

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 VACATE THE SHOW CAUSE ORDER
AND BENCH SUMMONS OR MOTION TO
DISMISS CONTEMPT OF COURT CHARGE

EMERGENCY MOTION TO VACATE THE SHOW CAUSE ORDER AND
BENCH SUMMONS OR MOTION TO DISMISS CONTEMPT OF COURT
CHARGE

Respectfully submitted with the Court,

This the 2nd day of March, 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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this may lead to a Trial by Ambush guaranteeing a wrongful conviction by not giving the Defendant an opportunity to know and understand what exactly in the Notices of Appeal may be “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. There is no citation of the very words which may be “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. No pointing to the page or reference. It is a charge based on Notices of Appeals having this “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” somewhere in there. It will lead to a Trial by Ambush against the Defendant, and a fishing expedition where the Commonwealth Attorney will fish out of wherever (any legal papers or anything at all, he could even read from a newspaper article or anything) which could be anything could be used against the Defendant in this Trial by Ambush which anything could be brought up which may be construed as a “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”, then the Defendant is ambushed to thwart him from showing that he is innocent when something shocking may come up or something to trigger an emotional response. The charge can lead to a fishing expedition because it is so vague and does not identify what exactly is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” in the Defendant’s filed Notices of Appeal.11

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MOTION TO VACATE THE SHOW CAUSE ORDER AND BENCH SUMMONS OR MOTION TO DISMISS CONTEMPT OF COURT CHARGE

COMES NOW the Defendant, BRIAN DAVID HILL (“Defendant”), by and through himself pro se, and moves this Honorable Court for the following action, for vacating the Show Cause Order and Bench Summons or for Case Dismissal of the criminal charge as noted in the Show Cause Order and Bench Summons. The Show Cause Order and Bench Summons was filed on February 24, 2023.

Defendant asserts legal defenses and defects of the Show Cause Order (criminal charge) as to why it should legally be vacated or that the charged criminal case should be dismissed as a matter of law.

ATTACHED NOTICES OF LEGAL DEFENSES ALREADY FILED BUT ARE TO BE PRESENTED IN SUPPORT OF THIS MOTION:

The following NOTICES OF LEGAL DEFENSE filings shall accompany this filing in support of this MOTION and is referenced herein.

1. Notice-Additional-Legal-Defenses-Mar-1-2023.pdf – NOTICE OF ADDITIONAL LEGAL DEFENSES, entitled as “DEFENDANT’S NOTICE TO THE CIRCUIT COURT AND NOTICE TO THE COMMONWEALTH OF VIRGINIA, CITY OF MARTINSVILLE OF ASSERTING ADDITIONAL DEFENSES OF A CONSTITUTIONAL NATURE REGARDING THE

CHARGE; ANSWER TO SHOW CAUSE COMPLAINT/CHARGE”. This document was already filed at an earlier time but is being filed with this MOTION to comply with the rules requiring bringing up notice of legal defenses to request a Motion to dismiss case and/or any other appropriate relief.

1. Notice-Autism-Defense-Feb-26-2023.pdf – NOTICE OF LACK OF INTENT LEGAL DEFENSE, also entitled: “DEFENDANT’S NOTICE TO THE CIRCUIT COURT AND NOTICE TO THE COMMONWEALTH OF VIRGINIA, CITY OF MARTINSVILLE OF ASSERTING LACK OF INTENT DEFENSE OF AUTISM SPECTRUM DISORDER, OBSESSIVE COMPULSIVE DISORDER, AND GENERALIZED ANXIETY DISORDER, PURSUANT TO VIRGINIA CODE § 19.2-271.6.”. This document was already filed at an earlier time but is being filed with this MOTION to comply with the rules requiring bringing up notice of legal defenses to request a Motion to dismiss case and/or any other appropriate relief.

