VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF MARTINSVILLE

COMMONWEALTH OF VIRGINIA, CITY OF MARTINSVILLE, PLAINTIFF(s),	)	CASE NO: CR19000009-00
v.	)	**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**
BRIAN DAVID HILL, DEFENDANT.	)	

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

Respectfully submitted with the Court,

This the 26th day of January, 2023.

Brian D. Hill
Signed
Brian D. Hill

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

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

COVER PAGE

Table of Contents

Motion/Petition to Vacate Judgment pursuant to Section 8.01-428(D), Section 8.01-428(B), and Section 8.01-428(A)

COMES NOW the Defendant, BRIAN DAVID HILL ("Defendant"), by and through himself pro se, and moves this Honorable Court for the following independent action, for setting aside a judgment, and/or vacating a judgment, and/or bringing relief against a judgment of criminal conviction entered on November 18, 2019 (**EXHIBIT PAGE 271 OF 337**) against the Defendant, caused by the instant criminal charge which had been filed against Defendant on September 21, 2018. See **EXHIBIT PAGE 2-4 OF 337**. That judgment in the Circuit Court is wrongful and should be vacated, set aside, considered as void or voided, or altered to reflect a judgment of acquittal as a matter of law, or that charge be nullified or voided. This independent action is not time barred and is not barred by Rule 1:1. The judgment which the Defendant is challenging is the Judgment in **EXHIBIT PAGE 271 OF 337**, **EXHIBIT 21**, the judgment rendered on November 18, 2019, convicting the Defendant of the crime of "INDECENT EXPOSURE", of Virginia Code 18.2.387.

See Lowe v. Commonwealth, Record No. 0036-02-3, (Va. Ct. App. Jan. 14, 2003) (""Fraud consists of a false representation of a material fact, made intentionally and knowingly, with the intent to mislead, upon which the defrauded

person relies to his detriment." Peet v. Peet, 16 Va. App. 323, 326, 429 S.E.2d 487, 490 (1993). Fraud may be extrinsic or intrinsic.")

See Davis v. Commonwealth, No. 0972-22-4, 2 (Va. Ct. App. Jan. 10, 2023) ("However, Code § 8.01-428 provides limited exceptions to Rule 1:1, and states in relevant part: D. Other judgments or proceedings.-This section does not limit the power of the court to entertain at any time an independent action to relieve a party from any judgment or proceeding, or to grant relief to a defendant not served with process as provided in § 8.01-322, or to set aside a judgment or decree for fraud upon the court."). Davis v. Mullins, 251 Va. 141, 149 (Va. 1996) ("One such exception is provided by Code Sec. 8.01-428(B) which permits the trial court to correct at any time "[c]lerical mistakes in all judgments or other parts of the record and errors therein arising from oversight or from an inadvertent omission." Code Sec. 8.01-428(B); see also Lamb v. Commonwealth, 222 Va. 161, 165, 279 S.E.2d 389, 392 (1981). In addition, in Council v. Commonwealth, 198 Va. 288, 292, 94 S.E.2d 245, 248 (1956), we adopted the majority view that the trial court has the inherent power, independent of statutory authority, to correct errors in the record so as to cause its acts and proceedings to be set forth correctly. In short, the court has the inherent power, independent of the statute, upon any competent evidence, to make the record "speak the truth." Netzer v. Reynolds, 231 Va. 444, 449, 345 S.E.2d 291, 294 (1986).")

The law which gives this Court jurisdiction to grant this motion and/or consider this motion on its merits or even provide an evidentiary hearing in regard to this motion is based upon Va. Code § 8.01-428: which Section 8.01-428 is – "Setting aside default judgments; clerical mistakes; independent actions to relieve party from judgment or proceedings; grounds and time limitations" (citation reformatted). The brief in this motion will argue how this Court does have jurisdiction over independent actions under Va. Code § 8.01-428.

ACCOMPANYING EVIDENCE FILINGS:

The following evidence filings shall accompany this filing in support of this MOTION and is referenced herein.

1. Evidence_Declaration-1-26-2023.pdf - EVIDENCE OF FEDERAL COURT DECLARATIONS UNDER PENALY OF PERJURY IN SUPPORT OF 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. This document is being filed separately but accompanies this MOTION so that the judge can easily access the citations of the different page numbers from this separate document referenced in this Motion. – Pages marked as EVIDENCE ATTACHMENT PAGE (#) OF 22.

2. Evidence_Exhibits-1-26-2023.pdf - EXHIBITS 1-25 attached to: "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". This document is being filed separately but accompanies this MOTION so that the judge can easily access the citations of the different page numbers from this separate document referenced in this Motion. – Pages marked as EXHIBIT PAGE (#) OF 337.

The grounds in support of this motion are briefly as follows and this motion also presenting a brief with legal arguments, facts, and evidence in support of this motion.

GROUNDS:

1. Fraud on the Court;

2. Factual errors aka clerical errors regarding facts which would have supported the Plaintiffs' push for a criminal conviction, disproven facts/disproven material elements warrant vacatur of judgment;

3. That the judgment is in conflict of laws by conflicting with Commonwealth Bar Rule 3.8 - Additional Responsibilities Of A Prosecutor, Va. R.

Sup. Ct. 3.8 (“(a) not file or maintain a charge that the prosecutor knows is not supported by probable cause”);

4. That the judgment is in conflict of laws by conflicting with Commonwealth Bar Rule 3.8 - Additional Responsibilities Of A Prosecutor, Va. R. Sup. Ct. 3.8 (“(d) make timely disclosure to counsel for the defendant, or to the defendant if he has no counsel, of the existence of evidence which the prosecutor knows tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment, except when disclosure is precluded or modified by order of a court”);

5. That the Plaintiffs’ by and through the Commonwealth Attorney knowingly destroyed evidence of police body-camera footage recorded on September 21, 2018, of Defendant talking about why he was out there on the Dick and Willie walking trail in the nude at nighttime because Defendant asserts that he has the adverse inference that the destroyed evidence of the policy body-camera footage could have proven that Defendant exhibited mannerisms and/or behavior which could indicate intoxication aka a criminal defense of involuntary intoxication. That is because such destruction of the body-camera footage violated three separate court orders for discovery materials (Brady Materials) which is contempt of court three separate times committed by the Plaintiffs’;

6. That Defendant cannot be convicted as a matter of law with the evidence in support of independent action under § 8.01-428, therefore the judgment should be considered void or should be considered voidable, and should be voided with lack of jurisdiction to have even entered such a judgment, based on the lack of merits presented by Plaintiffs' since the charge on September 21, 2018, against the Defendant.

END GROUNDS

LEGAL ARGUMENT AS TO WHY RULE 1:1 DOES NOT BAR THIS INDEPENDENT ACTION FROM THIS COURT'S JURISDICTION

Virginia Code § 8.01-428, is a limited statutory exception to Rule 1:1. Code § 8.01-428(D), permits a party to move to set aside a judgment for fraud upon the court, also applies in criminal cases. Pursuant to Code § 8.01-428(B), trial courts may also utilize *nunc pro tunc* orders to correct clerical errors within the record beyond the timeframe of Rule 1:1. *Jefferson v. Commonwealth*, 298 Va. 473, 476–77, 840 S.E.2d 329, 332 (2020).

See Wilson v. Commonwealth, 108 Va. Cir. 97, 101–02 (Fairfax Cir. Ct. Apr. 20, 2021) (Ortiz, J.) (holding that Code § 8.01-428(D) applies in criminal proceedings); see also Lamb v. Commonwealth, 222 Va. 161, 165, 279 S.E.2d 389, 392 (1981) (holding that Code § 8.01-428(B) applies in criminal cases and noting

that the text of Code § 8.01-428 does not limit its applicability to civil cases as its statutory predecessors did).

Peet v. Peet, 16 Va. App. 323, 327, 429 S.E.2d 487, 490 (1993) (“Generally, a judgment or decree rendered by a court having jurisdiction over the parties and subject matter must be challenged by direct appeal and cannot be attacked collaterally.”). The exception is judgements that are void ab initio and can be challenged at any time. Id.

Peet v. Peet, 16 Va. App. 323, 326 (Va. Ct. App. 1993) (“Eagle, Star British Dominions Ins. Co. v. Heller, 149 Va. 82, 100, 144 S.E. 314, 319 (1927); cf. Garritty v. Virginia Dep't of Social Servs. ex rel. Sinift, 11 Va. App. 39, 41-42, 396 S.E.2d 150, 151 (1990). A party may, however, assail a void judgment at any time, by direct or collateral attack. Beck v. Semones' Adm'r, 145 Va. 429, 441, 134 S.E. 677, 680 (1926); Garritty, 11 Va. App. at 42, 396 S.E.2d at 151. Although a judgment obtained by "extrinsic fraud" is void and, therefore, subject to direct or collateral attack, a judgment obtained by "intrinsic fraud" is merely voidable and can be challenged only by direct appeal or by a direct attack in an independent proceeding. Jones v. Willard, 224 Va. 602, 607, 299 S.E.2d 504, 508 (1983); Holmes v. Holmes, 8 Va. App. 457, 458-59, 382 S.E.2d 27, 28 (1989).”)

Defendant will demonstrate a prima facie claim of fraud upon the court, and that the original charge was not based upon the very probable cause needed to warrant a conviction of it's criminal charge on September 21, 2018.

A judgment obtained by extrinsic fraud is void ab initio and can, therefore, be challenged at any time pursuant to Code § 8.01-428(D). Id. However, "a judgment obtained by 'intrinsic fraud' is merely voidable and can be challenged only by direct appeal or by a direct attack in an independent proceeding." Id.

Extrinsic fraud is "conduct which prevents a fair submission of the controversy to the court." Id. (quoting Jones v. Willard, 224 Va. 602, 607, 299 S.E.2d 504, 508 (1983). Extrinsic fraud includes: "[k]eeping the unsuccessful party away from the court by a false promise of a compromise, or purposely keeping him in ignorance of the suit; or where an attorney fraudulently pretends to represent a party[] and connives at his defeat." McClung v. Folks, 126 Va. 259, 279, 101 S.E. 345, 348 (1919); accord F.E. v. G.F.M., 35 Va. App. 648, 660, 547 S.E.2d 531, 537 (2001). In such circumstances, the fraud perpetrated "prevents the court or non-defrauding party from discovering the fraud through the regular adversarial process." F.E., 35 Va. App. at 660, 547 S.E.2d at 537 (quoting Peet, 16 Va. App. at 327, 429 S.E.2d at 490). "Extrinsic fraud, therefore, is 'fraud that . . . deprives a person of the opportunity to be heard.'" Id. (quoting Hagy v. Pruitt, 339 S.C. 425, 431, 529 S.E.2d 714, 717 (S.C. 2000).

Intrinsic fraud, on the other hand, "includes perjury, use of forged documents, or other means of obscuring facts presented before the court and whose truth or falsity as to the issues being litigated are passed upon by the trier of fact." Peet, 16 Va. App. at 327, 429 S.E.2d at 490. "A collateral attack on a judgment procured by intrinsic fraud has been deemed not warranted because the parties have the opportunity at trial through cross-examination and impeachment to ferret out and expose false information presented to the trier of fact." Id.

The Defendant couldn't address or had been able to have proven any factual issues of intrinsic fraud due to ineffective assistance of counsel, and any pro se motions filed by the Defendant were ignored by this Court while counsel was appointed to represent Defendant who was ineffective counsel and refused to do anything about any intrinsic fraud. Defendant also asserts ineffective assistance of counsel on why intrinsic fraud was never able to addressed by the Defendant. Defendant has no appointed counsel at this time, and so this motion should be considered and granted. This Could should accept the fact that Constitutionally intrinsic fraud was never addressed by court appointed counsels on the basis that Defendant wasn't allowed to file pro se motions or pro se motions were ignored while counsel did nothing to address any fraud by the Plaintiffs'. See *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052 (1984).

In fact, every court appointed counsel had either colluded with the destruction of evidence by the Plaintiffs' or had neglected to do their duties as officers of the Court to enforce Court Orders for discovery which included the police body-camera footage destroyed by Plaintiffs' after being given three court orders. It is usually wrongful to destroy evidence which is material to a pending criminal or civil litigation.

McQueeney v. Wilmington Trust Co., 779 F.2d 916, 921 (3d Cir. 1985) ("There is ample support among both scholars and courts for this line of argument. Wigmore calls the inference "one of the simplest in human experience": It has always been understood — the inference indeed is one of the simplest in human experience — that a party's falsehood or other fraud in the preparation and presentation of his cause, his fabrication or suppression of evidence by bribery or spoliation, is receivable against him as an indication of his consciousness that his case is a weak or unfounded one; and from that consciousness may be inferred the fact itself of the cause's lack of truth and merit.")

GROUND OF "1. Fraud on the Court;" HAS MERIT BASED UPON THE SUPPORTING EVIDENCE

The elements of fraud upon the Court are as follows:

1. The Plaintiffs through Officer Robert Jones had charged Brian David Hill on September 21, 2018, within a few hours of detaining him, without conducting a

full, thorough, and necessary investigation to find out why Defendant was naked in the middle of the night, with Autism Spectrum Disorder, with Type 1 Brittle Diabetes, and that the officer Robert Jones had questioned Defendant while he was dehydrated before being given hydration by the local hospital; (Element 1)

2. The Plaintiffs were ordered three separate times by two Courts in total (General District Court, Circuit Court) including this Court to have provided discovery evidence to the Defendant and/or to his court appointed attorney which includes any recorded statement of the Defendant made to law enforcement concerning the criminal charge; instead the Plaintiffs' had destroyed the discovery evidence of the police body-camera footage during the pendency of the criminal trial proceedings and litigation, then they demand a jury trial despite knowing that they destroyed evidence favorable to the Defendant in violation of three separate court orders which is CONTEMPT OF COURT; (Element 2)

3. Plaintiffs had prosecuted the case without fully having the probable cause necessary to sustain a charge and obtain a criminal conviction, meaning that they had charged Defendant with: "intentionally make an obscene display of the accused's person or private parts in a public place or in a place where others were present." The elements which the Plaintiffs had lacked when Robert Jones had charged Defendant was (1) "was medically and psychologically cleared.", (2)

Defendant had “intentionally make an obscene display” (Obscenity element), and (3) Intent itself; (Element 3)

4. The Police officer Robert Jones of Martinsville Police Department had charged him so quickly that it gave him and the Commonwealth Attorney the excuse to ignore evidence and refuse to conduct any further investigation into why Defendant was naked in the middle of the night; (Element 4)

5. The Police officer Robert Jones of Martinsville Police Department had made statements under oath in Federal Court as to the arrest of Brian David Hill on September 21, 2018, as to him being medically cleared but then the statements start coming out which draw the entire arrest into question that certain elements were not proven and thus the probable cause did not exist for every element of the charged offense; (Element 5)

6. The Defendant has clear and convincing prima facie evidence that he was NOT medically and psychologically cleared as assumed by Plaintiffs when that is one of the required elements of the charged crime as the CRIMINAL COMPLAINT has that element in the affidavit saying: “He was medically and psychologically cleared.” (Element 6)

Again, Defendant had no opportunity to address any intrinsic fraud upon the court committed by the Plaintiffs’ because of ineffective assistance of counsel who

didn't even ask the Court to enforce any discovery order and allowed Plaintiffs to destroy evidence favorable to the innocence of Defendant during pending litigation, and any pro se motions were ignored by this Court while Defendant was appointed counsel who did nothing to help the Defendant prove his innocence, and did nothing to pursue any action favorable to the Defendant except for getting him released on bond conditions, that was the only favorable relief Defendant ever got from any of his court appointed lawyers. Again, See *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052 (1984). **The Defendant's sixth amendment right to effective assistance of counsel was violated and deprived, so Defendant should be allowed in this motion to address both intrinsic and extrinsic fraud or consider the intrinsic fraud as extrinsic fraud due to ineffective assistance of counsel preventing any fraud from being brought up or investigated, preventing any fraud from being proven, and preventing any fraud from being addressed by this Court.** No factual fraud was ever addressed by this Court as Defendant had not known what all of the proven fraud were. Even when he entered in November, 2019, the motion asking to vacate a fraudulent begotten judgment, the Defendant didn't have all of the facts because he didn't have access to the Record on Appeal and any records would cost 50 cents a page from the Clerk, Defendant had to wait until appeal, and for lawyer John Ira Jones, IV to sabotage Defendant's appeal and force the Defendant to fight the appeals pro se

without a lawyer, before he was able to get the large pages of the Record on Appeal and find out where he can prove the frauds and how he could prove the frauds.

