withdraw his misdemeanor appeal.

III. Appellant, *pro se*, contends that the trial court erred and abused its discretion "by entering the Final Conviction" and not considering his assertions of innocence. The question of appellant's factual innocence was a question for the jury; however, appellant elected to forgo a jury trial when he exercised his right under Code § 16.1-133 to withdraw his appeal. Having exercised that right, appellant will not now be heard to complain that the trial court erred.[3] "A party may not approbate and reprobate by taking successive positions in the course of litigation that are either inconsistent with each other or mutually contradictory." Cody v. Commonwealth, 68 Va. App. 638, 665 (2018) (quoting Cangiano v. LSH Bldg. Co., 271 Va. 171, 181 (2006)). "Nor may a party invite error and then attempt to take advantage of the situation created by his

[3] Code § 16.1-133 does not vest the circuit court with the discretion to deny the withdrawal of an appeal from the district court. Rather, upon notice of the withdrawal, "the circuit court shall *forthwith* enter an order affirming the judgment of the lower court and the clerk shall tax the costs as provided by statute." Id. (Emphasis added).

own wrong." Alford v. Commonwealth, 56 Va. App. 706, 709 (2010) (quoting Rowe v. Commonwealth, 277 Va. 495, 502 (2009)).

IV. Appellant, *pro se*, contends that the trial court erred and abused its discretion "by entering the Final Conviction" without conducting an evidentiary hearing into his allegations that he had not been "medically and psychologically cleared," in contradiction to a statement in the criminal complaint. As noted above, the opportunity to challenge the arresting officer's account was at a jury trial, where appellant could have confronted the officer and presented his mental health evidence.

V. Appellant, *pro se*, contends that the trial court erred and abused its discretion "by entering the Final Conviction" because the evidence presented to the district court was insufficient to prove the requisite intent to sustain the misdemeanor conviction. As noted above, "[w]hether the required intent exists is generally a question of fact for the *trier of fact*." Smith, 72 Va. App. at 523 (emphasis added) (quoting Brown, 68 Va. App. at 787 (alteration in original)).

VI. Appellant, *pro se*, contends that he was denied the effective assistance of counsel in the trial court. "Claims raising ineffective assistance of counsel must be asserted in a habeas corpus proceeding and are not cognizable on direct appeal." Lenz v. Commonwealth, 261 Va. 451, 460 (2001). See also 1990 Va. Acts, ch. 74 (repealing Code § 19.2-317.1).

Accordingly, we deny the petition for appeal and grant the motion for leave to withdraw. See Anders v. California, 386 U.S. 738, 744 (1967). This Court's records shall reflect that Brian David Hill is now proceeding without the assistance of counsel in this matter and is representing himself on any further proceedings or appeal.

The trial court shall allow John I. Jones, IV, Esquire, the fee set forth below and also counsel's necessary direct out-of-pocket expenses. The Commonwealth shall recover of the appellant the costs in this Court and in the trial court.

Costs due the Commonwealth by appellant in
Court of Appeals of Virginia:

Attorney's fee $300.00 plus costs and expenses

A Copy,

Teste:

A. John Vollino, Clerk

By: Kristen M. McKenzie

Deputy Clerk

REQUEST FOR COURT JUDGMENT RULINGS IN BOTH CASES
LETTER TO COURT OF APPEALS OF VIRGINIA
IN THE CITY OF RICHMOND

Re: Brian David Hill v. Commonwealth of Virginia, City of Martinsville
Record No. 1294-20-3, 1295-20-3
(Appeal of criminal conviction, Appeal of denial of a Motion)

Friday, September 3, 2021 05:10 PM

ATTN: Clerk of the Court **Court of Appeals of Virginia**	cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321

Dear Clerk of the Court, Court of Appeals of Virginia,

I would like to request a copy of both rulings by the 3-Judge Writ Panel rendered on September 2, 2021. This request is URGENT as I only have a strict number of days to file a Petition for Rehearing in both Appeal cases and I promise I will file a Petition for Rehearing but cannot do so without a copy of the Judgments rendered in both appeal cases rendered on September 2, 2021, denying my Petitions for Appeal.

My court appointed lawyer John Ira Jones, IV had not contacted me about both Court of Appeals judgments/decisions as of the date and time of this letter. My family checked the ACMS system and found out about those decisions thanks to the grace and foresight of GOD and JESUS. My court appointed lawyer John Ira Jones, IV is pretty much useless and should have been terminated from the service of representing me in my cases and a new lawyer appointed as he did filed the Petitions for Withdrawal as Counsel on April 13, 2021. I do have ineffective assistance of counsel on the record as a West Virginia lawyer named Edward Ryan Kennedy who was also a Mayor of Clarksburg in West Virginia had made legal arguments as to my Indecent Exposure charge in the Fourth Circuit of the Federal Court of Appeals proving that I did have a defense or defenses but my court appointed lawyers in the Circuit Court of Martinsville refused to bring up such defenses and did absolutely nothing to help me be found innocent. So I already have proof from another lawyer's legal arguments directly involved with my Indecent Exposure charge in Virginia that I did have prima facie evidence of ineffective assistance of counsel and I have the Constitutional right to effective assistance of counsel in accordance with the U.S. Supreme Court. See Strickland v. Washington, 466 U.S. 668 (1984). So please give me a copy of the

decisions, the verdicts made on September 2, 2021, in both Appeal cases.

I would like for you to send a copy of both rulings to my mother Roberta Hill via email at rbhill67@comcast.net.

So again, since my lawyer John Ira Jones, IV, had not contacted me about this decision when I have a limited amount of time to file a Petition for Rehearing in both cases, I ask that it be emailed to rbhill67@comcast.net so that Roberta Hill can show me the decisions and download those decisions and so I can review over the judgments in both cases while I draft my "Petition for Rehearing" in both appeals and file it timely as directed to do so by the Court and it's prescribed rules.

So please give me access to the judgments or give me a new appointment of Counsel.

Pursuant to authoritative case law: Strickland v. Washington, 466 U.S. 668 (1984), I have the right to file an extraordinary petition in the Supreme Court of the United States and can do so at any time. If I continue being ignored by the Court of Appeals of Virginia while I have ineffective assistance of counsel and new counsel cannot be appointed, then I will file a Petition for Writ of Quo Warranto or Writ of Mandamus or Prohibition. I will ask the Supreme Court to direct your Court to allow me to file and receive those orders Pro Se and allow me to file when it is clear that John Ira Jones, IV is not contacting me about those decisions by the Court of Appeals of Virginia rendered on September 2, 2021. I may have no choice but to ask the U.S. Supreme Court to strike down your orders as UNLAWFUL and violating my Constitutional Right to Due Process of Law under the Fourteenth Amendment. I have the right under Due Process of Law and Effective Assistance of Counsel to the Adversarial System.

The Commonwealth of Virginia and John Ira Jones, IV, has no no legal right under any Commonwealth or State to deprive me of Due Process of Law. Using procedural technicalities like ignoring my Petitions for Appeal, ignoring my Motions when it is clear my court appointed lawyers are not contacting me, they are clearly not representing me to the best of their abilities under the Strickland standards when they should have and are acting unethically, then it is clear I am being deprived of Due Process of Law by ineffective assistance of counsel and being deprived of access to the adversarial system. Your verdicts are UNCONSTITUTIONAL and may be ILLEGAL and I will push for the Supreme Court of the United States to overturn your verdicts denying my Petitions for Appeal as they are illegal due to ineffective assistance of counsel as well as Deprivation of my Constitutional Right to the Adversarial System which is part of Due Process of Law, and I have evidence of ineffective assistance of counsel. I will go straight to

SCOTUS and tell them what your Court has done. I will ask for order and remand.

I don't want to have to take drastic measures but I will because I am sick and tired of being deprived of my Constitutional rights and all of this over a misdemeanor.

Please give me a copy of the rulings otherwise I will soon file a SCOTUS Petition asking for drastic remedy against your Court for John Ira Jones, IV refusing to do anything except for filing possibly defective Petitions. He asked to be terminated as counsel but instead the Court denies my Petitions and refuses to remove him from my case. Instead I am being directly deprived of Due Process of Law which encroaches upon the Fourteenth Amendment of the United States Constitution. It may very well be high treason under the Federal Constitution. I ask this Court not to commit high treason against the United States Constitution. The Oaths of Office all state I will protect and defend the Constitution, I will swear allegiance to the same, to faithfully execute or discharge the duties of the office the officers of the Court are about to enter. The oaths of office are not just mere words. It is a solemn vow to follow the laws of the land.

So please do not ignore this letter. I will file a SCOTUS petition on your Court as I cannot rely on ineffective lawyer John Ira Jones, IV. Whether he could be blackmailed or threatened or not is not the issue here. He is clearly INEFFECTIVE and not being in contact with his CLIENT. This calls for Constitutional remedy.

Constitutional remedy is my right as a criminal defendant, I am supposed to have rights here, I am not a slave. I should not be treated like a slave.

Respectfully filed with the Court,
This the 3rd day of September, 2021.

Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

CERTIFICATE OF SERVICE, CERTIFICATE OF FILING

On September 3, 2021, I, Brian David Hill certify that the original of this foregoing letter/pleading was transmitted to the Clerk of the Court of Appeals of Virginia and that a copy of this foregoing letter/pleading had been transmitted to the following parties:

1. Commonwealth of Virginia, Appellee
2. City of Martinsville, Appellee,

by having representative Roberta Hill filing his pleading on his behalf with the Court, through email address rbhill67@comcast.net, transmit a copy of this pleading to the following attorneys who represent the above appellees' as well as the Clerk:

Mark R. Herring, Esq. Office of the Attorney General of Virginia mherring@oag.state.va.us 202 North Ninth Street Richmond, VA 23219 Attorney for Appellee	Glen Andrew Hall, Esq. Commonwealth Attorney's Office for the City of Martinsville ahall@ci.martinsville.va.us 55 West Church Street P.O. Box 1311 Martinsville, Virginia 24114/24112 Attorney for Appellee
Clerk of the Court Court of Appeals of Virginia cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321	John Ira Jones, IV, Esq. Attorney of Record from Appellant jones@johnjoneslawplc.com 9520 Iron Bridge Rd, Ste. 204 Chesterfield, VA 23832-6455
All individuals were emailed by rbhill67@comcast.net, on September 3, 2021.	

The reason why Brian David Hill must use such a representative to serve such pleading with the Clerk on his behalf is because Brian is currently still under the conditions of Supervised Release for the U.S. District Court barring internet usage

without permission. Brian's Probation Officer is aware of Roberta Hill using her email for conducting court business concerning Brian Hill or court business with the Probation Office in regards to Brian David Hill. Therefore Roberta Hill is filing the pleading on Brian's behalf for official court business. Brian has authorized her to file the pleading.

That should satisfy the Certificate of Service regarding letters/pleadings. If the Court wishes to contact the filer over any issues or concerns, please feel free to contact the filer Brian David Hill directly by telephone or by mailing. They can also contact Roberta Hill at rbhill67@comcast.net and request that she forward the message and any documents or attachments to Brian David Hill to view offline for his review.

Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

ADDENDUM TO
REQUEST FOR COURT JUDGMENT RULINGS IN BOTH CASES
LETTER TO COURT OF APPEALS OF VIRGINIA
IN THE CITY OF RICHMOND

Re: Brian David Hill v. Commonwealth of Virginia, City of Martinsville
Record No. 1294-20-3, 1295-20-3
(Appeal of criminal conviction, Appeal of denial of a Motion)

Monday, September 6, 2021 08:43 PM

ATTN: Clerk of the Court **Court of Appeals of Virginia**	cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321

Dear Clerk of the Court, Court of Appeals of Virginia,

I am honest with this Court, I assert whatever laws that I feel apply to this Court and to my Appeal cases. I may sound a little harsh about the Federal Laws issue that Judges and Clerks both have to comply with Federal Law, but the Law is the Law. I have been protected under Federal Law and your Court cannot destroy my protections under Federal Law. The protections exist for a reason, to protect life and liberty.

My SSI Disability money is protected under Federal law and the Court cannot directly or indirectly attempt to demand my only source of income which is my SSI disability money. **The panel's decision is erroneous and so I have finalized my Petition for Rehearing. I will file it along with this Addendum Letter to the Clerk.**

I also like to apologize to your Court about the remarks in my previous filed letter ranting about not receiving the orders/rulings rendered by the Writ Panel. I did receive the two decisions/orders/rulings by U.S. Mail on September 4, 2021. I confirm receipt of two envelopes from your Court of Appeals of Virginia, and both were mailed out on September 2, 2021, same date as the decisions/orders/rulings on September 4, 2021.

I disagree with those decisions/orders/rulings and have decided to forward the Panel's decision to the Social Security Administration and asking the Feds to protect me from any attempt by your Court to unlawfully steal my SSI disability disbursements. I will also forward this information to Legal Aid of Virginia and keep them updated as your Court or the Circuit Court may unlawfully attempt to take my SSI disability money.

I may even have to ask the U.S. Federal Bureau of Investigation to protect me as well as taking away my only source of income is an attempt on my life, an attempt to take me out and make me homeless, then I cannot receive Medicaid which will prevent me from life saving medications such as Insulin and Glucose and caretaker services. I cannot sit by and let the Writ Panel endanger or threaten my life and violate Federal Law at the same time. I will now be in a legal defense posture with the Feds to protect me from your Court if the Feds are even willing to protect me that is. I have to protect myself.

This is not against the Court, this is the Deep State Swamp doing this to me, the corrupt CIA which is in Fairfax, Virginia, the Shadow Government. They, the Deep State Swamp my enemy who hides in the shadows think they can threaten, bribe, blackmail, or manipulate Judges to work against me at every level but I will not budge. The Deep State can murder me and my family because I will not give up in this legal fight and I will not budge. I am not afraid of the Jeffrey Epstein, Bill Gates, Rockefellers, Ghislaine Maxwells, anybody of the pedophile rings. I will not budge. I will never budge even if I am murdered because of it. I am not saying this as bravado. I am willing to let them destroy me if justice comes, I am willing to be put on the cross and crucified. I am not perfect but I do the best I can in fighting the corrupt New World Order.

I know I am innocent of indecent exposure and I will never budge on it again, I will be acquitted by pardon, or Court or acquittal. I will never let anybody manipulate me into ruining my appeals or cases. I know I am innocent. Clerks, you are just doing your jobs. You don't know about the blackmail stuff and threats and bribery or maybe you do and you just can't talk about it. Maybe you want to blow the whistle and if you wish to do that then contact Tips at Project Veritas and tell them what is criminally going on as is your right to report criminal activities going on that your a witness to. By law you have to report any criminal activity going on in your line of work including the lawyers. We are a republic, a land of laws not a land of men.