GROUND:

1. The Show Cause Order and charge is vague and overbroad, and doesn’t specify the particulars of which page and paragraphs in the NOTICES OF APPEAL are “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”;

2. The contempt of court charge may be First Amendment Retaliation to a protected process such as a Fourteenth Amendment right to procedural due process

right to file initial pleadings for the Court of Appeals of Virginia which are called “NOTICES OF APPEAL”;

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charge based on Notices of Appeals having this “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” somewhere in there. It will lead to a Trial by Ambush against the Defendant, and a fishing expedition where the Commonwealth Attorney will fish out of wherever (any legal papers or anything at all, he could even read from a newspaper article or anything) which could be anything could be used against the Defendant in this Trial by Ambush which anything could be brought up which may be construed as a “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”, then the Defendant is ambushed to thwart him from showing that he is innocent when something shocking may come up or something to trigger an emotional response. The charge can lead to a fishing expedition because it is so vague and does not identify what exactly is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” in the Defendant’s filed Notices of Appeal.

END GROUNDS

LEGAL BASIS

Defendant asserts a particular Rule for the Circuit Court in criminal cases for filing pre-trial motions asking for case dismissal based on legal defenses.

See Rule 3A:9 - Pleadings and Motions for Trial; Defenses and Objections, Va. R. Sup. Ct. 3A:9 (“(a)Pleadings and Motions. Pleadings in a criminal

proceeding are the indictment, information, warrant or summons on which the accused is to be tried and the plea of not guilty, guilty or nolo contendere. Defenses and objections made before trial that heretofore could have been made by other pleas or by demurrers and motions to quash must be made only by motion to dismiss or to grant appropriate relief, as provided in these Rules. (b)The Motion Raising Defenses and Objections. (1) Defenses and Objections That Must Be Raised Before Trial. Defenses and objections based on defects in the institution of the prosecution or in the written charge upon which the accused is to be tried, other than that it fails to show jurisdiction in the court or to charge an offense, must be raised by motion made within the time prescribed by paragraph (c) of this Rule. The motion must include all such defenses and objections then available to the accused. Failure to present any such defense or objection as herein provided constitutes a waiver thereof. Lack of jurisdiction or the failure of the written charge upon which the accused is to be tried to state an offense may be noticed by the court at any time during the pendency of the proceeding. (2) Defenses and Objections That May Be Raised Before Trial. In addition to the defenses and objections specified in subparagraph (b) (1) of this Rule, any defense or objection that is capable of determination without the trial of the general issue may be raised by motion before trial. Failure to present any such defense or objection before the jury returns a verdict or the court finds the defendant guilty constitutes a waiver thereof.”)

Defendant is establishing the grounds and legal reasons why the motion should be granted.

**STATEMENT OF THE FACTS AND LEGAL ARGUMENTS WARRANTING
DISMISSAL OF CASE AND/OR VACATUR OF SHOW CAUSE ORDER**

1. The Show Cause Order and charge is vague and overbroad, and doesn't specify the particulars of which page and paragraphs in the NOTICES OF APPEAL are "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE";

The elements to this contempt of court charge which is in the Show Cause Order does not meet the requirements under both the United States Constitution and Virginia Constitution because of being vague and using an entire pleading rather than point to the exact areas of the pleading to make the case in the charge. The elements must be addressed in the charge as to what exactly was "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE". The charged element was that three notices of appeal somewhere contain a "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE" but do not specify which pages, which paragraphs, or any information as to what areas of those three filed notices of appeal pleadings contain what the Court considers as "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE".

See *Smith v. Commonwealth*, 160 Va. 943, (Va. 1933) (“1. WARRANTS — Elements of Offense. — In a warrant the **necessary elements of the offense must be stated with some degree of particularity.**”)

See *State ex Rel. Day v. Silver*, 210 W. Va. 175, 179 (W. Va. 2001) (“The **circuit court dismissed the indictment on the bases that it failed to provide certain details necessary to the charge** and the alleged conduct was not a crime pursuant to the statute relied upon by the State. The State appealed.”) *State ex Rel. Day v. Silver*, 210 W. Va. 175, 180 (W. Va. 2001) (“**The indictment lacks an essential element.** The petitioner is **not told what property he is accused of stealing and destroying**; therefore, **he does not have sufficient information to prepare his defense and plead his conviction** as a bar to later prosecution for the same offense. Consequently, the writ of prohibition prayed for by the petitioner is granted.”)

