

LETTER TO CLERK OF COURT OF APPEALS OF VIRGINIA
RE: Case nos. 1424-22 and 1425-22

Friday, January 27, 2023

ATTN: Clerk of the Court Court of Appeals of Virginia 109 North Eighth Street Richmond, VA 23219-2321	Phone: (804) 371-8428
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Clerk of the Court,

Due to the past issues of the Hon. Ashby R. Pritchett (*now resigned or retired or early retired, I don't know what exactly the reason is why he isn't the clerk anymore*) filing false certifications of filing the entire record of the Trial Court, I have to inform the Court of Appeals of Virginia (CAV) that I had recently filed a motion pursuant to Virginia Code § 8.01-428(A), § 8.01-428(B) which I think may be Nunc Pro Tunc, and § 8.01-428(D). I am asking for vacatur of the entire criminal conviction over fraud on the court and factual fraud and/or factual errors of the material elements of the charged crime were not factual.

I have yet to hear if Judge Greer, the Honorable Giles Carter Greer of the Circuit Court (aka, the Trial Court) will grant the motion or deny the motion or order an evidentiary hearing over the motion.

I am informing this Court in case Judge Greer decides to make a decision which affects jurisdiction of this Court, and haven't heard the Commonwealth's position on the matter regarding evidence of their fraud and destruction of police body-camera footage in 2019, and filed a FOIA request asking for records of when the body-camera footage had been unlawfully destroyed during pending litigation.

I hereby file with this Court, three filings I recently made with the Trial Court in this case. They will be filed through VACES.

Motion-Circuit-Court1-26-2023.pdf - MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE PURSUANT TO VIRGINIA CODE § 8.01-428(D), VIRGINIA CODE § 8.01-428(A)

AND VIRGINIA CODE § 8.01-428(B) ON THE BASIS OF FRAUD UPON THE COURT, CLERICAL FACTUAL ERRORS

Evidence Exhibits-1-26-2023.pdf - Evidence Exhibits (filed separately for Judge Greer to easily examine the citations and references to the exact page numbers of the evidence exhibits in this filing)

Evidence Declaration-1-26-2023.pdf - Declaration Evidence filings (filed separately for Judge Greer to easily examine the citations and references to the exact page numbers of the evidence exhibits in this filing)

As I am not a licensed attorney, I have not asked the Commonwealth whether they oppose this motion or do not oppose this motion. I have yet to hear whether the Commonwealth will agree that they had defrauded the Court and unlawfully destroyed evidence, and whether the Commonwealth had willfully violated or not complied with three court orders for discovery materials then destroyed the very evidence that all three court orders had asked for. This is very egregious.

Then there is the issue of Officer Robert Jones admitting in federal court in front of a lot of witnesses (Attorney Renorda Pryor, U.S. Probation Officer Jason McMurray, myself, Stella and Kenneth Forinash, deputy U.S. Marshals, and Roberta Hill) that Brian Hill had not been obscene as to September 21, 2018. That was omitted from the transcript due to federal judicial corruption but plenty of witnesses there had heard Officer Jones admitting under oath that I had not been obscene for being naked on September 21, 2018. He had originally charged me with making an obscene display. So that contradicts the very arrest warrant.

The Circuit Court is free to ask Officer Jones independently under oath whether or not I had been obscene as to me being naked. If he gives the same response as he did in federal court, then this contradicts the arrest warrant and requires that the elements of guilt are insufficient from the very beginning of my charge, that the charge itself was based on a false statement of obscenity, which is fraudulent to charge me with something I didn't do. I was naked but I was not obscene, that is the issue. If the Officer did not think I was being obscene, then no law was violated on September 21, 2018 according to various case laws for my charge stating that simply being naked is not evidence of obscenity. Like Romick v. Commonwealth, Record No. 1580-12-4 (Va. Ct. App. Nov. 19, 2013), A.M. v. Commonwealth, Record No. 1150-12-4 (Va. Ct. App. Feb. 12, 2013).

If the Commonwealth still wishes to push the photos of me to try to interpret those as possibly obscene, then I have to inform this Court that I had somebody do research

and speak with some lawyers. There is artwork of people smiling, which artwork also includes nudity, nudity artwork is presented by a Virginia Museum of Fine Arts in Richmond with funding from the Commonwealth. I was informed that nudists in photographs smile in them, there are nudist organizations and nudist families. There are lawyers who represent those organizations who hold this view and made legal arguments on nudism in photos. They are in photographs smiling in them, but it is not about sexuality. As the Supreme Court of Virginia had said, nudity is not an indication of sexuality, it is not obscenity. Price v. Commonwealth, 214 Va. 490, 201 S.E.2d 798 (Va. 1974). Nudists are not sexual. So if the Commonwealth chooses to ignore Officer Jones admitting under oath that the Defendant (myself) was not being obscene but focuses on the photos of myself, then I can ask lawyers who represent different genres such as artwork, artists, photography organizations, and nudists to bring amicus briefs to the Circuit Court explaining that nudists smile in photographs and they are not obscene, they are not sexual and not supposed to be such. Nudism is not pornography, pornography is sexual and lewd, it is obscene. Nudism is not pornography because it does not appeal to the prurient interest in sex.

