

**VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF MARTINSVILLE**

**COMMONWEALTH OF VIRGINIA,  
CITY OF MARTINSVILLE,  
PLAINTIFF(s),**

**v.**

**BRIAN DAVID HILL,  
DEFENDANT.**

CASE NO: CR19000009-00

**MOTION TO RECONSIDER THE ORDER DENYING  
“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”**

**MOTION TO RECONSIDER THE ORDER DENYING “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 17th day of February, 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

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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 reconsideration of it’s Order on February 14th, 2023 denying Defendant’s filed “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”.

The very motion which was denied was filed on January 26, 2023. Motion was denied shortly after new evidence was filed with the Court as to a FOIA response from Kendall Davis who works for the City of Martinsville as its Public Information Officer. Kendall Davis filed a response with answers to Defendant’s questions sourced from Martinsville Chief of Police Rob Fincher. This evidence verifies by statements from a Chief law enforcement officer proving that the body-camera footage was unlawfully destroyed. The Court didn’t get a chance to hold any inquiry or evidentiary hearing to address the Police Chief admitting cover up of material evidence, proving evidence was destroyed in response to two court orders

for discovery materials, one court order from Hon. Giles Carter Greer. The Circuit court filed a second court order on July 15, 2019 for discovery evidence not knowing that the body-camera footage had already been secretly destroyed and deleted while Police Chief was G. E. Cassady. The new police chief is exposing information which proves what Defendant had suspected for years without any answers from Martinsville Police Department. Fraud on the Court had been proven.

The order was filed or issued I believe on 02/14/2023, which is February 14, 2023, “DENIED MOT SET ASIDE CONV”.

New evidence had recently been discovered and filed which may or may not had been reviewed by the Hon. Giles Carter Greer, the Judge of this Circuit Court. Either it had not been reviewed or the Judge had not had the time to review over the newly obtained evidence which further warrants relief herein. Rule 1:1 does not bar relief asked in the motion pursuant to Virginia Code § 8.01-428(D), Virginia Code § 8.01-428(A) and Virginia Code § 8.01-428(B), which was denied.

The new evidence proves **Element 2 of the Statement of the Facts** in Defendant’s filed “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”.

### **ACCOMPANYING EVIDENCE FILINGS:**

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

1. RECONSIDERATION-EXHIBITS-2-16-2023.pdf - EXHIBITS 1-7  
attached to: “Motion to Reconsider the Order denying “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  
RECONSIDERATION EXHIBIT (#) OF 48.

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

### **GROUND:**

1. The additional evidence EXHIBITS 1-7 further proves Fraud on the Court  
([Element 1](#));



2. Rule 1:1 doesn't bar relief under Virginia Code § 8.01-428(D), Virginia Code § 8.01-428(A) and Virginia Code § 8.01-428(B) ([Element 2](#));

3. Fraud on the Court has been proven in multiple aspects. Fraud and collusion ([Element 3](#));

4. Attorney Scott Albrecht who was the Assistant Public Defender who represented the Defendant may have been hired years later as the Assistant Commonwealth's Attorney and works for the Commonwealth's Attorney against the Defendant despite being in conflict of interest in representing the Defendant previously in the same criminal case, and then switching sides to the Commonwealth Attorney. The Court should have conducted an inquiry into this and issued appropriate orders in dealing with the conflict of interest as it was made known to the Court. Instead, the Court refused to conduct an inquiry or hold any hearings over this, refused to ask for a response from the Commonwealth's Attorney and allowed the conflict of interest to remain in place without asking any questions ([Element 4](#));

5. Refusing to hold Glen Andrew Hall the Commonwealth's Attorney accountable for fraud on the court and non-compliance with court orders for discovery, which is contempt of court, is in violation of the Fourteenth Amendment of the U.S. Constitution under both Due Process Clause and Equal Protection Clause ([Element 5](#));

6. Denying the Motion and not holding any attorney/lawyer accountable for non-compliance with court orders and conflicts of interests sets a very dangerous precedent never usually seen before in appellate case law where a party or attorney for a party doesn't have to comply with any court orders. Makes court orders useless and ineffective when they can be disobeyed. Sets the precedent in the future where Glen Andrew Hall the Commonwealth's Attorney can destroy any evidence they want to even after court orders asking for it. They can destroy any evidence and violate any court order without any consequence. This promotes anarchy and promotes becoming a law unto himself. Opens the door for possibly vigilante justice and makes the law no longer enforceable ([Element 6](#)).

END GROUNDS

## **ADDITIONAL STATEMENT OF THE FACTS**

This additional STATEMENT OF THE FACTS contains 6 additional elements, which should be taken into consideration when making a decision on reconsideration of the order denying Defendant's filed "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".

The additional Statement of the Facts is hereby presented to the Circuit Court for Martinsville based on the following new pieces of evidence which prove that the Honorable Court should reconsider its decision denying the Defendant's motion on its order dated February 14, 2023:

### **Element 1: The additional evidence EXHIBITS 1-7 further proves Fraud on the Court;**

The Defendant had already shown material evidence proving Fraud on the Court in the original motion, which was overlooked or wasn't taken into consideration. The Defendant had already shown a FOIA Request letter faxed and filed on January 20, 2023, but at the time the motion was filed on January 26th, there was no response or answer from the City of Martinsville and Martinsville

Police Department. Again, see the filing **EXHIBIT PAGES 202-209 OF 337** in **EXHIBIT 12** for **attached EXHIBITS 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” by Brian David Hill.**

However, the City of Martinsville and Martinsville Police Department together did send a valid response or answers on February 13, 2023 by email from Kendall Davis. See **RECONSIDERATION EXHIBIT PAGE 1-4 OF 48, EXHIBIT 1.**

The email attachment shows a letter from Kendall Davis with information directly from a new Police Chief named Rob Fincher. See **RECONSIDERATION EXHIBIT PAGE 5-8 OF 48, EXHIBIT 2.** This proves the body-camera footage which was material evidence within the scope of multiple court orders was destroyed on April 9, 2019, while Defendant was still in federal detainment. The evidence was destroyed and spoliated silently by deletion in their electronic body-camera footage storing system, deleted as if it were routine because it was not marked as evidence even after two court orders had already been filed and served on the Commonwealth’s Attorney asking for the body-camera footage. One of

those orders was entered by this Honorable Court, by Hon. Giles Carter Greer. So, the judge of this Honorable Court knows and understands as a judge that court orders were not complied with, his court order was not complied with. None of his court orders for discovery were ever complied with, and this Honorable Court didn't even know during Judge Greer's second court order on July 15, 2019, that the body-camera footage was already destroyed after Judge Greer's first court order for discovery. The General District Court asked for the body-camera footage and that order was not complied with. This is proven as willful contempt of court, willful non-compliance with court orders. Willful non-compliance with court orders of both General District Court and the Circuit Court by the Commonwealth's Attorney Glen Andrew Hall.

