

In The  
**Supreme Court**  
Of Virginia

**Brian David Hill,**

*Appellant,*

v.

**Commonwealth of Virginia,  
City of Martinsville**

*Appellee.*

**ON APPEAL FROM THE COURT OF  
APPEALS OF VIRGINIA**

**MOTION FOR LEAVE OF COURT TO FILE ATTACHED  
PROPOSED TRANSCRIPT TO RECORD**



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c/o: [Rbhill67@comcast.net](mailto:Rbhill67@comcast.net); Roberta Hill



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*Pro Se Appellant*  
Dated September 13, 2022

– [JusticeForUSWGO.wordpress.com](http://JusticeForUSWGO.wordpress.com)  
[JusticeForUSWGO.NL](http://JusticeForUSWGO.NL)

## **SUMMARY OF THE ARGUMENT**

Brian David Hill, (“Appellant”) files this MOTION FOR LEAVE OF COURT TO FILE ATTACHED PROPOSED TRANSCRIPT TO RECORD requesting permission to file the attached (attached to this motion) PROPOSED TRANSCRIPT of the oral argument dated August 31, 2022, prepared and edited by Brian David Hill, the Appellant, but transcribed by Artificial Intelligence (“AI”).

The Supreme Court of Virginia (“SCV”) had heard (and hopefully recorded) oral argument made by Appellant on August 31, 2022. There are no rules of the Supreme Court of Virginia prohibiting a pro se filer from submitting an accurate, complete, and honest transcript of the oral argument proceedings. As long as it is exactly accurate and is of a complete transcription of the oral argument proceedings, this Court should have no issue accepting the proposed transcript on the record.

Appellant requests that the transcript be made of the record in this case in this Court and be used in consideration of Appellant’s filed Petition for Rehearing timely filed and dated as to being September 13, 2022.

The Writ Panel consisted of three justices were Chief Justice Goodwyn, Justice Mann and Senior Justice Lemons. Over the oral argument on August 31, 2022.

Here are the reasons why the SCV should grant this MOTION FOR LEAVE OF COURT TO FILE ATTACHED PROPOSED TRANSCRIPT TO RECORD. It is an accurate transcript. The Commonwealth of Virginia and City of Martinsville

have a right to dispute any accuracies of the proposed transcript of the oral argument proceedings. The oral arguments were stream broadcasted live to the general public during every interval of the oral argument proceedings. Anybody can record the stream broadcast of those proceedings and make transcriptions of those broadcasts. The Office of Executive Secretary (“OES”) of the SCV published them on Vimeo at one time.

Here are the reasons why this Court should grant this MOTION and allow a transcription of the oral argument proceedings to be filed on the record in this case:

### **REASONS FOR GRANTING MOTION ARGUMENT**

1. The transcript by Brian David Hill, the Appellant is accurate, complete, and correct 100% or very close to 100%. The Supreme Court of Virginia should have recordings of those oral argument proceedings by either audio, video, or both. If they do then they can determine accuracy of the proposed transcript using those recordings. If the Appellees’ have any issues as to the accuracy, competition, and correctness of the pro se transcript, then they can file a response to this motion within this Court’s rules as to why they believe the transcript may not be accurate, complete, and correct 100% or very close to 100%.

2. The public broadcast stream of oral argument available to the public was recorded for the purpose of transcription after the oral argument proceedings. The SCV used to publish these oral argument recordings on Vimeo (an online video

streaming platform where anybody can play these online archived videos, a private platform) published by the Office of Executive Secretary; as family checked Vimeo years ago and found years ago that Appellant' last oral argument for his older case years ago before the SCV was published on Vimeo after the time of his last oral argument. So this Court had published oral argument videos of proceedings years ago for its teleconference and maybe in-person oral arguments.

3. Appellant is indigent and cannot afford a Court Reporter to transcribe the oral argument proceedings. His only source of income is SSI disability, Virginia Medicaid and food-stamps (EBT/SNAP), and his affidavit of indigence was accepted by this Court.

4. Family recorded the public broadcast of the oral argument for the purpose of Brian David Hill having a record of his own oral argument and for purposes of transcription.

5. Audio was submitted by family to <https://otter.ai> (because Appellant cannot use the internet without permission by U.S. Probation Office), which Otter.Ai is an Artificial Intelligence system which analyses audio and produces text transcription of anything said orally by a human being. Appellant, who is a human being, had Roberta Hill upload or submit the audio of the oral argument to this Artificial Intelligence ("AI") system to produce text of the oral argument. However AI is still imperfect and cannot completely understand the words said or argued as to the spelling and grammar of each word. It was manually reviewed and edited by

Appellant, Brian David Hill, to make grammatical corrections and listen to the audio recording of the public live stream of the proceedings made public. The corrections have been made, the entries of who spoken at different periods of the oral arguments, and the approximate time of when the oral argument proceedings had started, and how long the proceedings had been conducted.

