

In The
Court of Appeals
Of Virginia

Brian David Hill,

Appellant,

v.

**Commonwealth of
Virginia, City of
Martinsville**

Appellee.

**ON APPEAL FROM THE CIRCUIT COURT
FOR THE CITY OF MARTINSVILLE**

**MOTION FOR LEAVE OF COURT TO FILE
ONE MORE APPELLANT OPENING BRIEF
AND/OR MODIFY JUNE 30, 2023 ORDER**



Brian David Hill – Ally of Q and Lin Wood
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(276) 790-3505
c/o: Rbhill67@comcast.net; Roberta Hill



SUMMARY

Brian David Hill, (“Appellant”) files this MOTION asking the Court of Appeals of Virginia in this case for leave of court and/or modify this Court's June 30, 2023 Order to permit 40 days to file one more Appellant’s opening brief and 10 days to file Appellant’s designation of the record for appeal cases no. 0313-23-3, 0314-23-3 and 0317-23-3; and permit the Appellees’ the same opportunity to file a response and any Appellees right to file a Designation of the record then allow the Appellant to file any reply to the Appellees opposition brief. Appellant had no opportunity to file an opening brief and designation in the recent three appeals under CAV cases no. 0313-23-3, 0314-23-3 and 0317-23-3. Appellant requests a briefing order for one brief and Appellant’s designation of the record for the three remaining appeals where no brief was filed and apply it under the usual appeal rules for briefs, designations, appendixes (Appellant is pro se) if necessary, responses and replies under the usual applicable court rules under the rules of the Supreme Court of Virginia.

Appellant was never given an opportunity to file any objections or counter suggestions to the Appellee’s motion for consolidation filed on May 19, 2023, and had been decided on June 30, 2023. Appellant had never had an opportunity to file a timely response and multiple Declarations/Affidavits (unsworn affidavit) are exhibited in attachments to this Motion. The facts will be explained as to what kind

of relief this motion is asking for, the very relief which is sought. This motion is being filed in good faith with supporting evidence.

This motion is being filed in good faith and is not any attempt to create delay. The motion gives good reasons why Appellant should be given the relief sought.

First the EXHIBITS listing (also describing the specific exhibits pdf file) and then the legal arguments as to why the Appellant's request for one more brief and one more designation of the record for three appeals where no brief was ever filed is warranted due to good reasons as will be described below the EXHIBIT LIST.

EXHIBITS (attached ALL-EXHIBITS-10-27-2023.pdf):

EXHIBIT 1. File: 1-Emergency Letter to Justin Hill, Attorney General.pdf. It is a true and correct copy of a Roberta Hill email to counsel of Appellees with two file attachments to that email which will be **EXHIBIT 2** and **EXHIBIT 3**. Email Subject: Emergency Letter to Justin Hill, Attorney General; Date: 6/20/2023, 2:12 AM. Index: EXHIBIT PAGES 1 THROUGH 2 OF 82.

EXHIBIT 2. File: 2-Emergency_Letter_Justin_Hill_6_19_2023.pdf. It is a true and correct copy of a file attachment to email of EXHIBIT 1. Entitled: "EMERGENCY REQUEST/LETTER TO JUSTIN HILL OF OFFICE OF THE ATTORNEY GENERAL; REQUESTING DELAY OF APPEALS OR WRITTEN PERMISSION FROM COMMONWEALTH OF VIRGINIA TO PARTICIPATE IN APPEALS - RE: Case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3, 0289-22-3, 0290-22-3". Index: EXHIBIT PAGES 3 THROUGH 14 OF 82.

EXHIBIT 3. File: 3-Declaration_Affidavit_Justin_Hill_6_20_2023.pdf. It is a true and correct copy of a file attachment to email of **EXHIBIT 1**. Entitled: “DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF EMERGENCY REQUEST/LETTER TO JUSTIN HILL OF OFFICE OF THE ATTORNEY GENERAL; REQUESTING DELAY OF APPEALS OR WRITTEN PERMISSION FROM COMMONWEALTH OF VIRGINIA TO PARTICIPATE IN APPEALS - RE: Case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3, 0289-22-3, 0290-22-3”. Index: EXHIBIT PAGES 15 THROUGH 32 OF 82.