See *Coleman v. City of Richmond*, 5 Va. App. 459, 460 (Va. Ct. App. 1988) (“(7) **Constitutional Law — Vagueness — Standard.** — The void for vagueness doctrine protects two interests: it requires that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited; and it prevents arbitrary and discriminatory enforcement by requiring that laws provide explicit standards for those who apply them.”). See *Coleman v. City of Richmond*, 5 Va. App. 459, 460 (Va. Ct. App. 1988) (“(6) Constitutional Law — Vagueness —

Standard. — A statute which does not clearly delineate what is prohibited conduct may be void for vagueness.”).

See Daniels v. Mobley, 737 S.E.2d 895, 904 (Va. 2013) (“(b) **First Amendment overbreadth resulting either from statutory language so vague it could “chill” the exercise of constitutionally protected speech or conduct, or from precise statutory language** which expressly seeks to regulate protected speech....”).

There is a lack of information as it says that three NOTICES OF APPEAL attached to the Show Cause Order contain a “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE ADDRESSED TO OR PUBLISHED OF A JUDGE FOR OR IN RESPECT TO ANY ACT OR PROCEEDING HAD IN SUCH COURT WITH RESPECT TO THE ATTACHED NOTICES OF APPEAL.”

The statute used to charge Defendant is so vague, it doesn't explain what could be considered “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. It could be anything and anything could be considered “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. It is vague and overbroad. Meant to create a chilling effect against making any appropriate legal arguments necessary in preserving issues in a trial court to prevail on direct appeal.

2. The contempt of court charge may be First Amendment Retaliation to a protected process such as a Fourteenth Amendment right to procedural due

process right to file initial pleadings for the Court of Appeals of Virginia which are called “NOTICES OF APPEAL”;

Defendant asserts a First Amendment Retaliation claim as to the Show Cause Order. The Show Cause Order and criminal charge of contempt of court was directly triggered by Defendant filing his three NOTICES OF APPEAL which files three separate appeals in the Court of Appeals of Virginia. The Supreme Court of the United States defines retaliation and what constitutes a retaliation against somebody engaging in a protected process such as filing a complaint, filing an appeal, filing a lawsuit against a judge, filing a petition against a judge, or filing any legal pleading to another body-politic about a judge’s decision or why that decision may have been made when there is a lack of information as to why exactly.

The General Assembly, the Legislative Branch of the Commonwealth of Virginia cannot constitutionally pass laws which violate the First Amendment of the United States Constitution.

As already argued in the filed Notice-Additional-Legal-Defenses-Mar-1-2023.pdf – NOTICE OF ADDITIONAL LEGAL DEFENSES, entitled as “DEFENDANT’S NOTICE TO THE CIRCUIT COURT AND NOTICE TO THE COMMONWEALTH OF VIRGINIA, CITY OF MARTINSVILLE OF ASSERTING ADDITIONAL DEFENSES OF A CONSTITUTIONAL NATURE REGARDING THE CHARGE; ANSWER TO SHOW CAUSE

COMPLAINT/CHARGE”; the sole purpose of the Show Cause Order of contempt of court is over NOTICES OF APPEALS. Those are not regular pleadings to be expecting the judge to review over those notices. A “NOTICE OF APPEAL” is an initial pleading which you file with the Court of Appeals of Virginia as required by law but first you also have to file those with the Circuit Court or any Trial Court you are appealing therefrom. It is part of the procedural due process right to appeal when statute gives a right to appeal an unfavorable decision to a higher court, a supervisory court. It is protected under the Fourteenth Amendment of the United States Constitution, under Due Process of Law, Procedural Due Process.

See *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.**”).

See *McKane v. Durston*, 153 U.S. 684, (1894) (“**An appeal to a higher court from a judgment of conviction is not a matter of absolute right, independently of constitutional or statutory provisions allowing it, and a State may accord it to a person convicted of crime upon such terms as it thinks proper.**”).

Therefore, Defendant establishes with this Court that he had exercised his protected process of appealing to a Court of Appeals of Virginia. He has a right and a duty as an appellant to preserve the issues in the trial court before the appeal is

initiated. He has the right and duty to file any objections before the appeal is initiated. If he does not file any objections or issues before the case is appealed to the Court of Appeals of Virginia, then he waives his right to present that issue when arguing assignments of error. He is required to preserve the issues for his assignments of error.