6. The transcript was finalized, corrected on September 12, 2022, and compared to listening to what was argued during the oral argument proceedings and comparing notes and paper of the 10 minute or less of oral argument speech document prepared by Appellant. The transcription should be completely accurate. The Appellees' have a right to object to any portion of Appellant's transcript as to its accuracy, completeness, and correctness.

7. Appellant is submitting his Petition for Rehearing dated September 13, 2022. Appellant would like to request that the transcript be made part of the record of this Court, of this SCV, and that it be taken into consideration when making a decision on Appellant's petition for rehearing. The oral argument needs to be part of the record, either by an audio recording retained if recorded by this Court during the proceedings or by a proposed transcript of the Appellant. Oral Argument should be documented and be part of the record as to what was argued to the Writ Panel of Justices before this Court. Oral argument is important and keeping a record of that oral argument is important when making a decision on a Petition for Rehearing.

8. Appellant is considering filing a Petition for the Writ of Certiorari in the

Supreme Court of the United States (“SCOTUS”) if the Petition for Rehearing is refused. If SCOTUS grants any future Certiorari petition, then the SCOTUS will need a transcript of the oral arguments as to making any possible decision at SCOTUS over the decision made by the Writ Panel or full Court upon a decision on Petition for Rehearing. They would need to know what exactly was argued and any reactions by the Justices of this Court. Transcript is important as part of the appeal process.

9. Due process of Law under the Fourteenth Amendment of the United States Constitution aka Amendment XIV, Article-I. Section 11, and Article-I. Section 8, all require that procedural due process and substantive due process be followed. Due Process of Law usually requires that a transcription be made of a proceeding or be allowed if it is complete, accurate, and honest. If it is considered honest and contains no errors, it should be permitted as to being of the record in this Court and in this case. Having a written record of oral argument is very important for purposes of SCOTUS review or even for reconsideration of the Writ Panel’s decision when deciding Appellant’s petition for rehearing.

10. The Appellees’ will be given a copy of the proposed transcript as well. They can also ask for the audio recording from the public live stream by the SCV and examine the audio and proposed transcript to determine its accuracy, completeness, honesty, and that it is true and correct.

11. The Appellant has notes and/or 10 minute speech preparation document

used for Appellant's oral argument. The oral argument may differ a bit from the preparation document of what to argue, but also is documentation of what was to be argued in oral argument before this Court as of August 31, 2022. The Appellant is willing to cooperate with Appellees' in checking to determine if the proposed transcript is as accurate and true as to what was argued orally by Appellant before the Writ Panel of Justices on August 31, 2022.

### **CONCLUSION**

Appellant asks for the following relief in the foregoing case in the SCV:

1. that Appellant be permitted to submit the attached PROPOSED TRANSCRIPT of the oral argument proceedings dated August 31, 2022 to the record of this case and be accepted by the Clerk of the Supreme Court of Virginia;
2. that the City of Martinsville and Commonwealth of Virginia, the Appellees' be permitted to respond to this motion on disputing or objecting to any correctness, truthfulness, accuracy, and completeness of the transcript as to the oral argument of Appellant made on August 31, 2022 before the Writ Panel of Justices of this Court;
3. And any other relief or remedy that the Supreme Court of Virginia may deem proper and just to resolve the issues laid before this Court.

Thank you. I appreciate your time and effort to fix this.

Appellant requests relief accordingly and asks for any other relief which the Supreme Court of Virginia may deem proper and just for the issues raised.

Respectfully Filed/Submitted on September 13, 2022,

**BRIAN DAVID HILL**  
**Pro Se**

  
*Signed*

**Brian D. Hill**

Brian David Hill – Ally of Qanon  
Founder of USWGO Alternative  
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**CERTIFICATE OF COMPLIANCE**