Also, the Defendant never plead guilty, and the Honorable Giles Carter Greer made that clear when he struck out the words of pleading guilty because of what he had typed in his "Motion to withdraw appeal" where he maintains his innocence, because Judge Greer knew that Defendant was not pleading guilty. This may be construed under law as an Alford Plea. See **EXHIBIT PAGE 271 OF 337**. Defendant only "AFFIRMED JUDG, PAY COURT COSTS." Defendant did not plead guilty, so Defendant is still entitled Constitutionally to the standard where every element of the charged offense must be proven beyond a reasonable doubt. If the Defendant presents evidence to the Court that one or multiple elements of the crime are untrue, and can be disproven, then the Defendant is entitled to acquittal or any relief of a wrongful judgment as a matter of law, and a conviction cannot be sustained on a factual basis.

United States v. Gaudin, 515 U.S. 506, (1995) ("(a) The Fifth and Sixth Amendments require criminal convictions to rest upon a jury determination that the defendant is guilty of every element of the crime with which he is charged. Sullivan v. Louisiana, 508 U.S. 275, 277-278. The Government concedes that "materiality" is an element of the offense that the Government must prove under § 1001. Pp. 509-

511."). In this case, the Commonwealth of Virginia would be held to the Fourteenth Amendment of the U.S. Constitution, as due process of law requires "criminal convictions to rest upon a jury determination that the defendant is guilty of every element of the crime with which he is charged." If the defendant is not guilty of every element, then a conviction cannot be sustained as a matter of law, it is fraudulent and unconstitutional to sustain a conviction when material elements of a crime are disproved.

The case law of the SUPREME COURT OF VIRGINIA, yes, the Supreme Court of Virginia also establishes the same standards as the Federal Court standards. See Tompkins v. Commonwealth, 212 Va. 460, 462 (Va. 1971) ("In other instructions granted by the trial court, the jury was clearly told that the burden was upon the Commonwealth to establish beyond a reasonable doubt every element of the offense with which the defendant was charged."). See Hodge v. Commonwealth, 217 Va. 338, (Va. 1976) ("2. Presumption of innocence follows accused throughout trial and is sufficient to require acquittal unless Commonwealth proves beyond a reasonable doubt every material element of charge. Burden of proof is always upon Commonwealth and this burden never shifts.")

STATEMENT OF THE FACTS

This STATEMENT OF THE FACTS contains 6 elements.

The Statement of Facts is hereby presented to the Circuit Court for Martinsville based on the following pieces of evidence which prove fraud upon the court, and/or factual errors:

Element 1: The Plaintiffs through Officer Robert Jones had charged Brian David Hill on September 21, 2018, within a few hours of detaining him, without conducting a full, thorough, and necessary investigation to find out why Defendant was naked in the middle of the night, with Autism Spectrum Disorder, with Type 1 Brittle Diabetes, and that the officer Robert Jones had questioned Defendant while he was dehydrated before being given hydration by the local hospital.

According to the Transcript, Officer Robert Jones received a call about a naked man running; and that phone call by the caller came in around 3:12 AM. See **EXHIBIT PAGE 37 OF 337**. Then Officer Jones goes into explaining about listening to the Defendant as to why he was out there naked, talking about "a male that was in a hoodie, that he was told that he had to take those pictures". See **EXHIBIT PAGE 38 OF 337**. 3:12 AM does not indicate the time when Defendant was found but when the caller had called the police about a naked man running.

Defendant was quickly arrested by a CRIMINAL COMPLAINT (**EXHIBIT PAGE 4 OF 337**) and ARREST WARRANT (**EXHIBIT PAGE 2 OF 337**) a few hours or less after he was found by Martinsville Police. A few hours or less. Not really anywhere near enough time to conduct an investigation into any of Defendant's claims. Defendant was arrested on 05:35 AM.

Martinsville Police could have done a thorough investigation into Defendant's claims and still could have detained Defendant for up to 48 hours in jail aka the 48 hour rule, then after a thorough investigation that they can be sure that they have the probable cause on all elements of the offense to make the CRIMINAL COMPLAINT to ensure that the matter was properly investigated before filing a charge which takes investigative jurisdiction away from Martinsville Police Department and switches jurisdiction to the Commonwealth Attorney who ignores evidence and doesn't investigate anything because they are attorneys and not police officers, they are not detectives but attorneys. (Disclaimer: links from Defendant's family) See https://kitaylegal.com/2022/01/01/detained-by-the-police-know-your-rights/ "*The police can detain you for questioning for up to 48 hours without pressing any charges. Some circumstances can allow the police to detain you for a longer period of time. These may include weekends or legal holidays.*" Police charged Defendant quickly without looking at all of the evidence, without investigating all of the facts, and without investigating all of the circumstances which may end up coming out in Court which may disprove the elements of the offense that the Commonwealth Attorney may not foresee or did foresee but pressed for the conviction anyways despite non-compliance with Virginia State Bar Rule 3.8.

The arrest was too quickly when they could have detained Defendant up to 48 hours while the police could have questioned Roberta Hill (Defendant's mother), and his grandparents as well as Dr. Brant Hinchman who released Defendant within approximately an hour after he had was hospitalized, released to Martinsville Police to be jailed. The police never drug tested him, they never even asked Dr. Brant Hinchman what his levels or abnormal levels were. The police never even subpoenaed his medical records and never spoken with the doctor about Brian's medical issues before arresting Defendant.

There was very little of any real investigation at all if any. They never checked the Department of Motor Vehicles (DMV) for any identification including any handicap status which would have Defendant under federal legal protection of the Americans with Disabilities Act (ADA) Title II, see Title 42 U.S. Code § 12131. The police disregarded his legal rights under the ADA. If Robert Jones had checked the DMV record very quickly, he would have found a record of both Defendant's state issued identification and a record of the DISABLED PARKING PLACARDS OR LICENSE PLATES APPLICATION as is in **EXHIBIT PAGES 190-193 OF 337**.

Defendant had tried to submit evidence to the Martinsville Police Department in 2019 after his release on both State Court bond conditions and Federal Court bond conditions, the return receipt to restricted delivery certified mail envelope was

signed by former corrupt Police Chief G. E Cassady. See **EXHIBIT PAGE 211 OF 337**, with the fax which was faxed to Martinsville Police to pick up the envelope with evidence. After it was signed for by former Police Chief G. E. Cassady, the envelope was never opened and the evidence was never looked at or investigated. See **EXHIBIT PAGE 214-215 OF 337**. The evidence the envelope was never opened is in photograph on **EXHIBIT PAGE 213 OF 337**. Defendant still has this envelope, still sealed, and not messed with. Defendant has this envelope, sealed envelope full of evidence mailed to Martinsville Police Department, and is willing to turn over this envelope to the Circuit Court and to the Commonwealth Attorney for examination, authentication, and to make copies of it as part of the discovery process. Defendant will not cover up evidence, unlike the corrupt Commonwealth Attorney who covers up evidence.

Defendant was given the envelope of evidence from Attorney Matthew Scott Thomas Clark. That was because that envelope was turned over to the Commonwealth Attorney (CA) who then never opened the envelope and never looked through its contents, refused to look at the evidence inside, and instead gave the envelope to the court appointed lawyer who did nothing with it, never told the Defendant about possessing the envelope to Martinsville Police until after Defendant had withdrawn appeal. See **EXHIBIT PAGE 212 OF 337**. It said: "Turned over to CA 8/7/2019 1455 hrs.". The Defendant made sure to notify the

Police Chief that evidence was being mailed to them, and yet that was disregarded because of Officer Jones charging Defendant within a few hours or less giving them very little to no time to conduct any real thorough investigation into why a man would be found naked running in the middle of the night until the police were called at around 3 AM. See **EXHIBIT PAGE 211 OF 337**. Defendant had said in his fax: "Very Important Evidence. Please sign for it Chief G.E. Cassady…I am sorry that it is restricted delivery but I wanted to make sure that the evidence was picked up by somebody in your Department."

This had proven that Martinsville Police Department had quickly charged the Defendant with a crime without ever conducting any real or thorough investigation which could have been done easily within a 48-hour period before taking their own jurisdiction away and giving it to the legal system.

Element 1 has been satisfied.

Element 2: The Plaintiffs were ordered three separate times by two Courts in total (General District Court, Circuit Court) including this Court to have provided discovery evidence to the Defendant and/or to his court appointed attorney which includes any recorded statement of the Defendant made to law enforcement concerning the criminal charge; instead the Plaintiffs' had destroyed the discovery evidence of the police body-camera footage during the pendency of the criminal trial proceedings and litigation, then they demand a jury trial despite knowing that they destroyed evidence favorable to the Defendant in violation of three separate court orders which is CONTEMPT OF COURT;

Defendant has the evidence, and part of that evidence is already in the records of the Circuit Court and General District Court records transferred to the Circuit Court.

Defendant has the evidence that Martinsville Police Department who is represented by the Commonwealth's Attorney for the City of Martinsville were given three separate Court Orders, by two separate Courts. Two orders from the Circuit Court, and one order from the General District Court, an ORDER for DISCOVERY. Those are Court Orders, and Court Orders have to be followed by all parties including by officers of the Court. If an officer of the Court doesn't comply with a court order or outright resists the Court by refusing to follow an order of a Court, that is CONTEMPT OF COURT. That is basic logic for all attorneys/lawyers to understand. If you refuse to follow an Order of the Court then that is CONTEMPT OF COURT. See how it works.

Plaintiffs City of Martinsville and Commonwealth of Virginia had not complied with those three court orders and had clearly not complied with them while demanding a Jury Trial against the Defendant while refusing to comply with three court orders. It isn't just refusal to following those court orders, it also entails a "spoliation of evidence" by the Plaintiffs. Evidence being destroyed after being subject to both protection during pending litigation and subject to three separate court orders. This is FRAUD ON THE COURT by the Plaintiffs.

See those very Court Orders from the which the record of the Court has three orders. One from the General District Court (See **EXHIBIT PAGE 273-274 OF 337**, in **EXHIBIT 22**) and two different court orders from two separate times in the Circuit Court (See **EXHIBIT PAGE 275-280 OF 337**, in **EXHIBIT 22**) as shown in **EXHIBIT 22**.

Here is what the Order from the General District Court says in the citation below as to what part of the court order was not complied with and/or was violated by Plaintiffs of this criminal case.

CITATION of EXHIBIT PAGE 273-274 OF 337 (COURT ORDER #1):

ORDER

It appearing to the Court that discovery pursuant to Rule 7C:5 should be granted to the Defendant, it is hereby ORDERED and DECREED that the Commonwealth's Attorney permit counsel for the Defendant to inspect and copy or photograph, within a reasonable time, before the preliminary hearing, the following:

(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, the existence of which is known to the attorney for the Commonwealth;

...

(3) Any exculpatory information or evidence as set forth by Brady v. Maryland and its progeny that is known to the Commonwealth.

And it is further ADJUDGED, ORDERED and DECREED that the Commonwealth shall promptly notify counsel for the Defendant of the existence of any additional material subsequently discovered which falls within the scope of this motion and make all such additional material available to the Defendant's attorney in accordance with the text and intention of this Motion.

ENTER this 28 day of November, 2018.

Defendant Brian David Hill had verbally told his attorney Scott Albrecht about such existence of the police body-camera footage. That was why Scott Albrecht had filed such a motion requesting for discovery with the following:

CITATION of Page 28 of GD PAPERWORK (RECORDS FROM GENERL DISTRICT COURT, in this case):

COMES NOW the Defendant, BRIAN DAVID HILL, by Counsel, and moves this Honorable Court for the following, as provided by law and Rule 7C:5 of the Virginia Rules of Court: 1. That in accordance with said Rule, the Commonwealth's Attorney permit and make available to the Attorney for the Defendant for inspection, copying, or photographing any relevant (i) written or recorded statements or confessions made by the accused, or copies thereof, or the substance of any oral statements or confessions made by the accused to any law enforcement officer…

This would cover the police body-camera footage, to a T. This fits the Court Order very closely. Police body-camera footage by definition would be a "recorded statements" since statements made by the Defendant to Officer Robert Jones was recorded by the body-camera on the officer's uniform. Martinsville Police Department either failed to notify the Commonwealth's Attorney of the existence of the police body-cam (body-camera footage) footage, refused to notify the Commonwealth's Attorney of the existence of the police body-cam (body-camera footage) footage, or the Commonwealth's Attorney had known of the existence of this material evidence but refused to follow the General District Court's order.

Here is what the Order from the Circuit Court says in the citation below as to what part of the court order was not complied with and/or was violated by Plaintiffs of this criminal case.

CITATION of EXHIBIT PAGE 275-277 OF 337 (COURT ORDER #2):

ORDER REGARDING DISCOVERY

Came this day, the Defendant, Brian David Hill, by counsel, who moved, pursuant to Rule 3A:11 of the Rules of Court, that the Commonwealth's Attorney be directed to permit the Defendant discovery in this case, as set forth in the said Rule, and upon the motion of the attorney of the Commonwealth requesting reciprocal discovery under the said Rule; and,

It appearing to the Court that discovery pursuant to Rule 3A:11(b) should be granted to the Defendant, it is hereby ORDERED that the Commonwealth's Attorney permit counsel for the Defendant to inspect and copy or photograph, within a reasonable time, before the trial or sentencing, the following:

(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, the existence of which is known to the attorney for the Commonwealth, any certificates of analysis pursuant to $ 19.2-187, and any relevant written reports of autopsies, ballistic tests, fingerprint analyses, handwriting analyses, blood, urine, and, breath tests, other scientific reports, and written reports of a physical or mental examination of the Defendant or the alleged victim made in connection with this particular case, or copies thereof, that are known by the Commonwealth's Attorney to be within the possession, custody, or control of the Commonwealth.

...

ENTERED this 6th day of February, 2019.

Defendant Brian David Hill had verbally told his attorney Scott Albrecht about such existence of the police body-camera footage. Defendant had already

demonstrated proof that Scott Albrecht was aware of the body-cam footage since long ago in the General District Court, which carried onto the Circuit Court who had jurisdiction over the court orders for discovery, assuming that now only the Circuit Court can enforce the court orders which were violated and/or not complied with by an officer of the court.

Here is what the Order from the Circuit Court says in the citation below as to what part of the court order was not complied with and/or was violated by Plaintiffs of this criminal case.

