

HILL, BRIAN DAVID v. COMMONWEALTH OF VIRGINIA

0314-23-3

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SUMMARY

Brian David Hill, criminal case Defendant, and Appellant, pro se, hereby appeals to the Court of Appeals of Virginia from the final judgment of this Court by final order entered February 14, 2023 (attached thereto), denying Brian Hill's Motion entitled: "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", filed on January 26, 2023.

There are no transcripts as there was no hearing over the denial of that motion. 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".

Defendant/Appellant is also preserving all issues for appeal from all of the foregoing motions which were denied.

PRESERVATION OF ISSUES FOR APPEAL RAISED IN MOTIONS AND PRESERVATION OF ISSUES OF JUDGE GREER'S ORDER AND DOCUMENTATION OF IGNORING OF EVIDENCE, IGNORING OF

**WITNESSES, ALLOWING CONTEMPT OF COURT MULTIPLE TIMES,
ALLOWING CRIMES TO BE COMMITTED, REFUSAL TO ALLOW THE
COMMONWEALTH ATTORNEY TO RESPOND**

However, Defendant made it clear that ignoring the evidence and ignoring the case law authorities was violating due process of law under the Fourteenth Amendment of the U.S. Constitution and the Constitution of Virginia, Article I., Section 8. Criminal prosecutions, and Section 11. Due process of law; obligation of contracts; taking or damaging of private property; prohibited discrimination; jury trial in civil cases. The judge filed his order denying it all quickly without even requesting a response from the Commonwealth's Attorney, without conducting any evidentiary hearing or inquiry hearing as to any of the issues, grounds, and elements which it raised.

1. Judge Greer has failed to address the issues of Attorney Scott Albrecht (Public Defender Assistant) who had represented the Defendant Brian David Hill had switched sides after losing Brian's case on purpose in the General District Court on December 21, 2018, Brian filed a pro se notice of appeal then Scott Albrecht was forced to file a notice of appeal too because Brian Hill wasn't going to put up with a lousy good for nothing traitor lawyer. This same lawyer allowed unlawful destruction of evidence by Martinsville Police Department as admitted by police chief Rob Fincher, allowed CONTEMPT OF COURT multiple times and

Obstruction of Justice by unlawful destruction of evidence. Then Scott Albrecht is rewarded by not only having Defendant owe attorney fees, he was hired as an “Assistant Commonwealth’s Attorney” working for Glen Andrew Hall, the very prosecutor who prosecuted the criminal case against the Defendant. That is a conflict of interest as was already brought in the Motion to Reconsider, brought up in Declaration of evidence that a Scott Albrecht is an Assistant Commonwealth’s Attorney providing evidence of a printout from the City of Martinsville staff directory, a GOVERNMENT WEBSITE, mentions Glen Andrew Hall’s name and Scott Albrecht working for the same Commonwealth’s Attorney as said in the Staff Directory. This is starting to prove that Scott Albrecht may have colluded with Glen Andrew Hall to commit a fraud upon the court. 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). Judge Greer allowed a conflict of interest without ever conducting an inquiry or investigation even though it is the Judge’s duty to do so. A Judge has a DUTY to prevent any conflicts of interest involving attorneys in cases the judge presides over. He is allowing a conflict of interest in both the case and in the appeals (assuming if Glen Andrew Hall and his asst. Scott Albrecht has any influence over the Assistant Attorney General). Scott Albrecht betrayed Brian David Hill the criminal defendant in this case. This is not a normal situation or maybe this is how the Circuit Court has been operating for a long-time

taking advantage of the poor people and mentally handicapped who are forced to have a Public Defender who works for the Commonwealth's Attorney. This is rigged, the criminal case is rigged, the jury trial was going to be rigged, the Trial in General District Court was RIGGED, it is a rigged judicial process, a rigged judicial system in the City of Martinsville. When a court is rigged, there can never be any justice, it is impossible to obtain any justice out of a rigged court. It is a clear conflict of interest here and this Judge is refusing to investigate or conduct any inquiries into this conflict of interest.