This Honorable Court was informed of the answer from the City of Martinsville proving **Element 2 in the Defendant's denied motion**, proving deliberate and willful destruction of evidence by not marking the body-camera footage as evidence even after multiple court orders asking for the body-camera footage. This is willful and deliberate. Deliberate and willful non-compliance from a lawyer nonetheless, a LAWYER, somebody who is supposed to be an officer of the court, and is all about the law. Multiple court orders were not complied with, so this is not a mistake here. See **RECONSIDERATION EXHIBIT PAGE 9-13 OF 48, EXHIBIT 3**. See the Court Orders on **EXHIBIT PAGE 272-280 OF 337**,

**EXHIBIT 22 of 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”.

Defendant had filed a “STATUS LETTER TO HONORABLE GILES  
CARTER GREER (JUDGE); CLERK OF MARTINSVILLE CIRCUIT COURT”,  
Date: Tuesday, February 14, 2023. Same day as the order. The Honorable Court  
didn’t have the time to consider the implications of what was brought up in that  
status letter regarding the new evidence and the admissions by Police Chief Ron  
Fincher as to the evidence deletion/destruction/spoliation suspected by the  
Defendant. See **RECONSIDERATION EXHIBIT PAGE 4-28 OF 48, EXHIBIT**  
**4**. There is more than enough clear and convincing evidence for Defendant’s burden  
of proof to establish enough proof of fraud on the court.

It is fraud on the court to destroy evidence, especially after the Court had  
asked for the discovery evidence.

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.”).

See *Vodusek v. Bayliner Marine Corp.*, 71 F.3d 148 (4th Cir. 1995), holding that an adverse inference instruction was appropriate because the plaintiff's expert willfully destroyed parts of a boat at issue in a products-liability action before the defendant and its experts were able to examine it. *Vodusek v. Bayliner Marine Corp.*, 71 F.3d 148, 156 (4th Cir. 1995) (“To draw an adverse inference from the absence, loss or destruction of evidence, it would have to appear that the evidence would have been relevant to an issue at trial and otherwise would naturally have been introduced into evidence. Even the mere failure, without more, to produce evidence that naturally would have elucidated a fact at issue permits an inference that “the party fears[to produce the evidence]; and this fear is some evidence that the circumstance or document or witness, if brought, would have exposed facts unfavorable to the party.” 2 Wigmore on Evidence, Section(s) 285 at 192 (Chadbourn rev. 1979).”). Body-camera footage would have shown as material evidence things which were not favorable to the Commonwealth’s Attorney and

would have led to a non-guilty verdict in General District Court or even a successful motion for case dismissal or acquittal.

Attorney Scott Albrecht on record had filed no push to compel compliance with the court orders, the very court orders he pushed for. For what he pushed for and for what he was supposed to do as part of the discovery rights of the Defendant, but failed to enforce those court orders not being complied with. Then evidence later surfaces this year showing collusion between Scott Albrecht and Glen Andrew Hall, Esquire. If Scott Albrecht was just some terrible lawyer who did a terrible job at defending his clients when he was the Assistant Public Defender, then why would Glen Andrew Hall hire Scott Albrecht as his Assistant Commonwealth's Attorney??? Why hire a lawyer who did a lousy job defending his own clients unless that was deliberate and would draw a reasonable inference that Scott Albrecht had always been helpful to the prosecution, helpful to Glen Andrew Hall this entire time. That is collusion and fraud. To give a deceptive appearance that Scott Albrecht was fighting for his client when in reality he was not. This is a rigged judicial system, and that violates both procedural due process of law and substantive due process of law, under the Fourteenth Amendment of the U.S. Constitution and Virginia Constitution's Article I. Bill of Rights; Section 11. See **RECONSIDERATION EXHIBIT PAGE 29-42 OF 48, EXHIBIT 5.**



There were a lot of things as far as even the General District Court that they were not made aware of because of Attorney Scott Albrecht who now works as the Assistant Commonwealth's Attorney being paid a salary from Glen Andrew Hall the Commonwealth Attorney. A lot of evidence and facts the Court was never aware of, and evidence they were never aware of. Both Courts were deceived and were in the dark. How is this not fraud on the court? See **RECONSIDERATION EXHIBIT PAGE 43-46 OF 48, EXHIBIT 6**. See the short summary and learn how fraudulent the entire prosecution was against an innocent person deceptively portrayed as guilty by the Commonwealth's Attorney.

The last piece of evidence shows a difference between how Defendant had been treated by this Court and how Glen Andrew Hall is being treated. Glen Andrew Hall is being allowed to illegally destroy evidence, cover up evidence, not comply with court orders he/she wishes, and doesn't have to comply with any law of the land. Yet after the General District Court found Defendant guilty, Defendant was released to or transferred to federal custody and was taken to the Western Virginia Regional Jail before the Clerk of the General District Court even noted an appeal to the Circuit Court. Appellant was then court ordered by the U.S. District Court to be mentally evaluated at a federal facility which was the Federal Correctional Institution 1 at Butner, North Carolina. That is a federal prison. So, Defendant couldn't even possibly appear before the hearing in the Circuit court

unless theoretically he broke out of prison, he couldn't even appear before the Circuit Court while he was federally incarcerated. They knew Defendant was incarcerated against his will yet the corrupt law-breaking Commonwealth Attorney Glen Andrew Hall pushed Judge Greer to order a capias for failure to appear on January 28, 2019 for a Defendant detained against his will on the day of the hearing while in federal custody; so, he couldn't possibly appear unless he had theoretically broken out of prison and hitched a ride to the Circuit Court for the hearing. The whole thing is cartoonish, it is insane, it is outlandish. See **RECONSIDERATION EXHIBIT PAGE 47-48 OF 48, EXHIBIT 7.**

It shown and I quote:

**CITATION OF RECONSIDERATION EXHIBIT PAGE 48 OF 48, EXHIBIT 7**

Jeanie Nunn

From: Nancy Sherman

Sent: Friday, February 01, 2019 10:35 AM

To: Jeanie Nunn; Andy Hall

Subject: RE: Brian David Hill

The Sheriffs Office confirmed the Feds picked Mr. Hill up out of our custody. Once the Feds are finished with Mr. Hill they will let us know and he will be brought back and placed in the custody of the Martinsville City Jail to await his Misd. Appeal.

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From: Jeanie Nunn <JNUNN@ci.martinsville.va.us>

Sent: Tuesday, January 29, 2019 2:43 PM

To: Andy Hall <ahall@ci.martinsville.va.us>; Nancy Sherman <nsherman@ci.martinsville.va.us>; Scott Albrecht (salbrecht@mar.idc.virginia.gov) <salbrecht@rnar.idc.virginia.gov>

Cc: Judge Greer <cgreer@ci.martinsville.va.us>

Subject: Brian David Hill

On January 28, at the request of the Commonwealth, the Judge directed me to issue a capias on Mr. Hill since he is in Federal Custody in Butner NC and the Commonwealth wanted it placed as a Detainer against him. In reviewing his file determining the reason to show for the capias, I knew it couldn't be failure to appear so I thought "REVOKE HIS BOND". However, Mr. Hill has never made bond, therefore, the indecent exposure charge should be listed in his file in

the federal system and he should have a detainer against him anyway. The commonwealth may be able to contact Butner or possibly get the police department to check and make sure it is showing on his file that he has to be returned to us after completion of his fed time for the pending offense here.