EXHIBIT 4. 4-RE_Emergency Letter to Justin Hill, Attorney General.pdf. It is a true and correct copy of a Roberta Hill email to counsel of Appellees. Email Subject: RE: Emergency Letter to Justin Hill, Attorney General; Date: 6/20/2023, 5:51 PM. Index: EXHIBIT PAGES 33 THROUGH 37 OF 82.

EXHIBIT 5. 5-2nd Emergency Letter to Justin Hill, Attorney General.pdf. It is a true and correct copy of a Roberta Hill email to counsel of Appellees with one file attachment to that email which will be **EXHIBIT 6**. Email Subject: 2nd Emergency Letter to Justin Hill, Attorney General; Date: 6/28/2023, 4:18 AM. Index: EXHIBIT PAGES 38 THROUGH 39 OF 82.

EXHIBIT 6. File: 6-Emergency_Letter_Justin_Hill_6_28_2023.pdf.pdf. It is a true and correct copy of a file attachment to email of **EXHIBIT 5**. Entitled: “2ND EMERGENCY LETTER TO JUSTIN HILL OF OFFICE OF THE ATTORNEY GENERAL - RE: Case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-

3, 0317-23-3, 0289-22-3, 0290-22-3”. Index: EXHIBIT PAGES 40 THROUGH 48 OF 82.

EXHIBIT 7. File: 7-RE_ Emergency Letter to Justin Hill, Attorney General.pdf. It is a true and correct copy of an email from counsel of Appellees with three file attachments to that email which will be **EXHIBIT 8**, **EXHIBIT 9** and **EXHIBIT 10**. Email Subject: RE: Emergency Letter to Justin Hill, Attorney General; Date: 6/20/2023, 2:42 PM. Index: EXHIBIT PAGES 49 THROUGH 51 OF 82.

EXHIBIT 8. File: 8-Hill - Motion to Consolidate all 7.pdf. It is a true and correct copy of a file attachment to email of **EXHIBIT 7**. Entitled: “MOTION TO CONSOLIDATE”. Index: EXHIBIT PAGES 52 THROUGH 56 OF 82.

EXHIBIT 9. File: 9-061223 letter - delay motion for record 0313-23-3.pdf. It is a true and correct copy of a file attachment to email of **EXHIBIT 7**. Letter from Court of Appeals of Virginia dated June 12, 2023. Index: EXHIBIT PAGES 57 THROUGH 58 OF 82.

EXHIBIT 10. File: 10-061223 letter - delay motion for record 0313-23-3.pdf. It is a true and correct copy of a file attachment to email of **EXHIBIT 7**. Letter from Court of Appeals of Virginia dated June 12, 2023. Index: EXHIBIT PAGES 59 THROUGH 60 OF 82.

EXHIBIT 11. File: 11-Re_ 2nd Emergency Letter to Justin Hill, Attorney General.pdf. It is a true and correct copy of an email from counsel of Appellees.

Email Subject: Re: 2nd Emergency Letter to Justin Hill, Attorney General; Date: 6/28/2023, 9:34 AM. Index: EXHIBIT PAGES 61 THROUGH 63 OF 82.

EXHIBIT 12. File: 12-Declaration in support of Motion(4).pdf. It is a true and correct copy of another Declaration/Affidavit from Appellant Brian David Hill. Index: EXHIBIT PAGES 64 THROUGH 77 OF 82.

EXHIBIT 13. File: 13-690CR19000009-01#PO-44(OCR).pdf. It is a true and correct copy of a DISMISSAL ORDER for the contempt of court case against Appellant Brian David Hill in the Trial Court, for good cause shown. The original was not OCR processed text searchable but Appellant is submitting the OCR processed PDF file to be text searchable to make it easy for the court to search up and find the specific keywords of the file more easily. Was OCR processed by Adobe Acrobat Pro. Index: EXHIBIT PAGES 78 THROUGH 79 OF 82.

EXHIBIT 14. File: 14-Virginia Judiciary Online Case Information System-Dismissed(1)-10-24-2023.pdf. It is a true and correct copy of a printout of the Virginia's Online Case Information System (OCIS) 2.0. dated at 10/24/2023, 4:57 PM. Index: EXHIBIT PAGES 81 THROUGH 82 OF 82.