So you shall have my Petition for Rehearing filed on the exact same date of this letter. Filed on the 7th day under the number of God's favorite number “7”.

Feel free to send me the PDF files of both rulings as they would be cleaner with copy and pasting compared to scanned legal documents. You can email them to c/o Roberta Hill at rbhill67@comcast.net.

I do understand there are good Judges and Clerks and Court officials, but all I ask is that Federal Law be followed. I am not trying to be mean to this Court. However I am protected under Federal Law. Trying to take my SSI disability money when I owe no restitution, have no victims (have no victims in my Federal Case either believe me or

not, it is in my PSI report), and the only thing is legal fees. Even Righthaven LLC settlement attorney wanted me to pay $6,000 in $50 increments to dismiss the copyright infringement lawsuit against me, but I refused and decided to fight them in Court. Then I started posting at FederalJack.com and uswgo.com in 2011, I fought tooth and nail. I written one article after another attacking Righthaven LLC, even proved that they committed perjury but nobody ever charged them for perjury though. I went to the media and got coverage from the Las Vegas Sun to Westword, to WXII12 and FOX8, to the New York Times. I fought hard enough and kept refusing to settle even at the moment where David S. Kerr my pro bono lawyer threatened to quit being my lawyer. However he did not quit and represented me all the way and Righthaven LLC backed down because they defrauded the Court with their Strategic Alliance Agreement. So by refusing to settle, even when they offered that I can settle and pay $1 to Righthaven, I still refused and kept posting stuff attacking Righthaven on my ex-Facebook profile, and then they filed a voluntary motion to dismiss since they defrauded the Court by not having standing to even sue. I cannot post articles anymore after I was framed with child porn in 2012, convicted in 2014, but I have friends and family that can. We have contacts in the alternative media, political activists, political friends or advisers like Roger Stone, and even former Military Intelligence assuming that QAnon is even real and weren't just some scam of Operation Trust like in Soviet Russia. I do not think so as dissent always exists inside of Government so there has to be good people working inside of Government who do not want to do evil things to us American people. Anyways, I am alerting everybody about the attempts to unlawfully steal my SSI disability and am ready to file a Petition with the U.S. Supreme Court as soon as possible to challenge what the panel had done. I have Tracy Beanz, General Flynn, Roger Stone, other potential media correspondence. I can have my friends and family let them know what is going on including Attorney L. Lin Wood. Attorney L. Lin Wood has the evidence of who is being blackmailed by the Deep State CIA Clowns in Action, I ain't saying their real agency name. I really hope I am wrong about Lin Wood's public tweets and statements about judges/justices being blackmailed with child rape and murder by the Deep State, and if I am right then I deserve compensation instead of money being given to John Ira Jones, IV the traitor lawyer who was an Assistant Attorney General prior to being appointed to supposedly represent me. Military Intelligence vet is saying that I will be found innocent and that I will be compensated for all of the damage the Courts have done to me. So if military intelligence is saying that I will be found innocent of child porn and will be compensated, then I will ask the Circuit Court to overturn my indecent exposure conviction or let me have a new jury trial. This time I will be allowed to testify at my jury trial once the felony child porn stupid conviction is overturned, I will testify at the trial, I will tell the jurors about the carbon monoxide poisoning and I will tell them about my Autism. I will fight to make sure that they see the real evidence and the proof of my claims. I will be acquitted and

compensated for every dime the Court is trying to take away from me. Compensated for every day I wrongfully spent sitting in Martinsville City Jail. The Military Intelligence former officer, this veteran says I will be found innocent but didn't tell me whether it was both State/Fed charges or whether it was State or Federal or whatever, but I am innocent of both charges so the evidence is in my favor. The Commonwealth covered up evidence just like the Corrupt Town of Mayodan covering up evidence I was framed with child porn and covering up evidence of botched up audio interrogation recording. Cover up, cover up, cover up. Innocent men don't cover their tracks. Martinsville is covering their tracks, covering their butts. **So I will be found innocent once they are all arrested for corruption, I will be acquitted with the cover ups of the body-camera footage and cover up of biological evidence proving that I was naked in public at night while under Carbon Monoxide poisoning in the blood.** That will directly prove it but I will never be able to prove it because it was covered up by Glen Andrew Hall or the Hospital or the Police. Whatever. They are all suspects.

If I am right about any of the judges being blackmailed by the New World Order, the Deep State Swamp, the Pedophile Rings, any of them, then I deserve acquittal of all charges and acquittal of all bad judgments as they were fueled by blackmail and fraud. Until Donald Trump is reinstated and the DOJ is cleaned out, Lin Wood cannot distribute out the blackmail videos to proper criminal investigators because child rape blackmail tapes/videos is technically considered child pornography. So Lin Wood cannot release the tapes to WikiLeaks because it would land them all in trouble. So until the Government is fixed and the corruption in the States/Feds are held accountable for their crimes, the blackmail tapes can never truly be analyzed as to which judges are compromised. We are in a bad situation because of the corruption. My own lawyer is corrupt, just as corrupt as Matthew Clark, just as corrupt as Lauren McGarry, all of them, they are all corrupt and unethical.

I will go to the media, understand that. I cannot agree to violate Federal Law to satisfy the Judges or Lawyers. My Probation wants me to adhere to the law and I hope your Court does the same thing. I am writing the Executive Branch asking for a full Pardon and acquittal of my State charge. So understand that I am not being frivolous here because I am innocent of indecent exposure. You and the Commonwealth Attorney can understand my position in this addendum letter. I will also notify my Probation Officer as well about what your Court is trying to do right now demanding money from my SSI disability. I will prepare the Supreme Court Petition as even under the stupid Rooker Feldman doctrine, I can still challenge your Court's demand for my SSI disability and I can challenge it at the United States Supreme Court without having to file a Petition for Rehearing or go up the chain of Courthouses. I can ask the U.S. Supreme Court at any time to protect my SSI disability money. I will do so, my family

will help me with the envelopes, the paper printing, the mailings, the legal research, and I will go straight to the Supreme Court. The Federal Courts never demanded I pay money out off my SSI, they leave me alone on that, even though I lost due to ineffective assistance of counsel just like this case. Despite the no victims yet I had restitution, despite the fact that I owe $100 to the U.S. District Court Clerk, they understand Federal Law more than your Court employees and they never attempted to take money out of my SSI. Despite the corruption and probably blackmail of our Federal Judges by the Deep State Swamp, at least they are more reasonable about not getting blood from a turnip.

Glen Andrew Hall needs to understand that he cannot continue acting corrupt and he cannot continue violating laws here. The law is here for a reason. The cover up of the Martinsville Police body camera footage is potentially Federal Obstruction of Justice, destruction of blood biological evidence while I was under Federal Probation Investigation on September 21, 2018 is potentially Federal Obstruction of Justice since the Federal Probation Office conducts an investigation when they feel that I violated a condition of my Probation such as the Virginia charge. So the Commonwealth Attorney or Martinsville Police or Sovah Medical Hospital may have all violated U.S. Code in destruction of evidence which is Obstruction of Justice by destroying evidence that would aid a criminal Federal investigation. The Federal Probation Office likely does not have the blood vials because the Martinsville corrupt Police destroyed the evidence, biological evidence destroyed. Body camera footage destroyed and covered up. All of that violates Federal Law. **So understand Glen Andrew Hall, you may be allowed to get away with this criminal activity and corruption and misconduct against me and others, but violating Federal laws is nothing to laugh about.** I learned the hard way even being accused of child porn when I had proof that I was innocent. We Are Change did a story on it and the SBI government investigation file parts were leaked to the public by an unknown assailant (likely a Government employee, who knows!) who felt as though I was being wrongfully convicted for child porn when it was downloading for 11 months and 8 days after my computer was seized by Law Enforcement. See https://wearechange.org/case-brian-d-hill/

That is all I have to say about all of this to the Clerks. I will fight tooth and nail until I am acquitted for good. I will never give up. I am innocent of all charges and will never put up with corruption, anywhere, everywhere. I seek my freedom and life back.

We are all affected by corruption. Where We Go One We Go All.

Respectfully filed with the Court,
This the 7th day of September, 2021.

Brian D. Hill
Signed
Brian D. Hill

Brian D. Hill
Appellant
Former news reporter of U.S.W.G.O. Alternative News
Ally of QANON
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CERTIFICATE OF SERVICE, CERTIFICATE OF FILING

On September 6, 2021, I, Brian David Hill certify that the original of this foregoing letter/pleading was transmitted to the Clerk of the Court of Appeals of Virginia and that a copy of this foregoing letter/pleading had been transmitted to the following parties:

1. Commonwealth of Virginia, Appellee
2. City of Martinsville, Appellee,

by having representative Roberta Hill filing his pleading on his behalf with the Court, through email address rbhill67@comcast.net, transmit a copy of this pleading to the following attorneys who represent the above appellees' as well as the Clerk:

Mark R. Herring, Esq. Office of the Attorney General of Virginia mherring@oag.state.va.us 202 North Ninth Street Richmond, VA 23219 Attorney for Appellee	Glen Andrew Hall, Esq. Commonwealth Attorney's Office for the City of Martinsville ahall@ci.martinsville.va.us 55 West Church Street P.O. Box 1311 Martinsville, Virginia 24114/24112 Attorney for Appellee

Clerk of the Court Court of Appeals of Virginia cavbriefs@vacourts.gov 109 North Eighth Street, Richmond, Virginia 23219-2321	John Ira Jones, IV, Esq. Attorney of Record from Appellant jones@johnjoneslawplc.com 9520 Iron Bridge Rd, Ste. 204 Chesterfield, VA 23832-6455
All individuals were emailed by rbhill67@comcast.net, on September 6, 2021.	

The reason why Brian David Hill must use such a representative to serve such pleading with the Clerk on his behalf is because Brian is currently still under the conditions of Supervised Release for the U.S. District Court barring internet usage without permission. Brian's Probation Officer is aware of Roberta Hill using her email for conducting court business concerning Brian Hill or court business with the Probation Office in regards to Brian David Hill. Therefore Roberta Hill is filing the pleading on Brian's behalf for official court business. Brian has authorized her to file the pleading.

That should satisfy the Certificate of Service regarding letters/pleadings. If the Court wishes to contact the filer over any issues or concerns, please feel free to contact the filer Brian David Hill directly by telephone or by mailing. They can also contact Roberta Hill at rbhill67@comcast.net and request that she forward the message and any documents or attachments to Brian David Hill to view offline for his review.

Brian D. Hill
Signed
Brian D. Hill

Brian D. Hill
Appellant
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Record No. 1295-20-3

In The Court of Appeals of Virginia

BRIAN DAVID HILL,
Petitioner/Appellant,

vs.

COMMONWEALTH OF VIRGINIA,
Appellee/Respondent.

Petition for Appeal From the Circuit Court
of the City of Martinsville

PETITION FOR REHEARING OR REHEARING EN BANC

Brian David Hill
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PETITION FOR REHEARING

Pursuant to Rule 5A:15 of the Court of Appeals of Virginia, Petitioner Brian David Hill ("Petitioner") respectfully petitions this Court for an order (1) granting rehearing, (2) vacating or modifying the Panel's September 2, 2021 order denying the Petition for Appeal, and (3) re-disposing of this case by granting the Petition for Appeal, allow the appeal to be set for Perfection of Appeal under Rule 5A:16.

Mr. Hill submits that the Writ Panel of Judges ("the panel") had erred in refusing/denying the "Petition for Appeal" after Petitioner's Pro Se Supplemental Petition for Appeal entered on April 15, 2021, as well as Counsel's Petition for Appeal on April 13, 2021, and upon the record in the originating case in the Circuit Court of Martinsville under case no. CR 19000009-00. Final conviction/judgment entered on November 18, 2019.

Mr. Hill's defective/ineffective counsel John Ira Jones, IV, had inappropriately invoked the case laws of Anders v. California, 386 U.S. 738 (1967); Kuzminski v. Commonwealth, 8 Va. App 106, 378 S.E.2d 632 (1989). See "MOTION TO WITHDRAW AS COUNSEL OF RECORD" filed on April 13, 2021 in this Court of Appeals.

As Petitioner's counsel did at least argue one good potential ground for requesting relief in this appeal case, there were other grounds which he did not bring up and had ignored or overlooked. The attorney did not engage in conversation with his client to determine all available grounds for a non-frivolous appeal. He inappropriately and falsely portrayed this appeal as frivolous. There are constitutional issues which can be brought up.

Petitioner was entitled to relief as a matter of law and as a matter of right, especially when he had proven ineffective assistance of counsel on the record itself, enough in the record warranting relief. The highest Supreme Court of the United States ("SCOTUS") and any SCOTUS or Federal rulings concerning state court decisions cannot be ignored by any Judge in this Court of Appeals of Virginia, this Court has no right to ignore the U.S. Supreme Court. This Court also has no right to ignore Federal Laws under the Supremacy Clause of the United States Constitution, where Federal Law is Supreme Law of the Land, and any rights not retained by the Federal Law and the United States Constitution or not prohibited by the Constitution or Federal Laws is reserved to the states respectively or to the people under the Tenth Amendment of the United States Constitution. I must remind the Commonwealth of Virginia and this Court that Virginia had lost the civil war in the 1860's and had lost to Commander in Chief

Abraham Lincoln. Virginia is no longer a confederacy since they lost the Civil War of the 1860's and cannot defy Federal Laws. Federal Laws apply to Virginia.

The decision of the Writ Panel of this Court contradicts Federal Law as well as controlling and authoritative case law precedent set by the United States Supreme Court.

Petitioner seeks rehearing on the important Constitutional and Legal issues raised in his Petition for Appeal, the Commonwealth's opposition response, the legal counsel's Petition for Appeal, as well as within the record itself. The Record on Appeal contradicts the Panel's opinion and it is erroneous in its facts or arguments. The record of the Writ of Habeas Corpus had already demonstrated many important issues such as motions were being selectively ignored, Constitutional rights violated, Due Process deprived, and Federal Laws violated by the Courts.

Unless Petitioner is granted relief by this Court, then (#1) the Court of Appeals of Virginia, (#2) the Commonwealth of Virginia, (#3) the Circuit Court of Martinsville will be acting in direct violation of Title 42 U.S. Code § 407(a).