Or Judge, if you have a particular charge you want me to issue a capias under and place a new detainer, please advise. Also, do I just continue this until next misdemeanor appeal day for a status review?

Thanks,

Jeanie Nunn

Certified Master Chief Deputy Clerk

Martinsville Circuit Court

P O Box 1206

Martinsville, VA 24114

**EXHIBIT 7** proves one thing, Glen Andrew Hall of the Commonwealth's Attorney didn't care that Defendant was in Butner, North Carolina in federal custody, so how could he appear on January 28??? Mr. Hall was already ready to push a failure to appear charge knowing that the Defendant couldn't possibly appear because of Butner, North Carolina being a federal prison where Defendant had been detained at the time. Andrew Hall didn't care that the Defendant didn't

willfully fail to appear, he demanded a *capias* and Judge Greer agreed with Mr. Hall even though Defendant had a good reason for not appearing, and the Sheriff's office of Martinsville knew the Feds picked up the Defendant, so Andy Hall had pushed for a false charge of possibly "failure to appear" against the Defendant, a *capias* based on false pretenses. A charged crime has to be proven willful and without a valid excuse or good reason. Maybe Defendant is misunderstanding what the *capias* was about. However, the Defendant was in federal custody at the time of the hearing on January 28, 2019.

Yet the Commonwealth Attorney Glen Andrew Hall deliberately covered up evidence and didn't do their due diligence to preserve the body-camera footage after multiple court orders already. They didn't comply with two to three court orders. When multiple court orders are not being followed, that is a repeated behavior which has yet to be deterred, a repeated pattern of non-compliance. That is willful. Not a criminal defendant who was forcefully incarcerated by the Feds and taken to Butner, NC. He didn't appear because he was in federal prison and was taken away by the Feds. Now Andrew Hall aka Andy Hall made no excuse or good reason why he never complied with a single court order being highlighted by the Defendant as to the issues of fraud on the court.

Element 1 has been satisfied.

**Element 2: Rule 1:1 doesn't bar relief under Virginia Code § 8.01-428(D),  
Virginia Code § 8.01-428(A) and Virginia Code § 8.01-428(B);**

Defendant had already explained in his denied Motion that Rule 1:1 doesn't bar fraud on the court claims. This Court did have jurisdiction to act on this independent action motion.

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).

Fraud on the Court in different aspects had already been proven.

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 3](#), [Element 4](#), [Element 5](#), and [Element 6](#) evidence, arguments, and citations.

Element 2 has been satisfied.

**Element 3: Fraud on the Court has been proven in multiple aspects. Fraud and collusion;**

Defendant has the evidence, and that evidence is already in the records of the Circuit Court and General District Court records transferred to the Circuit Court. Defendant had done his due diligence to inform this Honorable Court once he received or obtained new evidence of fraud on the court. This evidence is new and could not have been obtained while Eric Monday was the City's Attorney, as this attorney worked hard against the Defendant. This evidence is new and could not have been obtained while G. E. Cassady was the City's Chief of Police, as this police chief worked hard against the Defendant, and ignored any evidence mailed to them. Rob Fincher becomes the new police chief and all of the sudden things start moving forward, and evidence is obtained which was impossible prior to this new police chief.

See example case: Wilson v. Commonwealth, CL-2021-0003146, 2 (Va. Cir. Ct. Apr. 20, 2021) (“**The following facts demonstrate an alarming chain of events**

that began with an unlawful traffic stop, continued with a fraudulent police report and misrepresentations to a magistrate and the Commonwealth's Attorney's office, and resulted in Wilson's conviction. An internal investigation and discovery disclosures revealed an extensive trail of fraud and deception.”)

The entire prosecution had become an extensive trail of fraud and deception. Defendant was never psychologically and medically cleared as previously assumed by the Officer Robert Jones. Didn't this Court read the transcript in federal court as to the arresting Officer Robert Jones who filed the CRIMINAL COMPLAINT since the General District Court has no transcription of its Trial???

See pages 22-26 (**Element 1 of the Statement of the Facts**) and pages 39-79 (**Statement of the Facts: Element 3, Element 4, Element 5, Element 6**) of the **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.**

It is deception and fraud, there shouldn't even be a judgment of conviction anymore. Keeping such a judgment is a fraud, it is a false criminal record, it is not even true. Only thing true was Defendant was naked, that is it. Not medically

cleared, no lab tests and no verification as to whether Defendant was intoxicated or not because it was deleted from the chart.

A criminal record means the law was violated by a suspect or criminal defendant, that every element of the charge had been proven. That is not true at all in the case of Brian David Hill prosecuted by Commonwealth Attorney Glen Andrew Hall.

The material element of intentionally making an obscene display was without merit. The material element of Defendant being “medically and psychologically cleared” was without merit. Simply being naked is not being obscene. Officer Jones admitted that the Defendant was not obscene. The Court didn’t even inquire on its own and never asked Officer Robert Jones under penalty of perjury as to his statement in the federal court, omitted from the Transcript. The Court could have asked Robert Jones if what he had said was true on September 12, 2019, admitting under oath that the Defendant had never been obscene. See filing:

Evidence\_Declaration-1-26-2023.pdf - EVIDENCE OF FEDERAL COURT  
DECLARATIONS UNDER PENALTY 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.

Then there are the statements in writing from current Police Chief Rob Fincher admitting the body-camera footage was destroyed after two court orders and multiple letters from the Defendant asking for the body-camera footage. The evidence was unlawfully destroyed, in violation of multiple court orders, willfully not complied with, and even after the Defendant had sent letters asking for the very evidence within the scope of those court orders. As stated in [Element 1](#).

Body-camera footage was illegally deleted, just like the medical record with lab test orders saying “deleted from the chart”. Another evidence cover up without any investigation or inquiry of this Court. See **EXHIBIT PAGE 260 OF 337** for **attached EXHIBITS 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” by Brian David Hill.**

Fraud and deception because Officer Robert Jones said in the CRIMINAL COMPLAINT under oath that Defendant was “medically and psychologically cleared” when he was arrested for indecent exposure. That was not true. Defendant

had proven it was not true. Defendant had proven he was not obscene as admitted by Officer Jones.

Defendant had proven fraud, he had proven the entire arrest was defective, “defective” being the word here. The arrest was defective and based on not solid evidence but false assumptions. Defendant was not medically cleared, he can never be proven to have been medically cleared at the time on September 21, 2018, because evidence was covered up. Evidence which would have proven intoxication. Evidence was proven to have been covered up by both Martinsville Police Department and Sovah Health Martinsville the local hospital. Evidence was destroyed and covered up all the way, any evidence favorable to the Defendant, that is fraud and deception. The criminal record of Brian David Hill is a deception at this point, it was fraudulent from the very foundation and should not stand in this case before this very Court. Defendant had proven that in his motion, this Court made the wrong decision denying that motion.

Element 3 has been satisfied.