CITATION of EXHIBIT PAGE 278-280 OF 337 (COURT ORDER #3):

ORDER REGARDING DISCOVERY

Came this day, the Defendant, Brian David Hill, by counsel, who moved, pursuant to Rule 3A:11 of the Rules of Court, that the Commonwealth's Attorney be directed to permit the Defendant discovery in this case, as set forth in the said Rule, and upon the motion of the attorney of the Commonwealth requesting reciprocal discovery under the said Rule; and,

It appearing to the Court that discovery pursuant to Rule 3A:11(b) should be granted to the Defendant, it is hereby ORDERED that the Commonwealth's Attorney permit counsel for the Defendant to inspect and copy or photograph, within a reasonable time, before the trial or sentencing, the following:

(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, the existence of which is known to the attorney for the Commonwealth, any certificates of analysis pursuant to $ 19.2-187, and any relevant written reports of autopsies, ballistic tests, fingerprint analyses, handwriting analyses, blood, urine, and, breath tests, other scientific reports, and written reports of a physical or mental examination of the Defendant or the alleged victim made in connection with this particular case, or

copies thereof, that are known by the Commonwealth's Attorney to be within the possession, custody, or control of the Commonwealth.

...

ENTERED this 15th day of July, 2019.

Defendant Brian David Hill had verbally told his attorney Scott Albrecht about such existence of the police body-camera footage. Defendant had already demonstrated proof that Scott Albrecht was aware of the body-cam footage in the General District Court, which carried onto the Circuit Court who had jurisdiction over the court orders for discovery, assuming that now only the Circuit Court can enforce the court orders which were violated and/or not complied with by an officer of the court.

DECLARATION BY BRIAN D. HILL (**EXHIBIT PAGES 317-337 OF 337**) and attached evidence demonstrates that Attorney Scott Albrecht was either ineffective as assistance of counsel or he colluded with the Commonwealth Attorney to not punish the Commonwealth Attorney for not ever complying with the three court orders for the discovery materials which included recorded statements of Brian David Hill the defendant made to any law enforcement officer, aka Martinsville Police Department which is under the authority and control of the Commonwealth's Attorney who represents Martinsville Police Department, the Commonwealth's Attorney represents the Plaintiffs in this case.

For the sake of brevity Defendant will not reiterate all of the text from the "DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF 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", **EXHIBIT PAGE 317-337 OF 337**. Defendant hereby incorporates by reference, as if fully set forth herein, all of the DECLARATION OF BRIAN DAVID HILL (**EXHIBIT PAGE 317-337 OF 337**) evidence, arguments, and citations.

First of all, Defendant had mailed a written letter (See **EXHIBIT PAGE 235 OF 337**, in **EXHIBIT 15**) and a photocopy of that same written letter to the Chief of Police of Martinsville Police Department, and Defendant's grandparents Kenneth Forinash and Stella Forinash had mailed a typed version of the Defendant's written letter (See **EXHIBIT PAGES 240-242 OF 337**) to the Chief of Police of Martinsville Police Department, all about asking for the police body-camera footage. See **EXHIBIT PAGES 318-320 OF 337**. The Martinsville Police Department was notified multiple times asking for the body-camera footage, and that was without the Defendant or his family even being aware of the Court Order for discovery from the General District Court. Not knowing that the Court had

already ordered such evidence be made available to the Defendant's attorney, letters were written asking the Chief of Police for the very evidence covered by the Courts Orders for discovery, all of them covered the body-camera footage to the letter of the law. Doesn't matter that Defendant was kept in the dark by Scott Albrecht in regard to those exact Court Orders, Brian did write a letter saying that the material he was requesting was "discovery" material, and that is enforceable to the exact letter of the law as to the first Court Order in the General District Court. So, they were made well aware of the body-camera footage.

Attorney Scott Albrecht was also contacted by email messages about issues concerning the police body-camera footage. As to why he never filed any motions for enforcing those Court Orders for discovery, it is beyond me. See **EXHIBIT 19**, **EXHIBIT PAGE 261-263 OF 337**. See **EXHIBIT 20**, **EXHIBIT PAGE 264-269 OF 337**.

It appears that Scott Albrecht had allowed the police body-camera footage to be destroyed and had allowed the Plaintiffs to violate those three court orders asking for discovery or at least not having to comply with those court orders. For him to act like he doesn't have to ask for compelling enforcement, It doesn't matter whether or not those court orders were pushed for by the Public Defender, he is an officer of the court, and an officer of the court is duty-bound as a matter of law, as a matter of ethics and professional conduct, professional responsibility, it is

his job to enforce sanctions or contempt proceedings against an officer of the court who does not comply with a Court Order. There is no point to a Court Order if the party does not have to follow a Court Order. There is no point to a Court Order if the party does not have to comply with a Court Order. Scott Albrecht also took part in the Plaintiffs defrauding the Court, and deceiving the Court by not having to comply with multiple court orders, and then turn around and admit to destroying the police body-camera footage by some lousy excuse of Martinsville Police Department's evidence retention period before evidence can be destroyed by Martinsville Police Department. That is spoliation of evidence during a pending criminal trial proceedings heading for a jury trial. The Plaintiffs destroyed evidence before the jury trial set for December 2, 2019.

Defendant is so upset about the Police getting away with destroying the body-camera footage and his court appointed lawyers doing absolutely nothing to push for sanctions or to push for any contempt charges against the Plaintiffs for violating multiple court orders. He filed a FOIA request more recently (**EXHIBIT PAGES 203-209 OF 337**) asking for records concerning himself as to when the police body-camera footage had been destroyed in 2019 as said by Attorney Matthew Clark. See **EXHIBIT PAGES 325-330 OF 337**, as to the Declaration under penalty of perjury by the Defendant about the body-camera footage being destroyed in 2019, prior to the Defendant filing a motion to withdraw appeal

because of how lousy and ineffective his appointed counsel was, referring to Matthew Clark who filed no motion for sanctions.

Defendant demonstrates proof of spoliation of evidence. What is the purpose or even the point of the Police Department requiring body-cameras on the uniforms of its own officers but then when the Court orders those to be disclosed to the Defendant's attorney then all of the sudden nothing is being done and then the Police Department destroys the body-camera footage after multiple letters asking for what the Court had already ordered??? (See **EXHIBIT PAGE 246 OF 337**). The article on page 246 said: "Martinsville, VA — The Martinsville Police Department says a small device has been making a big difference in fighting crime… Even on a very routine call, every word spoken and every movement taken will be captured clearly." So, they covered up the body-camera footage and that is a FRAUD ON THE COURT. It is fraud because the Plaintiffs purposefully ignored three court orders while they sat there and filed a motion asking for reciprocal discovery which was granted in the two court orders from the Circuit Court. So, Scott Albrecht had refused to enforce those Court Orders, he refused to do anything favorable on enforcing non-compliance to those Court Orders. He filed multiple motions for discovery and then turned around and acted like the Martinsville Police Department does not have to comply with those Court Orders, and acted like the Martinsville Commonwealth's Attorney Office does not have to

comply with those Court Orders. For arguments sake, if Defendant refused to comply with a Court Order including his bond conditions, he would be arrested and jailed for a capias with additional charges. If he refused to comply with appearing before the Court in a criminal case, he would be arrested and jailed for a capias. Yet the Commonwealth Attorney can defraud the court by ignoring the multiple Court Orders, and destroy the very evidence of what was asked for in those Court Orders. How is any of this not a crime here??? Contempt of Court is a criminal charge, am I right here? Is any of this even considered fraud?

Defendant has proven the element to the most extreme of necessary circumstances to demonstrate that the law is not being followed by the Plaintiffs in this case. If anyone is abusing the Court and fragrantly not complying with Court Orders it is the corrupt Commonwealth Attorney while they were demanding a jury trial to coerce the Defendant to file a motion to withdraw appeal because of his legal counsel was working against him every step of the way, colluding with the Commonwealth Attorney because it IS COLLUSION for the defense attorney to not even fight for his client as an officer of the court and refused to enforce the very Court Orders that officer pushed for. That officer made a monkey out of the Courts, he fooled around with the Courts, sat there and pushed for discovery and did absolutely nothing to enforce any of it. Both the defense attorney and the Plaintiffs attorney aka Glen Andrew Hall, Esq of the Commonwealth's Attorney Office are

officers of the Court. They both defrauded the Court against the wishes of the Defendant. The Defendant wants sanctions against both his court appointed lawyer and the Commonwealth's Attorney for serious misconduct and spoliation of evidence.

Defendant hereby asks the Circuit Court to allow the Defendant to maintain or assert an adverse inference to the Plaintiffs destruction of the police body-camera footage.

Proffered adverse Inference: Defendant asserts under adverse inference that the destroyed police body-camera footage would have proven that the Defendant was intoxicated, was dehydrated, and/or had exhibited behaviors which may be an indication of being intoxicated during the questioning of Brian David Hill as to why he was naked. That evidence which was destroyed would have shown Defendant being intoxicated or not in his right state of mind when Officer Robert Jones had spoken with the Defendant during the activation of his body-camera on his person, on his uniform. The body-cam footage would have shown footage not favorable to the Martinsville Police Department in how they handled the situation of a person with medical issues including a neurological disability of autism spectrum disorder and Type 1 brittle diabetes. That is what the Defendant is proffering to this Court as a fact of an adverse inference. Defendant is entitled to an adverse inference when

the Plaintiffs had not complied with three court orders for discovery evidence materials and had destroyed evidence subject to those three court orders.

Element 2 has been satisfied.

Element 3: Plaintiffs had prosecuted the case without fully having the probable cause necessary to sustain a charge and obtain a criminal conviction, meaning that they had charged Defendant with: "intentionally make an obscene display of the accused's person or private parts in a public place or in a place where others were present." The elements which the Plaintiffs had lacked when Robert Jones had charged Defendant was (1) "was medically and psychologically cleared.", (2) Defendant had "intentionally make an obscene display" (Obscenity element), and (3) Intent itself.

This is all true and can be proven as true. Element 1, Element 2, Element 4, Element 5, and Element 6 all work together with the referenced evidence (proofs) and arguments to demonstrate that the Plaintiffs' case was not backed by the necessary Probable Cause needed to sustain a criminal conviction or even to push a jury trial.

For the sake of brevity, Defendant will not reiterate all of the text from every other element regarding the evidence and arguments referenced and cited from all other elements. Defendant hereby incorporates by reference, as if fully set forth herein, all of the Element 1, Element 2, Element 4, Element 5, and Element 6 evidence, arguments, and citations.

Defendant also has evidence of fraud regarding Officer Robert Jones. The corrupt Federal Judge Thomas David Schroeder (*who may or may not be blackmailed by the U.S. Government, that eventually may be proven*) has covered up the statements of Officer Robert Jones saying under penalty of perjury at the federal court hearing on September 12, 2019, that the Defendant was not being obscene. Yes, the very officer who had charged the Defendant with "intentionally make an obscene display of the accused's person or private parts in a public place or in a place where others were present" (See **EXHIBIT PAGE 2 OF 337**), that same officer admitted under oath in Federal Court that Defendant was not being obscene when Attorney Renorda Pryor had asked the question whether the Defendant was being obscene, and the officer said in response that the Defendant had not. Yeah, the officer is not a lawyer per se, but he charged the Defendant with obscenity, and yet admitted later that Defendant had not been obscene. The corrupt and likely blackmailed Federal Judge had omitted or had caused the omission of such statements from the official Court Transcript, but witnesses which were present at that same federal hearing had typed affidavits or declarations and signed declarations (which are the same as affidavits except not being notarized) stating that they all heard Officer Jones saying under oath that Brian David Hill was not being obscene at the time of the alleged offense, and that means the entire basis in the ARREST WARRANT was fraudulent.

This Court can also subpoena Officer Robert Jones to ask him under oath in its own courtroom the very question asked to Robert Jones and his answer as to whether Brian Hill was being obscene or not. That question will determine whether the ARREST WARRANT's original basis of "intentionally make a obscene display" was filed in good faith and whether that basis was a lie from the very beginning or not. When a charging Officer admits that the Defendant was not being obscene, when that same officer charged the Defendant of making an obscene display, then that itself is a FRAUD UPON THE COURT as to a fraudulent basis for the arrest of Brian David Hill.

See the EVIDENCE OF FEDERAL COURT DECLARATIONS UNDER PENALY OF PERJURY IN SUPPORT OF 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_Declaration-1-26-2023.pdf.

Read the Declaration of Roberta Hill regarding her personally hearing Officer Robert Jones saying under oath that Brian David Hill had not been obscene. See **EVIDENCE ATTACHMENT PAGE 6-7 OF 22**. Roberta said in writing under oath: "I remember hearing the attorney Ms. Pryor ask officer Jones if Brian

Hill was being obscene on the night of September 21st and he replied that he wasn't obscene."

Read the Declaration of Brian Hill regarding him personally hearing Officer Robert Jones saying under oath that Brian David Hill had not been obscene. See **EVIDENCE ATTACHMENT PAGE 9-13 OF 22**. Brian Hill said in writing under oath: "The last thing I remembered with my own eyes and ears from the hearing, I was right beside Renorda Pryor at the defense table, and she clearly asked the Government's witness "Robert Jones" about if I was being obscene at the time and the witness responding by saying no or I don't think he was. I thought that was really important as I knew that was said verbally at that hearing and I know Renorda had brought up that question."

Read the Declaration of Stella Forinash regarding her personally hearing Officer Robert Jones saying under oath that Brian David Hill had not been obscene. See **EVIDENCE ATTACHMENT PAGE 15-17 OF 22**. Stella said in writing under oath: "Attorney Pryor asked Sgt. Jones if Brian was being obscene. His answer was "No". Attorney Pryor asked Sgt. Jones what was in the backpack, and his answer was something like "camera, watch & his clothes". We talked about this on the way home that day, and after we got home, I took notes and sent my notes in PDF format to one of our friends in email on 9/14/2019. We think it's important to

have everything that is in the transcript, and so we paid $388 to get an accurate copy as soon as possible. This copy was sent to our daughter's email."

Read the Declaration of Kenneth Forinash regarding him personally hearing Officer Robert Jones saying under oath that Brian David Hill had not been obscene. See **EVIDENCE ATTACHMENT PAGE 21-22 OF 22**. Kenneth said in writing under oath: "Brian's attorney, Renorda Pryor, asked Officer Robert Jones if Brian was obscene, and his answer was that he was not."

Four different people heard the Officer Robert Jones being questioned by Attorney Renorda Pryor at the hearing say that the Defendant had not been obscene.

This Court can verify this claim by compelling Officer Robert Jones to answer an interrogatory under penalty of perjury, or answer a deposition under penalty of perjury, or be compelled to appear before the Court under oath to answer the question of whether Brian David Hill had been obscene when he was found naked by Officer Robert Jones on September 21, 2018. Hopefully this Officer admits the truth as what he said at the federal court hearing. Defendant hopes that the Officer is truthful so that this entire case can finally be resolved once and for all.