1. This brief complies with the typeface and type style requirements under Rule 5:6(3) because:

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

  
\_\_\_\_\_  
**Brian D. Hill**

Dated: September 13, 2022



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*Pro Se Appellant*

## CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 13th day of September, 2022, I caused this amended “MOTION FOR LEAVE OF COURT TO FILE ATTACHED PROPOSED TRANSCRIPT TO RECORD” to be delivered by email service by Assistant/Filing-Representative Roberta Hill using [rbhill67@comcast.net](mailto:rbhill67@comcast.net) or [rbhill67@justiceforuswgo.nl](mailto:rbhill67@justiceforuswgo.nl) to the Commonwealth of Virginia and City of Martinsville through the Commonwealth Attorney’s Office of Martinsville City; as well as to the named counsel for the Office of the Attorney General; and the original was filed with the Clerk of the Supreme Court of Virginia by Virginia Court eFiling System (VACES) through Assistant/Filing-Representative Roberta Hill which shall satisfy proof of service as required by Rule 5:1B(c) stating that “*Service on Other Parties by Email. – An electronic version of any document filed in this Court pursuant to Rule 5:1B(b) must be served via email on all other parties on the date the document is filed with the Court or immediately thereafter, unless excused by this Court for good cause shown. An e-filed document must contain a certificate stating the date(s) of filing and of email service of the document.*” And the proof that such pleading was delivered will be filed together with this “Petition for Appeal” shall satisfy the proof of service was required by Rule 5:17(b):

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*Counsel for Appellees'*

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*Counsel for Appellees'*

*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.*

  

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**Brian D. Hill**

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



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*Pro Se Appellant*

**RECORD NO. 220186**

**PRIVATE TRANSCRIPT, TRANSCRIBED BY APPELLANT/PETITIONER  
BRIAN DAVID HILL**

**IN THE SUPREME COURT OF VIRGINIA  
IN THE CITY OF RICHMOND**

BRIAN DAVID HILL	)	
	)	<b>RECORD NO. 220186</b>
vs.	)	
	)	August 31, 2022
COMMONWEALTH OF VIRGINIA ET AL	)	2:32 P.M. approximately

Supreme Court of Virginia Justices referred to as SCV in transcript.

Brian David Hill the Appellant/Petitioner known as Petitioner in transcript.

This transcript is privately conducted by the Appellant/Petitioner. Roberta Hill submitted the audio file of the oral argument to Artificial Intelligence (AI) guided transcription). So AI aided in Brian David Hill producing this transcript.

**TELEPHONE CONFERENCE APPEARANCES:**

For the Petitioner: BRIAN DAVID HILL, PRO SE

Appellant/Petitioner

310 Forest Street, Apt. 2

Martinsville, Virginia 24112

Court Reporter: PRO SE, done by Brian David Hill, with assistance of family/AI.

Appellant/Petitioner

310 Forest Street, Apt. 2

Martinsville, Virginia 24112

Proceedings streamed live by staff of Supreme Court of Virginia and was stream recorded by Roberta Hill using Jaksta Media Recorder for purposes of transcript making. Transcript produced by computer-aided transcription software, help of AI, help of family.

## PROCEEDINGS

(The Petitioner was present by telephone conference.)

**SCV Justice:** Please call the next case.

**SCV:** Brian David Hill versus Commonwealth of Virginia et al.

**Petitioner:** Ah, Thank you justices. Um, here are the reasons why petition for appeal should be granted and why the case should become a legally binding case law opinion.

**Petitioner:** This case concerns Brian D. Hill, a man who was caught up in an indecent exposure charge in the City of Martinsville on September 21 2018, and wrongful conviction in the Circuit Court on November 2019.

**Petitioner:** He has on record the diagnosis of autism spectrum disorder, obsessive compulsive disorder, and type one brittle diabetes.

**Petitioner:** He is innocent. He was not medically cleared. The local hospital Sovah Health Martinsville ordered laboratory tests and billed Medicaid, but they were never completed. While lying to Officer Robert Jones of Martinsville Police Department that Brian was not medically cleared. It was a lie. Even though he was given the assumption it was.

**Petitioner:** There was also the issue that Brian was exposed to carbon monoxide gas toxicity and the issue of the police body camera footage being destroyed by Martinsville Police Department after the Circuit Court had two court orders ah for Brady materials. And the J...General District Court had one court order.

**Petitioner:** Three court orders asking for the Brady materials, which included the police body camera footage recorded by Officer Jones on September 21, 20-8. Of the suspect, Brian David Hill, that footage was destroyed in flagrant violation of three court orders and messages requesting it and they did not get back to those.

**Petitioner:** Glen Andrew Hall, attorney for the Commonwealth committed criminal violations of contempt of Court by allowing evidence to be illegally destroyed by Martinsville police under Chief G. E. Cassidy. In the letters in the record.

**Petitioner:** And Glen Hall has committed these contempt crimes three different times and has gotten away with those crimes. In the corrupt city of Martinsville. Commonwealth Attorney office committed blatant corruption by destroying evidence favorable to the actual innocence of Brian, in this criminal case, in one, in the petition for writ of actual innocence.