**Element 4: Attorney Scott Albrecht who was the Assistant Public Defender who represented the Defendant may have been hired years later as the Assistant Commonwealth’s Attorney and works for the Commonwealth’s Attorney against the Defendant despite being in conflict of interest in representing the Defendant previously in the same criminal case, and then switching sides to the Commonwealth Attorney. The Court should have conducted an inquiry into this and issued appropriate orders in dealing with the conflict of interest as it was made known to the Court. Instead, the Court refused to conduct an**

**inquiry or hold any hearings over this, refused to ask for a response from the Commonwealth's Attorney and allowed the conflict of interest to remain in place without asking any questions;**

This Honorable Court had a duty to conduct an inquiry to determine if a conflict of interest did exist. It did not conduct any inquiry and neither any investigation into the findings from a printed webpage of the City of Martinsville Staff Directory saying that Scott Albrecht is an Assistant Commonwealth's Attorney. It is clear on the face of the entire criminal case since Judge Greer also knew that Scott Albrecht had represented the Defendant in both General District Court and in this case before the Circuit Court until Lauren McGarry had taken over representation after Scott Albrecht had left the Public Defender Office. It is clear that Scott Albrecht is assisting the Commonwealth Attorney Glen Andrew Hall, is being paid a salary by Glen Andrew Hall, and it was Glen Andrew Hall who was the attorney for the Commonwealth which is the opposing counsel of Brian David Hill. This is clearly unethical here. This is a conflict of interest for sure. Law firms in Virginia and all over America do not hire a client for representation in a potential case or pending case until they do what is known as a process called the internal "conflicts check" to determine if the client in a potential case or pending case would be a conflict of interest. It is a conflict of interest for Scott Albrecht to have free reign over assisting the Commonwealth's Attorney in

the case involving Brian David Hill the criminal defendant in the very same case Scott Albrecht had represented the Defendant on from the very beginning since the General District Court. It's all proven on the record since the very beginning ever since the Defendant was appointed the Public Defender as counsel, which Scott Albrecht became the representative of Defendant. IT IS A CONFLICT OF INTEREST. See Rules of Professional Conduct 1.3, 1.6 and 1.7; see also Holloway v. Arkansas, 435 U.S. 475 (1978); Dowell v. Commonwealth, 3 Va. App. 555 (1987).

This is unethical, unprofessional and unconstitutional for such a conflict of interest here. We are supposed to have impartiality and a separation of powers. A public defender is not supposed be working with the very same prosecutor in the very same case. It is weird, it is not supposed to happen. What is going on here? Why is this Court protecting such a conflict of interest and when a conflict of interest is violating State Bar rules without even an inquiry???

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 3](#), [Element 5](#), and [Element 6](#) evidence, arguments, and citations.

Element 4 has been satisfied.

**Element 5: Refusing to hold Glen Andrew Hall the Commonwealth's Attorney accountable for fraud on the court and non-compliance with court orders for discovery, which is contempt of court, is in violation of the Fourteenth Amendment of the U.S. Constitution under both Due Process Clause and Equal Protection Clause;**

It is this Court's duty to hold all parties to a case accountable when a court order is not being complied with, when a court order is being ignored by an attorney who is an officer of the court who represents a party to a case. When evidence surfaces of a court order being violated and/or not complied with then it is this Court's inherit authority and duty to sanction a party or sanction that party's attorney. When evidence surfaces of a court order being violated and/or not complied with then it is this Court's inherit authority and duty to punish a party or punish that party's attorney. The Commonwealth's Attorney is not immune from having to comply with Court Orders. All attorneys are expected to comply with court orders, and be sanctioned when they refuse to comply. Because Glen Andrew Hall can violate as many court orders as he wants, the law no longer matters anymore, anybody can break the law, it creates a breakdown in a society of law and order.

See *Wilson v. Commonwealth*, CL-2021-0003146, (Va. Cir. Ct. Apr. 20, 2021) (“When one cog fails, subsequent rules malfunction, causing a breakdown in the judicial machinery...”).

See *Olmstead v. United States*, 277 U.S. 438, 483 (1928) (“And if this Court should permit the Government, by means of its officers' crimes, to effect its purpose of punishing the defendants, there would seem to be present all the elements of a ratification. If so, the Government itself would become a lawbreaker.”). *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.”).

Virginia case law states that a Court has a right to punish a party including an attorney for willful non-compliance with a court order.

United Mine Workers v. Clinchfield Coal, 12 Va. App. 123, (Va. Ct. App. 1991) (“(1) Courts — Contempt of Court — Standard. — Compensatory civil contempt sanctions compensate the plaintiff for losses sustained because of the defendant's non-compliance or disobedience of a court's order; coercive civil contempt sanctions are imposed to coerce a defendant into complying with the orders of a court. (2) Courts — Contempt of Court — Standard. — When a case is settled by the parties, every proceeding dependent on it or a part of it is also necessarily settled, without prejudice, however, to the power and right of the court by proper proceedings to punish for contempt of court.”).

United Mine Workers v. Clinchfield Coal, 12 Va. App. 123, 133 (Va. Ct. App. 1991) (“In contempt cases, both civil and criminal relief have aspects that can be seen as either remedial or punitive or both: when a court imposes fines and punishments on a contemnor, it is not only vindicating its legal authority to enter the initial court order, but it is also seeking to give effect to the law's purpose of modifying the contemnor's behavior to conform to the terms required in the order.”).

As with the Commonwealth’s Attorney, they pushed for a capias charge against the Defendant for failure to appear while incarcerated in Butner federal

prison in North Carolina against his will, so the Commonwealth Attorney was willing to push any penalty or sanctions to enforce compliance. Yet the Commonwealth's Attorney is allowed to violate any court they wish, they can refuse to follow a Court Order, and being allowed to refuse to follow a Court Order makes it meaningless as filed. A Court Order is meaningless unless it is enforced by any applicable punishment or sanction.

The last piece of evidence as to **EXHIBIT 7** shows a difference between how Defendant had been treated by this Court and how Glen Andrew Hall is being treated. Glen Andrew Hall is being allowed to illegally destroy evidence, cover up evidence, not comply with court orders he/she wishes, and doesn't have to comply with any law of the land. Yet after the General District Court found Defendant guilty, Defendant was released to or transferred to federal custody and was taken to the Western Virginia Regional Jail before the Clerk of the General District Court even noted an appeal to the Circuit Court. Appellant was then court ordered by the U.S. District Court to be mentally evaluated at a federal facility which was the Federal Correctional Institution 1 at Butner, North Carolina. That is a federal prison. So, Defendant couldn't even possibly appear before the hearing in the Circuit court unless theoretically he broke out of prison, he couldn't even appear before the Circuit Court while he was federally incarcerated. They knew Defendant was incarcerated against his will yet the corrupt law-breaking Commonwealth



Attorney Glen Andrew Hall pushed Judge Greer to order a capias for failure to appear on January 28, 2019 for a Defendant detained against his will on the day of the hearing while in federal custody; so, he couldn't possibly appear unless he had theoretically broken out of prison and hitched a ride to the Circuit Court for the hearing. The whole thing is cartoonish, it is insane, it is outlandish. See

**RECONSIDERATION EXHIBIT PAGE 47-48 OF 48, EXHIBIT 7.**

It shown and I quote:

CITATION OF **RECONSIDERATION EXHIBIT PAGE 48 OF 48, EXHIBIT 7**

Jeanie Nunn

From: Nancy Sherman

Sent: Friday, February 01, 2019 10:35 AM

To: Jeanie Nunn; Andy Hall

Subject: RE: Brian David Hill

The Sheriffs Office confirmed the Feds picked Mr. Hill up out of our custody. Once the Feds are finished with Mr. Hill they will let us know and he will be brought back and placed in the custody of the Martinsville City Jail to await his Misd. Appeal.