This same officer pushed for the arrest of Brian David Hill on September 21, 2018 (**EXHIBIT PAGE 2-4 OF 337**), claiming under oath that the Defendant was medically and psychologically cleared. That was not true either as evidenced in Element 5, and Element 6. Defendant was not medically cleared. Defendant had not

been properly discharged from the hospital as it was clearly neglect, because the hospital was negligent. Defendant had tried to find an attorney in 2019 to file a lawsuit against Sovah Health Martinsville over medical neglect but was busy fighting the indecent exposure charge and busy fighting the supervised release violation charge, and fighting to not have to go to federal prison, all at the same time. When Defendant did contact a lawyer office to sue the hospital, that lawyer office never contacted him back after doing a conflict-of-interest check. So even if the Defendant had a lot of time in 2019, he couldn't find a pro bono lawyer and couldn't find a lawyer who will not charge Defendant unless he wins the case. They don't even have the time to sit there and look through a pile of papers without it costing them money, time is money in the world of lawyers. Defendant wanted to sue the hospital to prove to the Circuit Court that he was not medically and psychologically cleared due to negligence. Defendant had already proven the hospital didn't clear him properly when comparing the medical records of Sunday, November 19, 2017 (**EXHIBIT PAGE 282-311 OF 337**) and the medical records on Friday, September 21,2018 (**EXHIBIT PAGE 254-260 OF 337**). See the difference between the two medical records on those separate times, It is clear as night and day. The lab work was not done in 2018 hospital visit, but lab work was done in 2017 hospital visit. There is evidence this is clear negligence. It doesn't matter that Defendant was already in the police custody when he was transported

to the Emergency Room, they already had the blood sample or samples of the Defendant, lab tests were already ordered, and then they sat there and deleted them from the chart, and acted like they had no responsibility to conduct the laboratory tests and then put the blame on the police, while Officer Robert Jones said under oath in federal court that “they do lab work and other stuff”, with a straight face, as if the police want to blame the hospital if they didn’t do the lab work while the hospital put the blame on the police, the blame game here. This is a mind game being played on Defendant depriving him of his right to due process of law. They are playing with Defendant’s life, got him wrongfully convicted because of their negligence. Games are being played here by both the police and the hospital. There is clear corruption and fraud here. THAT IS A FACT. Defendant was not medically and psychologically cleared on September 21, 2018, that was a big fat lie.

Defendant was not medically cleared as assumed, Officer Robert Jones assumed lab work was done but didn’t check for the lab work, and didn’t know that it was deleted from the chart while he stated under oath in the CRIMINAL COMPLAINT that Defendant was medically and psychologically cleared. Plaintiffs either lied or had a disregard for the truth, it is factual fraud on its face with the medical records at hand. You can’t just assume something under penalty of perjury when you are an officer charging a person with a crime, and having

them thrown in jail. You cannot make assumptions under oath, it needs to be proven facts, straight up facts. You can ruin somebodies' life especially an innocent man's life by not making sure the facts you allege in an arrest warrant are true. If they are not true then it was a wrongful arrest, under false facts or false pretenses. That is a crime itself, it is FRAUD, FRAUD, FRAUD. It is fraudulent. Any layman or average citizen can understand what fraud is if they have at least been to college or have gone to law school or ever became like an investigator or private detective. This is fraud on its face.

Anyways, I shall file as evidence a printed copy of the very State Bar rule which Glen Andrew Hall, Esquire had violated in addition to not complying with Court Orders. See Rule 3.8 of the Professional Guidelines and Rules of Conduct, Virginia State Bar.

CITATION of EXHIBIT PAGE 217-221 OF 337 (Rule 3.8, Virginia State Bar):

Additional Responsibilities Of A Prosecutor

A lawyer engaged in a prosecutorial function shall:

(a) not file or maintain a charge that the prosecutor knows is not supported by probable cause;

(b) not knowingly take advantage of an unrepresented defendant;

(c) not instruct or encourage a person to withhold information from the defense after a party has been charged with an offense;

(d) make timely disclosure to counsel for the defendant, or to the defendant if he has no counsel, of the existence of evidence which the prosecutor knows tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the

punishment, except when disclosure is precluded or modified by order of a court; and

(e) not direct or encourage investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case to make an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6.

The prosecutor Glen Andrew Hall, Esquire had violated Virginia's State Bar rule 3.8, Additional Responsibilities Of A Prosecutor. The destruction of evidence which was subject to three court orders before the destruction of that very evidence, it is illegal evidence destruction, it is spoliation of evidence.

What probable cause exists to sustain a criminal conviction or even waste a Court's time with a trial by jury when the prosecutor who pushed all of this had permitted or maybe even encouraged the destruction of evidence (body-camera footage), charged the Defendant with making an obscene display then later admit that the Defendant was not being obscene, and had wrongly assumed that the Defendant was medically cleared when evidence shows that he was not. The very officer who said Defendant was medically cleared answered under penalty of perjury in federal court that the hospital did "lab work and other stuff" not even knowing that the lab work was ordered and then was deleted from the chart, no lab work was completed, no lab work was done in the medical records, it was deleted from the chart, while the very officer who charged the Defendant said: "they did lab work and other stuff". This is proof of FRAUD; Glen Andrew Hall defrauded the

Court and prosecuted a case which was not backed by the very probable cause necessary to even try to sustain a criminal conviction. They have to be truthful about every material element of the prosecution. If a material element is not true, then there was no probable cause because a criminal conviction cannot ever be sustained as a matter of law. Either the Commonwealth proves every material element of an offense or the very Defendant should be subject to acquittal or motion to strike. That is a matter of Constitutional law in the Commonwealth of Virginia.

Element 3 has been satisfied.

Element 4: The Police officer Robert Jones of Martinsville Police Department had charged him so quickly that it gave him and the Commonwealth Attorney the excuse to ignore evidence and refuse to conduct any further investigation into why Defendant was naked in the middle of the night;

This was also explained in Element 1, for the sake of brevity, Defendant will not reiterate all of the text regarding the evidence and arguments referenced and cited from that specific element. Defendant hereby incorporates by reference, as if fully set forth herein, all of the Element 1 evidence, arguments, and citations.

Defendant had tried to submit evidence to the Martinsville Police Department in 2019 after his release from the jails on both State Court bond conditions and Federal Court bond conditions, the return receipt to restricted delivery certified mail envelope was signed by former corrupt Police Chief G. E Cassady. See **EXHIBIT PAGE 211 OF 337**, with the fax which was faxed to Martinsville Police to pick up

the envelope with evidence. After it was signed for by former Police Chief G. E. Cassady, the envelope was never opened and the evidence was never looked at or investigated. See **EXHIBIT PAGE 214-215 OF 337**. The evidence the envelope was never opened is in photograph on **EXHIBIT PAGE 213 OF 337**. Defendant still has this envelope, still sealed, and not messed with. Defendant has this envelope, sealed envelope full of evidence mailed to Martinsville Police Department, and is willing to turn over this envelope to the Circuit Court and to the Commonwealth Attorney for examination, authentication, and to make copies of it as part of the discovery process. Defendant will not cover up evidence, unlike the corrupt Commonwealth Attorney who covers up evidence.

Defendant was given the envelope of evidence from Attorney Matthew Scott Thomas Clark. That was because that envelope was turned over to the Commonwealth Attorney (CA) who then never opened the envelope and never looked through its contents, refused to look at the evidence inside, and instead gave the envelope to the court appointed lawyer who did nothing with it, never told the Defendant about possessing the envelope to Martinsville Police, never gave Defendant back his mailed envelope until after Defendant had withdrawn appeal. See **EXHIBIT PAGE 212 OF 337**. It said: "Turned over to CA 8/7/2019 1455 hrs.". The Defendant made sure to notify the Police Chief that evidence was being mailed to them, and yet that was disregarded because of Officer Jones charging

Defendant in 2018 within a few hours or less giving them very little to no time to conduct any real thorough investigation into why a man would be found naked running in the middle of the night until the police were called at around 3 AM. See **EXHIBIT PAGE 211 OF 337**. Defendant had said in his fax: "Very Important Evidence. Please sign for it Chief G.E. Cassady…I am sorry that it is restricted delivery but I wanted to make sure that the evidence was picked up by somebody in your Department."

They ignored everything, they ignored the threatening greeting card Roberta Hill had received, the police ignored the threatening emails and threatening text message Brian Hill had received prior to 2018. The Defendant did have proof. When he found out about the carbon monoxide, that evidence was ignored by Martinsville Police. Evidence gets ignored after the Defendant was charged with a crime. They charged him way too quickly without conducting a thorough investigation.

Element 4 has been satisfied.

Element 5: The Police officer Robert Jones of Martinsville Police Department had made statements under oath in Federal Court as to the arrest of Brian David Hill on September 21, 2018, as to him being medically cleared but then the statements start coming out which draw the entire arrest into question that certain elements were not proven and thus the probable cause did not exist for every element of the charged offense.

This was all explained in Element 6, for the sake of brevity, Defendant will not reiterate all of the text regarding the evidence and arguments referenced and cited from that specific element. Defendant hereby incorporates by reference, as if fully set forth herein, all of the Element 6 evidence, arguments, and citations.

Other than what was already explained in Element 6, Defendant had proven that he was not medically and psychologically cleared.

However, Defendant has something to argue additionally to the "incorporates by reference" to Element 6.

Prior to the passage of Virginia law § 19.2-271.6. "Evidence of defendant's mental condition admissible; notice to Commonwealth" in the year of 2021, A Circuit Court was legally allowed to ignore all evidence of a criminal defendant's "autism spectrum disorder", "obsessive compulsive disorder", and any other mental health disorder or neurological brain issues. Now the Circuit Court in this case cannot ignore these issues. The passage of Virginia law § 19.2-271.6 nullifies the Commonwealth's Supreme Court's previous holding of Stamper v. Commonwealth, 228 Va. 707, 717 (1985). Now this Court and even as far as the Supreme Court of Virginia must make new holdings regarding the evidence of Mens Rea "Intent" element of a charged crime for those whom can prove the criminal defendant had autism spectrum disorder and other serious neurological brain issues or mental health issues. Now autism is admissible to this Court, it is

admissible under the general rules of evidence. See Virginia Code § 19.2-271.6(B)(ii) ("…is otherwise admissible pursuant to the general rules of evidence. For purposes of this section, to establish the underlying mental condition the defendant must show that his condition existed at the time of the offense and that the condition satisfies the diagnostic criteria for (i) a mental illness, (ii) a developmental disability or intellectual disability, or (iii) autism spectrum disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.").

The Officer Robert Jones had given the impression that Defendant was medically and psychologically cleared, but that was not true. Not even psychologically cleared because around that time the only criteria to have not cleared the Defendant was if Defendant had spoken about killing himself or harming himself or killing somebody else or harming somebody else, or if he had spoken of seeing things or hearing things that other people do not see. Unless the Defendant said he wanted to harm or kill somebody or had said he had seen things or heard things that other people do not see while he was out there naked, he would have been treated as if he were cleared from a psychological standpoint but that is not true because the Defendant does have a permanent neurological illness or defect. This cannot be ignored by this Court any longer due to Virginia Code § 19.2-271.6(B) and its subparagraph (ii).

Before I get to the proof of Defendant's autism on record, Defendant did have something which the hospital could have used to have committed/admitted the Defendant to the mental impatient unit from the psychological perspective. Defendant could have been admitted to the hospital if he had said he had seen things or heard things that other people did not see. The Officer Robert Jones didn't do a thorough investigation and the investigation was probably less than two hours if even two hours. See Element 1. Let's say arguably in favor of the Commonwealth that Robert Jones did try to find the man in the hoodie which Defendant spoke of, even though it isn't true because Defendant was charged quickly, let's say Jones took a lot of hours to look for the "man in the hoodie" (See the statements about the "man in the hoodie" from Robert Jones himself, see **EXHIBIT PAGE 4 OF 337**, see **EXHIBIT PAGE 37-38 OF 337**), and still couldn't find the man in the hoodie, then it may have been a sign of mental illness or a hallucination warranting that the hospital had prematurely released the Defendant to Police/Jail and thus Defendant was not truly medically and psychologically cleared as previous assumed by Officer Jones represented by the Plaintiffs through the Commonwealth Attorney. The Defendant had made statements which does sound either paranoid or sounds like he saw things that other people did not see. Let me bring some proof to this Court for its review.

CITATION of EXHIBIT PAGE 38 OF 337 (Redirect -- Sgt. Jones):

Q And did he tell you any other information about the male in the hoodie?
A He proceeded to explain to me that during this time frame, during questioning him and trying to get some more information about that -- he provided more information as to that male subject with the hoodie was working for the people that were -- that had originally been in his original charges.
Q Okay. And did you investigate whether he -- whether there was some threat to his family or anything?
A Talking with him, the time frame didn't really add up to me at that point. We made contact with his -- tried to make contact with his mother that night. I don't know if anybody actually spoke to her. I don't recall.

Sounds like Martinsville Police Department covered their own butts in doing a crappy job (pardon my French your honor) aka a terrible job as an investigator. He should be fired right now for doing a terrible investigative job. They don't even know if a police officer spoke with the Defendant's mother about the Defendant's claims. That right there further proves the claims made in Element 1. Sounds like this officer didn't investigate nothing, meaning he didn't investigate anything. Again, arguing in favor of the Commonwealth's fraudulent case, let's say theoretically Officer Jones did search all day and night for a guy in a hoodie to try to confirm the Defendant's claims and story, and found nothing, then either the Defendant was wrong, was lying, or was crazy. Maybe he saw a hallucination or saw something that other people did not see. He should have been hospitalized, it is clear that the police wanted the Defendant jailed as soon as possible to cover their

butts on their investigative failures and mistakes. When the police screw up and made professional errors or mistakes, they blame the suspect for their problems.

The Defendant had filed a written letter with the U.S. District Court which had indicated paranoia or seeing things that other people could not see, an indication that Defendant was not psychologically cleared as previously assumed by Robert Jones. See the proof:

CITATION of EXHIBIT PAGE 172 OF 337 (STATUS REPORT OF PETITIONER SEPTEMBER 27, 2018, EXHIBIT 7):

(2.)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. I was around the period when I was mowing the grass between the time period of 1 to 4PM. That was a tuesday. Likely surveiling me.

It is clear that the Defendant was not psychologically cleared either when he makes statements not many days after being thrown in jail, that he thought somebody was watching him or surveilling him. Again, with no proof, he thinks somebody was spying on him days before he is found naked at nighttime with no medical supplies, no soda cans, no glucose tablets, no diabetic insulin pens of any kind, no long-acting insulin, no cell phone, no blood glucose monitor, and the defendant was just found with a backpack with not even much things in his backpack. Doesn't sound like somebody thinking correctly, doesn't sound like somebody in his right state of mind. Arguably, People who are truly mentally ill will not admit to being mentally ill. People with brain problems will not admit to

having brain problems. The defendant should have been involuntarily committed to the hospital that night instead of being released to "Police/Jail without any laboratory testing to confirm whether he was on something like a narcotic or not or anything. He had Tachycardia for God's sake, meaning a resting blood pulse of over 100 multiple times. Tachycardia times two. See **EXHIBIT PAGE 258 OF 337**.

CITATION of EXHIBIT PAGE 258 OF 337 (MEDICAL RECORDS September 21, 2018, EXHIBIT 18):

Vital Signs:

09/21

04:09 BP 124 / 86; Pulse 119; Resp 19; Temp 98; Pulse Ox 98% Weight 99.79 jt kg; Height 6 ft. 0 in. (182.88 cm); Pain 0/10;

09/21

05:01 BP 119 / 80; Pulse 106; Resp 16; Temp 98.2; Pulse Ox 99% Pain 0/10; jt

That is evidence of tachycardia from his medical records, two different times, this may be worse than his hospital visit on Sunday, November 19, 2017. See **EXHIBIT PAGE 285 OF 337**. Citing: "09:08 BP 131 / 76; Pulse 118; Resp 20; Temp 98.2; Pulse Ox 97%..." and his resting blood pulse went down afterwards to 93 at around 10:59 then 97 on 12:57 military time. His tachycardia had been worse on the day he was arrested for indecent exposure and the hospital refused to even find out why he had tachycardia worse than his last hospital visit the year prior. He was wrongfully discharged from the hospital; he was erroneously discharged from

the hospital. Proof to this Circuit Court that Defendant Brian David Hill was not medically cleared and was not psychologically cleared.