LEGAL ARGUMENTS AND STATEMENT OF FACTS

1. On Thursday, April 13, 2023, Appellant had agreed not to file anything in the "State Courts" aka Commonwealth Courts for six months. That agreement was made between Appellant and Attorney Fred Smith (Martinsville, VA, Email: fred@freddsmithjrpc.com) in some kind of agreement with the special prosecutor in

Appellant's contempt of court case in the Trial Court, case no. CR19000009-01. However, Appellant did not waive any of his rights to his appeals, and agreeing not to file anything in the "state courts" for six months does not explicitly withdraw any of Appellant's appeal rights in all of Appellant's appeal cases before the Court of Appeals of Virginia. See **EXHIBIT 3**, Index: EXHIBIT PAGES 15 THROUGH 32 OF 82. This court is free to seek confirmation of this fact by inquiring with Attorney Fred Smith or even with counsel for Appellees.

2. Counsel for Appellees had filed a motion to consolidate all appeals on May 19, 2023. See **EXHIBIT 8**, Index: EXHIBIT PAGES 52 THROUGH 56 OF 82. One month after Appellant had agreed not to file in the "state courts" for six months (April 13, 2023) (**EXHIBIT 3**, Index: EXHIBIT PAGES 27 THROUGH 28), Appellees had filed this motion to consolidate when Appellant could not file any responses until the six-month period had elapsed. That date would be Friday, October 13, 2023. Appellant still may not have been allowed to file or it would not be safe to do so until the contempt of court hearing date set for Monday, October 23, 2023. Appellant's court appointed attorney in his contempt case had stated that the Commonwealth of Virginia (special prosecutor) would dismiss the contempt case upon Appellant agreeing not to file anything in the state courts for six months. See **EXHIBIT 12**, Index: EXHIBIT PAGES 64 THROUGH 77. That agreement had been fulfilled and Appellant had complied with this agreement. This court may inquire these facts with Attorney Fred Smith at the email address of:

fred@freddsmithjrpc.com and at the phone number of: (276) 638-2555.

3. On or about Monday, October 23, 2023, the hearing had set the contempt of court case for dismissal. See **EXHIBIT 13**, Index: EXHIBIT PAGES 78 THROUGH 79. Appellant had to comply with the agreement with Attorney Fred Smith on not filing for six months in the state courts for his contempt case to be dismissed as the agreement was between Fred Smith and the Commonwealth of Virginia. Justin Hill the counsel for Appellees in the Appellate Court does not represent that “Commonwealth of Virginia” in the contempt of court criminal case in the Trial Court. Justin represents the Commonwealth of Virginia and City of Martinsville, the appellees, but the prosecution for the contempt of court case is also the Commonwealth of Virginia but with a special prosecutor from a different county. Hopefully Appellant had clarified about who is who and what is what.

4. The contempt of court case responsible for the six months of not being allowed to file in the state courts was caused directly by the notices of appeal which initiated the new appeal cases in appeal cases no. 0313-23-3, 0314-23-3, and 0317-23-3. The Notices of Appeal directly caused the contempt of court charge and proceedings which the Trial Court had appointed Attorney Fred Smith to represent Appellant in that case. Attorney Fred Smith was not appointed to his appeals but is representing Appellant over his contempt case. Although he can send any affidavits to this Court to clarify any of the facts proffered by Appellant in support of this motion. Attorney Fred had indicated to Appellant that he would speak with or be in

contact with Justin Hill, counsel for Appellees, regarding the six-month non-filing period.

5. Counsel for Appellees was notified by Appellant regarding the issue of not being allowed to file pro se in the state courts for six months and email exchanges were made. See **Exhibit 1** in EXHIBIT PAGES 1 OF 2 (Email to counsel of Appellees), **Exhibit 2** in EXHIBIT PAGES 2 OF 14 (Letter in attachment to email), **Exhibit 3** in EXHIBIT PAGES 16 OF 32 (Affidavit in attachment to email), **Exhibit 4** in EXHIBIT PAGES 34 OF 37 (2nd email to counsel of Appellees), **Exhibit 5** in EXHIBIT PAGES 39 OF 39 (3rd email to counsel of Appellees), **Exhibit 6** in EXHIBIT PAGES 41 OF 48 (Letter attachment to 3rd email to counsel of Appellees), **Exhibit 7** in EXHIBIT PAGES 50 OF 51 (Response email from counsel of Appellees confirming receipt of the letter of Appellant and affidavit of Appellant), **Exhibit 8** in EXHIBIT PAGES 53 OF 56 (pleading in attachment to response email from **Exhibit 7**), **Exhibit 9** in EXHIBIT PAGES 58 OF 58 (Copy of letter in attachment to response email from **Exhibit 7**), **Exhibit 10** in EXHIBIT PAGES 60 OF 60 (Copy of letter in attachment to response email from **Exhibit 7**), and **Exhibit 11** in EXHIBIT PAGES 62 OF 82 (2nd Response email from counsel of Appellees confirming receipt of the 2nd letter of Appellant.). Appellant had begged counsel of Appellees to notify the Court of Appeals of Virginia of Appellant being unable to file anything in his appeals for six months as filing anything would violate the agreement between Appellant and Attorney Fred Smith (Martinsville, VA, Email:

fred@freddsmithjrpc.com) who made an agreement with the Commonwealth of Virginia in Appellant's contempt of court case for Appellant not to file for six months in any state court. This would be like a cool off period since Appellant's notices of appeal had angered or offended the judge of the Trial Court or caused the judge or clerk of the Trial Court to have caused the charging of Appellant with contempt of court. This attorney is a licensed attorney and this Court may inquire from Attorney Fred Smith about the claims made by Appellant. Again, Attorney Fred Smith can be contacted at the email address of: fred@freddsmithjrpc.com and at the phone number of: (276) 638-2555.

6. Appellant had complied with the six months of not filing period. A trial hearing was held on Monday, October 23, 2023, the Honorable Giles Carter Greer of the Trial Court had received a joint motion for dismissal and had entered a dismissal order. See the OCIS index in **Exhibit 14** in EXHIBIT PAGES 80 OF 82 (Printout of Virginia's OCIS 2.0 case status of contempt of court case). See the judge's dismissal order in **Exhibit 13** in EXHIBIT PAGES 78 OF 79 (OCR processed text searchable Dismissal Order from Hon. Giles Carter Greer).

7. Appellant had not been given an opportunity under due process of law to respond to Appellees motion to consolidate. Counsel for Appellees was made aware of Appellant's predicament by email due to his time period of six months of not being allowed to file. Counsel for Appellees did acknowledge receipt of the Declaration/Affidavit about Appellant not being allowed to file for six months, See

Exhibit 7 in EXHIBIT PAGES 50 OF 51 (Response email from counsel of Appellees confirming receipt of the letter of Appellant and affidavit of Appellant). See **Exhibit 1** in EXHIBIT PAGES 2 OF 82 (Email to counsel of Appellees), **Exhibit 2** in EXHIBIT PAGES 2 OF 14 (Letter in attachment to email), **Exhibit 3** in EXHIBIT PAGES 16 OF 32 (Affidavit in attachment to email).

8. The Supreme Court of Virginia made case law authority quite clear in all tribunals of Virginia requiring that all parties to a case in any court of the State/Commonwealth of Virginia be given **Procedural Due Process of Law** which includes the **statutory right to appeal** and **the right to be heard in the court when jurisdiction exists in a case** or in any legal action before a court in an active/open/pending case. The Supreme Court of Virginia said in its legal authority that: **Husske v. Commonwealth, 252 Va. 203, 204 (Va. 1996)** (“6. The **Due Process clause merely requires** that the **defendant may not be denied an adequate opportunity to present his claims within the adversary system.**”).

9. Not being allowed to file any response to the Appellees motion to consolidate (**Exhibit 8** in EXHIBIT PAGES 53 OF 56 (pleading in attachment to response email from **Exhibit 7**)) denies Appellant an adequate opportunity to present his claims within the adversary system. Violates his constitutional right to procedural due process of law to file a response. Appellees filed the motion during the period where Appellant had agreed to the (special prosecutor) Commonwealth of Virginia’s stipulation or condition not to file anything in the state courts for six months after

the special prosecutor/Commonwealth's Attorney negotiated with Attorney Fred Smith who was appointed to represent Appellant in his contempt of court case. Appellant did not waive his appeal rights in the agreement with Attorney Fred not to file for six months. Appellant was unable to notify the Court of Appeals of Virginia at that time and neither could he file a motion for delay or a continuance during that time period because of the six months period of not being allowed to file in the "state courts". Appellant was stuck and his only option was begging the counsel of Appellees to so notify the court about Appellant's predicament to protect his procedural due process of law as all parties of a case are supposed to be protected under procedural due process of law and substantive due process of law.