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From: Jeanie Nunn <JNUNN@ci.martinsville.va.us>

Sent: Tuesday, January 29, 2019 2:43 PM

To: Andy Hall <ahall@ci.martinsville.va.us>; Nancy Sherman <nsherman@ci.martinsville.va.us>; Scott Albrecht (salbrecht@mar.idc.virginia.gov) <salbrecht@rnar.idc.virginia.gov>

Cc: Judge Greer <cgreer@ci.martinsville.va.us>

Subject: Brian David Hill

On January 28, at the request of the Commonwealth, the Judge directed me to issue a capias on Mr. Hill since he is in Federal Custody

in Butner NC and the Commonwealth wanted it placed as a Detainer against him. In reviewing his file determining the reason to show for the capias, I knew it couldn't be failure to appear so I thought "REVOKE HIS BOND". However, Mr. Hill has never made bond, therefore, the indecent exposure charge should be listed in his file in

the federal system and he should have a detainer against him anyway. The commonwealth may be able to contact Butner or possibly get the police department to check and make sure it is showing on his file that he has to be returned to us after completion of his fed time for the pending offense here.

Or Judge, if you have a particular charge you want me to issue a capias under and place a new detainer, please advise. Also, do I just continue this until next misdemeanor appeal day for a status review?

Thanks,

Jeanie Nunn

Certified Master Chief Deputy Clerk

Martinsville Circuit Court

P O Box 1206

Martinsville, VA 24114

**EXHIBIT 7** proves one thing, Glen Andrew Hall of the Commonwealth's Attorney didn't care that Defendant was in Butner, North Carolina in federal custody, so how could he appear on January 28??? Mr. Hall was already ready to push a failure to appear charge knowing that the Defendant couldn't possibly appear because of Butner, North Carolina being a federal prison where Defendant had been detained at the time. Andrew Hall didn't care that the Defendant didn't willfully fail to appear, he demanded a capias and Judge Greer agreed with Mr. Hall even though Defendant had a good reason for not appearing, and the Sheriff's office of Martinsville knew the Feds picked up the Defendant, so Andy Hall had

pushed for a false charge of possibly “failure to appear” against the Defendant, a capias based on false pretenses. A charged crime has to be proven willful and without a valid excuse or good reason. Maybe Defendant is misunderstanding what the capias was about. However, the Defendant was in federal custody at the time of the hearing on January 28, 2019.

Yet the Commonwealth Attorney deliberately covered up evidence and didn't do their due diligence to preserve the body-camera footage after multiple court orders already. They didn't comply with three court orders and didn't have to make any excuses either, they just simply got away with it. When multiple court orders are not being followed, that is a repeated behavior, a repeated pattern of non-compliance. That is willful. Not a criminal defendant who was forcefully incarcerated by the Feds and taken to Butner, NC. He didn't appear because he was in federal prison and was taken away by the Feds. Now Andrew Hall aka Andy Hall made no excuse or good reason why he never complied with a single court order being highlighted by the Defendant as to the issues of fraud on the court.

It violates the equal protection of the law, doesn't follow equal application of the law. See the Fourteenth Amendment of the U.S. Constitution.

CITATION OF AMENDMENT XIV, U.S. Constitution:

Section 1 Rights: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the

privileges or immunities of citizens of the United States; **nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**

Defendant had been deprived of equal protection of the laws by having any court orders enforced upon him but not against the Commonwealth's Attorney Glen Andrew Hall. If this Court refuses to hold a contemnor accountable such as Glen Andrew Hall, then this violates the Fourteenth Amendment of the U.S. Constitution's requirement of equal protection of the laws. The law applies to both sides of a case, the rules apply to all sides within a case, and the court orders are supposed to be complied with by all sides of a case. That is the law. Is Glen Andrew Hall allowed to ignore court orders and violate them as much as he wishes???

Judge Greer of this Honorable Court must understand that this sets a very dangerous precedent which will be further explained in **Element 6**.

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 3](#), [Element 4](#), and [Element 6](#) evidence, arguments, and citations.

Element 5 has been satisfied.

**Element 6: Denying the Motion and not holding any attorney/lawyer accountable for non-compliance with court orders and conflicts of interests sets a very dangerous precedent never usually seen before in appellate case law where a party or attorney for a party doesn't have to comply with any court orders. Makes court orders useless and ineffective when they can be disobeyed. Sets the precedent in the future where Glen Andrew Hall the Commonwealth's Attorney can destroy any evidence they want to even after court orders asking for it. They can destroy any evidence and violate any court order without any consequence. This promotes anarchy and promotes becoming a law unto himself. Opens the door for possibly vigilante justice and makes the law no longer enforceable.**

Denying the Motion filed on January 26, 2023, and refusing to hold Glen Andrew Hall accountable at all for disobeying court orders. I am referring to Glen Andrew Hall ignoring court orders after being served with those court orders, and destroying evidence in response to court orders. If Glen Andrew Hall is never held accountable in any way, shape, or form by this Court, then this creates the issue that this Court is not impartial, is biased, and appears to be colluding with Glen Andrew Hall the contemnor, and the contempt is allowed because it is Glen Andrew Hall willfully disobeying multiple court orders. It sets a very dangerous precedent never before supposed to be seen in a court of law, never supposed to be heard before in a court of law. At least it shouldn't be according to case law.

Calamos v. Commonwealth, 184 Va. 397, (Va. 1945) (“1. CONTEMPT — Disobedience of Decree — Persons Not Parties — Ignorance of Decree. — In order to punish a person for contempt of court for violation of an order, judgment, or

decree, it must appear that such order, judgment, or decree has been personally served on the one charged, or that he has had actual notice of the making of such order or rendition of such judgment or decree. 2. CONTEMPT — Disobedience of Decree — Persons Not Parties — Ignorance of Decree — Decree of Injunction Operating in Rem. — Where a decree of injunction operates in rem against an illegal use of specific real property, there is an exception to the rule that, in order to punish a person for contempt of court for violation of an order, judgment, or decree, it must appear that such order, judgment, or decree has been personally served on the one charged, or that he has had actual notice of the making of such order or rendition of such judgment or decree.”) Glen Andrew Hall is an officer of the Court and he was served with every order of the Court unless the Court notes that service was not made on the Commonwealth’s Attorney Glen Andrew Hall.