Unless Petitioner is granted relief by this Court, then Petitioner suffers under permanent irreputable damage and constitution violations which was caused by ineffective assistance of counsel and the Circuit Court selectively

ignoring pro se motions while not ignoring the pro se motion to withdraw appeal. Not just ineffective assistance of counsel in the Circuit Court and General District Court phases, but also in the Court of Appeals of Virginia. Counsel John Ira Jones, IV was defective in failing to bring up the ineffective assistance of counsel claims which is a very strong ground for reversing a final conviction in asking for a new trial and even can overturn a false guilty plea if there was one. Withdrawing of the appeal in the Circuit Court was directly caused by ineffective assistance of counsel and selective enforcement (violates Equal Protection under the Laws) is illegitimate when records in this Court or a different Appellate Court demonstrate that Petitioner did have more effective grounds and thus Petitioner's appeal was not frivolous. Having at least one good strong ground which has a legal bearing of reversing the final judgment contradicts the legal counsel's assertation of Anders v. California, 386 U.S. 738 (1967); Kuzminski v. Commonwealth, 8 Va. App 106, 378 S.E.2d 632 (1989).

Petitioner shall state the appropriate grounds for relief as to why the Panel of this Court made a bad decision, an erroneous decision contrary to law and contrary to effective assistance of counsel and Due Process clause as well as to the United States Constitution.

GROUNDS FOR RELIEF

As grounds for this petition for rehearing, petitioner states the following:

1. Petitioner filed the (1) Pro Se Supplemental Petition for Appeal on March 25, 2021, but was reentered on April 15, 2021, and Petitioner's counsel filed his Petition for Appeal on April 13, 2021. The Commonwealth Attorney filed an opposition brief on May 6, 2021, but Petitioner never reviewed over that opposition brief as legal counsel John Ira Jones, IV never emailed or mailed a copy of the opposition brief to the client or client's mother Roberta Hill. That itself is ineffective, defective, and unethical counsel. Counsel appointed in this appeal and for this appeal had failed to discuss the Opposition Brief by the Commonwealth of Virginia and City of Martinsville, and never gave a copy of that opposition brief to Petitioner. The ineffective assistance of counsel isn't just in the Circuit Court, the General District Court, but such ineffective assistance of counsel was also in this direct criminal case appeal.
2. John Ira Jones, IV never should have been appointed as representative counsel for Petitioner's appeals. In 2019, according to GovSalaries, John Ira Jones, IV in 2019 was employed with the Commonwealth of Virginia, in the Office of the Attorney General of Virginia, with an annual salary of $54,699. That is a conflict of interest. Such conflicts of interest are unethical and violates the very sanctity of Due Process, and a criminal defendant's access to the adversarial system. See all of the opinion of Strickland v. Washington, 466 U.S. 668 (1984). Petitioner

was not being represented by John Ira Jones, IV, because he will not admit that the Commonwealth of Virginia is wrong because he had worked for the Commonwealth of Virginia in 2019 and 2018 when Petitioner was charged and going through the Criminal Trial processes, not long before supposedly representing Brian David Hill. See https://govsalaries.com/jones-iv-john-ira-100016866 or http://web.archive.org/web/20210906022417/https://govsalaries.com/jones-iv-john-ira-100016866 Disclaimer: Link researched and produced by Roberta Hill. Text of link given to Petitioner.

3. John Ira Jones had a history of failing to file Petitions as directed and had committed sanctionable conduct by not even filing the first Petitions for Appeals in cases no. 0128-20-3 and 0129-20-3. Petitioner allowed counsel to represent him again in this appeal case and asked the Court to give him a second chance. A big mistake. Now Petitioner is being punished again with financial sanction or penalty for what this worthless legal counsel had done against Petitioner. This attorney was never going to represent Petitioner, only help the enemy win by filing potentially defective pleadings and branding his appeals as meritless or frivolous or both, and John Ira Jones did achieve the objective favorable to the enemy which he did do the damage successfully

against Petitioner's 14th Amendment Due Process protections with the Panel's decision.

4. The basis for requesting relief by granting the Petition for Appeal is partially based upon ineffective assistance of counsel. Even the Supreme Court of Virginia must respect the decisions of SCOTUS, the highest Supreme Court of the United States ("SCOTUS") as the main legal authority for court case law involving all Courts of the United States of America over all matters concerning the U.S. Constitution by the Fourteenth Amendment of the U.S. Constitution pertaining to Federal Supremacy and requirement of Due Process for all State Courts, requirement of Equal Protection under the Laws. Even the Supreme Court of Virginia had referenced the SCOTUS cases including Strickland v. Washington, 466 U.S. 668 (1984). The decision by the Writ Panel on September 2, 2021 to deny the Petition for Appeal without first addressing the ineffective counsel John Ira Jones in this direct appeal case contradicts the Supreme Court. This deprived Petitioner of due process of law and have caused aggravated injury of a Constitutional nature, defamation of character, and had caused irreputable harm to Petitioner including the attempts to rob Petitioner of his SSI disability.
5. The Panel's decision that Petitioner will pay $300 to such defective counsel who didn't even discuss the appeal and never discussed the Petition for Appeal

over with his own client, referring to John Ira Jones, IV had illegally created an attempt to legitimize attorney malpractice and potential ethics violations by John Ira Jones, IV. Counsel who does not professionally engage all duties and responsibilities including informing his/her client upon each decision by the Court is negligence and has wrecked Petitioner's appeal and had caused irreputable damage/harm of both a Constitutional nature and a financial nature.

6. The Panel argued in their reasoning under Pg. 5 and 6 of their decision that "The trial court shall allow John I. Jones, IV, Esquire, the fee set forth below and also counsel 's necessary direct out-of-pocket expenses. The Commonwealth shall recover of the appellant the costs in this Court and in the trial court. Costs due the Commonwealth by appellant in Court of Appeals of Virginia: Attorney's fee $300.00 plus costs and expenses." The Panel's decision that Petitioner will pay $300 to such defective counsel who didn't even discuss the Petition for Appeal and hardly ever talked about the appeal case over with his own client, referring to John Ira Jones, IV, had violated the Federal Law protecting Petitioner from being compelled to pay back legal costs when Petitioner's only documented source of income was his Supplemental Security Income, SSI disability, as reported in the Affidavit to this Court for this case in petitioning the Court not to require prepayment of filing fee prior to initiating the appeal.

The Financial Affidavit filed with the Clerk's Office proves that Petitioner is only under SSI disability income. By this Court ordering or compelling any amount of legal payment is unlawful under 42 U.S. Code § 407 - Assignment of benefits. See People v Lampart, __ Mich App __ (#315333, 7/31/2014) the Court of Appeals held that, to the extent the trial court's consideration of SSDI benefits results in an order of restitution that could only be satisfied from those benefits, the use of the court's contempt powers then would violate 42 USC 407(a). Philpott, 409 US at 415-417; State Treasurer, 468 Mich at 155;Whitwood, 265 Mich App at 654. See also United States v Smith, 47 F3d 681, 684 (CA 4, 1995) (holding, under a federal statute employing similar language to 42 USC 407(a), that a court could not order restitution against benefits after they were received because "[t]he government should not be allowed to do indirectly what it cannot do directly[,]" meaning that it could not require the defendant "to turn over his benefits as they are paid to him."). 42 USC 407(a) represents a clear choice by Congress to exempt all social security benefits, whether from SSDI or SSI, from any legal process, save for a few enumerated exceptions not at issue in this case. Bennett v Arkansas, 485 US 395, 397; 108 S Ct 1204; 99 L Ed 2d 455 (1988). Trial courts must be careful to avoid any order that in fact would compel one to satisfy a restitution obligation from the proceeds of one's SSDI benefits. There is no restitution ordered in the

criminal case that is appealed herein. It is only technical legal fees. Good luck getting blood from a turnip. The Social Security Administration will be directly notified of the Panel's unlawful attempt to give the Court leeway to take Petitioner's only source of income and is his SSI disability income. Those Panel judges are directly conflicting with the Canons of Judicial Conduct where Judges cannot violate Federal or State laws in their professional conduct. They cannot make decisions contrary to law, contrary to SCOTUS.

7. The panel overlooked a potential flaw in their own argument in the record which doesn't go along with the statute and thus draws the final judgment into serious legal question. The panel argued that "*The withdrawal of a properly noted appeal from the general district court to the circuit court in a criminal case is governed by Code§ 16.1-133. That statute provides, in pertinent part, as follows:",* and (citation omitted to focus on specific part of statute) "*If the appeal is withdrawn more than ten days after conviction, the circuit court shall forthwith enter an order affirming the judgment of the lower court and the clerk shall tax the costs as provided by statute*." The record had shown that it was not more than ten days after conviction. That itself makes the judgment premature and maybe even illegally filed. If the Panel had reviewed the entire record as they had claimed, they would have known that. The "MOTION - FAX TO WITHDRAW APPEAL" under Page 419 was filed on November 12, 2019. The

final judgment was filed on November 18, 2019, see Page 431, "ORDER IN MISDEMEANOR OR TRAFFIC INFRACTION PROCEEDING". The final judgment was put in too early according to the very statute cited by the Panel. According to review of the November, 2019 calendar which every Microsoft Windows computer has, it says that the tenth day (after the written motion to withdraw appeal) would fall upon a Sunday, November 22, 2019. Since the Court would be closed that day, they would have to wait until Monday, November 23, 2019 in order to meet the ten days necessary to enter a final conviction after the withdrawing of the appeal. As it would be up to the Court's discretion or time as to when to enter the final conviction after withdrawing of appeal, according to the statute, citation: "…If the appeal is withdrawn more than ten days after conviction…", well then there is another issue that was overlooked by the Panel and by the court appointed counsel. See "MOTION TO VACATE FRAUDULENT BEGOTTEN JUDGMENT" pg. 433-459. That motion was filed attempting to argue that Petitioner is innocent, that the Commonwealth had defrauded the Court and very well could have been construed by the Trial Court as a withdrawing of the written notice to withdraw the appeal. Again, the final judgment was filed on November 18, 2019. Ten days would be the 28th of November, 2019. Petitioner also filed a timely notice of appeal on November 26 or 27, 2019. One of those days were on a Federal Holiday, Thanksgiving. Any

of those pro se filings could have been construed as an attempt to ask the Court to reverse the earlier motion to withdraw appeal before the ten days after conviction however that statute is interpreted under Virginia Code § 16.1-133. The panel made a very interesting remark on Virginia Code § 16.1-133 regarding withdrawing appeals but the statute itself puts that final conviction into serious legal issues depending on how Virginia Courts interpret that part of the statute which may invalidate that final conviction. Even though Petitioner did not bring that issue up in his "Petition for Appeal", his legal counsel John Ira, Jones, IV clearly could have preserved that issue on appeal and did not. Clear ineffective assistance of counsel in this Direct Appeal, his counsel was defective and unethical in the handling of this Appeal Case.

8. The Writ Panel also argued that "Indeed, appellant himself notes in his pro se supplemental petition for appeal that he did not plead guilty or concede his guilt. Thus, we find appellant's argument that the Rules of Court governing guilty pleas applied under the circumstances of this case is without merit." That means the attorney/legal-counsel John Ira Jones had filed a defective Petition for Appeal. The only ground he raised was defective from the record itself, yet he raised that only ground as if that wasn't frivolous. That attorney purposefully filed a defective Petition for Appeal and not preserving other issues that may actually warrant relief from this Court. Relief such as

Constitutional relief. Any decisions made by this Court or the Circuit Court which violates Federal Law is invalid and violates the Canons of Judicial Conduct. John Jones deserves no money for making false statements to this Court, he should not be compensated for defamation of character and/or making false statements and Petitioner never advocated any of that. Counsel is clearly working against Petitioner and he worked for the Commonwealth of Virginia as a lawyer against those who were litigants against the Commonwealth of Virginia. He isn't just acting in conflict of interest; he had knowingly made defective pleadings that he probably knew would not prevail. It is not Petitioner who should be financially punished when he clearly doesn't have the money to pay off such a state debt (you can't get blood from a turnup, Brian was sued by Righthaven LLC in 2011 and they lost), but it should be former Assistant Attorney General John Ira Jones, IV.

9. The Constitutional issue here that the Writ Panel of this Court failed to consider was the U.S. Const. Eighth Amendment's prohibition on cruel and unusual punishments inflicted. The Circuit Court being allowed to forcefully make an SSI Dependent who is disabled pay thousands of dollars in legal fees for his wrongful criminal conviction when Petitioner only lives off of his Federal Social Security Disability Benefits pursuant to Title 42 U.S. Code § 407. That is cruel and unusual punishment inflicted by the Circuit Court and the Court of Appeals

of Virginia due to the wrongful State Conviction. Brian pays $500 for rent on record in the Circuit Court and that was on record. Brian pays for other things he needs, and has nothing left in the month. You're going to attempt to deprive Petitioner of his ability to live. You're acting as a Corporation instead of a State. Look Honorable Judges, try to understand Honorable Judges, that the Federal Courts are not attempting to make Petitioner pay legal costs because they know it has very difficult legal challenges under Federal Law and may not even prevail, they will not rob somebody with a disability on Federal SSI disability money. Is the Panel going to advocate **"unlawful"** robbery (*unlawful taking of somebody's money is robbery*) of Brian David Hill of his Federally protected SSI money when the Federal Courts don't even do this to Brian????? Not even the U.S. Court of Appeals for the Fourth Circuit demand that Petitioner pay the Government's legal costs as well as court appointed lawyer's legal costs when the U.S. Court of Appeals can make a losing appellant or appellee who isn't In-Forma-Pauperis pay legal costs upon losing an appeal. They did not do that to Petitioner but your Court thinks it has the right to violate Federal Law and act with more cruelty than the Federal Courts?????? You have to follow Federal Law and this Court is obligated under the Federal Supremacy Clause to follow the Federal Law as the Federal Courts have done with Brian David Hill. Arguably, if Petitioner makes any money in the future, then the Social Security

Administration pretty much reduces the SSI monthly amount to try to be equivalent with the amount earned from making money. So pretty much it is useless to work a job even if Petitioner could work to pay off the State. The Commonwealth as a State Government of the United States of America has no right to deprive somebody of life, liberty, and property without Due Process of Law. No State shall order cruel and unusual punishments inflicted.

10. This Court is punishing Petitioner financially for fighting for his Constitutional and legal rights in this Court and that itself is Unconstitutional to punish somebody financially or in any way for simply filing pleadings and asking the Courts for any Constitutional relief. By punishments or threats of punishments will deter poor people and disabled people from their Constitutional rights as criminal defendants. The Commonwealth has NO RIGHT to try to interfere or deter somebody from pursing their Constitutional rights in a Court of Law. That also violates Federal Law. The Panel's decision as well as this Court's decision may violate 18 U.S. Code § 242 - Deprivation of rights under color of law.