10. Appellant would not entirely object to consolidating all cases to save judicial resources but merely would have filed a response asking the Court of Appeals of Virginia to allow Appellant to file one more Opening Brief of Appellant as well as filing his designation of the Trial Court record. Appellant would have asked for three appeal cases to be consolidated for the purpose of allowing Appellant to file one opening brief and designation of the record for CAV cases no. 0313-23-3, 0314-23-3 and 0317-23-3.

11. Again to summarize about the contempt of court case for the record and in support of the claims made in this motion; Appellant had been charged with a contempt of court for basically what he had argued in his three "...NOTICES OF APPEAL". That would encompass all three appeals under cases no. 0313-23-3,

0314-23-3 and 0317-23-3. Appellant was charged on February 24, 2023 or February 21, 2023. Was served on February 27, 2023. Appeared before the Hon. Judge Giles Carter Greer on March 3, 2023. Case no. CR19000009-01, Circuit Court, City of Martinsville. Was appointed counsel and his name was Fred Smith. Appellant had agreed not to file for six months, a cooldown or cool off period since emotions likely were what led up to the contempt charge. Six months would give the court plenty of time to go through the emotions and whatever the case would be. Appellant does have the protection of the First Amendment of the U.S. Constitution regarding free speech and freedom of press, as well as petitioning a higher court or any government for a redress of grievances. It is usually unconstitutional for a judge or any government official to retaliate against a protected free speech activity. So, Appellant maintains that he broke no law and that he isn't guilty of contempt of court. He agreed voluntarily not to file for six months with the Commonwealth of Virginia in exchange for the contempt of court case being dismissed. Appellant feels that a cooldown period was a better option than a drawn-out legal battle in the contempt case over the First Amendment challenge and having an autism defense for lack of intent under Virginia Code. Appellant never disrupted court proceedings of the Trial Court, Appellant never threatened any harm against any judge, Appellant never yelled fire in a crowded theater, and Appellant's conduct which caused the contempt of court case was entirely based upon what he argued in his three notices of appeal. Even if it is considered vile or insulting or contemptuous depending on

how each judge may interpret the law or what may be considered such, the arguments in the notices of appeal never advocated criminal conduct and never advocated violence. Appellant's words in his three notices of appeal are protected or at least should be protected under the First Amendment of the U.S. Constitution since it was in a petition to initiate a new case, to open up appeals in the Court of Appeals which is a superior court to an inferior court. Appellant believes no law was broken and that the contempt charge was unwarranted, but it happened and Appellant had no power to do anything about it. He had to agree to something in order to make the wrongful charge go away, and that was the fact that he could not file in any state court for six months. Attorney Fred Smith did refuse to present a first amendment challenge, so Appellant's best option was agreeing not to file for six months. Appellant did so in good faith.

12. Consolidation of all appeal cases without any response from Appellant due to his non-filing condition/agreement was flawed because there was new evidence filed in multiple filings in 2023 which can be demonstrated based on the record of the Trial Court in Appeal cases no. 0313-23-3, 0314-23-3 and 0317-23-3). Appellant has not sent in a request to the CAV for the record of the Trial Court in cases no. 0313-23-3, 0314-23-3 and 0317-23-3 during the six-month non-filing period of Appellant. Appellant would need time to review over the entire record of the trial court and decide which areas of the record are germane to the three remaining appeals where no opening brief was ever filed or entered. If necessary,

Appellant can demonstrate from the record of the Trial Court (CAV no. 0313-23-3, 0314-23-3 and 0317-23-3) submitted in 2023 that certain new evidence was in support of the motions which were denied by the Trial Court. New evidence such as (1) a Letter from the Public Information Officer for the City of Martinsville in conjunction with Martinsville Police Chief Rob Fincher in response to Appellant's request under the Virginia Freedom of Information Act (FOIA) regarding deletion of body-camera footage (See pages 4089- 4099 of the Record of the Trial Court), (2) Declarations/Affidavits demonstrating that Martinsville Police Officer Robert Jones admitted in federal court that Appellant was not obscene despite being the very officer who charged Appellant with making an obscene display (contradictions) (See pages 3987- 4008 of the Record of the Trial Court), (3) that former Public Defender assistant Scott Albrecht had changed sides to the Commonwealth of Virginia working directly for Commonwealth Attorney Glen Andrew Hall (Andy Hall) (See pages 4260- 4276 of the Record of the Trial Court), (4) evidence and photocopies of letters sent to Martinsville Police Department regarding body-camera footage which is the very same discovery evidence ordered by the court (See pages 3881- 3895 and page 3911 of the Record of the Trial Court), and any other misc. relevant or material evidence. There were things filed in 2023 which are not of the record of the older appeals in the consolidated appeals. It is unfair for Appellees to prevent Appellant from filing his last opening brief and designation over three appeal cases no. 0313-23-3, 0314-23-3 and 0317-23-3 simply over a motion to consolidate all seven