Unger v. Commonwealth, Record No. 2196-14-2, 3-4 (Va. Ct. App. Dec. 22, 2015) (“The common law defines contempt and establishes the inherent power of courts to punish it. E.g., Parham v. Commonwealth, 60 Va. App. 450, 456-57, 729 S.E.2d 734, 736-37 (2012). Nevertheless, the General Assembly is authorized to regulate the courts' exercise of that power. Va. Const. art. IV, § 14. This legal framework is affected by constitutional due process doctrine that recognizes two forms of criminal contempt—direct and indirect. See, e.g., Scialdone v. Commonwealth, 279 Va. 422, 442-43, 689 S.E.2d 716, 727-28 (2010).”). Unger v.

Commonwealth, Record No. 2196-14-2, 4 (Va. Ct. App. Dec. 22, 2015)

("Constitutional principles further instruct that contempt is indirect, by contrast, "[i]f some essential elements of the offense are not personally observed by the judge, so that he must depend upon statements made by others." Id. at 443-44, 689 S.E.2d at 728 (quoting *Oliver*, 333 U.S. at 275). In the case of indirect contempt, the accused must be advised of the charges against her, be afforded the right to legal representation, and "have a chance to testify and call other witnesses in [her] behalf." Id. at 443, 689 S.E.2d at 728 (quoting *Oliver*, 333 U.S. at 275). Indirect contempt proceedings generally also include the right to cross-examine adverse witnesses, although this right derives from due process rather than from the Confrontation Clause. See *Gilman v. Commonwealth*, 275 Va. 222, 228, 657 S.E.2d 474, 476 (2008) (citing U.S. Const. amend. VI); *Parham*, 60 Va. App. at 458, 729 S.E.2d at 737."). *Estate of Hackler v. Hackler*, 44 Va. App. 51, 64 (Va. Ct. App. 2004) ("A court may find a party in contempt for "[d]isobedience or resistance . . . to any lawful process, judgment, decree or order of the court." Code § 18.2-456(5). The power to punish for contempt is inherent in, and as ancient as, courts themselves. It is essential to the proper administration of the law, to enable courts to enforce their orders, judgments and decrees, and to preserve the confidence and respect of the people without which the rights of the people cannot be maintained and enforced. *Carter v. Commonwealth*, 2 Va.App. 392, 395, 345 S.E.2d 5, 7

(1986) (citations omitted). See also Va. Const. art. IV, § 14; *Gompers v. Buck's Stove Range Co.*, 221 U.S. 418, 450, 31 S.Ct. 492, 501, 55 L.Ed. 797 (1911); *Nicholas v. Commonwealth*, 186 Va. 315, 321, 42 S.E.2d 306, 309 (1947); *Forbes v. State Council of Va.*, 107 Va. 853, 856, 60 S.E. 81, 82 (1908); *Yoder v. Commonwealth*, 107 Va. 823, 828-29, 57 S.E. 581, 585 (1907); *Carter v. Commonwealth*, 96 Va. 791, 807-08, 32 S.E. 780, 782 (1899); *Wells v. Commonwealth*, 62 Va. (21 Gratt.) 500, 503 (1871); *Wilson v. Commonwealth*, 23 Va.App. 318, 322, 477 S.E.2d 7, 8-9 (1996). Upon a finding of contempt, a trial judge has discretionary power to enforce decrees of the court. Code § 18.2-456.”)

It is a DUTY for his Court to enforce its own orders and decrees once the Court and the Commonwealth Attorney who represents the Plaintiffs is given proof of the Commonwealth’s own contempt of court including non-compliance of the court orders including any evidence proving non-compliance.

Defendant had proven this. Scott Albrecht colluded with Glen Andrew Hall because he loses criminal defendants’ cases and then he is rewarded by being hired as an Assistant Commonwealth’s Attorney. See [Element 4](#). If he is not a good trial attorney when faced with Glen Andrew Hall as opposing counsel at trial, then why was he hired as an Assistant Commonwealth’s Attorney??? It appears to me that there was collusion. Collusion would mean the issues where the court orders will



never be compelled to be enforced by Scott Albrecht. The only person who can push for this is the Defendant himself on a pro se basis.

Defendant has no legal counsel at this time to prevent him from seeking justice against Glen Andrew Hall the contemnor; Defendant is not getting blocked by his own supposed defense attorney from asking this Court to enforce its own orders as required by law and the U.S. Constitution's equal protections of the law. His court appointed counsel cannot stop him from doing the right thing. His court appointed counsel at one time was Scott Albrecht who is now the Assistant Commonwealth's Attorney in conflict of interest. The Defendant's hands are no longer tied here.

If arguably this Court does not reconsider denying the Defendant's motion and does nothing about the contemnor Glen Andrew Hall, then this sets a new dangerous precedent in contradiction with authorities of the U.S. Supreme Court, Supreme Court of Virginia and Court of Appeals of Virginia, and binding case law precedent nationwide. This opens the door for law to be openly violated by not just Glen Andrew Hall, Esquire, but any attorney of the Commonwealth of Virginia can ignore court orders, and refuse to comply with court orders.

I remind the Honorable Judge Greer that: *Olmstead v. United States*, 277 U.S. 438, 485 (1928) (“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.”). This Court needs to enforce its court orders when evidence proves non-compliance with multiple court orders, or it is inviting anarchy and vigilantism. It invites every man to become a law unto himself. The law no longer holds water in a cup if the cup is broken and is not fixed. The judicial machinery is broken down.

This also allows egregious violations of law and court orders. Glen Andrew Hall knows that Defendant is on federal supervised release by the U.S. probation office. That means the destruction of evidence doesn't just violate the court orders, it also violates federal law. It is obstruction of justice under U.S. federal law. See 18 U.S.C. § 1519 (“Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.”). The United States Probation Office is a law enforcement agency of the United States District Court. Glen Andrew Hall had also obstructed justice under 18 U.S.C. § 1519. Defendant wants all cards on the table now. Time for the mind games in the legal system to end. Defendant had proven fraud on the court, non-compliance with court orders, unlawful deletion of evidence, and had

proven collusion between Scott Albrecht and Glen Andrew Hall by Scott Albrecht joining the prosecuting attorney team after losing Brian's case in General District Court, and after evidence was permanently deleted.

Defendant will appeal every wrongful decision by this Honorable Court to ensure that every order is done the right way. This is a Court of Law, not a Court of Man.

Arguably, Glen Andrew Hall is being allowed to openly and freely destroy any tangible object and any evidence he solely wishes. Arguably, he can destroy a police report. Arguably, he can shred reports from police or anybody, and he can shred court orders. He can do whatever he wants if this Court takes no action on the court orders which had been not complied with.