11. The U.S. Department of Justice may condemn what the Panel had done to Petitioner in that decision as it is unlawful under 18 U.S. Code § 242, Deprivation of rights under color of law. See https://www.justice.gov/crt/deprivation-rights-under-color-law -

Disclaimer: Roberta Hill researched this link and obtained link text). The law reads: “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both”. However, the U.S. Department of Justice had argued legally in addition to the statute that “For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state, or local officials within their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under color of law within the meaning of this statute include police officers, prisons guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials. It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status or national origin of the victim.” It mentions handicap and Petitioner is on SSI disability so he

does have a handicap. The panel is going into criminal Federal Law violating territory here**. Even Judges can be charged criminally with Deprivation of rights under color of law.**

12. The panel made an error of fact or error of the record when they argued that "*Thus, the trial court did not "ignore" appellant's pro se motions; they simply were not ripe for consideration when appellant elected to withdraw his misdemeanor appeal*." Page 4 of the Panel's order. That is not truthful and false. It is a defamatory or false statement. The record shown that Pro Se Motions were filed months and months prior to the withdrawing of appeal while motions filed by Counsel was always acted upon quickly. That is "Intentional" "ignoring", yes intentional ignoring of Petitioner's pro se motions. See pg. 293-301 of "MOTION - REQ SUB COUNSEL-FILED BY D". Motion filed on July 19, 2019. The Motion to Withdraw Appeal under Page 419 was filed on November 12, 2019. A date difference of 3 months, 3 weeks, 3 days between that pro se motion filing date and from the date which Petitioner filed his motion to withdraw appeal. However, when the legal counsel saw that pro se motion asking for new counsel, the legal counsel under pages 378-380 filed for a "MOTION - PUB. DEFENDER WITHDRAW", and was filed on July 29, 2019. It was granted by the Circuit Court Judge on August 1, 2019, according to page 383, "ORDER - APPOINTED ATTY MATT CLARK". When Petitioner filed a

motion to get rid of his court appointed counsel for being ineffective, the Court did ignore Petitioner's motion but when Lauren McGarry filed a similar motion, it was acted upon within days. Petitioner also filed a motion for discovery under pages 302-324. Filed on July 26, 2019, "MOTION - DISCOVERY". That motion was never acted upon from that filing date through November 12, 2019 when the Motion for Withdrawing Appeal was filed. The date between that motion and withdrawing appeal would be a difference of 3 months, 2 weeks, 3 days. Plenty of time to grant the motion but was never acted upon, the motion was ignored, the Panel was wrong. Then the pages 325-377 "MOTION - MOT TO SUPPRESS EVIDENCE" was filed on July 26, 2019. The date between that motion and withdrawing appeal would be a difference of 3 months, 2 weeks, 3 days. Then on pages 418-430 the "MOTION - FAX MOT TO DISMISS" was filed on November 4, 2019. Eight days away from the motion to withdraw appeal. No judge ever ordered an evidentiary hearing or response from the Commonwealth Attorney as to their position on the motion to dismiss. However, the Court did act upon the pro se motion to withdraw appeal, the only motion the Court acted upon and did not ignore. It was selectively enforced. This is unconstitutional. Many months did those motions and other motions never had been acted upon. For the panel to lie by claiming that "they simply were not ripe for consideration when appellant elected to withdraw his

misdemeanor appeal" is not true. Maybe they would have been ripe whenever Petitioner filed a motion to proceed pro se, but then that would have been ignored too unless counsel pushed for Petitioner to proceed pro se which puts Petitioner at counsel's mercy. He can practically be held hostage by his own legal counsel. This is simply not Constitutional and utterly illegal. Due process was deprived and Petitioner was deprived of Due Process of Law and given no access to the adversarial system, and these violations of the Constitution led to Petitioner withdrawing Appeal. It is clear as day that Petitioner does have avenues to present a non-frivolous appeal. Any reasonable lawyer would see that something is wrong with Petitioner's criminal case, as clear as spring water.

13. The compelling issues brought up in paragraphs 1-12 constitutes "intervening circumstances of a substantial or controlling effect or other substantial grounds not previously presented" sufficient to warrant rehearing of the order denying/refusing Petitioner's Petition for Appeal. It argues the potential civil or criminal liability issues of what the Panel of this Court had done by making that decision. The Constitutional and legal issues and contradictions arising out of what the Panel of this Court had done by making that decision. The Petitioner isn't saying 100% that this is why a Petition for Appeal should be granted, but the Panel's decision may need to be modified to comply with the Federal Laws

and the SCOTUS authoritative decisions herewith. Going against the law is a sheer violation of the Canons of Judicial Conduct. A Court of Law is supposed to be exactly that, a Court of the Law.

14. There are other legal issues which can be brought up further justifying relief but would surpass the word count limit. Legal issues such as West Virginia Attorney Edward Ryan Kennedy arguing in the Federal Appeals Court for the Fourth Circuit in Richmond, Virginia, case no. 19-4758, and court appointed lawyers did not make those arguments that Petitioner did not violate Virginia Code §18.2-387. Why did none of the court appointed lawyers in the Circuit Court bring up the very same arguments that Attorney Kennedy of West Virginia brought up on Federal Appeal???

15. The granting of the petition in this case means that this Court can preserve the Due Process and Equal Protection under the Laws. In alternative, the Court can ask for new counsel or allow the Petitioner to try again to make legal arguments as to why the Petition for Appeal should be granted. Maybe appoint new counsel who doesn't work for the Commonwealth of Virginia, an independent competent skilled counsel who could make legal arguments demonstrating why Anders v. California, 386 U.S. 738 (1967) may not apply in this appeal. It is clear that Petitioner is still entitled to relief. He can file a Writ of Actual Innocence in this Court of Appeals of Virginia as the Judge did not bar

him from that. All he had done was withdrawn his appeal but Petitioner did not waive being allowed to prove his ACTUAL INNOCENCE to this Court, to any Court of the Commonwealth for that matter. Petitioner can ask for a new jury trial based on newly discovered evidence. If Petitioner is ever cleared and found innocent of his only prior conviction, then he should also have the right to request a new trial in the Circuit Court as that was being used against him so he could not testify at the jury trial and would be used against him at sentencing. If his prior conviction is overturned on Actual Innocence, then Petitioner should be entitled to an opportunity to have a new trial because then his indecent exposure would be his only charge and no prior convictions. It takes months maybe years to overturn a wrongful conviction, so if the Panel is okay with his prior being used against him, then he should get some kind of relief in the Circuit Court if he is acquitted of his prior conviction. Please understand that. Petitioner is entitled to Due Process of Law which is in the Fourteenth Amendment of the U.S. Constitution. It is another deprivation of his Constitutional rights to use a prior conviction against him if at some point that he is found innocent and acquitted of that prior conviction. This Court can't selectively use Petitioner's prior criminal conviction against him and then when Petitioner is found innocent of that prior conviction in the future, then the Circuit Court won't let him use that in his favor. We have equal protections

under the Laws and that is a guarantee that a State cannot selectively use something against Petitioner but not allow Petitioner to use that same thing in his favor when circumstances change such as an acquittal, an Actual Innocence verdict by the Federal Court.

CONCLUSION

For the foregoing reasons, petitioner Brian David Hill prays that this Court (1) grant rehearing of the order denying and refusing his Petition for Appeal in this case, (2) vacate or modify the Panel's/Court's September 2, 2021 order denying/refusing Petition for Appeal, (3) grant the Petition for Appeal, and allow perfecting the Appeal, (4) consider whether the Petition for Appeal should have been denied or granted in part or if at all, and (5) any other relief that is necessary for justice and complying with Federal Law and any other Supreme Laws of the land.

Respectfully filed with the Court, this the 7th day of September, 2021.

Dated:

September 7, 2021

Respectfully submitted,

_____

Brian David Hill
Pro Se Appellant
Ally of QANON
Former USWGO Alternative News Reporter
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CERTIFICATE OF TRANSMISSION AND SERVICE

Pursuant to Rule 5A:15(b), On September 6, 2021, Due to the conditions of Brian David Hill's Supervised Release not allowing me to access the internet, I filed this Petition with the Court by having my Mother and Assistant Roberta Hill through rbhill67@comcast.net, filed the original pleading through Virginia Appellate Courts Electronic System (VACES) as well as emailing a PDF file copy of this Petition to cavbriefs@vacourts.gov. Also, on September 6, 2021 a copy of the Petition through my Assistant Roberta Hill had been transmitted/served on the following, via email (by Roberta Hill) and by fax (by Brian D. Hill), at the email address indicated:

Glen Andrew Hall, Esq.

Commonwealth Attorney's Office for the City of

Martinsville

P.O. Box 1311 // 55 West Church Street

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Dated:

September 7, 2021

Respectfully submitted,

_____

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CERTIFICATE OF COMPLIANCE
WITH WORD OR PAGE COUNT LIMIT

I certify that this Petition, excluding the cover page, table of contents, table of authorities and certificates, contains 5,276 words according to the word count feature of Microsoft Word 2016. This is pursuant to Rule 5A:15(b), that a "petition for rehearing may not exceed 5,300 words in length", are of 14-size font, New Century Schoolbook.

Dated:

September 7, 2021

Respectfully submitted,

_____

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Record No. 1295-20-3

In The Court of Appeals of Virginia

BRIAN DAVID HILL,
Petitioner/Appellant,

vs.

COMMONWEALTH OF VIRGINIA,
Appellee/Respondent.

Petition for Appeal From the Circuit Court
of the City of Martinsville

PETITION FOR REHEARING OR REHEARING EN BANC

Brian David Hill
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PETITION FOR REHEARING

Pursuant to Rule 5A:15 of the Court of Appeals of Virginia, Petitioner Brian David Hill ("Petitioner") respectfully petitions this Court for an order (1) granting rehearing, (2) vacating or modifying the Panel's September 2, 2021 order denying the Petition for Appeal, and (3) re-disposing of this case by granting the Petition for Appeal, allow the appeal to be set for Perfection of Appeal under Rule 5A:16.

Mr. Hill submits that the Writ Panel of Judges ("the panel") had erred in refusing/denying the "Petition for Appeal" after Petitioner's Pro Se Supplemental Petition for Appeal entered on April 15, 2021, as well as Counsel's Petition for Appeal on April 13, 2021, and upon the record in the originating case in the Circuit Court of Martinsville under case no. CR 19000009-00. Final conviction/judgment entered on November 18, 2019.

Mr. Hill's defective/ineffective counsel John Ira Jones, IV, had inappropriately invoked the case laws of Anders v. California, 386 U.S. 738 (1967); Kuzminski v. Commonwealth, 8 Va. App 106, 378 S.E.2d 632 (1989). See "MOTION TO WITHDRAW AS COUNSEL OF RECORD" filed on April 13, 2021 in this Court of Appeals.

As Petitioner's counsel did at least argue one good potential ground for requesting relief in this appeal case, there were other grounds which he did not bring up and had ignored or overlooked. The attorney did not engage in conversation with his client to determine all available grounds for a non-frivolous appeal. He inappropriately and falsely portrayed this appeal as frivolous. There are constitutional issues which can be brought up.

Petitioner was entitled to relief as a matter of law and as a matter of right, especially when he had proven ineffective assistance of counsel on the record itself, enough in the record warranting relief. The highest Supreme Court of the United States ("SCOTUS") and any SCOTUS or Federal rulings concerning state court decisions cannot be ignored by any Judge in this Court of Appeals of Virginia, this Court has no right to ignore the U.S. Supreme Court. This Court also has no right to ignore Federal Laws under the Supremacy Clause of the United States Constitution, where Federal Law is Supreme Law of the Land, and any rights not retained by the Federal Law and the United States Constitution or not prohibited by the Constitution or Federal Laws is reserved to the states respectively or to the people under the Tenth Amendment of the United States Constitution. I must remind the Commonwealth of Virginia and this Court that Virginia had lost the civil war in the 1860's and had lost to Commander in Chief

Abraham Lincoln. Virginia is no longer a confederacy since they lost the Civil War of the 1860's and cannot defy Federal Laws. Federal Laws apply to Virginia.

The decision of the Writ Panel of this Court contradicts Federal Law as well as controlling and authoritative case law precedent set by the United States Supreme Court.

Petitioner seeks rehearing on the important Constitutional and Legal issues raised in his Petition for Appeal, the Commonwealth's opposition response, the legal counsel's Petition for Appeal, as well as within the record itself. The Record on Appeal contradicts the Panel's opinion and it is erroneous in its facts or arguments. The record of the Writ of Habeas Corpus had already demonstrated many important issues such as motions were being selectively ignored, Constitutional rights violated, Due Process deprived, and Federal Laws violated by the Courts.

Unless Petitioner is granted relief by this Court, then (#1) the Court of Appeals of Virginia, (#2) the Commonwealth of Virginia, (#3) the Circuit Court of Martinsville will be acting in direct violation of Title 42 U.S. Code § 407(a).

Unless Petitioner is granted relief by this Court, then Petitioner suffers under permanent irreputable damage and constitution violations which was caused by ineffective assistance of counsel and the Circuit Court selectively

ignoring pro se motions while not ignoring the pro se motion to withdraw appeal. Not just ineffective assistance of counsel in the Circuit Court and General District Court phases, but also in the Court of Appeals of Virginia. Counsel John Ira Jones, IV was defective in failing to bring up the ineffective assistance of counsel claims which is a very strong ground for reversing a final conviction in asking for a new trial and even can overturn a false guilty plea if there was one. Withdrawing of the appeal in the Circuit Court was directly caused by ineffective assistance of counsel and selective enforcement (violates Equal Protection under the Laws) is illegitimate when records in this Court or a different Appellate Court demonstrate that Petitioner did have more effective grounds and thus Petitioner's appeal was not frivolous. Having at least one good strong ground which has a legal bearing of reversing the final judgment contradicts the legal counsel's assertation of Anders v. California, 386 U.S. 738 (1967); Kuzminski v. Commonwealth, 8 Va. App 106, 378 S.E.2d 632 (1989).

Petitioner shall state the appropriate grounds for relief as to why the Panel of this Court made a bad decision, an erroneous decision contrary to law and contrary to effective assistance of counsel and Due Process clause as well as to the United States Constitution.