See Rule 5A:20 - Requirements for Opening Brief of Appellant, Va. R. Sup. Ct. 5A:20 (“(2) Insufficient Assignments of Error. An assignment of error that does not address the findings, rulings, or failures to rule on issues in the trial court or other tribunal from which an appeal is taken, or which merely states that the judgment or award is contrary to the law and the evidence, is not sufficient. If the assignments of error are insufficient, the appeal will be dismissed.”)

The Defendant has to explain to the Court of Appeals of Virginia why he believes his motions were denied. Maybe certain things Defendant had said may sound farfetched but the Defendant’s intent and purpose was only for arguing his preservation of issues or he risks his appeal being dismissed. Defendant doesn’t just have constitutional rights under procedural due process of law, he also has duties and obligations as a citizen in Virginia to follow the Rules for the Court of Appeals of Virginia. He has to follow these rules or the penalty may be dismissal of the appeal or even more sanctions than just dismissal of the appeal, such as attorney fees.

This Court could have easily just warned the Defendant that certain things he was arguing may be “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” and that warning would have been sufficient to deter the Defendant from saying or legally arguing things which may be “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”, whatever that may be.

The Defendant doesn't even know or understand from the Show Cause order what areas in his NOTICES OF APPEAL are saying “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. It can be any paragraph or page or anywhere. Defendant cannot expect to know what might be “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. The best thing this Honorable Court could have done was warn the Defendant, explain to him what page and paragraph has this “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” and warn the Defendant not to have this type of language or even allow him to correct his NOTICES OF APPEAL, but the Defendant doesn't even know what legal arguments he made for the Court of Appeals of Virginia which are even considered as a “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. It's a vague charge, on a vague element, it is all vague to create a fishing expedition from the very beginning for a Trial by Ambush to have it where the Commonwealth's Attorney can come up with anything to make the Defendant look bad to secure a criminal conviction and even to fabricate intent of contempt.

If the Defendant said something in argument which was not truthful, the Court could have responded to Defendant's arguments which could also be treated as objections that the Defendant said something which the Court feels was not truthful. That was not the case.

The Show Cause Charge itself says “**VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE ADDRESSED TO** OR PUBLISHED OF A JUDGE FOR OR IN RESPECT TO ANY ACT OR PROCEEDING HAD IN SUCH COURT WITH RESPECT TO **THE ATTACHED NOTICES OF APPEAL.**” That means the charge was directly caused by filing notices of appeal. The U.S. Supreme Court had ruled that it is retaliation.

See Richey v. Aiyeku, NO: 4:16-CV-5047-RMP, 16 (E.D. Wash. Mar. 19, 2021) (“To prevail on a First Amendment retaliation claim, an inmate plaintiff must demonstrate that (1) the plaintiff engaged in conduct that is protected under the First Amendment; (2) a prison official took "adverse action" against the plaintiff; (3) the protected conduct was the "substantial" or "motivating factor" behind the defendant's conduct; (4) the adverse action "chilled" the inmate's exercise of his First Amendment rights; and (5) the action did not reasonably advance a legitimate correctional goal. Brodheim, 584 F.3d at 1269-73.”).

See “Retaliation is, by definition, an intentional act. It is a form of "discrimination" because the complainant is subjected to differential treatment.” Jackson v. Birmingham Bd., 544 U.S. 167, 168 (2005).

See

https://district.maricopa.edu/sites/default/files/documents/Retaliation.Melissa%20Talks.April%202021_0.pdf (Disclaimer: text and link from Brian’s family)

(“Unlawful retaliation occurs when a person or an institution takes an adverse action against an individual either in response to the exercise of a protected activity or to deter or prevent protected activity in the future. Someone who complains about retaliation must be able to demonstrate evidence to meet the three elements of retaliation. These three elements are: 1. The **individual or someone on behalf of the individual has or in engaged in a protected activity** or the District/college believed the individual or someone on behalf of the individual might engage in a protected activity in the future; 2. The **individual experienced an adverse action caused by the recipient**; and 3. There is some **evidence of a causal connection between the protected activity and the adverse action.**”)