Anyways, here is the proof of Defendant's autism which had been around since the Defendant was a little boy, a toddler, that he had always had autism spectrum disorder since he was very young. Read the Autism TEACCH papers from the University of North Carolina to understand the neurological health issues of the criminal Defendant in this case. See **EXHIBIT 11**'s **EXHIBIT PAGES 196-201 OF 337**.

There is also an issue of fraud on the court regarding the mental evaluation of Brian David Hill by Dr. Rebecca K. Loehrer or Loehner. This fraud also involves collusion of Attorney Scott Albrecht who was a Public Defender in the City of Martinsville. He is part of this fraud and I am going to explain why. See the filed: "(SEALED) EVALUATION REPORT - PSYCHOLOGICAL EVAL-GDC", in the General District Court paperwork filed on January 9, 2019. When she evaluated Defendant, the evaluation report was due November 26, 2018 by 5:00PM, as ordered by the Court. See the "ORDER FOR PSYCHOLOGICAL EVALUATION" filed in the General District Court paperwork.

There was a separate mental health diagnosis by a forensic psychiatrist named Dr. Conrad Daum, who worked for Piedmont Community Service in Martinsville, Virginia. He also heard the Defendant's story about a man in a hoodie

and about court officials working against him in federal court, and Dr. Daum's prognosis was that the Defendant had exhibited a "PSYCHOSIS". Psychosis is a mental health issue but was not known to Dr. Rebecca K. Loehrer or Loehner during the time of her report and evaluation. The diagnosis from Dr. Daum came in around October 24, 2018.

See the filing **EXHIBIT PAGES 141-146 OF 164** in **EXHIBIT 12** for **EVIDENCE FOR MOTION FOR JUDGMENT OF ACQUITTAL BASED UPON NEW EVIDENCE WHICH COULD NOT BE ADMISSIBLE AT THE TIME OF CONVICTION; NEW EVIDENCE OF SPOLIATION OF EVIDENCE COMMITTED BY COMMONWEALTH OF VIRGINIA; REQUEST FOR SANCTIONS AGAINST COUNSEL GLEN ANDREW HALL, ESQUIRE (OFFICER OF THE COURT) FOR VIOLATING COURT ORDERS FOR NOT TURNING OVER BODY-CAMERA FOOTAGE AND IT IS LIKELY DESTROYED AND BIOLOGICAL EVIDENCE OF BLOOD VIALS OBTAINED ON DAY OF CHARGE**. Check with the Clerk for that filing made last year, filed January 20, 2022 by Clerk.

So, Dr. Conrad Daum had diagnosed Defendant as having a psychosis after Defendant directly made statements about the "guy in hodie threatened to kill my mother if I didn't do what he said" in the "Chief Complaint: Notes:" by Dr. Conrad Daum, the forensic psychiatrist. He probably meant hoodie not "hodie". So that

evaluation was directly material evidence to the charge on September 21, 2018, and yet the mental evaluator ordered by the General District Court to conduct the evaluation knew nothing about Dr. Conrad Daum's diagnosis, I mean come on he is a forensic psychiatrist, qualified under the rules of evidence.

Anyways, Public Defender Scott Albrecht was an officer of the Court, and he needs to answer for if he was aware of the mental evaluation by Piedmont Community Services. Only he knows the answers to his own mistakes as an officer of the court at the time. Attorney Scott Albrecht didn't appear to have filed any written motion asking for a mental evaluation at the time in 2018, so it must have been a direct oral motion which would be a verbal motion to the judge or a motion not in the record of the General District Court See the record where the judge checked: "It appearing to the Court, on motion of [CHECK MARK] defendant's attorney". He was ordered by the court to do the following as an officer of the court by the General District Court as this was filed on October 17, 2018, check with the Clerk for this court record:

CITATION of COURT FILING: "ADDITIONAL INSTRUCTIONS TO EVALUATOR(S) AND ATTORNEYS", filed 10/17/2018 and signed by the judge:

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).

…

2. Sanity at the Time of the Offense: Prior to an evaluation of sanity at the time of the offense, the party making the motion for the evaluation must forward to the evaluator(s)

a. a copy of the warrant;

b. the names and addresses of the Commonwealth's Attorney, the defendant's attorney, and the judge ordering the evaluation;

c... information about the alleged crime, including statements by the defendant made to the police and

"transcripts of preliminary hearings, if any;

d. a summary of the reasons for the evaluation request;

e. any available psychiatric, psychological, medical or social records that are deemed relevant; and

f. a copy of defendant's criminal record, to the extent reasonably available.

Va. Code $ 19.2-169.5(C).

Why did Scott Albrecht not notify the evaluator or the Court about the psychiatric diagnosis of “psychosis” of Brian David Hill when he made statements about “guy in hodie threatened to kill my mother if I didn't do what he said”. This should have been made known to the evaluator by Scott Albrecht. He failed to do his job as an officer of the Court. Not only did the local hospital not admit the Defendant when he made crazy sounding statements, but Dr. Conrad Daum’s diagnosis on October 24, 2018 was never made known to the mental evaluator. That would have been important when making a determination on competency and sanity at the time of the alleged offense charge.

It is fully clear that Officer Robert Jones had lied or made a false material fact and false statement under oath or affirmation in the CRIMINAL COMPLAINT (**EXHIBIT PAGE 4 OF 337**) when he claimed as a material fact in the material element of his charge: "He was medically and psychologically cleared." This is clearly a material element of the criminal charge since it is in the CRIMINAL COMPLAINT which is the basis for the whole charge, was a basis for the Bench Trial in the General District Court, and was a basis for the Jury Trial in this Circuit Court. The entire statement by Officer Robert Jones, sworn as under oath as to being a true and accurate fact. It is not a true and accurate fact. That is wrong or was a lie, or was a blatant disregard for the truth. He never conducted any real thorough investigation, he just charged the Defendant quickly and dropped any further investigation, and just left it up to the lawyers such as the Plaintiffs aka the Commonwealth Attorney for the City of Martinsville.

Element 5 has been satisfied.

Element 6: The Defendant has clear and convincing prima facie evidence that he was NOT medically and psychologically cleared as assumed by Plaintiffs when that is one of the required elements of the charged crime as the CRIMINAL COMPLAINT has that element in the affidavit saying: "He was medically and psychologically cleared."

The Defendant has clear and convincing evidence, prima facie evidence which demonstrates that he was not "medically and psychologically cleared." At the time of his arrest and detainment around a creek.

It is a material element to the criminal offense which covers both the obscenity element and the intent element.

The reason why is that, if that element was not considered important and was not considered essential to the charged crime, then why would the police officer take the time to type in the CRIMINAL COMPLAINT (**EXHIBIT PAGE 4 OF 337**) the very following: "He was medically and psychologically cleared"???

Let us examine why this material element is extremely important in a criminal charge. It isn't just a material element, but it is an essential element to a charge, and may be just as essential as Mens Rea if not more essential than the same.

See https://sullivanlegal.us/rethinking-medical-clearance/ (Disclaimer: Link and information/research provided by Brian's family) Rethinking Medical Clearance by William P. Sullivan, Attorney At Law ("Consider What Is Meant By "Medical Clearance" We should consider the importance and meaning of writing "medically cleared" on any discharge form, whether it is for psychiatric patients, for incarcerated patients, or for a work release. To a layperson, the term "medically cleared" may mean that the patient has no medical problems and no potential to get

worse. To a medical provider, the term "medically cleared" may mean something entirely different. Rather than using the blanket statement that a patient is "medically cleared," which can be subject to interpretation; we could make the limitations of an evaluation in the emergency department more evident… In one case, I was told by the administrator at a psychiatric facility that my patient would not be accepted in transfer unless the chart specifically stated that the patient was "medically cleared.""). See https://www.lawinsider.com/dictionary/medically-cleared (Disclaimer: Link and information/research provided by Brian's family) ("Medically cleared means a determination made within 24 hours prior to admission by the medical director that an individual is physically capable of participating in facility activities and programming and not at risk of medical complications that would be unmanageable by the facility.")

Let us see from the Transcript in federal court what Officer Robert Jones thought of what being medically cleared is?

CITATION of EXHIBIT PAGE 40 OF 337 (Redirect -- Sgt. Jones):

Q Do you recall any tests that were taken that night besides just checking, I believe you said, his knee?
A No, ma'am. Like I said, when we -- we also checked him for mental health issues is the reason why they cleared him psychologically, to make sure there was nothing going on there. Once they do that, they do lab work and other stuff. I didn't ask about his medical history.
Q Was there any tests dealing with his blood alcohol content or anything of that nature?

A I don't know if they did. Like I said, I did not get his records. They normally do, but I do not have that.

Answers by Officer Jones are in the A column and the questions from Attorney Renorda Pryor are in the Q column.

Wait a minute, Officer Jones thought the hospital was conducting lab work, Officer Jones said: "they do lab work and other stuff." So according to his legal definition of being medically cleared when he said so under penalty of perjury, he said that the hospital does "lab work and other stuff". He also said: "They normally do, but I do not have that." Renorda the attorney asked him: "Was there any tests dealing with his blood alcohol content or anything of that nature?" and again the officer said: "I don't know if they did. Like I said, I did not get his records. They normally do, but I do not have that." He said under oath in his own knowledge and expertise that Defendant was "medically and psychologically cleared", said so under penalty of perjury, under oath or affirmation in the CRIMINAL COMPLAINT (**EXHIBIT PAGE 4 OF 337**) and ARREST WARRANT (**EXHIBIT PAGE 2 OF 337**). Defendant shall prove that Officer Jones was lying, was wrong, or had a blatant disregard for the truth.

Officer Jones was wrong about multiple aspects when he claimed Brian David Hill was "medically and psychologically cleared".

The so-called “lab work and other stuff”, it got DELETED FROM THE CHART aka covered up on record, cannot be disputed as it is fact and can be authenticated by the Commonwealth’s Attorney. See **EXHIBIT PAGE 260 OF 337.**

CITATION of EXHIBIT PAGE 260 OF 337 (Medical record):

Ramey, Nicole nmr
Bouldin, Lauren, RN RN lb1
Reynolds, Daniel R RN dr
Corrections: (The following items were deleted from the chart)
09/21
04:48 09/21 04:16 COMPREHENSIVE METABOLIC PANEL+LAB ordered. EDMS
09/21
04:48 09/21 04:16 COMPLETE BLD COUNT W/AUTO DIFF+LAB ordered. EDMS
09/21
04:49 09/21 04:16 CPK, TOTAL+LAB ordered. EDMS
09/21
04:50 09/21 04:16 ALCOHOL, ETHYL+LAB ordered. EDMS
09/21
04:50 09/2104:16 STAT OVERDOSE PANEL+LAB ordered. EDMS
09/21
04:52 09/21 04:52 09/21/2018 04:52 Discharged to Jail/Police. Impression: Abrasion, right knee; Abrasion of unspecified front wall of thorax. Condition is Stable. Discharge Instructions: Medication Reconciliation. Follow up: Private Physician; When: Tomorrow; Reason: Further diagnostic work-up, Recheck today's complaints, Continuance of care. Follow up: Emergency Department; When: As needed; Reason: Fever> 102 F, Trouble breathing, Worsening of condition. Problem is new. Symptoms have improved. bdh
09/21

04:54 09/21 04:16 URINALYSIS W/REFLEX TO CULTURE+LAB ordered. EDMS

Officer Robert Jones didn't know that now, did he??? He thought they did lab work and other stuff, but they didn't. He was too ignorant to even understand what was going on. He quickly arrested Defendant without even investigating any of this. See Element 1 and Element 4 of the STATEMENT OF THE FACTS.

Here is what Officer Jones refused to investigate, failed to investigate, and could have discovered if he had conducted a thorough investigation.

Was Brian David Hill under intoxication at the time he was detained or arrested??? Or was Brian David Hill more slightly out of intoxication but was still intoxicated enough which obscenity and intent could not be possible??? Was Brian David Hill involuntarily intoxicated at the time of the charged offense???

Those theories can never be disproven by the Plaintiffs by and through the Commonwealth's Attorney because the lab results "were deleted from the chart", again see **EXHIBIT PAGE 260 OF 337**. Officer Jones charged Defendant very quickly, way too quickly, and didn't seem to be demonstrating that there was any thorough investigation at all. It was a farce. The Officer didn't investigate anything except just quickly charge Defendant and walk away, to let the Commonwealth's Attorney prosecute his way to victory. However, the evidence being submitted by

the Defendant demonstrates that the essential element of being medically and psychologically cleared was disproven.

Officer Jones didn't know that when he detained the Defendant, the Defendant was asked questions about why he was out there naked while he was **dehydrated** before he was transported to the Emergency Room at the Sovah Health Martinsville hospital. Of course, the medical records will not show proof of this because this was a rush job to just slam Defendant into the slammer aka the jails of the criminal justice system, but the BILLING RECORDS do prove this. It proved that the hospital had failed to conduct the necessary lab tests and didn't even report in the medical records that he had dehydration while the billing record reports things which do support the claim of Defendant being dehydrated. See **EXHIBIT PAGE 87 OF 337** which is **EXHIBIT 3**. There they are, the BILLING RECORDS dated September 21, 2018, the date of Defendant's arrest and supposed medical clearing. Billing records can in many cases be more thorough than medical records, because hospitals have to make a profit or they go bankrupt. When any type of medical equipment, any human service, any materials and medical applicators, anything which costs them money must be documented in the medical bills, every single procedure and every single item used by the hospital when conducting a medical treatment and examination has to be accounted for when it comes to financial medical expenses. Let us take a look.

CITATION of EXHIBIT PAGE 88 OF 337 (BILLING RECORD):

258-IV SOLUTIONS

092118 21B597 0715 170363 J7030 1 IV NACL .9% 1000ML 157.00

SUBTOTAL: 157.00

260-IV THERAPY

092118 23B781 0780 800397 963 60 1 IV HYDRATION 1ST HR 585.00

SUBTOTAL: 585.00

…

270-MED SURG SUPPLY

...

092118 22B696 0718 232295 1 TUBING HEPLOCK 32. 00

092118 22B696 0718 230633 1 CATH IV 66.00

092118 22B696 0718 232137 1 TUBING SECONDARY 21.00

So according to those two entries, Defendant must have been in such bad shape regarding such a need for not just only hydration fluids but also an electrolyte. Can this Court guess which electrolyte Defendant needed and I'm not talking about Gatorade or Powerade??? Yes, I'm talking about NACL .9% 1000ML. What is NACL??? Let us check with the U.S. Government source. (Disclaimer: link and information/research provided by family) https://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=51da05ce-e3c4-4ef5-a845-dc869152e17f SODIUM CHLORIDE - sodium chloride injection, solution. ("3% Sodium Chloride Injection, USP is a sterile, nonpyrogenic, hypertonic solution for fluid and electrolyte replenishment in single dose containers for intravenous administration. The pH may have been adjusted with hydrochloric acid. It contains no antimicrobial agents. Composition, ionic concentration,

osmolarity, and pH are shown in Table 1… Sodium Chloride, USP (NaCl)"). See **EXHIBIT PAGES 97-103 OF 337**. Another government report about NACL aka sodium chloride. See https://pubchem.ncbi.nlm.nih.gov/compound/Sodium-chloride (Disclaimer: link and information/research provided by family) **EXHIBIT PAGES 104 OF 337**. "Molecular Formula NaCl or ClNa". Then there is Wikipedia, **EXHIBIT PAGE 159 OF 337**. Shall I go on??? Probably go onto the next issue in this motion for the sake of brevity.