GROUNDS FOR RELIEF

As grounds for this petition for rehearing, petitioner states the following:

1. Petitioner filed the (1) Pro Se Supplemental Petition for Appeal on March 25, 2021, but was reentered on April 15, 2021, and Petitioner's counsel filed his Petition for Appeal on April 13, 2021. The Commonwealth Attorney filed an opposition brief on May 6, 2021, but Petitioner never reviewed over that opposition brief as legal counsel John Ira Jones, IV never emailed or mailed a copy of the opposition brief to the client or client's mother Roberta Hill. That itself is ineffective, defective, and unethical counsel. Counsel appointed in this appeal and for this appeal had failed to discuss the Opposition Brief by the Commonwealth of Virginia and City of Martinsville, and never gave a copy of that opposition brief to Petitioner. The ineffective assistance of counsel isn't just in the Circuit Court, the General District Court, but such ineffective assistance of counsel was also in this direct criminal case appeal.
2. John Ira Jones, IV never should have been appointed as representative counsel for Petitioner's appeals. In 2019, according to GovSalaries, John Ira Jones, IV in 2019 was employed with the Commonwealth of Virginia, in the Office of the Attorney General of Virginia, with an annual salary of $54,699. That is a conflict of interest. Such conflicts of interest are unethical and violates the very sanctity of Due Process, and a criminal defendant's access to the adversarial system. See all of the opinion of Strickland v. Washington, 466 U.S. 668 (1984). Petitioner

was not being represented by John Ira Jones, IV, because he will not admit that the Commonwealth of Virginia is wrong because he had worked for the Commonwealth of Virginia in 2019 and 2018 when Petitioner was charged and going through the Criminal Trial processes, not long before supposedly representing Brian David Hill. See https://govsalaries.com/jones-iv-john-ira-100016866 or http://web.archive.org/web/20210906022417/https://govsalaries.com/jones-iv-john-ira-100016866 Disclaimer: Link researched and produced by Roberta Hill. Text of link given to Petitioner.

3. John Ira Jones had a history of failing to file Petitions as directed and had committed sanctionable conduct by not even filing the first Petitions for Appeals in cases no. 0128-20-3 and 0129-20-3. Petitioner allowed counsel to represent him again in this appeal case and asked the Court to give him a second chance. A big mistake. Now Petitioner is being punished again with financial sanction or penalty for what this worthless legal counsel had done against Petitioner. This attorney was never going to represent Petitioner, only help the enemy win by filing potentially defective pleadings and branding his appeals as meritless or frivolous or both, and John Ira Jones did achieve the objective favorable to the enemy which he did do the damage successfully

against Petitioner's 14th Amendment Due Process protections with the Panel's decision.

4. The basis for requesting relief by granting the Petition for Appeal is partially based upon ineffective assistance of counsel. Even the Supreme Court of Virginia must respect the decisions of SCOTUS, the highest Supreme Court of the United States ("SCOTUS") as the main legal authority for court case law involving all Courts of the United States of America over all matters concerning the U.S. Constitution by the Fourteenth Amendment of the U.S. Constitution pertaining to Federal Supremacy and requirement of Due Process for all State Courts, requirement of Equal Protection under the Laws. Even the Supreme Court of Virginia had referenced the SCOTUS cases including Strickland v. Washington, 466 U.S. 668 (1984). The decision by the Writ Panel on September 2, 2021 to deny the Petition for Appeal without first addressing the ineffective counsel John Ira Jones in this direct appeal case contradicts the Supreme Court. This deprived Petitioner of due process of law and have caused aggravated injury of a Constitutional nature, defamation of character, and had caused irreputable harm to Petitioner including the attempts to rob Petitioner of his SSI disability.
5. The Panel's decision that Petitioner will pay $300 to such defective counsel who didn't even discuss the appeal and never discussed the Petition for Appeal

over with his own client, referring to John Ira Jones, IV had illegally created an attempt to legitimize attorney malpractice and potential ethics violations by John Ira Jones, IV. Counsel who does not professionally engage all duties and responsibilities including informing his/her client upon each decision by the Court is negligence and has wrecked Petitioner's appeal and had caused irreputable damage/harm of both a Constitutional nature and a financial nature.

6. The Panel argued in their reasoning under Pg. 5 and 6 of their decision that "The trial court shall allow John I. Jones, IV, Esquire, the fee set forth below and also counsel 's necessary direct out-of-pocket expenses. The Commonwealth shall recover of the appellant the costs in this Court and in the trial court. Costs due the Commonwealth by appellant in Court of Appeals of Virginia: Attorney's fee $300.00 plus costs and expenses." The Panel's decision that Petitioner will pay $300 to such defective counsel who didn't even discuss the Petition for Appeal and hardly ever talked about the appeal case over with his own client, referring to John Ira Jones, IV, had violated the Federal Law protecting Petitioner from being compelled to pay back legal costs when Petitioner's only documented source of income was his Supplemental Security Income, SSI disability, as reported in the Affidavit to this Court for this case in petitioning the Court not to require prepayment of filing fee prior to initiating the appeal.

The Financial Affidavit filed with the Clerk's Office proves that Petitioner is only under SSI disability income. By this Court ordering or compelling any amount of legal payment is unlawful under 42 U.S. Code § 407 - Assignment of benefits. See People v Lampart, __ Mich App __ (#315333, 7/31/2014) the Court of Appeals held that, to the extent the trial court's consideration of SSDI benefits results in an order of restitution that could only be satisfied from those benefits, the use of the court's contempt powers then would violate 42 USC 407(a). Philpott, 409 US at 415-417; State Treasurer, 468 Mich at 155;Whitwood, 265 Mich App at 654. See also United States v Smith, 47 F3d 681, 684 (CA 4, 1995) (holding, under a federal statute employing similar language to 42 USC 407(a), that a court could not order restitution against benefits after they were received because "[t]he government should not be allowed to do indirectly what it cannot do directly[,]" meaning that it could not require the defendant "to turn over his benefits as they are paid to him."). 42 USC 407(a) represents a clear choice by Congress to exempt all social security benefits, whether from SSDI or SSI, from any legal process, save for a few enumerated exceptions not at issue in this case. Bennett v Arkansas, 485 US 395, 397; 108 S Ct 1204; 99 L Ed 2d 455 (1988). Trial courts must be careful to avoid any order that in fact would compel one to satisfy a restitution obligation from the proceeds of one's SSDI benefits. There is no restitution ordered in the

criminal case that is appealed herein. It is only technical legal fees. Good luck getting blood from a turnip. The Social Security Administration will be directly notified of the Panel's unlawful attempt to give the Court leeway to take Petitioner's only source of income and is his SSI disability income. Those Panel judges are directly conflicting with the Canons of Judicial Conduct where Judges cannot violate Federal or State laws in their professional conduct. They cannot make decisions contrary to law, contrary to SCOTUS.

7. The panel overlooked a potential flaw in their own argument in the record which doesn't go along with the statute and thus draws the final judgment into serious legal question. The panel argued that "*The withdrawal of a properly noted appeal from the general district court to the circuit court in a criminal case is governed by Code§ 16.1-133. That statute provides, in pertinent part, as follows:",* and (citation omitted to focus on specific part of statute) "*If the appeal is withdrawn more than ten days after conviction, the circuit court shall forthwith enter an order affirming the judgment of the lower court and the clerk shall tax the costs as provided by statute*." The record had shown that it was not more than ten days after conviction. That itself makes the judgment premature and maybe even illegally filed. If the Panel had reviewed the entire record as they had claimed, they would have known that. The "MOTION - FAX TO WITHDRAW APPEAL" under Page 419 was filed on November 12, 2019. The

final judgment was filed on November 18, 2019, see Page 431, "ORDER IN MISDEMEANOR OR TRAFFIC INFRACTION PROCEEDING". The final judgment was put in too early according to the very statute cited by the Panel. According to review of the November, 2019 calendar which every Microsoft Windows computer has, it says that the tenth day (after the written motion to withdraw appeal) would fall upon a Sunday, November 22, 2019. Since the Court would be closed that day, they would have to wait until Monday, November 23, 2019 in order to meet the ten days necessary to enter a final conviction after the withdrawing of the appeal. As it would be up to the Court's discretion or time as to when to enter the final conviction after withdrawing of appeal, according to the statute, citation: "…If the appeal is withdrawn more than ten days after conviction…", well then there is another issue that was overlooked by the Panel and by the court appointed counsel. See "MOTION TO VACATE FRAUDULENT BEGOTTEN JUDGMENT" pg. 433-459. That motion was filed attempting to argue that Petitioner is innocent, that the Commonwealth had defrauded the Court and very well could have been construed by the Trial Court as a withdrawing of the written notice to withdraw the appeal. Again, the final judgment was filed on November 18, 2019. Ten days would be the 28th of November, 2019. Petitioner also filed a timely notice of appeal on November 26 or 27, 2019. One of those days were on a Federal Holiday, Thanksgiving. Any

of those pro se filings could have been construed as an attempt to ask the Court to reverse the earlier motion to withdraw appeal before the ten days after conviction however that statute is interpreted under Virginia Code § 16.1-133. The panel made a very interesting remark on Virginia Code § 16.1-133 regarding withdrawing appeals but the statute itself puts that final conviction into serious legal issues depending on how Virginia Courts interpret that part of the statute which may invalidate that final conviction. Even though Petitioner did not bring that issue up in his "Petition for Appeal", his legal counsel John Ira, Jones, IV clearly could have preserved that issue on appeal and did not. Clear ineffective assistance of counsel in this Direct Appeal, his counsel was defective and unethical in the handling of this Appeal Case.

8. The Writ Panel also argued that "Indeed, appellant himself notes in his pro se supplemental petition for appeal that he did not plead guilty or concede his guilt. Thus, we find appellant's argument that the Rules of Court governing guilty pleas applied under the circumstances of this case is without merit." That means the attorney/legal-counsel John Ira Jones had filed a defective Petition for Appeal. The only ground he raised was defective from the record itself, yet he raised that only ground as if that wasn't frivolous. That attorney purposefully filed a defective Petition for Appeal and not preserving other issues that may actually warrant relief from this Court. Relief such as

Constitutional relief. Any decisions made by this Court or the Circuit Court which violates Federal Law is invalid and violates the Canons of Judicial Conduct. John Jones deserves no money for making false statements to this Court, he should not be compensated for defamation of character and/or making false statements and Petitioner never advocated any of that. Counsel is clearly working against Petitioner and he worked for the Commonwealth of Virginia as a lawyer against those who were litigants against the Commonwealth of Virginia. He isn't just acting in conflict of interest; he had knowingly made defective pleadings that he probably knew would not prevail. It is not Petitioner who should be financially punished when he clearly doesn't have the money to pay off such a state debt (you can't get blood from a turnup, Brian was sued by Righthaven LLC in 2011 and they lost), but it should be former Assistant Attorney General John Ira Jones, IV.

9. The Constitutional issue here that the Writ Panel of this Court failed to consider was the U.S. Const. Eighth Amendment's prohibition on cruel and unusual punishments inflicted. The Circuit Court being allowed to forcefully make an SSI Dependent who is disabled pay thousands of dollars in legal fees for his wrongful criminal conviction when Petitioner only lives off of his Federal Social Security Disability Benefits pursuant to Title 42 U.S. Code § 407. That is cruel and unusual punishment inflicted by the Circuit Court and the Court of Appeals

of Virginia due to the wrongful State Conviction. Brian pays $500 for rent on record in the Circuit Court and that was on record. Brian pays for other things he needs, and has nothing left in the month. You're going to attempt to deprive Petitioner of his ability to live. You're acting as a Corporation instead of a State. Look Honorable Judges, try to understand Honorable Judges, that the Federal Courts are not attempting to make Petitioner pay legal costs because they know it has very difficult legal challenges under Federal Law and may not even prevail, they will not rob somebody with a disability on Federal SSI disability money. Is the Panel going to advocate **"unlawful"** robbery (*unlawful taking of somebody's money is robbery*) of Brian David Hill of his Federally protected SSI money when the Federal Courts don't even do this to Brian????? Not even the U.S. Court of Appeals for the Fourth Circuit demand that Petitioner pay the Government's legal costs as well as court appointed lawyer's legal costs when the U.S. Court of Appeals can make a losing appellant or appellee who isn't In-Forma-Pauperis pay legal costs upon losing an appeal. They did not do that to Petitioner but your Court thinks it has the right to violate Federal Law and act with more cruelty than the Federal Courts?????? You have to follow Federal Law and this Court is obligated under the Federal Supremacy Clause to follow the Federal Law as the Federal Courts have done with Brian David Hill. Arguably, if Petitioner makes any money in the future, then the Social Security

Administration pretty much reduces the SSI monthly amount to try to be equivalent with the amount earned from making money. So pretty much it is useless to work a job even if Petitioner could work to pay off the State. The Commonwealth as a State Government of the United States of America has no right to deprive somebody of life, liberty, and property without Due Process of Law. No State shall order cruel and unusual punishments inflicted.

10. This Court is punishing Petitioner financially for fighting for his Constitutional and legal rights in this Court and that itself is Unconstitutional to punish somebody financially or in any way for simply filing pleadings and asking the Courts for any Constitutional relief. By punishments or threats of punishments will deter poor people and disabled people from their Constitutional rights as criminal defendants. The Commonwealth has NO RIGHT to try to interfere or deter somebody from pursing their Constitutional rights in a Court of Law. That also violates Federal Law. The Panel's decision as well as this Court's decision may violate 18 U.S. Code § 242 - Deprivation of rights under color of law.