Defendant has met all elements of a First Amendment Retaliation claim. Defendant proved that his notices of appeal are the very reason for the Show Cause Order. Defendant had proved the causality between the Show Cause Order and the Notices of Appeal. The Notices of Appeal are pleadings filed with both the Trial

Court, the other party or parties, and are filed with the Court of Appeals of Virginia directly. It is not a pleading directed to a judge, but is a pleading directed to the Court of Appeals of Virginia. It is filed in the Trial Court, this Court, but the purpose is asking the Court of Appeals of Virginia to review over a judge's decision, and it is up to the Defendant or Appellant to assert and argue his assignments of error based on what issues and/or objections he had raised in the record of the Trial Court. Defendant didn't cuss out the judge, Defendant even tried to explain why he made certain statements. He even filed an Apology Letter to the Judge in the case because he was only intending to argue his issues to not waive the right to argue those same issues in the Court of Appeals of Virginia. See the Apology-Letter-Feb-26-2023.pdf filing: "APOLOGY LETTER TO HONORABLE GILES CARTER GREER (JUDGE); CLERK OF MARTINSVILLE CIRCUIT COURT", filed on February 27, 2023.

Defendant clearly intended to only engage in a protected process of appealing decisions to the Court of Appeals of Virginia, protected under procedural due process of law.

Therefore, Defendant establishes that the Court had retaliated against the Defendant's first amendment right (First Amendment, Amendment I, U.S. Constitution, Bill of Rights) to a protected process such as for filing NOTICES OF APPEAL.

3. Filing a NOTICE OF APPEAL is not illegal and is part of the appeal process to a supervisory court;

Notices of appeal are not illegal. That is why the Show Cause Order should have at least mentioned what exactly was “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. Even the General Assembly, the Legislative Branch of the Commonwealth of Virginia cannot constitutionally pass laws which violate the First Amendment of the United States Constitution.

Because the contempt of court charge is vague as it doesn’t specify what exactly is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”, it is saying that NOTICES OF APPEAL are considered “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. Unless the Show Cause Order describes what exactly is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”, it is directly saying or insinuating that appealing is a contempt of court, that appealing is illegal, or that arguing issues for preserving for appeal in the Trial Court record are illegal.

Appeals are not illegal. Appeals are not contempt of court. It was created as a statutory right in the Commonwealth of Virginia, and that means it is also protected under the Due Process Clause of the Fourteenth Amendment of the United States Constitution. The Procedural due process clause is at issue here.

4. Filing any objections and trying to figure out why motions were denied when no reason was given in court orders denying motions causing speculation and theories is part of the appeal process and is not illegal;

It is a fact that in all court orders which those NOTICES OF APPEAL were asking an appeal of to the Court of Appeals of Virginia, those court orders do not explain the reason why each motion was denied. Never explained why, never gave a reason, never cited what evidence or examination of the evidence, or even as to whether the evidence in support of that motion was admissible or inadmissible. Without giving the reason, the Court of Appeals of Virginia or the Clerk or the Defendant is having to play the legal interpreter to try to explain why a judge denied a particular motion. It creates a lot of issues and can cause misunderstandings or misinterpretations of what may have happened or why.

It would make things easier for a Court of Appeals of Virginia for an Honorable judge to explain why he denied a particular motion. What is the basis or reasoning why? There is no information to ascertain anything so the Clerk or Defendant or an attorney can only try to figure out why a motion was denied.

This can lead to speculation, theories, or legal arguments with inferences to try to explain why a motion was denied.

Then the Defendant assumes the evidence may have been ignored, even if it had not. This leads the Defendant to make accusations about the judge because he

has nothing in the record to show the Court of Appeals of Virginia why a motion was denied when he appeals the decision. It creates a lot of confusion and even the Attorney General of Virginia (Appellees) are having to interpret as to why the judge denied a motion. It is not Defendant's job to interpret the judge's decision, it is up to the Court to explain why the decision was made, to make things understandable as to why a judge denied a particular motion.

5. Defendant has the First Amendment right to file an appeal and has to follow the duties and rules of the appeal process when appealing to the Court of Appeals of Virginia. Trying to argue objections or even trying to preserve the issues in the trial court for the appeal stating reasons or theories or speculation as to why a judge denied a motion with no reason or explanation why a motion was denied, to establish with the Court of Appeals of Virginia why a motion could be denied when no explanation is given is protected under procedural due process of law. Following his duties as an appellant should not considered a crime of contempt of court.