How would the electrolytes and hydration be pumped into the body of Defendant when he was at the hospital the first hour, it would be through CATH IV and TUBING. See **EXHIBIT PAGE 93 OF 337**. Hospitals normally use a peripheral venous catheter, and tubing to the device, as well as bag to add anything they want to it such as medicines, fluids, and even blood transfusions. **EXHIBIT 4** says and I quote: "NIH NATIONAL CANCER INSTITUTE", "peripheral venous catheter (peh-RIH-feh-rul VEE-nus KA-theh-ter) A device used to draw blood and give treatments, including intravenous fluids, drugs, or blood transfusions. A thin, flexible tube is inserted into a vein, usually in the back of the hand, the lower part of the arm, or the foot. A needle is inserted into a port to draw blood or give fluids." This proves that blood was drawn from Defendant at the hospital, then the laboratory tests, blood work or lab work was ordered, but then was deleted from the chart.

Anyways, so Defendant was dehydrated. When Defendant is out on a walking trail for hours and moving down a walking trail for hours, the police found no hydration bottles aka no water bottles and no sodas or anything to hydrate on Defendant when he was arrested. Then after he is in the hospital, he is hydrated by IV fluids and is given an electrolyte. That does prove to this Court that Defendant must have been DEHYDRATED when he was arrested and questioned over his charge of indecent exposure. See the term: "delirium", see **EXHIBIT PAGE 95 OF 337**. Printed by Defendant's family from this source, FROM THE GOVERNMENT, HOW CREDIBLE!!!

https://www.cancer.gov/publications/dictionaries/cancer-terms/def/delirium What is "delirium" exactly???

Citation of **EXHIBIT PAGE 95 OF 337**:

A mental state in which a person is confused and has reduced awareness of their surroundings. The person may also be anxious, agitated, or have less energy than usual and be tired or depressed. Delirium can also cause hallucinations and changes in attention span, mood or behavior, judgement, muscle control, and sleeping patterns. The symptoms of delirium usually occur suddenly, last a short time, and may come and go.

It may be caused by infection, dehydration, abnormal levels of some electrolytes, organ failure, medicines, or serious illness, such as advanced cancer.

Alright, let us take a look at some weird abnormal statements Defendant had made in writing six days after being arrested and sitting in jail. See **EXHIBIT PAGE 171 OF 337**, "STATUS REPORT OF PETITION SEPTEMBER 27, 2018"

Citation of **EXHIBIT PAGE 172 OF 337**:

(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 being kept 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.

Citation of **EXHIBIT PAGE 173 OF 337**:

…At one point I felt like I might collapse so I may have been drugged. I had to keep sitting on benches...

Yet the Officer Robert Jones thought the hospital did "lab work and other stuff", right??? Absolutely false. The lab work was ordered and then was to be deleted from the chart. In fact, let me show you the Affidavit of Brian David Hill in support of this Motion, he has a lot to say under oath, under penalty of perjury.

Citation of **EXHIBIT PAGE 335 OF 337 (DECLARATION)**:

22. As to EXHIBIT 18, EXHIBIT PAGES 253-260 OF 337, is a true and correct complete copy of medical records I obtained from Sovah Health Martinsville which is a hospital. Medical records of the hospital visited dated Friday, September 21, 2018. On the day I received the records or around the time I received the records, I did speak with the hospital records staff or somebody at the hospital records area about any laboratory tests on September 21, 2018. The staff said to me and Roberta Hill that they cannot find any laboratory testing records and said since I was in the custody of the police that it would be the Martinsville Police who would do the lab work. That was what I was told by the staff person at Sovah Health Martinsville on the day which I obtained those records or around the time I received the records, and I had obtained them on "5/17/2019".

Wait, Robert Jones said about the hospital "they do lab work and other stuff." That is a total and complete lie/fabrication. So, the hospital said that the

Martinsville Police had to do all of the drug testing or alcohol testing or any lab testing when the police detained Defendant and transported with him to the Emergency Room in an ambulance. So, they claimed that the police had to do the lab work, while the police said the hospital did the lab work. These are LEGAL MIND GAMES, MUMBO JUMBO COMPLETE GARBAGE. Both sides don't seem to have the lab work here. They don't even know if Defendant was drugged with anything. Not medically cleared, I mean how could they when they never even did the lab work. How could they when they never even did the lab work???

According to Robert Jones, the so-called officer who arrested Defendant, charged Defendant with indecent exposure, a crime, and yet claimed Defendant was medically and psychologically cleared.

See **EXHIBIT PAGE 187 OF 337**, to find out one medical letter from a Medical Doctor as to Defendant's medical history from 2012 in a nutshell. This doctor said from September 6, 2012: "Brian Hill is a current patient at Western Rockingham Family Medicine. He has a diagnosis of Type 1 Diabetes, GERD, Autism, and depression with suicide thoughts.".

Let us ask the credible expert who said Defendant was medically and psychologically cleared, ROBERT JONES!!!!!

CITATION of EXHIBIT PAGE 39-40 OF 337 (Redirect -- Sgt. Jones):

Q Did Mr. Hill -- when you approached him, did he tell you that he had autism?

A He did.
Q And do you guys -- does your -- I would say does your -- does the department train you on how to approach someone with autism?
A We deal with some academy-wise and not much follow-up after that.
Q Did he also tell you that he was a diabetic as well?
A I do not recall him telling me that, no.
Q Did he tell you that he was also OCD?
A Not that I recall.
Q And when you took him to the hospital, did they admit him into the hospital that night?
A No, they cleared him medically and psychologically and released him to us.
Q Okay. Did you get those reports from -- the medical reports?
A No, I did not do a subpoena for his hospital records.
Q Okay. Did you speak to a doctor or anyone regarding his condition or anything of that nature that night?
A We -- other than just checking with him to see if they were going to be releasing him or admitting him, no.

Answers by Officer Jones are in the A column and the questions from Attorney Renorda Pryor are in the Q column.

This officer is clearly a liar or an idiot or both. He is not a medical doctor. Where are his qualifications to make that determination that Defendant was medically and psychologically cleared yet didn't even know the lab work was deleted from the chart??? He says Defendant was medically cleared but knows nothing of Defendant's medical conditions. He knew nothing of Defendant's

DIABETES, TYPE 1 DIABETES. Officer Jones did not know anything, yet he said under penalty of perjury that "they cleared him medically and psychologically", without any laboratory work, without even checking his diabetic blood glucose. The hospital never checked his diabetic blood sugar on the day of Defendant's arrest. See **EXHIBIT PAGE 184 OF 337**. Dr. Balakrishnan of Carilion Clinic said: "This is to certify that Brian Hill is my patient since 11/2014. He has a diagnosis of diabetes, seizures, autism, and obsessive compulsive disorder. One or more of these condition can limit his ability to be in social situation or among people and do work." Was the Defendant truly medically and psychologically cleared as Officer Jones had stated??? He was wrong about the "lab work and other stuff".

What lab work should have been done by the medical standard or legal standard set by Officer Robert Jones who put in the CRIMINAL COMPLAINT that Defendant was medically and psychologically cleared???

See **EXHIBIT PAGES 313-314 OF 337**. A blood sample was obtained from the Defendant aka collected from the Defendant on "07/31/18 1122" That would be on July 31, 2018. Around 11:22 AM military time. Guess what was found???

Abnormally high Red Blood Cell (RBC) count, Abnormally high Hemoglobin level, Abnormally high Hematocrit count, Abnormally high Absolute Mono, and abnormally low Lymph levels. The results were pretty much abnormal

levels without an explanation why. It also said: “COMPREHENSIVE METABOLIC PANEL(COMP) [368602038] (Abnormal)”

On the day of the arrest of Brian David Hill for his charge of indecent exposure, the Defendant, the hospital had also ordered a “04:48 09/21 04:16 COMPREHENSIVE METABOLIC PANEL+LAB ordered. EDMS”, BUT then it was “deleted from the chart”, gone, covered up, bye byes. They could have found abnormal levels in the body of the Defendant at the time the police had found Defendant and detained him, and that would have shown evidence of INTOXICATION. Defendant cannot be guilty of a charge of indecent exposure if any evidence could have been found showing intoxication. Intoxication could nullify both the intent element and the obscenity element or even the intent to be obscene element. Those would be instantly disproven with evidence of intoxication.

Was Brian intoxicated before his arrest or at the time of his arrest??? Unfortunately, we will never know because he was not medically and psychologically cleared as previously assumed by Officer Robert Jones.

Did the hospital ever test the diabetic blood glucose level of the Defendant??? This Court can read through the medical records to find out.

Review over **EXHIBIT PAGES 254-260 OF 337**.

There is no mention of giving any diabetic insulin and no mention of giving any diabetic glucose in case of low blood glucose levels aka low blood sugar.

That's the key word here, LOW BLOOD SUGAR. The hospital did none of that before releasing Defendant to the Police/Jail. They didn't even check his blood sugar, his diabetic glucose level. They just released a type one diabetic to police without checking his blood sugar. Brian could have had a diabetic seizure or foot cramps in the back of the squad car. Defendant could have died in the back of the squad car. That was very stupid of both the hospital and of Robert Jones, very stupid of them to do that. Robert Jones is STUPID for all of the mistakes he had accomplished by ruining an innocent man's life. Got to tell The Innocence Project about this dirty cop. They wanted Defendant charged and arrested so quickly, so fast like they believe they are superman, but they could care less about whether Defendant had any known medical problems/issues or not. How kind of them…How nice of them…Defendant has every right to insult them for all of the harm they caused to the defendant, DEFENDANT IS THE VICTIM HERE.

Did you know that Defendant had also exhibited signs of TACHYCARDIA, meaning abnormal resting blood pulse readings of over 100?

CITATION of <u>EXHIBIT PAGE 258 OF 337</u> (MEDICAL RECORD):

Vital Signs:
09/21
04:09 BP 124 / 86; Pulse 119; Resp 19; Temp 98; Pulse Ox 98% Weight 99.79 jt kg; Height 6 ft. 0 in. (182.88 cm); Pain 0110;
09/21
05:01 BP 119 / 80; Pulse 106; Resp 16; Temp 98.2; Pulse Ox 99% Pain 0/10; jt
09/21

04:09 Body Mass Index 29.84 (99.79 kg, 182.88 cm) jt

Interesting that the Defendant had two abnormally high resting blood pulse readings, and that is technically given the medical term “tachycardia”. However, the nurses were also idiotic on the same day that Robert Jones decided to be “an idiot” and decided to pronounce the Defendant medically and psychologically cleared. Tachycardia means something may be medically wrong with somebody, but according to Robert Jones, everything is A-Okay. Right??? The jury would believe that with the deleted lab tests from the chart??? No blood sugar testing of any kind and tachycardia before being arrested??? A-Okay right Robert Jones??? Right??? He was medically cleared right??? I REST MY CASE on this part.

Let me show you the medical records from the same hospital Defendant was at before he was arrested. Except this is from a different date and time.

Let me take you back to Sunday, November 19, 2017 (**EXHIBIT PAGE 282 OF 337**), when the Defendant was in the Emergency Room, just like being in the Emergency Room on September 21, 2018. Yeah, the circumstances are different, Defendant was not under arrest on November 19, 2017, however Defendant had abnormal metabolic panel aka blood levels just like Carilion Clinic had shown on July 31, 2018, he had Sinus Tachycardia,

CITATION of EXHIBIT PAGE 285 OF 337 (MEDICAL RECORD):

Vital Signs:

11/19
09:08 BP 131 / 76; Pulse 118; Resp 20; Temp 98.2; Pulse Ox 97%
91.63 kg; Height 5 ft. 10 in. (177.80 em);
11/19
09:46
11/19
10:59 BP 124 / 73; Pulse 93; Resp 18; Pulse Ox 100% on R/A;
11/19
12:57 BP 119 / 67; Pulse 97; Resp 19; Pulse Ox 98% on R/A;
09:46 patient has OCD and had to do his "routines" prior to coming, has mkk been about 4 hours since injury occured

Here is the proof, the evidence of Sinus Tachycardia, see **EXHIBIT PAGE 291 OF 337**. Just like the abnormal Basic Metabolic Panel (blood work, lab work) caught by Carilion Clinic. The results are different but those were also abnormally high levels. Abnormally high White Blood Cell (WBC) count, abnormally high Mean Platelet Volume (MPV) count, abnormally high SEGS level, and abnormally high SEG Absolute level.

See the difference between the medical records on Sunday, November 19, 2017 (**EXHIBIT PAGES 282-311 OF 337**) and the medical records on Friday, September 21,2018 (**EXHIBIT PAGES 254-260 OF 337**). It is clear as night and day. The lab work was not done in 2018 hospital visit, but lab work was done in 2017 hospital visit.

Last thing which deserves attention from this Court is the first page of the discharge sheet from the hospital, dated Friday, September 21,2018. See

EXHIBIT PAGE 254 OF 337. The “FOLLOW UP INSTRUCTIONS” had said: “Private Physician When: Tomorrow; Reason: Further diagnostic work-up, Recheck today's complaints, Continuance of care”. So, it said that the Defendant should have seen his medical doctor a day after being discharged from the hospital to Police/Jail. However, the jail never followed the “FOLLOW UP INSTRUCTIONS” from the hospital, on record. See the Defendant’s filed jail medical records filed in 2022 in this Court. Instead, the Defendant was lying on the mat or jail mattress each day, not being lab tested and not even seeing his “Private Physician” as instructed by the hospital in his “FOLLOW UP INSTRUCTIONS”.

The hospital clearly did a lousy job, a terrible job, worthless, terrible, they discharged a criminal Defendant with tachycardia without even being lab tested and without being blood glucose tested before being whisked away to the police to be jailed.

Other issues material to the facts for Element 6 have been explained in Element 5, for the sake of brevity Defendant will not reiterate all of the text regarding the evidence and arguments referenced and cited from that specific element (Element 5). Defendant hereby incorporates by reference, as if fully set forth herein, all of the Element 5 evidence, arguments, and citations.

Element 6 has been satisfied.

ALL ELEMENTS HAVE BEEN PROVEN AND SATISIFIED

The Defendant had demonstrated that all elements of the STATEMENT OF THE FACTS in this Motion had been proven and satisfied to the very letter of the law, to the very facts alleged herein. Defendant wants the truth to come out. The whole prosecution was a joke. The whole prosecution was nothing but a sheer miscarriage of justice against who he knew was an innocent man, with medical problems such as Type 1 brittle diabetes, Autism, OCD, and these are life altering health issues. The prosecutor Glen Andrew Hall's prosecution was tainted with falsehoods. Falsehoods about being medically and psychologically cleared.

Defendant is establishing with his court his proffered adverse inference that he had shown behavioral signs of being intoxicated and was dehydrated at the time he was questioned by Officer Robert Jones on the basis that the body-camera footage was destroyed to cover up this fact. See the Proffered adverse Inference.

This Circuit Court should treat all Elements 1-7 of the STATEMENT OF THE FACTS by Brian David Hill, the criminal Defendant, as having merit.

All Defendant has to prove is fraud on the court to such an extent where the original prosecution was not backed by every essential material element of probable cause and that prosecutor will never be able to prove every material element of the charge he prosecuted because evidence had been destroyed by the

prosecutor or who the prosecutor had represented which would be Martinsville Police Department while under the leadership of Chief G. E. Cassady. A corrupt police chief, doing the bidding of a corrupt malformed prosecution of a case with some defective material elements. This is clearly a fraud.