11. The U.S. Department of Justice may condemn what the Panel had done to Petitioner in that decision as it is unlawful under 18 U.S. Code § 242, Deprivation of rights under color of law. See https://www.justice.gov/crt/deprivation-rights-under-color-law -

Disclaimer: Roberta Hill researched this link and obtained link text). The law reads: “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both”. However, the U.S. Department of Justice had argued legally in addition to the statute that “For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state, or local officials within their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under color of law within the meaning of this statute include police officers, prisons guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials. It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status or national origin of the victim.” It mentions handicap and Petitioner is on SSI disability so he

does have a handicap. The panel is going into criminal Federal Law violating territory here**. Even Judges can be charged criminally with Deprivation of rights under color of law.**

12. The panel made an error of fact or error of the record when they argued that "*Thus, the trial court did not "ignore" appellant's pro se motions; they simply were not ripe for consideration when appellant elected to withdraw his misdemeanor appeal*." Page 4 of the Panel's order. That is not truthful and false. It is a defamatory or false statement. The record shown that Pro Se Motions were filed months and months prior to the withdrawing of appeal while motions filed by Counsel was always acted upon quickly. That is "Intentional" "ignoring", yes intentional ignoring of Petitioner's pro se motions. See pg. 293-301 of "MOTION - REQ SUB COUNSEL-FILED BY D". Motion filed on July 19, 2019. The Motion to Withdraw Appeal under Page 419 was filed on November 12, 2019. A date difference of 3 months, 3 weeks, 3 days between that pro se motion filing date and from the date which Petitioner filed his motion to withdraw appeal. However, when the legal counsel saw that pro se motion asking for new counsel, the legal counsel under pages 378-380 filed for a "MOTION - PUB. DEFENDER WITHDRAW", and was filed on July 29, 2019. It was granted by the Circuit Court Judge on August 1, 2019, according to page 383, "ORDER - APPOINTED ATTY MATT CLARK". When Petitioner filed a

motion to get rid of his court appointed counsel for being ineffective, the Court did ignore Petitioner's motion but when Lauren McGarry filed a similar motion, it was acted upon within days. Petitioner also filed a motion for discovery under pages 302-324. Filed on July 26, 2019, "MOTION - DISCOVERY". That motion was never acted upon from that filing date through November 12, 2019 when the Motion for Withdrawing Appeal was filed. The date between that motion and withdrawing appeal would be a difference of 3 months, 2 weeks, 3 days. Plenty of time to grant the motion but was never acted upon, the motion was ignored, the Panel was wrong. Then the pages 325-377 "MOTION - MOT TO SUPPRESS EVIDENCE" was filed on July 26, 2019. The date between that motion and withdrawing appeal would be a difference of 3 months, 2 weeks, 3 days. Then on pages 418-430 the "MOTION - FAX MOT TO DISMISS" was filed on November 4, 2019. Eight days away from the motion to withdraw appeal. No judge ever ordered an evidentiary hearing or response from the Commonwealth Attorney as to their position on the motion to dismiss. However, the Court did act upon the pro se motion to withdraw appeal, the only motion the Court acted upon and did not ignore. It was selectively enforced. This is unconstitutional. Many months did those motions and other motions never had been acted upon. For the panel to lie by claiming that "they simply were not ripe for consideration when appellant elected to withdraw his

misdemeanor appeal" is not true. Maybe they would have been ripe whenever Petitioner filed a motion to proceed pro se, but then that would have been ignored too unless counsel pushed for Petitioner to proceed pro se which puts Petitioner at counsel's mercy. He can practically be held hostage by his own legal counsel. This is simply not Constitutional and utterly illegal. Due process was deprived and Petitioner was deprived of Due Process of Law and given no access to the adversarial system, and these violations of the Constitution led to Petitioner withdrawing Appeal. It is clear as day that Petitioner does have avenues to present a non-frivolous appeal. Any reasonable lawyer would see that something is wrong with Petitioner's criminal case, as clear as spring water.

13. The compelling issues brought up in paragraphs 1-12 constitutes "intervening circumstances of a substantial or controlling effect or other substantial grounds not previously presented" sufficient to warrant rehearing of the order denying/refusing Petitioner's Petition for Appeal. It argues the potential civil or criminal liability issues of what the Panel of this Court had done by making that decision. The Constitutional and legal issues and contradictions arising out of what the Panel of this Court had done by making that decision. The Petitioner isn't saying 100% that this is why a Petition for Appeal should be granted, but the Panel's decision may need to be modified to comply with the Federal Laws

and the SCOTUS authoritative decisions herewith. Going against the law is a sheer violation of the Canons of Judicial Conduct. A Court of Law is supposed to be exactly that, a Court of the Law.

14. There are other legal issues which can be brought up further justifying relief but would surpass the word count limit. Legal issues such as West Virginia Attorney Edward Ryan Kennedy arguing in the Federal Appeals Court for the Fourth Circuit in Richmond, Virginia, case no. 19-4758, and court appointed lawyers did not make those arguments that Petitioner did not violate Virginia Code §18.2-387. Why did none of the court appointed lawyers in the Circuit Court bring up the very same arguments that Attorney Kennedy of West Virginia brought up on Federal Appeal???

15. The granting of the petition in this case means that this Court can preserve the Due Process and Equal Protection under the Laws. In alternative, the Court can ask for new counsel or allow the Petitioner to try again to make legal arguments as to why the Petition for Appeal should be granted. Maybe appoint new counsel who doesn't work for the Commonwealth of Virginia, an independent competent skilled counsel who could make legal arguments demonstrating why Anders v. California, 386 U.S. 738 (1967) may not apply in this appeal. It is clear that Petitioner is still entitled to relief. He can file a Writ of Actual Innocence in this Court of Appeals of Virginia as the Judge did not bar

him from that. All he had done was withdrawn his appeal but Petitioner did not waive being allowed to prove his ACTUAL INNOCENCE to this Court, to any Court of the Commonwealth for that matter. Petitioner can ask for a new jury trial based on newly discovered evidence. If Petitioner is ever cleared and found innocent of his only prior conviction, then he should also have the right to request a new trial in the Circuit Court as that was being used against him so he could not testify at the jury trial and would be used against him at sentencing. If his prior conviction is overturned on Actual Innocence, then Petitioner should be entitled to an opportunity to have a new trial because then his indecent exposure would be his only charge and no prior convictions. It takes months maybe years to overturn a wrongful conviction, so if the Panel is okay with his prior being used against him, then he should get some kind of relief in the Circuit Court if he is acquitted of his prior conviction. Please understand that. Petitioner is entitled to Due Process of Law which is in the Fourteenth Amendment of the U.S. Constitution. It is another deprivation of his Constitutional rights to use a prior conviction against him if at some point that he is found innocent and acquitted of that prior conviction. This Court can't selectively use Petitioner's prior criminal conviction against him and then when Petitioner is found innocent of that prior conviction in the future, then the Circuit Court won't let him use that in his favor. We have equal protections

under the Laws and that is a guarantee that a State cannot selectively use something against Petitioner but not allow Petitioner to use that same thing in his favor when circumstances change such as an acquittal, an Actual Innocence verdict by the Federal Court.

CONCLUSION

For the foregoing reasons, petitioner Brian David Hill prays that this Court (1) grant rehearing of the order denying and refusing his Petition for Appeal in this case, (2) vacate or modify the Panel's/Court's September 2, 2021 order denying/refusing Petition for Appeal, (3) grant the Petition for Appeal, and allow perfecting the Appeal, (4) consider whether the Petition for Appeal should have been denied or granted in part or if at all, and (5) any other relief that is necessary for justice and complying with Federal Law and any other Supreme Laws of the land.

Respectfully filed with the Court, this the 7th day of September, 2021.

Dated:

September 7, 2021

Respectfully submitted,

_____

Brian David Hill
Pro Se Appellant
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Former USWGO Alternative News Reporter
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CERTIFICATE OF TRANSMISSION AND SERVICE

Pursuant to Rule 5A:15(b), On September 6, 2021, Due to the conditions of Brian David Hill's Supervised Release not allowing me to access the internet, I filed this Petition with the Court by having my Mother and Assistant Roberta Hill through rbhill67@comcast.net, filed the original pleading through Virginia Appellate Courts Electronic System (VACES) as well as emailing a PDF file copy of this Petition to cavbriefs@vacourts.gov. Also, on September 6, 2021 a copy of the Petition through my Assistant Roberta Hill had been transmitted/served on the following, via email (by Roberta Hill) and by fax (by Brian D. Hill), at the email address indicated:

Glen Andrew Hall, Esq.

Commonwealth Attorney's Office for the City of

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Dated:

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CERTIFICATE OF COMPLIANCE
WITH WORD OR PAGE COUNT LIMIT

I certify that this Petition, excluding the cover page, table of contents, table of authorities and certificates, contains 5,276 words according to the word count feature of Microsoft Word 2016. This is pursuant to Rule 5A:15(b), that a "petition for rehearing may not exceed 5,300 words in length", are of 14-size font, New Century Schoolbook.

Dated:

September 7, 2021

Respectfully submitted,

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Record No. 1295-20-3

In The Court of Appeals of Virginia

BRIAN DAVID HILL,
Petitioner/Appellant,

vs.

COMMONWEALTH OF VIRGINIA,
Appellee/Respondent.

Petition for Appeal From the Circuit Court
of the City of Martinsville

PETITION FOR REHEARING OR REHEARING EN BANC

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PETITION FOR REHEARING

Pursuant to Rule 5A:15 of the Court of Appeals of Virginia, Petitioner Brian David Hill ("Petitioner") respectfully petitions this Court for an order (1) granting rehearing, (2) vacating or modifying the Panel's September 2, 2021 order denying the Petition for Appeal, and (3) re-disposing of this case by granting the Petition for Appeal, allow the appeal to be set for Perfection of Appeal under Rule 5A:16.

Mr. Hill submits that the Writ Panel of Judges ("the panel") had erred in refusing/denying the "Petition for Appeal" after Petitioner's Pro Se Supplemental Petition for Appeal entered on April 15, 2021, as well as Counsel's Petition for Appeal on April 13, 2021, and upon the record in the originating case in the Circuit Court of Martinsville under case no. CR 19000009-00. Final conviction/judgment entered on November 18, 2019.

Mr. Hill's defective/ineffective counsel John Ira Jones, IV, had inappropriately invoked the case laws of Anders v. California, 386 U.S. 738 (1967); Kuzminski v. Commonwealth, 8 Va. App 106, 378 S.E.2d 632 (1989). See "MOTION TO WITHDRAW AS COUNSEL OF RECORD" filed on April 13, 2021 in this Court of Appeals.

As Petitioner's counsel did at least argue one good potential ground for requesting relief in this appeal case, there were other grounds which he did not bring up and had ignored or overlooked. The attorney did not engage in conversation with his client to determine all available grounds for a non-frivolous appeal. He inappropriately and falsely portrayed this appeal as frivolous. There are constitutional issues which can be brought up.

Petitioner was entitled to relief as a matter of law and as a matter of right, especially when he had proven ineffective assistance of counsel on the record itself, enough in the record warranting relief. The highest Supreme Court of the United States ("SCOTUS") and any SCOTUS or Federal rulings concerning state court decisions cannot be ignored by any Judge in this Court of Appeals of Virginia, this Court has no right to ignore the U.S. Supreme Court. This Court also has no right to ignore Federal Laws under the Supremacy Clause of the United States Constitution, where Federal Law is Supreme Law of the Land, and any rights not retained by the Federal Law and the United States Constitution or not prohibited by the Constitution or Federal Laws is reserved to the states respectively or to the people under the Tenth Amendment of the United States Constitution. I must remind the Commonwealth of Virginia and this Court that Virginia had lost the civil war in the 1860's and had lost to Commander in Chief

Abraham Lincoln. Virginia is no longer a confederacy since they lost the Civil War of the 1860's and cannot defy Federal Laws. Federal Laws apply to Virginia.

The decision of the Writ Panel of this Court contradicts Federal Law as well as controlling and authoritative case law precedent set by the United States Supreme Court.

Petitioner seeks rehearing on the important Constitutional and Legal issues raised in his Petition for Appeal, the Commonwealth's opposition response, the legal counsel's Petition for Appeal, as well as within the record itself. The Record on Appeal contradicts the Panel's opinion and it is erroneous in its facts or arguments. The record of the Writ of Habeas Corpus had already demonstrated many important issues such as motions were being selectively ignored, Constitutional rights violated, Due Process deprived, and Federal Laws violated by the Courts.

Unless Petitioner is granted relief by this Court, then (#1) the Court of Appeals of Virginia, (#2) the Commonwealth of Virginia, (#3) the Circuit Court of Martinsville will be acting in direct violation of Title 42 U.S. Code § 407(a).

Unless Petitioner is granted relief by this Court, then Petitioner suffers under permanent irreputable damage and constitution violations which was caused by ineffective assistance of counsel and the Circuit Court selectively

ignoring pro se motions while not ignoring the pro se motion to withdraw appeal. Not just ineffective assistance of counsel in the Circuit Court and General District Court phases, but also in the Court of Appeals of Virginia. Counsel John Ira Jones, IV was defective in failing to bring up the ineffective assistance of counsel claims which is a very strong ground for reversing a final conviction in asking for a new trial and even can overturn a false guilty plea if there was one. Withdrawing of the appeal in the Circuit Court was directly caused by ineffective assistance of counsel and selective enforcement (violates Equal Protection under the Laws) is illegitimate when records in this Court or a different Appellate Court demonstrate that Petitioner did have more effective grounds and thus Petitioner's appeal was not frivolous. Having at least one good strong ground which has a legal bearing of reversing the final judgment contradicts the legal counsel's assertation of Anders v. California, 386 U.S. 738 (1967); Kuzminski v. Commonwealth, 8 Va. App 106, 378 S.E.2d 632 (1989).

Petitioner shall state the appropriate grounds for relief as to why the Panel of this Court made a bad decision, an erroneous decision contrary to law and contrary to effective assistance of counsel and Due Process clause as well as to the United States Constitution.

GROUNDS FOR RELIEF

As grounds for this petition for rehearing, petitioner states the following:

1. Petitioner filed the (1) Pro Se Supplemental Petition for Appeal on March 25, 2021, but was reentered on April 15, 2021, and Petitioner's counsel filed his Petition for Appeal on April 13, 2021. The Commonwealth Attorney filed an opposition brief on May 6, 2021, but Petitioner never reviewed over that opposition brief as legal counsel John Ira Jones, IV never emailed or mailed a copy of the opposition brief to the client or client's mother Roberta Hill. That itself is ineffective, defective, and unethical counsel. Counsel appointed in this appeal and for this appeal had failed to discuss the Opposition Brief by the Commonwealth of Virginia and City of Martinsville, and never gave a copy of that opposition brief to Petitioner. The ineffective assistance of counsel isn't just in the Circuit Court, the General District Court, but such ineffective assistance of counsel was also in this direct criminal case appeal.
2. John Ira Jones, IV never should have been appointed as representative counsel for Petitioner's appeals. In 2019, according to GovSalaries, John Ira Jones, IV in 2019 was employed with the Commonwealth of Virginia, in the Office of the Attorney General of Virginia, with an annual salary of $54,699. That is a conflict of interest. Such conflicts of interest are unethical and violates the very sanctity of Due Process, and a criminal defendant's access to the adversarial system. See all of the opinion of Strickland v. Washington, 466 U.S. 668 (1984). Petitioner

was not being represented by John Ira Jones, IV, because he will not admit that the Commonwealth of Virginia is wrong because he had worked for the Commonwealth of Virginia in 2019 and 2018 when Petitioner was charged and going through the Criminal Trial processes, not long before supposedly representing Brian David Hill. See https://govsalaries.com/jones-iv-john-ira-100016866 or http://web.archive.org/web/20210906022417/https://govsalaries.com/jones-iv-john-ira-100016866 Disclaimer: Link researched and produced by Roberta Hill. Text of link given to Petitioner.