The Defendant has a constitutional right to follow his duties and assert his constitutional rights according to the Virginia Constitution.

Citation of the Virginia Constitution:

Virginia Const. Art. I. Sec. 15 (“That no free government, nor the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue; by frequent recurrence to fundamental principles; and by the **recognition by all citizens that they have duties as well as rights**, and that **such rights cannot be enjoyed save in a society where law is respected and due process is observed.**”)

Defendant was only doing his duty under due process of law, as an Appellant, to argue the issues omitted by the Court Order's that the Defendant had appealed therefrom in his multiple notices of appeal at issue in the contempt of court charge. The court didn't explain why it was denied, didn't explain it's examination of the evidence and exhibits in support of that motion. The court didn't explain anything except that it was denied. Never explained why, never explained it's basis. Never gave any memorandum opinion or as to whether it even reviewed over anything and made determinations based on what was filed and what areas of the motion and supporting evidence. Federal Judges in every case where Brian David Hill was a party always gave an explanation or reasoning in each of their court orders as to why a motion was denied. The federal judges don't just put in one sentence without any explanation or reasoning why a motion was denied. That can cause speculation and then Defendant has to speculate why a motion as denied. Then Defendant is charged with contempt of court for simply having theories or speculating because he is not being given answers to explain why things are happening the way they are.

6. Defendant is asserting all legal defenses in this Motion and in support of this motion within the filed Notice-Additional-Legal-Defenses-Mar-1-2023.pdf – NOTICE OF ADDITIONAL LEGAL DEFENSES, entitled as “DEFENDANT’S NOTICE TO THE CIRCUIT COURT AND NOTICE TO THE COMMONWEALTH OF VIRGINIA, CITY OF MARTINSVILLE OF

ASSERTING ADDITIONAL DEFENSES OF A CONSTITUTIONAL NATURE REGARDING THE CHARGE; ANSWER TO SHOW CAUSE COMPLAINT/CHARGE”

For the sake of brevity, Defendant will not reiterate all of the text from Notice-Additional-Legal-Defenses-Mar-1-2023.pdf – NOTICE OF ADDITIONAL LEGAL DEFENSES, entitled as “DEFENDANT’S NOTICE TO THE CIRCUIT COURT AND NOTICE TO THE COMMONWEALTH OF VIRGINIA, CITY OF MARTINSVILLE OF ASSERTING ADDITIONAL DEFENSES OF A CONSTITUTIONAL NATURE REGARDING THE CHARGE; ANSWER TO SHOW CAUSE COMPLAINT/CHARGE”. Defendant hereby incorporates by reference, as if fully set forth herein, all of the Defendant’s Notice-Additional-Legal-Defenses-Mar-1-2023.pdf – NOTICE OF ADDITIONAL LEGAL DEFENSES, entitled as “DEFENDANT’S NOTICE TO THE CIRCUIT COURT AND NOTICE TO THE COMMONWEALTH OF VIRGINIA, CITY OF MARTINSVILLE OF ASSERTING ADDITIONAL DEFENSES OF A CONSTITUTIONAL NATURE REGARDING THE CHARGE; ANSWER TO SHOW CAUSE COMPLAINT/CHARGE” evidence, arguments, and citations.

For the sake of brevity, Defendant will not reiterate all of the text from Notice-Autism-Defense-Feb-26-2023.pdf – NOTICE OF LACK OF INTENT LEGAL DEFENSE, also entitled: “DEFENDANT’S NOTICE TO THE CIRCUIT COURT AND NOTICE TO THE COMMONWEALTH OF VIRGINIA, CITY OF

MARTINSVILLE OF ASSERTING LACK OF INTENT DEFENSE OF AUTISM SPECTRUM DISORDER, OBSESSIVE COMPULSIVE DISORDER, AND GENERALIZED ANXIETY DISORDER, PURSUANT TO VIRGINIA CODE § 19.2-271.6.” Defendant hereby incorporates by reference, as if fully set forth herein, all of the Defendant’s Notice-Autism-Defense-Feb-26-2023.pdf – NOTICE OF LACK OF INTENT LEGAL DEFENSE, also entitled: “DEFENDANT’S NOTICE TO THE CIRCUIT COURT AND NOTICE TO THE COMMONWEALTH OF VIRGINIA, CITY OF MARTINSVILLE OF ASSERTING LACK OF INTENT DEFENSE OF AUTISM SPECTRUM DISORDER, OBSESSIVE COMPULSIVE DISORDER, AND GENERALIZED ANXIETY DISORDER, PURSUANT TO VIRGINIA CODE § 19.2-271.6” evidence, arguments, and citations.