2. This Judge also refused to conduct any inquiry or investigation into the fraud on the court. The record is now a fraud, the court has allowed fraud on its court. He is colluding with the fraud on the court. Defendant asserts that Judge Greer has proven in the record of the Trial Court that he is colluding with both Glen Andrew Hall and Scott Albrecht to wrongfully convict the Defendant using Judge Greer's buddies or friends. They all know each other and seem to want to protect and defend each other like some kind of gang or mafia. They stick up for their own even when their own break laws and rules. This is collusion and fraud accepted by the Judge of this Circuit court. FRAUD, COLLUSION, Unethical, Conflict of interest. This violates the principles set by both the U.S. Constitution and Virginia Constitution's separation of powers clause. We have a separation of powers clause in the Constitutions for a reason. A judge should not be buddies with anybody else,

or even if he/she was buddies with others that may get involved in the judicial system or case somehow, then ethics should strictly be enforced. This is unethical that Scott Albrecht was never inquired as to his relationship with Glen Andrew Hall, that Scott Albrecht allowed Glen Andrew Hall to help destroy police body-camera footage within the scope of three court orders in total. The body-camera footage was illegally destroyed on April 9, 2019 according to Police Chief Rob Fincher. Scott Albrecht knew Brian David Hill wanted this body-camera footage but refused to do anything to fight for it before it was destroyed, refused to fight to enforce any of the court orders not complied with. Ignoring a Court Order is CONTEMPT OF COURT. Refusing to comply with a Court Order is CONTEMPT OF COURT. Glen Andrew Hall should be charged with CONTEMPT OF COURT three different times if not two times, that is the law. Scott Albrecht colluded with Glen Andrew Hall because Glen Andrew Hall had hired Scott Albrecht and this court refused to conduct any inquiry into this even though it is this COURT'S DUTY.

3. This is clear collusion, this Judge is buddies with Glen Andrew Hall, it is clear that this judge has committed serious ethics violations to hold an innocent man hostage for a crime he is innocent of. Innocent man Brian David Hill is being held hostage and only Governor Youngkin or any future Governor of Virginia can fix this mess. This is serious corruption issues. The Court of Appeals of Virginia

(CAV) needs to strike down Judge Greer's orders. Judge Greer has acted in a manner inconsistent with due process of law. The Trial Court has acted in a manner inconsistent with due process of law, all along since the very beginning. Acted in an unethical manner and allowed a conflict of interest, is allowing one or more frauds to stand to keep an innocent man convicted and owing money to the Commonwealth of Virginia, owing a debt caused by such conflicts of interest and corruption and collusion and FRAUD.

4. Collusion, fraud, conflict of interest, depriving a criminal defendant of due process of law, both procedural due process of law and substantive due process of law. This is entirely become one or more abuses of discretion, and errors.

5. When Brian David Hill was sending letters to the Circuit Court from both Western Virginia Regional Jail (WVRJ) in December to January 2019 and Federal Correctional Institution 1 (FCI) in Butner, North Carolina from January 2019 on up, Judge Greer and Glen Andrew Hall worked together (colluded) to wanted to issue a capias against the Defendant when the Deputy Master Clerk Jeanie Nunn knew that Defendant was sending letters from a jail or prison at the time so she knew that Brian couldn't of failed to appear because he had no choice, HE WAS IN JAIL AND PRISON IN BUTNER NORTH CAROLINA A FEDERAL PRISON. Judge Greer and Glen Andrew Hall wanted a failure to appear against the Defendant in 2019 knowing that there was a federal detainer on him since November, 2018,

before the Trial in General District Court. Then this same judge is okay with unlawful destruction of evidence in response to the court orders regarding discovery in sheer non-compliance with two court orders and a third court order after the dirty deed of illegally destroying evidence was done; and is okay with federal obstruction of justice in violation of 18 U.S. Code § 1519. It is an illegal obstruction of justice, A FEDERAL CRIME, ILLEGAL, for Martinsville Police Department under Police Chief G. E. Cassady and Commonwealth's Attorney Glen Andrew Hall to have deleted the body-camera footage on April 9, 2019 in the Digital Video Management System (DVMS) after multiple court orders, not even marking the footage as "evidence" when it clearly was material evidence to Defendant's charge. THIS IS FRAUD, COLLUSION. Also, the Police Department had contacted U.S. Probation Officer Jason McMurray after Defendant gave him his Probation Officer's name, they had his information and then the U.S. Probation Office conducted an investigation after Defendant's arrest on September 21, 2018. The United States Probation Office is a federal office, they are considered a law enforcement agency even though they are an agency of the federal judiciary. They are within the scope of being protected by law from unlawful evidence destruction, then it becomes a federal crime after evidence is unlawfully destroyed.