appeals since it is over new issues where the judge had jurisdiction this year (while previous orders in 2022 for the previous past four appeals said that the judge invoked that he had no jurisdiction in those past orders) and new evidence which is not the same as a motion asking for a new trial or motion asking for a judgment of acquittal. Counsel for Appellees didn't even get to see the entire record yet prior to filing the motion to consolidate all appeals. There are a lot of good reasons why leave of court should be granted or that Appellant should at least be given an opportunity to explain the issues of consolidating every appeal case including appeal case nos. 0313-23-3, 0314-23-3 and 0317-23-3 with new evidence which was not known last year. The judge did not invoke that he did not have jurisdiction in his orders being appealed in case nos. 0313-23-3, 0314-23-3 and 0317-23-3. The other four appeals which were consolidated with the recent three appeals, was concerning court orders where the judge involved that he did not have jurisdiction. There are clear differences between the three appeals and the four appeals which makes seven appeals. The Appellees requesting consolidation of all seven appeals without even reviewing over each and every court order prior to filing such motion was premature. At least allow Appellant an opportunity to present his claims for his three most recent appeals so that an opening brief would be at least be filed then entered for all remaining appeals where no brief was even entered yet.

13. Appellant is filing in **EXHIBIT 12** a second Declaration/Affidavit in support of this motion as of the affiant's affidavit date of Friday, October 27, 2023.

Appellant had to get the facts together and had to wait for the Attorney Fred Smith or the Clerk of the Circuit Court to provide a copy of the disposition of the contempt of court case before finishing his second affidavit and before finishing this foregoing motion. The affidavit explains the situation where the case was dismissed on Monday, October 27, 2023 due to a joint motion filed by both the Commonwealth of Virginia and Attorney Fred Smith in that contempt case. Appellant has not read over that joint motion and does not feel that he has a need to since Attorney Fred Smith had kept his word, or at the very least he kept with the bargain that Brian not file for six months in the State courts and the result would be dismissal of the contempt of court case. Attorney Fred Smith gave Brian the best outcome he possibly could without having to resort to the first amendment challenge under the U.S. Constitution, and without having to appeal all the way to the U.S. Supreme Court. See the affidavit in **Exhibit 12** in EXHIBIT PAGES 64 OF 77 (Declaration of Brian David Hill dated October 27, 2023)

**WHAT APPELLANT IS SPECIFICALLY REQUESTING FROM
THE COURT OF APPEALS OF VIRGINIA WITH THIS MOTION**

14. Appellant is requesting that the Court of Appeals of Virginia in these three appeal cases provide the following relief:

15. That the Court of Appeals of Virginia enter an order for Appellant to be given the usual 40-day deadline to file an opening brief (just one brief) and the usual

15-day deadline to file Appellant's Designation of the record for all three appeal cases no. 0313-23-3, 0314-23-3 and 0317-23-3 as well as any set time for Appellees to be given an opportunity to file a response brief and any Appellees Designation of the record if the rules permit and any Appendixes if they wish. Appellant requests that he be allowed to file his opening brief under the usual rules and that the appellees be allowed to file a response/opposition brief the same way as under the usual rules governing briefs and assignments of error, designations, and replies: ("In appeals of right (which includes appeals filed by criminal defendants), the time for filing the statement of assignments of error runs from this date, Rule 5A:25(a)(1), and the opening brief of the appellant is due no later than 40 days after the record is received by the Court of Appeals, Rule 5A:19(b)(1)").

16. That Appellant requests that the Court of Appeals of Virginia modify this Court's June 30, 2023 Order granting consolidation to add that Appellant be permitted to file his opening brief under the usual timelines of 40 days for the brief and 15 days for the designation which will encompass the three appeal cases no. 0313-23-3, 0314-23-3 and 0317-23-3, just one is all that Appellant is asking for, and that one brief and designation is all which Appellant needs to file for cases no. 0313-23-3, 0314-23-3 and 0317-23-3. Appellant is fine with consolidation if allowed to file one more brief and one more designation for cases no. 0313-23-3, 0314-23-3 and 0317-23-3.