The consequences which will be set if this Honorable Court does not reconsider its decision denying the Defendant's motion:

1. Glen Andrew Hall the Commonwealth Attorney will be allowed to deceive the judges, deceive the defendant and deceive the defendant's attorney throughout the entire criminal prosecution of a case;
2. Glen Andrew Hall the Commonwealth Attorney will be allowed to destroy evidence at any time even after the Court orders for discovery evidence to be turned over to the defendant's counsel as to any tangible evidence within that court order's scope;

3. Glen Andrew Hall the Commonwealth Attorney will be allowed to destroy evidence favorable to the Defendant then deceive the judges and jury to convict the Defendant or compel the Defendant to file a motion to withdraw appeal while deceiving the Defendant and the Court;
4. Glen Andrew Hall the Commonwealth Attorney will be allowed to not comply with any Court Order they wish, and no law will ever be enforceable on him/her. No Court Order has to be followed as long as it is an attorney of the Commonwealth. No law or court order means anything when it doesn't have to be followed. Anything the judge says in a court order will not work out because it doesn't have to be followed. It wastes a Court's time to even enter a court order since Glen Andrew Hall or any Commonwealth Attorney can choose to ignore the court order at his/her whim.

This sets very dangerous precedent and represents a lawless and broken judicial machinery. A lawless judicial machinery is Unconstitutional and violates every authority and case law as far as the Supreme Court of Virginia and U.S. Supreme Court. It becomes a lawless Court, not a court of law but a Court where you can choose not to follow a court order if you wish. The Fourteenth Amendment of the U.S. Constitution requires either that the law applies to everybody or applies

to nobody. Either Glen Andrew Hall has to comply with every court order or the Court should rule that the Defendant should not be required to follow court orders as well, just like the Commonwealth Attorney or it is not a fair process, it is not due process of law. If I follow the example of Glen Andrew Hall, I would be charged with contempt of court, but why??? He doesn't have to follow Court Orders, right??? The argument is simple, the law applies to everybody or it applies to nobody.

We are not under the British Crown; we are not a society of two classes such as the class of nobles and the class of non-nobles. Attorneys are not nobles, where the law doesn't apply to them but only non-nobility. That's partially what led to the American Revolution of 1776, "Give me Liberty or Give me Death" speech by Governor Patrick Henry at the Saint John's Church in Richmond, Virginia. What partially led to the American revolution was nobles being allowed to break laws and didn't have to comply with the very same laws as that of the citizens, the Crown allowed a two-tiered justice system. Taxation without representation is theft. The Circuit Court is not supposed to be a two-tiered justice system, under the Fourteenth Amendment. Court Orders have to be complied with by all parties to a case, that is the law, and that is the U.S. Constitution. See *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.”).

Judge Greer, please understand that the law should apply to everybody.

For theoretical arguments sake, Will you let Glen Andrew Hall smoke illegal drugs in front of the Courthouse steps if he theoretically did so??? (Disclaimer: he is not but making an argument here).

For theoretical arguments sake, Will you let Glen Andrew Hall illegally gamble in the Municipal Building if he theoretically did so??? (Disclaimer: he is not but making an argument here).

For theoretical arguments sake, Will you let Glen Andrew Hall start an office fire to destroy records and evidence if he theoretically did so??? (Disclaimer: he is not but making an argument here).

I can ask this Court all day along an example of theoretical crimes Glen Andrew Hall could be allowed to commit and he can act as though court orders are funny paper or monopoly money. It no longer becomes a court of law if the law doesn't even have to be followed. It is a contradiction onto itself.

Judge Greer must reconsider This Honorable Court's decision denying the Defendant's motion and take some kind of action, any at all to protect the judicial machinery from breaking down. It is broken right now until it can be fixed.

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 3](#), [Element 4](#), and [Element 5](#) evidence, arguments, and citations.

Element 6 has been satisfied.

### **LEGAL ARGUMENTS**

It is clear as matter of law that all six Elements in the ADDITIONAL STATEMENT OF THE FACTS warrant reconsideration of the Motion being denied because of the issue that there does exist a severe case of fraud upon the Court and deception, by the Plaintiffs and with the collusion of or of inaction by any of the defense attorneys including Scott Albrecht who is now the Assistant Commonwealth's Attorney, allowing the frauds and non-compliance issues and evidence destruction to have taken place. Relief is clearly warranted here and so this Honorable Court should vacate its decision denying the Defendant's Motion or reconsider its decision denying the Defendant's Motion. That is because the

requested relief is well founded as both a matter of fact and as a matter of law 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).

This Court has a duty to conduct an inquiry as to the issues of Attorney Scott Albrecht being an Assistant to Glen Andrew Hall, which is a conflict of interest in this criminal case. Albrecht should recuse himself from any participation in the foregoing criminal case. Even if Albrecht doesn't have the case files of who he formerly had as a client, he had the knowledge of what he had discussed with his client. It is a conflict of interest for a reason. We have conflict checks for a reason. It is an unusual situation for the Public Defender in a criminal case representing a client to then he hired as the prosecutor over that very same case. Ethics requires inquiry from this Honorable Court.

Also, the destruction of evidence of the body-camera footage was not accidental but was deliberate and here is why.

In the answers to Defendant's FOIA request, Police Chief Rob Fincher admitted that it was policy that there is a retention period for evidence before it was destroyed unless litigation had begun either a civil case or criminal case involving the incident which involved the usage of the evidence which would be the body-camera footage. Police Chief Rob Fincher admitted the evidence exists in regard to the Defendant's arrest, and admitted that it was not marked as evidence therefore



was deleted as routine body-camera footage by the server which held the body-camera and car-camera footage. See **RECONSIDERATION EXHIBIT PAGE 1-4 OF 48, EXHIBIT 1**. The first safety valve to prevent spoliation of that evidence was Officer Robert Jones the charging officer or Martinsville Police Department itself. That safety valve had failed. The second safety valve to prevent spoliation of that evidence was Commonwealth's Attorney Glen Andrew Hall who had prosecuted the criminal charge. That safety valve had failed. The third safety valve to prevent spoliation of that evidence was Attorney Scott Albrecht who could have easily informed the Court that its court order was not being complied with. Albrecht could have asked to compel enforcement of its discovery order. Attorney Scott Albrecht could have filed a litigation hold letter asking for preservation of evidence or even could have filed a subpoena or ask the Court to issue a subpoena (subpoena duces tecum). That safety valve had failed. The fourth and last safety valve was the pro se letters between Brian D. Hill and former Police Chief G. E. Cassady to try to obtain a copy of; or preserve evidence. That safety valve had failed since the former Police Chief had ignored all of the Defendant's letters. All safety valves to prevent spoliation of material evidence had failed. This is clearly no error or mistake. This was deliberate.

That evidence was material because it was body-camera footage recorded around the time of Defendant's arrest and prior to his arrest. Multiple courts had ordered this footage because it was within the scope of those court orders.

This exculpatory evidence would have proven Defendant was intoxicated since the hospital record had already proven tachycardia two different times before the Defendant was erroneously released from the hospital. The Commonwealth Attorney can never disprove Defendant's claim of intoxication since the hospital deleted the ordered lab tests from Defendant's medical chart after drawing blood. So, drawing such reasonable inference is not out of the question.