3. John Ira Jones had a history of failing to file Petitions as directed and had committed sanctionable conduct by not even filing the first Petitions for Appeals in cases no. 0128-20-3 and 0129-20-3. Petitioner allowed counsel to represent him again in this appeal case and asked the Court to give him a second chance. A big mistake. Now Petitioner is being punished again with financial sanction or penalty for what this worthless legal counsel had done against Petitioner. This attorney was never going to represent Petitioner, only help the enemy win by filing potentially defective pleadings and branding his appeals as meritless or frivolous or both, and John Ira Jones did achieve the objective favorable to the enemy which he did do the damage successfully

against Petitioner's 14th Amendment Due Process protections with the Panel's decision.

4. The basis for requesting relief by granting the Petition for Appeal is partially based upon ineffective assistance of counsel. Even the Supreme Court of Virginia must respect the decisions of SCOTUS, the highest Supreme Court of the United States ("SCOTUS") as the main legal authority for court case law involving all Courts of the United States of America over all matters concerning the U.S. Constitution by the Fourteenth Amendment of the U.S. Constitution pertaining to Federal Supremacy and requirement of Due Process for all State Courts, requirement of Equal Protection under the Laws. Even the Supreme Court of Virginia had referenced the SCOTUS cases including Strickland v. Washington, 466 U.S. 668 (1984). The decision by the Writ Panel on September 2, 2021 to deny the Petition for Appeal without first addressing the ineffective counsel John Ira Jones in this direct appeal case contradicts the Supreme Court. This deprived Petitioner of due process of law and have caused aggravated injury of a Constitutional nature, defamation of character, and had caused irreputable harm to Petitioner including the attempts to rob Petitioner of his SSI disability.
5. The Panel's decision that Petitioner will pay $300 to such defective counsel who didn't even discuss the appeal and never discussed the Petition for Appeal

over with his own client, referring to John Ira Jones, IV had illegally created an attempt to legitimize attorney malpractice and potential ethics violations by John Ira Jones, IV. Counsel who does not professionally engage all duties and responsibilities including informing his/her client upon each decision by the Court is negligence and has wrecked Petitioner's appeal and had caused irreputable damage/harm of both a Constitutional nature and a financial nature.

6. The Panel argued in their reasoning under Pg. 5 and 6 of their decision that "The trial court shall allow John I. Jones, IV, Esquire, the fee set forth below and also counsel 's necessary direct out-of-pocket expenses. The Commonwealth shall recover of the appellant the costs in this Court and in the trial court. Costs due the Commonwealth by appellant in Court of Appeals of Virginia: Attorney's fee $300.00 plus costs and expenses." The Panel's decision that Petitioner will pay $300 to such defective counsel who didn't even discuss the Petition for Appeal and hardly ever talked about the appeal case over with his own client, referring to John Ira Jones, IV, had violated the Federal Law protecting Petitioner from being compelled to pay back legal costs when Petitioner's only documented source of income was his Supplemental Security Income, SSI disability, as reported in the Affidavit to this Court for this case in petitioning the Court not to require prepayment of filing fee prior to initiating the appeal.

The Financial Affidavit filed with the Clerk's Office proves that Petitioner is only under SSI disability income. By this Court ordering or compelling any amount of legal payment is unlawful under 42 U.S. Code § 407 - Assignment of benefits. See People v Lampart, __ Mich App __ (#315333, 7/31/2014) the Court of Appeals held that, to the extent the trial court's consideration of SSDI benefits results in an order of restitution that could only be satisfied from those benefits, the use of the court's contempt powers then would violate 42 USC 407(a). Philpott, 409 US at 415-417; State Treasurer, 468 Mich at 155;Whitwood, 265 Mich App at 654. See also United States v Smith, 47 F3d 681, 684 (CA 4, 1995) (holding, under a federal statute employing similar language to 42 USC 407(a), that a court could not order restitution against benefits after they were received because "[t]he government should not be allowed to do indirectly what it cannot do directly[,]" meaning that it could not require the defendant "to turn over his benefits as they are paid to him."). 42 USC 407(a) represents a clear choice by Congress to exempt all social security benefits, whether from SSDI or SSI, from any legal process, save for a few enumerated exceptions not at issue in this case. Bennett v Arkansas, 485 US 395, 397; 108 S Ct 1204; 99 L Ed 2d 455 (1988). Trial courts must be careful to avoid any order that in fact would compel one to satisfy a restitution obligation from the proceeds of one's SSDI benefits. There is no restitution ordered in the

criminal case that is appealed herein. It is only technical legal fees. Good luck getting blood from a turnip. The Social Security Administration will be directly notified of the Panel's unlawful attempt to give the Court leeway to take Petitioner's only source of income and is his SSI disability income. Those Panel judges are directly conflicting with the Canons of Judicial Conduct where Judges cannot violate Federal or State laws in their professional conduct. They cannot make decisions contrary to law, contrary to SCOTUS.

7. The panel overlooked a potential flaw in their own argument in the record which doesn't go along with the statute and thus draws the final judgment into serious legal question. The panel argued that "*The withdrawal of a properly noted appeal from the general district court to the circuit court in a criminal case is governed by Code§ 16.1-133. That statute provides, in pertinent part, as follows:",* and (citation omitted to focus on specific part of statute) "*If the appeal is withdrawn more than ten days after conviction, the circuit court shall forthwith enter an order affirming the judgment of the lower court and the clerk shall tax the costs as provided by statute*." The record had shown that it was not more than ten days after conviction. That itself makes the judgment premature and maybe even illegally filed. If the Panel had reviewed the entire record as they had claimed, they would have known that. The "MOTION - FAX TO WITHDRAW APPEAL" under Page 419 was filed on November 12, 2019. The

final judgment was filed on November 18, 2019, see Page 431, "ORDER IN MISDEMEANOR OR TRAFFIC INFRACTION PROCEEDING". The final judgment was put in too early according to the very statute cited by the Panel. According to review of the November, 2019 calendar which every Microsoft Windows computer has, it says that the tenth day (after the written motion to withdraw appeal) would fall upon a Sunday, November 22, 2019. Since the Court would be closed that day, they would have to wait until Monday, November 23, 2019 in order to meet the ten days necessary to enter a final conviction after the withdrawing of the appeal. As it would be up to the Court's discretion or time as to when to enter the final conviction after withdrawing of appeal, according to the statute, citation: "…If the appeal is withdrawn more than ten days after conviction…", well then there is another issue that was overlooked by the Panel and by the court appointed counsel. See "MOTION TO VACATE FRAUDULENT BEGOTTEN JUDGMENT" pg. 433-459. That motion was filed attempting to argue that Petitioner is innocent, that the Commonwealth had defrauded the Court and very well could have been construed by the Trial Court as a withdrawing of the written notice to withdraw the appeal. Again, the final judgment was filed on November 18, 2019. Ten days would be the 28th of November, 2019. Petitioner also filed a timely notice of appeal on November 26 or 27, 2019. One of those days were on a Federal Holiday, Thanksgiving. Any

of those pro se filings could have been construed as an attempt to ask the Court to reverse the earlier motion to withdraw appeal before the ten days after conviction however that statute is interpreted under Virginia Code § 16.1-133. The panel made a very interesting remark on Virginia Code § 16.1-133 regarding withdrawing appeals but the statute itself puts that final conviction into serious legal issues depending on how Virginia Courts interpret that part of the statute which may invalidate that final conviction. Even though Petitioner did not bring that issue up in his "Petition for Appeal", his legal counsel John Ira, Jones, IV clearly could have preserved that issue on appeal and did not. Clear ineffective assistance of counsel in this Direct Appeal, his counsel was defective and unethical in the handling of this Appeal Case.

8. The Writ Panel also argued that "Indeed, appellant himself notes in his pro se supplemental petition for appeal that he did not plead guilty or concede his guilt. Thus, we find appellant's argument that the Rules of Court governing guilty pleas applied under the circumstances of this case is without merit." That means the attorney/legal-counsel John Ira Jones had filed a defective Petition for Appeal. The only ground he raised was defective from the record itself, yet he raised that only ground as if that wasn't frivolous. That attorney purposefully filed a defective Petition for Appeal and not preserving other issues that may actually warrant relief from this Court. Relief such as

Constitutional relief. Any decisions made by this Court or the Circuit Court which violates Federal Law is invalid and violates the Canons of Judicial Conduct. John Jones deserves no money for making false statements to this Court, he should not be compensated for defamation of character and/or making false statements and Petitioner never advocated any of that. Counsel is clearly working against Petitioner and he worked for the Commonwealth of Virginia as a lawyer against those who were litigants against the Commonwealth of Virginia. He isn't just acting in conflict of interest; he had knowingly made defective pleadings that he probably knew would not prevail. It is not Petitioner who should be financially punished when he clearly doesn't have the money to pay off such a state debt (you can't get blood from a turnup, Brian was sued by Righthaven LLC in 2011 and they lost), but it should be former Assistant Attorney General John Ira Jones, IV.

9. The Constitutional issue here that the Writ Panel of this Court failed to consider was the U.S. Const. Eighth Amendment's prohibition on cruel and unusual punishments inflicted. The Circuit Court being allowed to forcefully make an SSI Dependent who is disabled pay thousands of dollars in legal fees for his wrongful criminal conviction when Petitioner only lives off of his Federal Social Security Disability Benefits pursuant to Title 42 U.S. Code § 407. That is cruel and unusual punishment inflicted by the Circuit Court and the Court of Appeals

of Virginia due to the wrongful State Conviction. Brian pays $500 for rent on record in the Circuit Court and that was on record. Brian pays for other things he needs, and has nothing left in the month. You're going to attempt to deprive Petitioner of his ability to live. You're acting as a Corporation instead of a State. Look Honorable Judges, try to understand Honorable Judges, that the Federal Courts are not attempting to make Petitioner pay legal costs because they know it has very difficult legal challenges under Federal Law and may not even prevail, they will not rob somebody with a disability on Federal SSI disability money. Is the Panel going to advocate **"unlawful"** robbery (*unlawful taking of somebody's money is robbery*) of Brian David Hill of his Federally protected SSI money when the Federal Courts don't even do this to Brian????? Not even the U.S. Court of Appeals for the Fourth Circuit demand that Petitioner pay the Government's legal costs as well as court appointed lawyer's legal costs when the U.S. Court of Appeals can make a losing appellant or appellee who isn't In-Forma-Pauperis pay legal costs upon losing an appeal. They did not do that to Petitioner but your Court thinks it has the right to violate Federal Law and act with more cruelty than the Federal Courts?????? You have to follow Federal Law and this Court is obligated under the Federal Supremacy Clause to follow the Federal Law as the Federal Courts have done with Brian David Hill. Arguably, if Petitioner makes any money in the future, then the Social Security

Administration pretty much reduces the SSI monthly amount to try to be equivalent with the amount earned from making money. So pretty much it is useless to work a job even if Petitioner could work to pay off the State. The Commonwealth as a State Government of the United States of America has no right to deprive somebody of life, liberty, and property without Due Process of Law. No State shall order cruel and unusual punishments inflicted.

10. This Court is punishing Petitioner financially for fighting for his Constitutional and legal rights in this Court and that itself is Unconstitutional to punish somebody financially or in any way for simply filing pleadings and asking the Courts for any Constitutional relief. By punishments or threats of punishments will deter poor people and disabled people from their Constitutional rights as criminal defendants. The Commonwealth has NO RIGHT to try to interfere or deter somebody from pursing their Constitutional rights in a Court of Law. That also violates Federal Law. The Panel's decision as well as this Court's decision may violate 18 U.S. Code § 242 - Deprivation of rights under color of law.

11. The U.S. Department of Justice may condemn what the Panel had done to Petitioner in that decision as it is unlawful under 18 U.S. Code § 242, Deprivation of rights under color of law. See https://www.justice.gov/crt/deprivation-rights-under-color-law -

Disclaimer: Roberta Hill researched this link and obtained link text). The law reads: “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both”. However, the U.S. Department of Justice had argued legally in addition to the statute that “For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state, or local officials within their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under color of law within the meaning of this statute include police officers, prisons guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials. It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status or national origin of the victim.” It mentions handicap and Petitioner is on SSI disability so he

does have a handicap. The panel is going into criminal Federal Law violating territory here**. Even Judges can be charged criminally with Deprivation of rights under color of law.**

12. The panel made an error of fact or error of the record when they argued that "*Thus, the trial court did not "ignore" appellant's pro se motions; they simply were not ripe for consideration when appellant elected to withdraw his misdemeanor appeal*." Page 4 of the Panel's order. That is not truthful and false. It is a defamatory or false statement. The record shown that Pro Se Motions were filed months and months prior to the withdrawing of appeal while motions filed by Counsel was always acted upon quickly. That is "Intentional" "ignoring", yes intentional ignoring of Petitioner's pro se motions. See pg. 293-301 of "MOTION - REQ SUB COUNSEL-FILED BY D". Motion filed on July 19, 2019. The Motion to Withdraw Appeal under Page 419 was filed on November 12, 2019. A date difference of 3 months, 3 weeks, 3 days between that pro se motion filing date and from the date which Petitioner filed his motion to withdraw appeal. However, when the legal counsel saw that pro se motion asking for new counsel, the legal counsel under pages 378-380 filed for a "MOTION - PUB. DEFENDER WITHDRAW", and was filed on July 29, 2019. It was granted by the Circuit Court Judge on August 1, 2019, according to page 383, "ORDER - APPOINTED ATTY MATT CLARK". When Petitioner filed a

motion to get rid of his court appointed counsel for being ineffective, the Court did ignore Petitioner's motion but when Lauren McGarry filed a similar motion, it was acted upon within days. Petitioner also filed a motion for discovery under pages 302-324. Filed on July 26, 2019, "MOTION - DISCOVERY". That motion was never acted upon from that filing date through November 12, 2019 when the Motion for Withdrawing Appeal was filed. The date between that motion and withdrawing appeal would be a difference of 3 months, 2 weeks, 3 days. Plenty of time to grant the motion but was never acted upon, the motion was ignored, the Panel was wrong. Then the pages 325-377 "MOTION - MOT TO SUPPRESS EVIDENCE" was filed on July 26, 2019. The date between that motion and withdrawing appeal would be a difference of 3 months, 2 weeks, 3 days. Then on pages 418-430 the "MOTION - FAX MOT TO DISMISS" was filed on November 4, 2019. Eight days away from the motion to withdraw appeal. No judge ever ordered an evidentiary hearing or response from the Commonwealth Attorney as to their position on the motion to dismiss. However, the Court did act upon the pro se motion to withdraw appeal, the only motion the Court acted upon and did not ignore. It was selectively enforced. This is unconstitutional. Many months did those motions and other motions never had been acted upon. For the panel to lie by claiming that "they simply were not ripe for consideration when appellant elected to withdraw his

misdemeanor appeal" is not true. Maybe they would have been ripe whenever Petitioner filed a motion to proceed pro se, but then that would have been ignored too unless counsel pushed for Petitioner to proceed pro se which puts Petitioner at counsel's mercy. He can practically be held hostage by his own legal counsel. This is simply not Constitutional and utterly illegal. Due process was deprived and Petitioner was deprived of Due Process of Law and given no access to the adversarial system, and these violations of the Constitution led to Petitioner withdrawing Appeal. It is clear as day that Petitioner does have avenues to present a non-frivolous appeal. Any reasonable lawyer would see that something is wrong with Petitioner's criminal case, as clear as spring water.