HOWEVER, evidence of blood samples obtained from me was destroyed by the local hospital and evidence was destroyed by Martinsville Police which could have proven intoxication of myself when I was living in an apartment under daily exposure to CARBON MONOXIDE GAS, further proven with JaCody Cassell lying to the Office of Dispute Resolution Unit of the Attorney General, lying claiming that they never did an estimate and never did chimney work on October 5, 2017. I had obtained a photocopy of the signed check directly from the bank, and was signed for by JaCody Cassell, \$300 paid to him to POISON ME AND MY MOTHER until I was arrested for indecent exposure. Hear that Honorable Court, he was paid \$300 to cause the poison of carbon monoxide of me and my mother, and we didn't even know he had installed metal tin on top of the chimney causing carbon monoxide gas poisoning, gas. My mother thought chicken wire was installed but not metal tin. The metal tin caused me to live under carbon monoxide conditions and sleep at night under carbon monoxide conditions. That can do things to a person's mind, that can cause any kinds of mental issues and behavioral issues. Any lawyer who has litigated Carbon Monoxide poisoning cases would know if they examined my criminal case that my behavior on September 21, 2018 may have very well have been caused by carbon monoxide. But, I do not have the levels of carbon monoxide through a CarboxyHemoglobin test because of lab work being deleted from the chart, and blood work being destroyed without a lab test while I was sitting in jail. The police destroyed the police body-camera footage proving that I was intoxicated or

may have been intoxicated which that footage would have shown my behavior and mannerism which an expert may have been able to determine at the time I was found naked that I was intoxicated. That evidence had all been destroyed by the Commonwealth during pending litigation. They allowed the hospital to destroy the obtained blood samples, evidence has been documented in the billing records and medical records that an IV had been used, and lab tests were ordered but were deleted from the chart because of me being arrested. So the Commonwealth destroyed two types of evidence which would have proven intoxication. Heck, the hospital had two times I had tachycardia but no lab work. Tachycardia means a possible major health issue, which tachycardia happens to those exposed to, you guess it, carbon monoxide poisoning due to carbon monoxide exposure.

So even if the photographs had me naked in them as proffered by the Commonwealth, the fact has to be known that I was under intoxication which affected by ability to be held culpable for a victimless offense allegation. Because I did not know I was under carbon monoxide toxicity until Pete Compton found the carbon monoxide in my home in 2019 after I was arrested in September 2018, that would be INVOLUNTARY INTOXICATION. Trying to appeal to the prurient interest in sex or even the intent of trying to appeal to the prurient interest in sex is not possible when involuntarily intoxicated. Maybe the Commonwealth believes it does. However holding somebody accountable for any behavior caused by involuntary intoxication is wrong, morally wrong, and legally wrong. I had not murdered anybody, I was only seen naked. I didn't touch anybody, I didn't chase anybody, in fact Officer Jones said I was running away when he saw me in the dark and shouted something, and I didn't try to approach anybody. I believe I was intoxicated and evidence which was destroyed would have proven intoxication of carbon monoxide and the levels would have been obtained had the Commonwealth not destroyed evidence across the board proving that, referring to the blood samples obtained at the hospital and the body-camera footage. All of that had been illegally destroyed because I was charged quickly without any real thorough investigation, thus litigation had been pending while all of that evidence was destroyed at no fault of my own. IT WAS THEIR FAULT, THEIR FAULT. Commonwealth's fault.

So now the Commonwealth has to give their position on all of the evidence which was destroyed which could have proven or would have proven that I was involuntarily intoxicated when I was arrested and before I was arrested. That also means the photos were taken (timestamps are in the photos presented by the Commonwealth at the General District Court) while I was involuntarily intoxicated since I had walked out of my Apartment to get to the Dick and Willie passage walking trail, and my Apartment

clearly had carbon monoxide gas and evidence of it having carbon monoxide gas at the time. The white residue and the moisture damage of a gas appliance in the chimney such as gas logs in the fireplace.

Since I had filed a motion which accused the officer of the Court, Glen Andrew Hall of the Commonwealth, of defrauding the court, and had asked for clerical correction which would be called I think Nunc Pro Tunc under Virginia Code § 8.01-428(B), and asked for vacatur or setting aside judgment under Virginia Code § 8.01-428(D), this decision may affect this appeal and other pending appeals from this criminal case.

It is the right thing to do for me to notify this Court on these issues going on right now. Since fraud on the Court is a serious charge and can carry any kind of applicable sanction, the Trial Court may take any action which directly affects or impacts this appeal and all other current pending appeals before this Court.

If the judgment in the Trial Court is vacated on fraud or errors, then all appeals filed by myself and prosecuted by myself would be moot if the appropriate relief had been obtained in the Trial Court and if the Commonwealth does not appeal or does appeal and the relief stands if it stands after the appeals. This is my notification about this motion, what was filed will be transmitted to this Court as proof of this filing being made and was filed.

Thank you for your time and attention to this matter. Where We Go One We Go All (WWG1WGA), Nothing Can Stop What Is Coming (NCSWIC).



Brian D. Hill

God bless you,
Brian D. Hill

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