Defendant states on the record in this MOTION, as the record clearly proved this, that the Defendant never plead guilty when he withdrawn his appeal in the Circuit Court due to circumstances of having a lousy good-for-nothing lawyer who didn't even file any motions to enforce a court order for discovery after they all were not complied with. Defendant clearly had a lawyer so defective, so ineffective, so lazy in his case, that the Plaintiffs clearly got away with destroying evidence and never being compelled to comply with the orders for discovery as mandated by law or as mandated by the Court Rules, and/or as mandated by the Constitution, by the U.S. Supreme Court. Defendant never plead guilty, he only withdrawn appeal because he had a bad lawyer, a lawyer who didn't even do his duty to enforce compliance with court orders. None of his court appointed lawyers had done their duty, this is worse than being ineffective assistance of counsel. The whole defense counsel was defective and done nothing to really demonstrate how fraudulent the very prosecution was. The lawyer could have done any of what Defendant had filed, argued, filed as evidence, testimony, witnesses. The lawyer did none of any of that, these good-for-nothing Public Pretenders calling

themselves Public Defenders. It is clear they are either burdened with so many cases that they do not have the time to effectively represent to fight for every client in the very Court of law they are assigned to, and/or the court appointed lawyers had colluded with the Commonwealth Attorney and if that turns out to ever be proven true of the collusion by doing nothing to push for sanctions or any type of penalty, the Commonwealth Attorney can violate any law he wants, they can probably commit violent crimes and get away with it. They can probably smoke crack and get away with it. The prosecution is allowed to do whatever the heck they want, and that is not Constitutional, that is not due process of law. The law is held to everybody, and everyone. Nobody is above the law.

Olmstead v. United States, 277 U.S. 438, 485 (1928) ("Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means — to declare that the Government may commit crimes in order to secure the conviction of a private

criminal — would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face.")

See Strickland v. Washington, 466 U.S. 668 (1984), Hill v. Commonwealth, 8 Va. App. 60, 67-68 (Va. Ct. App. 1989) ("(7) Since its enactment, the Supreme Court has had several occasions to discuss the effect of Code Sec. 19.2-317.1 upon the issue of ineffective assistance of counsel. In Frye v. Commonwealth, 231 Va. 370, 345 S.E.2d 267 (1986), the Court said: In view of the seriousness of a charge of ineffective assistance, counsel is entitled to the opportunity to state his reasons for his acts of commission and omission now subjected to challenge. On the other hand, we will not rule as a matter of law, upon this record, that counsel's conduct was consistent with reasonable trial strategy and therefore was not ineffective. We will not impute to counsel a certain rationale and thereby deny the defendant the opportunity to demonstrate, by evidence which might be obtained in a plenary hearing, that counsel had no such tactical basis for his actions. Id. at 400, 345 S.E.2d at 288; see also Correll v. Commonwealth, 232 Va. 454, 470, 352 S.E.2d 352, 362, cert. denied, 107 S.Ct. 3219 (1987) (a claim of ineffective counsel cannot be resolved on direct appeal "unless counsel charged with ineffectiveness has had an opportunity to defend himself on the record by giving the rationale for his challenged acts of omission or commission"); Beaver v. Commonwealth, 232 Va. 521, 537-38, 352 S.E.2d 342, 351-52, cert. denied, 107 S.Ct. 3277 (1987);

Payne v. Commonwealth, 233 Va. 460, 475, 357 S.E.2d 500, 509, cert. denied, 108 S.Ct. 308 (1987); Payne v. Commonwealth, 5 Va. App. 498, 504, 364 S.E.2d 765, 768 (1987). None of these cases has addressed the issue whether the trial court is permitted to take additional evidence to support an allegation of ineffective assistance of counsel.")

This is fraud, and the court appointed lawyers were okay with the fraud, did nothing to prevent the fraud, did nothing to effectively defend the Defendant against the frauds. Defendant is asserting COLLUSION, that the lawyers Scott Albrecht, Lauren McGarry, and Matthew Scott Thomas Clark are all colluding with the fraud perpetuated by the Commonwealth Attorney for the City of Martinsville which represents the Plaintiffs. They all knew about the Defendant wanting the body-camera footage, they all knew they could have discovered that the Defendant was not medically and psychologically cleared when comparing two separate Emergency Room visits. They could have done this easily and have the Defendant do all of the work, as the Defendant was willing to do all the legwork for his court appointed lawyers, and help his court appointed lawyers, but instead they all colluded to wrongfully convict the Defendant by forcing him to file a motion to withdraw appeal because any pro motions he filed were ignored since they were not filed by Defendant's counsel who did nothing to fight any frauds perpetuated by the prosecutor. It isn't just ineffectiveness to the best of Defendant's belief, he feels

that it is collusion in one way, shape, or form, that the Commonwealth Attorneys don't have to worry about the court appointed lawyers because they just don't do anything to prove the charge was a fraud or had fraudulent elements of guilt if not faulty elements.

There needs an investigation into all of this, by the State Police, by Martinsville Police Department. There needs to be an investigation into all of the garbage and lies by the Government caused by the original arrest. There needs to be an investigation into the destruction of the body-cam footage and the fact that the Commonwealth had not ever complied with the court orders, yet they wanted reciprocal discovery but refused to comply with the Defendant's push for discovery. So one sided. One sided justice is no justice at all, it's a fallacy.

If the Circuit Court is still not convinced, they should hold an evidentiary hearing, ask the Commonwealth Attorney for a response, and appoint a REAL effective attorney to represent Defendant in this case to fully demonstrate factual innocence and the merits of his defense to the criminal charge, that some of the elements of guilt are disproved, and that an adverse inference should be proffered as Defendant was clearly under intoxication in the very body-camera footage destroyed by the Plaintiffs. Convicting an innocent man of violating the indecent exposure statute is a miscarriage of justice. It is a fraud, when more than one element by the prosecutor is proven fraud.

LEGAL ARGUMENTS

It is clear as matter of law that all six Elements in the STATEMNET OF THE FACTS warrant that there does exist a severe case of fraud upon the Court, by the Plaintiffs and with the collusion of or of inaction by any of the defense attorneys allowing the frauds and non-compliance issues and evidence destruction to have taken place. Relief is clearly warranted here under the statutory remedies set by Virginia Code § 8.01-428(D), Virginia Code § 8.01-428(A) AND Virginia Code § 8.01-428(B).

See Code of Virginia, § 8.01-428. Setting aside default judgments; clerical mistakes; independent actions to relieve party from judgment or proceedings; grounds and time limitations.

CITATION of § 8.01-428. Setting aside default judgments; clerical mistakes; independent actions to relieve party from judgment or proceedings; grounds and time limitations.

:

A. Default judgments and decrees pro confesso; summary procedure. Upon motion of the plaintiff or judgment debtor and after reasonable notice to the opposite party, his attorney of record or other agent, the court may set aside a judgment by default or a decree pro confesso upon the following grounds: (i) fraud on the court, (ii) a void judgment, (iii) on proof of an accord and satisfaction, or (iv) on proof that the defendant was, at the time of service of process or entry of judgment, a servicemember as defined in 50 U.S.C. § 3911. Such motion on the ground of fraud on the court shall be made within two years from the date of the judgment or decree.

B. Clerical mistakes. Clerical mistakes in all judgments or other parts of the record and errors therein arising from oversight or from an inadvertent omission may be corrected by the court at any time on its own initiative or upon the motion of any party and after such notice, as the court may order. During the pendency of an appeal, such mistakes may be corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending such mistakes may be corrected with leave of the appellate court.

…

D. Other judgments or proceedings. This section does not limit the power of the court to entertain at any time an independent action to relieve a party from any judgment or proceeding, or to grant relief to a defendant not served with process as provided in § 8.01-322, or to set aside a judgment or decree for fraud upon the court.

See Wilson v. Commonwealth, CL-2021-0003146, 2 (Va. Cir. Ct. Apr. 20, 2021) ("After considering the caselaw, pleadings, and oral arguments presented by Counsel, this Court finds that Section 8.01-428(D) applies to criminal cases and that Petitioner Elon Wilson (Wilson) demonstrated by clear and convincing evidence that a fraud was committed upon the Court in obtaining Wilson's guilty plea. As a result, Wilson's Petition to Vacate Judgment is granted, and his conviction is set aside.")

It is a fraud when the Defendant was never lab tested while the Officer Robert Jones who charged the Defendant said lab work was done and other stuff, and said Defendant was medically and psychologically cleared. The Defendant had proven beyond a reasonable doubt, the factual elements 6 and 7, which had proven

that the hospital was neglectful. There is no requirement under law for Defendant to have to sue the hospital to prove neglect. Defendant had proven neglect by providing medical records to this Circuit Court from two different visits to the Emergency Room. Defendant had proven that the officer who arrested the Defendant had no idea as to what was really going on, he was ignorant or was a liar, whatever the case may be. Defendant had proven with clear and convincing evidence that he was erroneously released by the hospital. Defendant should have been admitted, the officer should have known about the lab work. The officer cannot just blindly make claims under oath or affirmation with no evidence or foreknowledge to even back them up. The Officer had no knowledge to be able to state as a fact from his own personal witness foreknowledge whether Defendant was medically cleared or not. A hospital can erroneously release a patient, hospitals do get sued all over the country of America for neglect of patients. Officer Jones had no proof and no complete knowledge to verify for a fact whether Defendant was medically and psychologically cleared or not. Lab work was not done, officer did not know that, he only assumed, because he did not know the truth of what really happened.

It is clear fraud from the very originating criminal charge. The evidence proves it. The Commonwealth Attorney is free to authenticate all evidence, and authenticate the medical records, he is free to contact the hospital. He is free to ask

for the billing records. He is free to investigate this matter, because it is a fraud upon the court perpetuated by the Plaintiffs.

This Court can ask Officer Robert Jones under oath about what he said at the federal hearing or about whether he believes Brian David Hill had been obscene when he arrested the Defendant for the charge of making an obscene display. If he admits that Defendant was not obscene when he filed those papers with the Magistrate Judge and started the whole charge on September 21, 2018, then it is a clear fraud from the very foundation of the criminal charge against the Defendant on September 21, 2018. Defendant had proved fraud in different aspects. This Court clearly has the jurisdiction and authority to throw the entire criminal case out of court, vacate or set aside the judgment, and dismiss the entire case with prejudice. Fraud should not be welcome in a court of law.

It is clear that all **STATEMENT OF THE FACTS** and all arguments made in this motion support the relief sought. Defendant did not plead guilty as evidenced by the judgment of conviction in the Circuit court.

Constitutionally the Virginia Constitution and U.S. Constitution requires that all material elements of a crime must be met with clear and convincing evidence beyond a reasonable doubt before a jury can convict a criminal defendant. Again, Corpus delicti, in Western law, is the principle that a crime must be proved to have occurred before a person can be convicted of committing that crime. The

Defendant is presumed innocent, Defendant was supposed to be presumed innocent until proven guilty beyond a reasonable doubt. All material elements must be met, that is a requirement of case law and constitutional law. All elements of the prosecution have not been met, element of being medically and psychologically cleared has not been met. Elements of obscenity and intent have not been met because the Defendant had not been proven medically and psychologically cleared and will never be proven in this lifetime. The prosecution screwed up big time. Changes need to be made in how prosecutions are done in the City of Martinsville, we need prosecutorial reform. The prosecutors can break any law they want, that needs to change. There needs to be real investigations into all of this.

It is a fundamental miscarriage of justice and is a fraud to convict Defendant any longer in this Circuit Court. The General District Court had no basis to convict the Defendant because all material elements of the offense had not been proven by the Commonwealth Attorney. Any good lawyer worth their salt could have gotten the entire case thrown out and Defendant never would have been convicted of indecent exposure, had he had a lawyer who was like a legal bulldog who will fight tooth and nail to argue every error and issue in the entire case. Martinsville Police had the belief Defendant was medically cleared and mentally/psychologically cleared, had the false belief that Defendant was obscene and intentionally committed an actus reus without any justification, excuse, or other defense. That is

not true. Beliefs under affidavit by Officer Robert Jones do not make them true. Officer Jones had a belief Defendant was medically cleared. A belief does not make it true. Officer Jones must tell the truth, having a belief in something without any proof or knowledge of it is not a fact. It is not a fact that Defendant was medically and psychologically cleared, that is not a fact because it is not true. It is not backed by the medical record of that day. Defendant never received any lab results, Defendant never had his diabetic blood sugar tested, and the officer never knew Defendant was a type 1 diabetic until after Attorney Renorda Pryor had asked him during a federal court hearing.

The U.S. Supreme Court has supported the emphasis that all state courts must not convict people who are factually innocent of a crime otherwise it is a clear and convincing miscarriage of justice and actual prejudice against an innocent person. See Schlup v. Delo, 513 U.S. at 327 — 28. Settles v. Brooks, Civil Action No. 07-812, 18 n.6 (W.D. Pa. Jun. 26, 2008).

See Constitution of Virginia; Article I. Bill of Rights; Section 8. Criminal prosecutions

CITATION: Section 8. Criminal prosecutions. That in criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, and to call for evidence in his favor, and he shall enjoy the right to a speedy and public trial, by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty. He shall not be deprived of life or liberty, except by the law of the land or the judgment of his

peers, nor be compelled in any criminal proceeding to give evidence against himself, nor be put twice in jeopardy for the same offense.

See Constitution of Virginia; Article I. Bill of Rights; Section 8. Criminal prosecutions

Section 11. Due process of law; obligation of contracts; taking or damaging of private property; prohibited discrimination; jury trial in civil cases.

"That no person shall be deprived of his life, liberty, or property without due process of law…"

Due process of law requires that this Court act on this motion, due process of law requires that the Commonwealth Attorney be ordered to respond to the claims, arguments, and evidence made in this motion. Due process requires that admissible evidence not be ignored by this Court.

If a judge ignores the evidence, it is a due process violation. See Hunter v. United States, 548 A.2d 806, (D.C. 1988) ("Because the trial court improperly ignored evidence bearing on appellant's competence to enter a guilty plea, we reverse and remand to the trial court for further proceedings.") Lafferty v. Cook, 949 F.2d 1546, 1555 n.10 (10th Cir. 1992) ("the inquiry on habeas is whether the state court denied the defendant his right to due process by ignoring evidence, including evidence at trial"). Raghav v. Wolf, 522 F. Supp. 3d 534, 538 (D. Ariz. 2021) ("Immigration Court violated his due process rights by ignoring evidence of his conditions in India and erroneously applying the law."). James v. Bradley, 19-

870-pr, 2 (2d Cir. Mar. 31, 2020) ("James brought this action alleging that Bradley violated his right to procedural due process by ignoring evidence at the hearing that purportedly showed that the tested urine was taken from someone other than James.").

In regard to Virginia Code "§ 8.01-428(B.) Clerical mistakes." There are plenty of clerical mistakes in the original charge filed on September 21, 2018. It is erroneous too if not considered fraudulent, and even if it was considered fraudulent in some way, shape, or form, then it is still clearly erroneous as a matter of facts to sustain a criminal conviction on fraudulent charge elements. Fraudulent material element of being psychologically and medically cleared on September 21, 2018. That is an error of fact which makes it an error of law. The Officer Robert Jones had said that the Defendant had not been obscene. Roberta Hill said so under penalty of perjury, Stella Forinash had said so under penalty of perjury, Kenneth Forinash had said so under penalty of perjury, and Defendant had said so under penalty of perjury. See Element 3. Robert Jones did not file a factual charge on its merits when the Defendant had not been obscene as admitted by Officer Robert Jones himself. Even if that admission was omitted from the federal court transcript, plenty of witnesses can attest to the claim of Robert Jones that Defendant had not been obscene which that statement had come from the very officer who had charged Defendant at the very beginning without really any thorough investigation.