Defendant asserts all legal defenses in both NOTICES, as to why the Show Cause Order should be vacated or case dismissed. Defendant is not guilty of this. Defendant has asserted as many legal defenses as he could without a lawyer, and he feels like he or his future lawyer should file a motion to dismiss or a motion to vacate the Show Cause Order. Whether this motion succeeds or fails, Defendant at least tried to do his best. He fears he may be given a rigged attorney. So, he felt like at least he should try to fight for case dismissal or vacatur of the Show Cause Order

before that time period may expire. That way he has a good chance to prevail on appeal regardless of what decision is made at Trial.

7. Defendant had no intent to produce a “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”, whatever that was in his three notices of appeal. He filed an apology letter to the judge because he is not a lawyer and didn’t know that certain things he had said had been offensive to the judge or didn’t know that certain legal arguments may be considered as “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. There is no explanation in the Show Cause Order what exactly is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. Defendant was apologizing as a show of good faith, that his only intention was appealing, preserving issues in the trial court for appeal, and once he preserved and argued issues he was going to let the Court of Appeals handle the case and then Defendant would argue his assignments of error. The Court didn’t exactly identify what is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”, and so this may lead to a Trial by Ambush guaranteeing a wrongful conviction by not giving the Defendant an opportunity to know and understand what exactly in the Notices of Appeal may be “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. There is no citation of the very words which may be “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. No pointing to the page or reference. It is a charge based on Notices of Appeals having this “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” somewhere in there. It will lead to a Trial by Ambush against the Defendant, and a fishing expedition where the Commonwealth Attorney will fish out of wherever (any legal papers or anything at all, he could even read from a newspaper article or anything) which could be anything could be used against the Defendant in this Trial by Ambush which may be construed as a “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”, then the Defendant is ambushed to thwart him from showing that he is innocent when something shocking may come up or something to trigger an emotional response. The charge can lead to a fishing expedition because it is so vague and does not identify what exactly is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” in the Defendant’s filed Notices of Appeal.

It is a fact that Appellant aka Defendant had filed an Apology Letter to the Judge in the case because he was only intending to argue his issues to not waive the right to argue those same issues in the Court of Appeals of Virginia. See the Apology-Letter-Feb-26-2023.pdf filing: “APOLOGY LETTER TO HONORABLE GILES CARTER GREER (JUDGE); CLERK OF MARTINSVILLE CIRCUIT COURT”, filed on February 27, 2023.

If there was a particular issue which this Court does not feel is truthful, then Defendant is willing to ask the judge to strike untruthful statements from his NOTICES OF APPEAL from his speculation or theories as to why he believes the judge denied his motions. There is no information why the motions were denied. Defendant has a difficult way to explain to the Court of Appeals of Virginia why he believes the particular assignment of error happened.

Defendant is not a lawyer; Defendant is not acting like a criminal. Defendant filed the apology letter because of acting in good faith, he was only trying to prevail on appeal by preserving as many issues and rights as necessary to have a better chance to prevail on appeal. Defendant does not want to lie at all, Defendant thought he was arguing what he thought was the truth, and if Defendant is wrong about something then he will admit to this Court that he was wrong about one or two of his claims, whatever claims he is wrong about. Defendant is a human being

and is not a robot. Defendant asks this Court for forgiveness for any inferences or arguments that this Court took offense too.

Defendant's only intent was his appeals, trying to do the best he can as a pro se filer, as he is not a lawyer. Defendant self-taught himself legal things, but he is still not a lawyer and doesn't know everything about law. It takes research, trial and error. Defendant has not gone to law school and has never been criticized or scrutinized by a law professor. Defendant has not tried to do anything wrong here.