**Petitioner:** It was a medical emergency, his autism spectrum disorder and it's medical emergency, with no laboratory proof disproving whether or not that Brian had drugs or any toxicity in his body, while being falsely declared medically cleared by the doctor.

**Petitioner:** All of that was considered a criminal offense. No, it was not a criminal offense. It was not a criminal offense because he was not medically cleared due to laboratory tests being deleted from the chart without explanation. All of that was presented to the Court of Appeals of Virginia in the petition for the writ. Lab tests ordered, then later deleted from the chart. While blood vials destroyed.

**Petitioner:** Evidence destroyed to convict this innocent man, covered up by Martinsville Police, and covered up by Sovah Health Martinsville I mean...I mean Hospital in Martinsville, didn't even check his blood sugar. Brian Hill is innocent. He should not be blocked from that.

**Petitioner:** The Court of Appeals should not bar him from proving his innocence in overturning his conviction. Here's the precedent, which this Supreme Court can have its case law. The U.S. Supreme Court had ruled upon the actual innocence exception to any petition, procedurally barred by any procedural grounds.

**Petitioner:** The writ of actual innocence being barred due to conviction being a misdemeanor is a procedural bar. And actual innocence is not supposed to be procedurally barred by a state court, as courts should be sensitive to the issue of Petitioner being allowed to prove actual innocence to overturn a wrongful conviction.

**Petitioner:** There is a new Virginia law, Virginia code section 19.2-271.6: evidence of Defendant's mental condition admissible in the Virginia Courts, and it's supposed to be to the sensitivity of the issues like autistic criminal defendant Brian Hill being wrongfully convicted here. See *McQuiggin v. Perkins*, 569 U.S. 383, (2013). Actual innocence, if proved, serves as a gateway through which a petitioner may pass whether the impediment is a procedural bar, as it was in *Schlup v. Delo*, 513 U.S. 298. *House v. Bell*, 547 U.S. 518.

**Petitioner:** The Court has applied this fundamental miscarriage of justice exception to overcome various procedural defaults, including as most relevant here. Failure to observe state procedural rules. See *Coleman v. Thompson*, 501 U.S. 722, 750.

**Petitioner:** State procedural rule, such as barring misdemeanants from overturning the wrongful convictions on actual innocence, simply because the General Assembly forgot to include misdemeanor convictions in the language.

**Petitioner:** What about persons convicted of a federal felony at an earlier time, which the General Assembly did include felonies in the language? So what about a felon serving probation or supervised release, where such conditions say that even a misdemeanor charge and conviction can violate those conditions? Where is their remedy when they are actually innocent of a state conviction?

**Petitioner:** Misdemeanor convictions can affect felons serving a federal or state supervised release. It should be permissible for petitions for writs of actual innocence, since those convictions directly deeply impact felony convictions of those serving supervised release.

**Petitioner:** The US District Court have ruled that state convictions can be used as a predicate for convicting a supervised release probationer of a violation. But what if that person is innocent of their state conviction?

**Petitioner:** Does that person not have any legal remedy in the Commonwealth of Virginia to challenge a wrongful state conviction? What if it is a misdemeanor? Does that person have no right to prove actual innocence and overturn that state conviction on actual innocence simply because it is a misdemeanor?



**Petitioner:** What if the misdemeanor conviction directly impacts a felony sentence of probation? Where is their remedy? I have no remedy in either the state courts and federal courts (ah question mark)? Is that not a fundamental miscarriage of justice? Which the US Supreme Court had ruled that lower courts should give the fundamental miscarriage of justice exception to procedurally barred petitions claiming actual innocence?

**Petitioner:** If you're truly innocent, you shouldn't have a misdemeanor conviction. That is how the Court of Appeals should rule instead. The governor shouldn't be the only mechanism, because if you have evidence you're factually innocent, the court should consider petitions where there is a fundamental miscarriage of justice of convicting an innocent person. Where such innocence directly impacts felony supervised release sentences.

**Petitioner:** Do you have any questions?

**SCV Justice:** No.

**Petitioner:** All right, thank you for hearing this argument.

**SCV Justice:** Thank you very much. Take care.

**Petitioner:** You too.

**Approximately oral argument may have taken around 08:31.**

#### CERTIFICATE OF PETITIONER

I, Brian David Hill, Pro Se Petitioner/Appellant, certify that the foregoing transcript is a true and correct transcript of the audio recording of the proceedings in the above-entitled matter.

Dated this 31st day of August 2022.

Corrected on September 12, 2022, due to audio cut out at one part of the oral argument.  
Recovery of recorded oral argument audio allowed correction of transcript.

  
Signed  
\_\_\_\_\_  
Brian D. Hill

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