It is an error of fact that Defendant was “intentionally make an obscene display of the accused's person or private parts in a public place or in a place where others were present.” See **EXHIBIT PAGE 2 OF 337**.

It is an error of fact that Defendant was “was medically and psychologically cleared.” See **EXHIBIT PAGE 4 OF 337**.

Because these errors of fact, the charge against Defendant Brian David Hill is not backed by probable cause necessary to convict the Defendant on his charge. The charge was based on fraudulent elements or erroneous elements or both.

CONCLUSION

1. It is clear that if this Court accepts the adverse inference proffered by the Defendant, then it is considered a fact that the destroyed police body-camera footage would have proven that the Defendant was intoxicated, was dehydrated, and/or had exhibited behaviors which may be an indication of being intoxicated during the questioning of Brian David Hill as to why he was naked. That evidence which was destroyed would have shown Defendant being intoxicated or was not in his right state of mind when Officer Robert Jones had spoken with the Defendant during the activation of his body-camera on his person, on his uniform. The body-cam footage would have shown footage not favorable to the Martinsville Police

Department in how they handled the situation of a person with medical issues including a neurological disability of autism spectrum disorder and Type 1 brittle diabetes. That is what the Defendant is proffering to this Court as a fact of an adverse inference. Defendant is entitled to an adverse inference when the Plaintiffs had not complied with three court orders for discovery evidence materials and had destroyed evidence subject to those three court orders.

2. It is clear that not all elements of guilt which was charged are met, referring to the elements of the charged crime presented by the Commonwealth Attorney Glen Andrew Hall representing City of Martinsville and Commonwealth of Virginia. Defendant was not medically and psychologically cleared as charged. In the body-camera footage it would have shown (under adverse inference) that the Defendant may have been intoxicated with carbon monoxide gas and that claim cannot be disproven due to destruction of evidence and deletion of evidence by the local hospital at no fault of Defendant. Defendant was not with a clean bill of health. The officer didn't even subpoena for medical records but asserted under oath or affirmation in CRIMINAL COMPLAINT page 3 (**EXHIBIT PAGE 4 OF 337**) that Defendant was medically and psychologically cleared. See Element 5 and Element 6. That was a big fat lie as Officer Jones lied under oath or affirmation or was based on an erroneous belief not based on any proven facts. Defendant was not cleared in the aspect of the charge element. Defendant was intoxicated as the lab

work would have shown that, if that piece of evidence not been deleted from the chart of his medical records dated September 21, 2018.

3. Because Defendant was not medically cleared and was not psychologically cleared, intent can never be established even under a trier of fact's broad discretionary powers which such discretion over intent cannot be successfully challenged on appeal alone. However, the evidence that Defendant had psychosis and made paranoid statements and statements of being drugged but lab work which was ordered were deleted by the hospital without a valid explanation or excuse after lab work was ordered on September 21, 2018, on the date of Defendant's arrest. They cannot disprove the carbon monoxide or any toxicity in body of Defendant at the time of arrest as they do not have the laboratory results. Defendant believes the lab tests would have found the levels of carbon monoxide induced intoxication or any kind of intoxication. Intent can never be proven and any reasonable juror would find that intent cannot be proven without first fully medically and psychologically clearing the Defendant with a clean bill of health which would include completed laboratory testing and laboratory results. Since there are no completed laboratory testing and laboratory results, AT THE FAULT OF THE HOSPITAL who gave Officer Robert Jones a false impression or belief that Defendant was medically and psychologically cleared when he in fact wasn't according to the evidence and the passage of Virginia Code § 19.2-271.6 in the year of 2021.

4. Defendant and three other witnesses had heard Officer Robert Jones admit that the Defendant was not being obscene on September 21, 2018. By saying Defendant had not been obscene, this negates the ARREST WARRANT's original claim that Defendant was charged with "intentionally make an obscene display of the accused's person or private parts in a public place or in a place where others were present." Evidence is cited in Element 3.

5. It is clear that with this much fraud by the prosecution colluding with the defense attorneys of the Defendant, to never enforce the Court Orders, the Defendant was never given any opportunity to have been able to review over the police body-camera footage with his lawyer, never was allowed by his lawyer to challenge the material elements of the charged crime, and evidence being destroyed while the attorneys sat there and let it happen. There needs to be relief of some kind, any kind of relief at all to deter this kind of misconduct situation by attorneys on both sides of a case. Attorneys are officers of the court. Scott Albrecht and Glen Andrew Hall never should have let the body-cam footage be destroyed. They never should have pushed a case without investigating whether the prosecutorial elements are factual or fraudulent.

6. It is clear that the Circuit Court has the justification and jurisdiction to annul, or vacate, or void, or nullify, or set aside the criminal conviction which is the very Judgment being challenged in **EXHIBIT PAGE 271 OF 337**, **EXHIBIT**

21, the judgment rendered on November 18, 2019, convicting the Defendant of the crime of "INDECENT EXPOSURE", of Virginia Code 18.2.387.

7. It is clear that the charge had fraudulent elements or faulty elements from the very beginning. It is clear that evidence had proven this. It is clear that the Plaintiffs had not complied with three court orders, the record had proved this, and the evidence further had proven this. The defense attorneys had colluded with the Plaintiffs or had refused to do their duty to enforce compliance with court orders not complied with by the Plaintiffs. There is clear collusion between defense lawyers and the prosecutor on both sides of this case or non-compliance issues by the Plaintiffs not ever held to account by the defense attorneys. There is the issue of spoliation of evidence. The Commonwealth Attorney cannot maintain a charge which he/she knows is not backed by probable cause, according to state Bar 3.8. There clearly exists fraud by the Plaintiffs, all six elements of the STATEMENT OF THE FACTS had proven this by both arguments and evidence citations. A lot of work and research went into this with the help of family. Defendant is here to get to the truth, and the truth is arguably speaking he can never be convicted of the original charge and should never be convicted of this original charge because of the way it was charged, the way it was prosecuted, and what was in the elements by the prosecution. It is majorly erroneous at best, fraudulent at worst.

EXHIBITS LIST

EXHIBITS #	EXHIBIT PAGES #	DESCRIPTION
EXHIBIT 1	1-4	PHOTOCOPY OF ARREST WARRANT AND CRIMINAL COMPLAINT IN GENERAL DISTRICT COURT - 09-21-2018
EXHIBIT 2	5-86	TRANSCRIPT OF THE SUPERVISED RELEASE REVOCATION HEARING BEFORE THE HONORABLE THOMAS D. SCHROEDER UNITED STATES DISTRICT JUDGE; CASE NO. 1:13CR435-1; September 12, 2019 3:37 p.m.; Winston-Salem, North Carolina
EXHIBIT 3	87-91	Billing Record from Sovah Health Martinsville; ADMITTED 09/21/18, DISCHARGED 09/21/18
EXHIBIT 4	92-93	NIH NATIONAL CANCER INSTITUTE, peripheral venous catheter
EXHIBIT 5	94-95	NIH NATIONAL CANCER INSTITUTE, delirium
EXHIBIT 6	96-169	(1) 3% Sodium Chloride Injection, USP; (2) Sodium Chloride _ NaCl – PubChem; (3) Sodium_chloride
EXHIBIT 7	170-181	STATUS REPORT OF PETITIONER SEPTEMBER 27, 2018, RE-MAILED ON OCTOBER 10, 2018
EXHIBIT 8	182-184	EXHIBIT IN FEDERAL COURT RECORD, containing Doctor letter from Dr. Shyam E. Balakrishnan, MD
EXHIBIT 9	185-187	EXHIBIT IN FEDERAL COURT RECORD, containing Doctor letter from Andrew Maier, PA-C

EXHIBIT 10	188-193	DISABLED PARKING PLACARDS OR LICENSE PLATES APPLICATION and a page of a medical record from Carilion Clinic
EXHIBIT 11	194-201	EXHIBIT IN FEDERAL COURT RECORD, containing Autism TEACCH papers
EXHIBIT 12	202-209	URGENT LETTER TO MARTINSVILLE POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST and Fax Transmission Tickets
EXHIBIT 13	210-215	Photographs and photo-scans (photocopies) of evidence Martinsville Police ignored evidence envelope, Police Chief G. E. Cassady had signed Return Receipt on August 7, 2019.
EXHIBIT 14	216-221	Printout of Virginia State Bar page, Rule 3.8 - Professional Guidelines and Rules of Conduct - Professional Guidelines
EXHIBIT 15	222-246	Excerpt of: "EXHIBIT 2 for EVIDENCE FOR MOTION FOR JUDGMENT OF ACQUITTAL BASED UPON NEW EVIDENCE WHICH COULD NOT BE ADMISSIBLE AT THE TIME OF CONVICTION; NEW EVIDENCE OF SPOLIATION OF EVIDENCE COMMITTED BY COMMONWEALTH OF VIRGINIA; REQUEST FOR SANCTIONS AGAINST COUNSEL GLEN ANDREW HALL, ESQUIRE (OFFICER OF THE COURT) FOR VIOLATING COURT ORDERS FOR NOT TURNING OVER BODY-CAMERA FOOTAGE AND

		IT IS LIKELY DESTROYED AND BIOLOGICAL EVIDENCE OF BLOOD VIALS OBTAINED ON DAY OF CHARGE"
EXHIBIT 16	247-249	Department of Medical Assistance Services Virginia Medicaid Claims History For Member ID: 690024628015, Member Name: Brian Hill Claims For 11/19/2017 And 9/21/2018
EXHIBIT 17	250-252	Email record: Re: Brian D. Hill asked me to send this email to you about his appealed case
EXHIBIT 18	253-260	Scan of complete medical records of patient Brian David Hill on Friday, September 21, 2018, from Sovah Health Martinsville, scan in both color
EXHIBIT 19	261-263	Email record: Brian D. Hill asked me to send this email to you about his appealed case
EXHIBIT 20	264-269	Email record: Fw: Brian D. Hill request
EXHIBIT 21	270-271	ORDER IN MISDEMEANOR OR TRAFFIC INFRACTION PROCEEDING
EXHIBIT 22	272-280	Three Court Orders. One from General District Court (Case no. C18-3138), two from Circuit Court (Case no. CR19000009-00)
EXHIBIT 23	281-311	Scan of incomplete medical records of patient Brian David Hill on Sunday, November 19, 2017, from Sovah Health Martinsville, scans in both color, and black and white
EXHIBIT 24	312-315	Carilion Clinic medical records of COMPREHENSIVE METABOLIC

		PANEL(COMP) [368602038] (Abnormal)
EXHIBIT 25	316-337	DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF 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

337 pages total, EXHIBIT INDEX PAGES

EVIDENCE DECLARATION ATTACHMENTS LIST

ATTACHMENTS #	ATTACH. PAGES #	DESCRIPTION
ATTACHMENT 1	5-7	DECLARATION OF ROBERTA HILL IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE l0(e)"
ATTACHMENT 2	8-13	DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE lO(e)"
ATTACHMENT 3	14-19	DECLARATION OF STELLA FORINASH IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO

		CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE l0(e)"
ATTACHMENT 4	20-22	DECLARATION OF KENNETH FORINASH IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE l0(e)"

22 pages total, ATTACHMENT INDEX PAGES

REQUEST FOR COURT TO PROVIDE EQUITABLE RELIEF AND ANY OTHER RELIEF

Therefore, the Defendant prays that this Honorable Court order the following:

1. That the Circuit Court investigate, then declare or make a factual finding that the Plaintiffs had defrauded the Court (made such a Fraud Upon the Court) based on three fraudulent or erroneous elements (medically cleared, intent, obscenity) of the criminal charge on September 21, 2018 which means that the Circuit Court can make a determination whether one to three elements in the original criminal prosecution are to be considered meritless, frivolous, baseless, and without clear and convincing evidence to support that even in light most favorable to the Commonwealth, the evidence is insufficient to sustain a conviction;
2. That the Circuit Court consider ordering based upon Section 8.01-428(D) and Section 8.01-428(B) that the Judgment on November 18, 2019 be vacated, or

voided, or made void, or set aside or be adjudged as acquitted with case dismissal with prejudice;

3. That the Circuit Court consider the evidence submitted by Defendant in support of this motion to be sufficient for the relief requested in this motion, or order an evidentiary hearing to question Robert Jones over the matter of Defendant not being medically and psychologically cleared as previous assumed because of being neglected by being prematurely released from the hospital;
4. That the Circuit Court consider the evidence submitted by Defendant in support of this motion to be sufficient for the relief requested in this motion, or order an evidentiary hearing to question Robert Jones over the matter of Defendant not being obscene as charged by the officer in the ARRESR WARRANT;
5. That the Circuit Court consider vacatur, voiding, making void, setting aside, nullification of, or modification of the wrongful conviction dated November 18, 2019 (**EXHIBIT PAGE 2-4 OF 337**), and consider acquittal and dismissal of the entire criminal action case with prejudice;
6. That the Circuit Court waive and discharge any and all pending legal fees ever taxed, levied, or ordered against Defendant if the Circuit Court had determined that Defendant was fraudulently and/or erroneously prosecuted against and thus should not be held to pay any fees or fines or any protected SSI disability money since Defendant is innocent;

7. That the Circuit Court waive and discharge any and all pending legal fees ever owed by the Defendant pursuant to all legal matters and cases that had begun from the original charge and prosecution on September 21, 2018, if the Circuit Court had determined that Defendant is innocent because of the fraudulent elements by the Plaintiffs or erroneous elements by the Plaintiffs and thus should not be held to pay any fees or fines or any protected SSI disability money since Defendant is innocent;
8. That the Circuit Court consider providing any other relief or remedy that is just and proper, in the proper administration of justice and integrity for the Court.

Respectfully submitted with the Court, This the 26th day of January, 2023.

Brian D. Hill
Signed
Brian D. Hill

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

CERTIFICATE OF SERVICE, CERTIFICATE OF FILING

I hereby certify that a true and accurate copy of the foregoing Motion was faxed or emailed/transmitted by my Assistant Roberta Hill at rbhill67@comcast.net (due to Probation Conditions of not being allowed to use the Internet) to have delivered this (1) pleading, (2) along with pleading filename: Evidence_Declaration-1-26-2023.pdf, along with pleading filename: Evidence_Exhibits-1-26-2023.pdf on the 26th day of January 26, 2023, to the following parties:

1. Commonwealth of Virginia
2. City of Martinsville

Again, by having representative Roberta Hill filing this (1) pleading, (2) along with pleading filename: Evidence_Declaration-1-26-2023.pdf, along with pleading filename: Evidence_Exhibits-1-26-2023.pdf on his behalf with the Court, through email address rbhill67@comcast.net, transmit/faxed a copy of this pleading to the following attorneys who represent the above parties to the case:

Glen Andrew Hall, Esq. Commonwealth Attorney's Office for the City of Martinsville 55 West Church Street P.O. Box 1311 Martinsville, Virginia 24114/24112 Attorney for the Commonwealth Phone: (276) 403-5470 Fax: (276) 403-5478 Email: ahall@ci.martinsville.va.us	Hon. Ashby R. Pritchett, Clerk of the Court Circuit Court for the City of Martinsville Phone: 276-403-5106 Fax: 276-403-5232 55 West Church Street, Room 205 P.O. Box 1206 Martinsville, VA 24114 Email: apritchett@vacourts.gov

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. All exhibits or any exhibits with anything printed from any internet based service was printed and researched by Roberta Hill.

That should satisfy the Certificate of Service regarding letters/pleadings during the ongoing Covid-19 pandemic. 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 c / o 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
Defendant
Former news reporter of U.S.W.G.O. Alternative News
Ally of Q
310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505
JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com