CONCLUSION

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

1. That the Honorable Court grant his motion/request for an order for Appellant to be given the usual 40-day deadline to file an opening brief (just one brief) and 15-day deadline to file a Designation of the Record for all three appeal cases no. 0313-23-3, 0314-23-3 and 0317-23-3 under the usual briefing rules as well as any set time to file any Appendixes, and Appellees be given an opportunity to file a response brief and any Appellees Designation of the record if the rules permit and any Appendixes if they wish. Appellant requests that he be allowed to file his opening brief and that the appellees be allowed to file a response/opposition brief the same way as under the usual rules governing briefs and assignments of error, designations, and replies;
2. ~~That the CAV Clerk send a link to the complete record of the Trial Court for cases no. 0313-23-3, 0314-23-3 and 0317-23-3 to all counsel including the pro se Appellant.~~ (Appellant now has the record of the Trial Court for CAV appeal cases no. 0313-23-3, 0314-23-3 and 0317-23-3);
3. That the Court of Appeals of Virginia modify this Court's June 30, 2023 Order granting consolidation to add that Appellant be permitted to file his last opening brief and designation of the record which will

encompass the three appeal cases no. 0313-23-3, 0314-23-3 and 0317-23-3, just one is all that Appellant is asking for, and that one brief is all which Appellant needs to file for cases no. 0313-23-3, 0314-23-3 and 0317-23-3;

4. And Appellant asks for any other relief and/or remedy that the Court of Appeals of Virginia may deem proper and just to resolve the issues and the facts laid before this Court to protect the due process of law of both Appellant and Appellees to ensure that the remaining three appeals (0313-23-3, 0314-23-3 and 0317-23-3) move forward to whatever fate this Court has set. Thank you. I appreciate your time and effort to fix this.

Appellant requests relief accordingly and asks for any other relief which the Court of Appeals of Virginia may deem proper and just for the issues and facts raised in support thereof.

Respectfully Filed/Submitted on October 27, 2023,

BRIAN DAVID HILL
Pro Se


Signed

Brian D. Hill



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Pro Se Appellant

<https://JusticeForUSWGO.wordpress.com>

<https://JusticeForUSWGO.nl>

CERTIFICATE OF COMPLIANCE

1. This motion complies with type-volume limits:

[X] this motion contains [4,865] words.

[] this motion used 50 pages or less.

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

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

[] this motion has been prepared in a monospaced typeface using [state name and version of word processing program] with [state number of characters per inch and name of type style].


Signed

Brian D. Hill

Dated: October 27, 2023



Brian David Hill – Ally of Qanon
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(276) 790-3505

JusticeForUSWGO.wordpress.com

Pro Se Appellant

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 27th day of October, 2023, I caused this “MOTION FOR LEAVE OF COURT TO FILE ONE MORE APPELLANT OPENING BRIEF AND/OR MODIFY JUNE 30, 2023 ORDER” and attached EXHIBITS (ALL-EXHIBITS-10-27-2023.pdf) of evidence to be delivered by email service by Assistant/Filing-Representative Roberta Hill using rbhill67@comcast.net or rbhill67@justiceforuswgo.nl to the Commonwealth of Virginia and City of Martinsville through the Commonwealth Attorney’s Office of Martinsville City; as well as to the named counsel for the Office of the Attorney General; and the original was filed with the Clerk of the Supreme Court of Virginia by Virginia Court eFiling System (VACES) through Assistant/Filing-Representative Roberta Hill which shall satisfy proof of service as required by Rule 5:1B(c) stating that “*Service on Other Parties by Email. – An electronic version of any document filed in this Court pursuant to Rule 5:1B(b) must be served via email on all other parties on the date the document is filed with the Court or immediately thereafter, unless excused by this Court for good cause shown. An e-filed document must contain a certificate stating the date(s) of filing and of email service of the document.*” And the proof that such pleading was delivered will be filed together with this MOTION shall satisfy the proof of service was required by Rule 5A:2(a)(1) and Rule 5A:1(c)(4):

1. Justin B. Hill, Esq.
202 North 9th Street
Richmond, VA 23219
Telephone: (804) 786-2071

Fax: (804) 786-1991
Email: jhill@oag.state.va.us

Counsel for Appellees'

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

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



Brian D. Hill



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Pro Se Appellant