The Defendant thinks it would be best for the appeals to just continue and that Defendant just be careful how he argues things in this Court in the future. This Court can warn him and explain to him what things he should not say. If a Court just charges him and doesn't explain what exactly is "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE", it can mean anything the Defendant ever said. It doesn't explain what exactly is "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE". Defendant doesn't know, and the Defendant has a right to know to exactly he said is "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE" when he is being charged with a crime over this. He needs to know what statements he said are "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE". He needs a citation to those words; he needs a reference.

A Vague Charge is not a fishing expedition to find things for a Trial when a charge is not a basis for a fishing expedition, trying to find things or find additional

things elsewhere somewhere to try to paint what exactly is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. The Court should explain what exactly is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” and why such a criminal charge is necessary to deter Defendant’s behavior. None of that has happened. The court appointed lawyer will try to figure out what is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” but that is vague and is a fishing expedition to try to find something to shock the Court at Trial. Fishing to find something to try to convict the Defendant for producing a “CRIMINAL CONTEMPT FOR”, “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE ADDRESSED TO OR PUBLISHED OF A JUDGE FOR OR IN RESPECT TO ANY ACT OR PROCEEDING HAD IN SUCH COURT WITH RESPECT TO THE ATTACHED NOTICES OF APPEAL.”

See the link that family gave me and text from that link:

https://en.wikipedia.org/wiki/Fishing_expedition (“A fishing expedition is an informal, pejorative term for a non-specific search for information, especially incriminating information. It is most frequently organized by policing authorities.”).

A contempt of court charge should at least explain what exact words the Defendant used and in what paragraphs or sentences these “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE” words or sentences are. That would at least explain why the Defendant is charged. Instead, the Defendant is

making more theories and presumptions or assumptions as to what exact words he said may have been “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. The Defendant made sure to never cuss out a judge, Defendant didn’t try to call the judge names. What exactly did the Defendant say that warrants criminal contempt here???

A fishing expedition will lead to one thing, a wrongful criminal conviction, a trial by ambush, and a Trial by Ambush is UNCONSTITUTIONAL. Defendant is in good faith and had no intend to do anything which is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. The Court needs to address what exactly is “VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE”. The statute used to charge the Defendant is vague and can mean anything. The Vague Test needs to be used to determine if the charge was vague and is the statute was vague.

**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 24th 2023 Show Cause Order charging the Defendant with contempt of court;
2. That the Circuit Court remove it’s Show Cause Order from the record;

3. That the Circuit Court dismiss its criminal case and dismiss it's charge filed on February 24, 2023 against the Defendant;
4. That the Circuit Court consider vacatur, voiding, making void, setting aside, nullification of the Show Cause charge filed on February 24, 2023;
5. 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 3rd day of March, 2023.


Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill
Defendant

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

310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505



JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

CERTIFICATE OF SERVICE, CERTIFICATE OF FILING

I hereby certify that a true and accurate copy of the foregoing Motion was faxed or emailed/transmitted by my Assistant Roberta Hill at rbhill67@comcast.net (due to

Probation Conditions of not being allowed to use the Internet) to have delivered this (1) pleading, (2) along with pleading filename: Notice-Additional-Legal-Defenses-Mar-1-2023.pdf and Notice-Autism-Defense-Feb-26-2023.pdf on the 3rd day of March, 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 filenames: Notice-Additional-Legal-Defenses-Mar-1-2023.pdf and Notice-Autism-Defense-Feb-26-2023.pdf on his behalf with the Court, through email address rbhill67@comcast.net, transmit/faxed a copy of this pleading to the following attorneys who represent the above parties to the case:

Glen Andrew Hall, Esq. Commonwealth Attorney's Office for the City of Martinsville 55 West Church Street P.O. Box 1311 Martinsville, Virginia 24114/24112 Attorney for the Commonwealth Phone: (276) 403-5470 Fax: (276) 403-5478 Email: ahall@ci.martinsville.va.us	Hon. 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: jnunn@ci.martinsville.va.us
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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 and request that she forward the message and any documents or attachments to Brian David Hill to view offline for his review.

Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill

Defendant

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

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