13. The compelling issues brought up in paragraphs 1-12 constitutes "intervening circumstances of a substantial or controlling effect or other substantial grounds not previously presented" sufficient to warrant rehearing of the order denying/refusing Petitioner's Petition for Appeal. It argues the potential civil or criminal liability issues of what the Panel of this Court had done by making that decision. The Constitutional and legal issues and contradictions arising out of what the Panel of this Court had done by making that decision. The Petitioner isn't saying 100% that this is why a Petition for Appeal should be granted, but the Panel's decision may need to be modified to comply with the Federal Laws

and the SCOTUS authoritative decisions herewith. Going against the law is a sheer violation of the Canons of Judicial Conduct. A Court of Law is supposed to be exactly that, a Court of the Law.

14. There are other legal issues which can be brought up further justifying relief but would surpass the word count limit. Legal issues such as West Virginia Attorney Edward Ryan Kennedy arguing in the Federal Appeals Court for the Fourth Circuit in Richmond, Virginia, case no. 19-4758, and court appointed lawyers did not make those arguments that Petitioner did not violate Virginia Code §18.2-387. Why did none of the court appointed lawyers in the Circuit Court bring up the very same arguments that Attorney Kennedy of West Virginia brought up on Federal Appeal???

15. The granting of the petition in this case means that this Court can preserve the Due Process and Equal Protection under the Laws. In alternative, the Court can ask for new counsel or allow the Petitioner to try again to make legal arguments as to why the Petition for Appeal should be granted. Maybe appoint new counsel who doesn't work for the Commonwealth of Virginia, an independent competent skilled counsel who could make legal arguments demonstrating why Anders v. California, 386 U.S. 738 (1967) may not apply in this appeal. It is clear that Petitioner is still entitled to relief. He can file a Writ of Actual Innocence in this Court of Appeals of Virginia as the Judge did not bar

him from that. All he had done was withdrawn his appeal but Petitioner did not waive being allowed to prove his ACTUAL INNOCENCE to this Court, to any Court of the Commonwealth for that matter. Petitioner can ask for a new jury trial based on newly discovered evidence. If Petitioner is ever cleared and found innocent of his only prior conviction, then he should also have the right to request a new trial in the Circuit Court as that was being used against him so he could not testify at the jury trial and would be used against him at sentencing. If his prior conviction is overturned on Actual Innocence, then Petitioner should be entitled to an opportunity to have a new trial because then his indecent exposure would be his only charge and no prior convictions. It takes months maybe years to overturn a wrongful conviction, so if the Panel is okay with his prior being used against him, then he should get some kind of relief in the Circuit Court if he is acquitted of his prior conviction. Please understand that. Petitioner is entitled to Due Process of Law which is in the Fourteenth Amendment of the U.S. Constitution. It is another deprivation of his Constitutional rights to use a prior conviction against him if at some point that he is found innocent and acquitted of that prior conviction. This Court can't selectively use Petitioner's prior criminal conviction against him and then when Petitioner is found innocent of that prior conviction in the future, then the Circuit Court won't let him use that in his favor. We have equal protections

under the Laws and that is a guarantee that a State cannot selectively use something against Petitioner but not allow Petitioner to use that same thing in his favor when circumstances change such as an acquittal, an Actual Innocence verdict by the Federal Court.

CONCLUSION

For the foregoing reasons, petitioner Brian David Hill prays that this Court (1) grant rehearing of the order denying and refusing his Petition for Appeal in this case, (2) vacate or modify the Panel's/Court's September 2, 2021 order denying/refusing Petition for Appeal, (3) grant the Petition for Appeal, and allow perfecting the Appeal, (4) consider whether the Petition for Appeal should have been denied or granted in part or if at all, and (5) any other relief that is necessary for justice and complying with Federal Law and any other Supreme Laws of the land.

Respectfully filed with the Court, this the 7th day of September, 2021.

Dated:

September 7, 2021

Respectfully submitted,

Brian D. Hill
Signed

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CERTIFICATE OF TRANSMISSION AND SERVICE

Pursuant to Rule 5A:15(b), On September 6, 2021, Due to the conditions of Brian David Hill's Supervised Release not allowing me to access the internet, I filed this Petition with the Court by having my Mother and Assistant Roberta Hill through rbhill67@comcast.net, filed the original pleading through Virginia Appellate Courts Electronic System (VACES) as well as emailing a PDF file copy of this Petition to cavbriefs@vacourts.gov. Also, on September 6, 2021 a copy of the Petition through my Assistant Roberta Hill had been transmitted/served on the following, via email (by Roberta Hill) and by fax (by Brian D. Hill), at the email address indicated:

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Dated:

September 7, 2021

Respectfully submitted,

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Signed
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JusticeForUSWGO.NL/pardon
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CERTIFICATE OF COMPLIANCE
WITH WORD OR PAGE COUNT LIMIT

I certify that this Petition, excluding the cover page, table of contents, table of authorities and certificates, contains 5,276 words according to the word count feature of Microsoft Word 2016. This is pursuant to Rule 5A:15(b), that a "petition for rehearing may not exceed 5,300 words in length", are of 14-size font, New Century Schoolbook.

Dated:

September 7, 2021

Respectfully submitted,

Brian D. Hill
Signed

Brian D. Hill _____

Brian David Hill
Pro Se Appellant
Ally of QANON and General Flynn
Former USWGO Alternative News Reporter
310 FOREST STREET, APARTMENT 2
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Tori J. Cotman

From: Court of Appeals of VA _6
Sent: Wednesday, September 8, 2021 10:18 AM
To: rbhill67@comcast.net
Subject: Record Nos. 1294 - 20 - 3 and 1295-20-3 BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA, ET AL.
Attachments: CORRECTED 090221 orders - anders petition denied, order to withdraw as counsel granted 1295-20-3.pdf

Attached is a copy of this Court's corrected September 2, 2021 order, which was previously sent by U.S. mail to Appellant, Brian David Hill at 310 Forest Street, Apt. 2, Martinsville, VA 24112 on September 2, 2021.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219.

Court of Appeals of VA _3

From: Court of Appeals of VA _3
Sent: Wednesday, September 8, 2021 3:09 PM
To: Phillip E. Lecky (phillip@lawfirmvirginia.com)
Cc: Janet W. Baugh (jbaugh@oag.state.va.us)
Subject: Kenneth Harvey v. Commonwealth, DMV, Record No. 1220-20-2 - Order
Attachments: 090821 order - PFR denied 1220-20-2.pdf

COURT OF APPEALS OF VIRGINIA

Attached is a copy of the Court of Appeal's order, which disposes of the petition for rehearing in the above-noted case.

Effective June 1, 2021, all counsel are required to file all pleadings, letters, briefs, etc., electronically through the VACES system. Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings are located on the Virginia Judicial System Website at https://eapps.courts.state.va.us/help/robo/vaces/index.htm. Pro se/self-represented litigants may, but are not required to, file pleadings through the VACES system. Otherwise, such individuals are required to transmit one paper copy of a filing to the Clerk of the Court.

Deborah A. F. Uitvlucht
Senior Deputy Clerk - Dockets
Court of Appeals of Virginia
109 North Eighth Street
Richmond, VA 23219
804-786-5651

VIRGINIA:

In the Court of Appeals of Virginia on **Thursday** *the* **9th** *day of* **September, 2021**.

Brian David Hill, Appellant,

against Record No. 1295-20-3
Circuit Court No. CR19000009-00
(Appeal of November 18, 2019 order)

Commonwealth of Virginia and
City of Martinsville, Appellees.

Upon a Petition for Rehearing En Banc

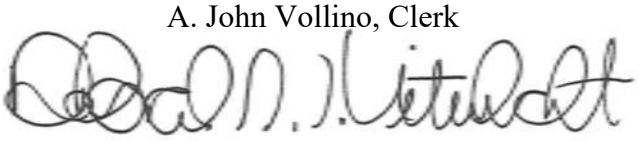
On September 6, 2021 appellant filed a petition for rehearing *en banc* from the panel's decision denying the petition for appeal in this case.

The Rules of Court do not provide for a rehearing *en banc* from the denial of a petition for appeal. Rules 5A:15 and 5A:15A. Accordingly, the petition for rehearing *en banc* is dismissed.

A Copy,

Teste:

A. John Vollino, Clerk

By: 

Deputy Clerk

VIRGINIA:

In the Court of Appeals of Virginia on **Thursday** *the* **9th** *day of* **September, 2021**.

Brian David Hill, Appellant,

against Record No. 1295-20-3
Circuit Court No. CR19000009-00
(Appeal of November 18, 2019 order)

Commonwealth of Virginia and
City of Martinsville, Appellees.

Upon a Petition for Rehearing

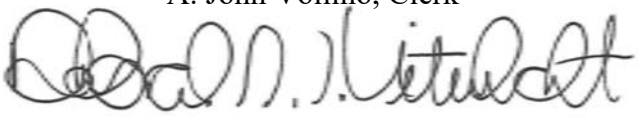
Before Senior Judges Annunziata, Clements and Frank

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 2nd day of September, 2021 and grant a rehearing thereof, the said petition is denied.

A Copy,

Teste:

A. John Vollino, Clerk

By: 

Deputy Clerk

Record No. 1295-20-3

In The Court of Appeals of Virginia

BRIAN DAVID HILL,
Petitioner/Appellant,

vs.

COMMONWEALTH OF VIRGINIA, et al
Appellee/Respondent.

Petition for Appeal From the Circuit Court
of the City of Martinsville

NOTICE OF APPEAL TO SUPREME COURT OF VIRGINIA

Brian David Hill
Pro Se Appellant
Ally of QANON and General Flynn
Former USWGO Alternative News Reporter
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Friend of justice

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PETITION FOR REHEARING

NOW COMES the Petitioner Brian David Hill, by and through Brian David Hill ("Petitioner") who is acting pro se in this action before this Honorable Court, the Court of Appeals of Virginia, hereby respectfully moves to file this Notice of Appeal.

Notice is hereby given that Petitioner in the above-named case hereby appeal to the Supreme Court of Virginia from the final decision/order denying the Petition for Rehearing or Rehearing En Banc on the date of September 9, 2021, and The Panel decision on the date of September 2, 2021.

* The Appellees are Commonwealth of Virginia and City of Martinsville.

Dated:

September 9, 2021

Respectfully submitted,

Brian D. Hill
Signed
Brian D. Hill

Brian David Hill
Pro Se Appellant
Ally of QANON and General Flynn
Former USWGO Alternative News Reporter
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CERTIFICATE OF TRANSMISSION AND SERVICE

On September 9, 2021, Due to the conditions of Brian David Hill's Supervised Release not allowing me to access the internet, I filed this Petition with the Court by having my Mother and Assistant Roberta Hill through rbhill67@comcast.net, filed the original pleading through Virginia Appellate Courts Electronic System (VACES) as well as emailing a PDF file copy of this Petition to cavbriefs@vacourts.gov. A copy has also been emailed to the Clerk of the Supreme Court of Virginia at scvpfr@vacourts.gov. Also, on September 9, 2021 a copy of the Petition through my Assistant Roberta Hill had been transmitted/served on the following, via email (by Roberta Hill) or by fax (by Brian D. Hill), at the email address indicated:

Glen Andrew Hall, Esq.
Commonwealth Attorney's Office for the City of Martinsville
P.O. Box 1311 // 55 West Church Street
Martinsville, Virginia 24114/24112
(276) 403-5470
(276) 403-5478 (fax)
ahall@ci.martinsville.va.us

Dated:

September 9, 2021

Respectfully submitted,

Brian D. Hill
Signed

Brian D. Hill

Brian David Hill
Pro Se Appellant
Ally of QANON, and General Flynn
Former USWGO Alternative News Reporter
310 FOREST STREET, APARTMENT 2
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JusticeForUSWGO.wordpress.com

From:	Court of Appeals of VA_5
To:	courtandlegal@vadoc.virginia.gov
Cc:	donna.shiflett@vadoc.virginia.gov; shelley.forrest-foultz@vadoc.virginia.gov
Subject:	BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA, ET AL.; Record No. 1295-20-3
Date:	Friday, December 10, 2021 4:34:00 PM
Attachments:	090921 order - PFR denied, 1295-20-3.pdf 090921 order - PFR en banc denied not allowed, 1295-20-3.pdf CORRECTED 090221 orders - anders petition denied, order to withdraw as counsel granted 1295-20-3.pdf

COURT OF APPEALS OF VIRGINIA

Attached please find the order(s) disposing of the above-noted appeal.

Please note that no paper copies of the attachment(s) will be mailed separately to you.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219.

From:	Court of Appeals of VA_5
To:	Ashby Pritchett
Subject:	BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA, ET AL.; Record No. 1295-20-3
Date:	Friday, December 10, 2021 4:34:00 PM
Attachments:	090921 order - PFR denied, redline 1295-20-3.pdf 090921 order - PFR en banc denied not allowed, redline 1295-20-3.pdf CORRECTED 090221 orders - anders petition denied, order to withdraw as counsel granted redline 1295-20-3.pdf

COURT OF APPEALS OF VIRGINIA

Dear Clerk,

Attached, please find the order(s) disposing of the above-noted appeal.

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