Also, then there was the issue that Attorney Scott Albrecht who was the Defendant's counsel had remained as counsel until months after the destruction of the body-camera footage. Then years later he joins the Commonwealth Attorney to work for the very same prosecutor Glen Andrew Hall who he was supposed to defend his client against in a court of law. His court appointed counsel was solely responsible for not fighting to preserve the body-camera footage already within the scope of two court orders. If the Defendant had filed anything pro se it is usually ignored by the Circuit Court because the Court would ignore every pro se filing except only what his attorney files. The Defendant has the right to fight the fraud on the court even though the Court could argue that only his attorney could fight such fraud, but that makes no sense when the attorney colluded with the

Commonwealth's Attorney Glen Andrew Hall to destroy body-camera footage. The end result is Scott Albrecht is hired by Glen Andrew Hall as Assistant Commonwealth's Attorney. He got rewarded for all of the clients he screwed over and had them lose their trials. This is really bad fraud, severe fraud, that under the circumstances it is extrinsic fraud because of the circumstances. If Defendant filed any claim at all or any evidence, it would be ignored unless the Court accepted him proceeding pro se. Defendant was deceived because he didn't know about the court orders until after he was convicted. It all gives reasonable inferences to the fact that he had faced a rigged trial and was going to face a rigged jury trial. Evidence was destroyed, the destroyed evidence which would have had him acquitted. The ordered lab tests would have shown intoxication at the time Defendant was naked outdoors. The body-camera footage would have shown indication of intoxication. Evidence which would have caused the Defendant to have been found not guilty was all deleted and destroyed. That is fraud, that is deception, that is a rigged judicial process. A Court Trial is rigged when only one side presents evidence against you but destroys evidence which may create a different verdict when there were only two verdicts, guilty and not guilty, a conviction or acquittal.

Without an inquiry from this Court there are conflicts of interest issues not being resolved here. Without an inquiry from this Court due process of law had been permanently deprived here for the Defendant in this criminal case.

Also, no court of law can ignore evidence if it is admissible under the Rules of Evidence, as ignoring admissible evidence is a deprivation of due process of law.

Broam v. Bogan, 320 F.3d 1023, 1032 (9th Cir. 2003) (“An officer is not entitled to a qualified immunity defense, however, where exculpatory evidence is ignored that would negate a finding of probable cause. Kuehl v. Burtis, 173 F.3d 646, 651 (8th Cir. 1999).”). Bell v. U.S., 521 F. Supp. 2d 462, 464 (D. Md. 2007) (“An order is void under Rule 60(b)(4) "only if the court rendering the decision lacks personal or subject matter jurisdiction or acted in a manner inconsistent with due process of law." Wendt, 431 F.3d at 412; see also Eberhardt v. Integrated Design Constr., Inc., 167 F.3d 861, 871 (4th Cir. 1999). Courts narrowly construe the concept of a "void" order because it threatens the finality of judgments. Wendt, 431 F.3d at 413. "Only in the rare instance of a clear usurpation of power will a judgment be rendered void." In re Bulldog Trucking, Inc., 147 F.3d 347, 352 (4th Cir. 1998) ( quoting Lubben v. Selective Serv. Sys. Local Bd. No. 27, 453 F.2d 645, 649 (1st Cir. 1972)).”)

### EXHIBITS LIST

EXHIBITS #	EXHIBIT PAGES #	DESCRIPTION
EXHIBIT 1	1-4	Printout of email to Roberta Hill at <a href="mailto:rbhill67@comcast.net">rbhill67@comcast.net</a> , From: Kendall Davis <a href="mailto:kdavis@ci.martinsville.va.us">kdavis@ci.martinsville.va.us</a> ; Date: 2/13/2023, 3:01 PM; Subject:

		Re: Status of FOIA Request of Brian David Hill?
EXHIBIT 2	5-8	Digital Copy of Letter from Kendall Davis, Public Information Officer, City of Martinsville, Dated: February 10, 2023
EXHIBIT 3	9-13	Printout of email to Roberta Hill at <a href="mailto:rbhill67@comcast.net">rbhill67@comcast.net</a> , From: ROBERTA HILL <a href="mailto:rbhill67@comcast.net">rbhill67@comcast.net</a> ; Date: 2/13/2023, 3:37 PM; Subject: Fwd: Status of FOIA Request of Brian David Hill?; To: "Hon. Jean P. Nunn, Clerk of the Court" < <a href="mailto:jnunn@ci.martinsville.va.us">jnunn@ci.martinsville.va.us</a> > CC: Martinsville City Commonwealth's Attorney < <a href="mailto:ahall@ci.martinsville.va.us">ahall@ci.martinsville.va.us</a> >, "stanleybolten@justiceforuswgo.nl" < <a href="mailto:StanleyBolten@justiceforuswgo.nl">StanleyBolten@justiceforuswgo.nl</a> >, "kenstella2005@comcast.net" < <a href="mailto:kenstella2005@comcast.net">kenstella2005@comcast.net</a> >, Ken & Stella Forinash < <a href="mailto:kenstella@comcast.net">kenstella@comcast.net</a> >, "Hon. Giles Carter Greer (Judge)" < <a href="mailto:cgreer@ci.martinsville.va.us">cgreer@ci.martinsville.va.us</a> >
EXHIBIT 4	14-28	STATUS LETTER TO HONORABLE GILES CARTER GREER (JUDGE); CLERK OF MARTINSVILLE CIRCUIT COURT, Date: Tuesday, February 14, 2023
EXHIBIT 5	29-42	DECLARATION OF BRIAN DAVID HILL OF NEW EVIDENCE CONCERNING PUBLIC DEFENDER ASSISTANT SCOTT ALBRECHT 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; “Respectfully filed/submitted with the Court, This the 13th day of February, 2023.”
EXHIBIT 6	43-46	SHORT SUMMARY OF WHAT WAS PROVEN AS TO FRAUD ON THE COURT Prepared by Stella Forinash, edited and modified by Brian David Hill Case no. CR19000009-00, For Martinsville Circuit Court; Date: February 14, 2023
EXHIBIT 7	47-48	Printout of Email record originally held by Attorney Scott Albrecht, Email involving Jeanie Nunn, Nancy Sherman, Scott Albrecht, Andy Hall, and Judge Greer. Printout from case files given to Defendant from Attorney Matthew Scott Thomas Clark.

**48 pages total, ATTACHMENT EVIDENCE EXHIBIT 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 vacate or set aside its February 14th 2023 Order denying the Defendant’s “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”;

2. That the Circuit Court reconsider its February 14th 2023 Order denying the Defendant’s “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”;
3. 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;
4. 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;

5. 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;
6. 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 ARREST WARRANT;
7. 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;
8. 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;



9. 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;
10. 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 17th day of February, 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](http://JusticeForUSWGO.NL) or [JusticeForUSWGO.wordpress.com](http://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](mailto: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: RECONSIDERATION-EXHIBITS-2-16-2023.pdf on the 17th day of February, 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: RECONSIDERATION-EXHIBITS-2-16-2023.pdf on his behalf with the Court, through email address [rbhill67@comcast.net](mailto: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: <a href="mailto:ahall@ci.martinsville.va.us">ahall@ci.martinsville.va.us</a>	Hon. Jeanie P. Nunn, 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: <a href="mailto:jnunn@ci.martinsville.va.us">jnunn@ci.martinsville.va.us</a>
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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](mailto: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.

  
Signed

Brian D. Hill

Brian D. Hill

Defendant

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

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