6. 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. 18 U.S.C. § 1519 Added Pub. L. 107-204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.”)

7. Glen Andrew Hall, Judge Giles Carter Greer, Officer Robert Jones, Scott Albrecht who was Asst. Public Defender and Asst. Commonwealth’s Attorney, and former Police Chief G. E. Eddie Cassady are all committing a federal crime of violating 18 U.S.C. § 1519. They all committed the crime by all taking part in the unlawful destruction of the police body-camera footage by the DVMS system, after being given plenty of warning by multiple letters to G. E. Cassady asking for the body-camera footage. The court orders, the policy of Martinsville Police Department, none of it was followed. It is ALL ILLEGAL. It is obstruction of justice with no excuse as to why they violated 18 U.S.C. § 1519. The U.S. Marshals need to arrest them all and try them for violation of 18 U.S.C. § 1519. Unlawful illegal destruction of evidence. They are allowing contempt of court by Glen Andrew Hall because he is a “COMMONWEALTH ATTORNEY”. So, this Court is sending a dangerous message that he can violate any law he so desires. He can destroy any evidence he so desires, any evidence he wants to destroy he can do so

with impunity and Judge Greer is his BUDDY, his FRIEND, he will protect his friend and buddy. This is collusion, unethical, criminal, criminal behavior, and is racketeering. They are all breaking laws and allowing laws to be broken by the lawyers, in sheer violation of the federal Racketeer Influenced and Corrupt Organizations Act. See Racketeer Influenced and Corrupt Organizations Act (RICO): Originally published: October 15, 1970; Public law: 91-452; Enacted by: the 91st United States Congress; Long title: An Act relating to the control of organized crime in the United States; Statutes at Large: 84 Stat. 922-3 aka 84 Stat. 941; Titles amended: 18 U.S.C.: Crimes and Criminal Procedure; U.S.C. sections created: 18 U.S.C. §§ 1961–1968.

This appeal is being filed in good faith as it doesn't make sense for a Court to punish a criminal Defendant who has disproven multiple elements of the charged crime and not punish Glen Andrew Hall for refusing to comply with court orders and illegally destroying evidence. This is fraud, this is collusion. This is corruption. This is racketeering to demand any legal fees from the Defendant at this stage with all of the evidence on the record here. This is criminal racketeering and holding a man hostage who shouldn't be. He is innocent. **Brian David Hill = Innocence.**

No guilty plea was entered as the only plea this may resemble was an Alford Plea which is not a guilty plea when evidence surfaces at a later time on disproving

the elements of the charge, Judge Greer knows that. None of this is right, none of this is moral. This is a complete miscarriage of justice and is collusion, fraud, and corruption without a doubt against an innocent man. I am being held hostage by these people, they are holding me hostage to my federal supervised release violation and causing my sentence to being extended. This is NOT MORAL; this is not the way criminal defendants should be treated in any court of law. Due process of law, DUE PROCESS OF LAW, DUE PROCESS OF LAW, DUE PROCESS OF LAW, GIVE ME LIBERTY OR GIVE ME DEATH!!!

Give me Liberty or Give Me Death. – As Patrick Henry said in Richmond, Virginia at Saint John’s Church. The answer to George Orwell’s 1984 is 1776. The answer to 1984 is 1776.

Respectfully submitted with the Court, This the 21st 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 or JusticeForUSWGO.wordpress.com

CERTIFICATE OF SERVICE, CERTIFICATE OF FILING

Page 11 of 14

I hereby certify that a true and accurate copy of the foregoing NOTICE OF APPEAL 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) or delivered this 21st day of February, 2022, to the following parties:

The undersigned certifies as follows:

1. The name and address of the Appellant is:

Brian David Hill – Ally of Q and Attorney Lin Wood
Family/Friend site: JusticeForUSWGO.wordpress.com or JusticeForUSWGO.NL
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

2. Appellant is not represented by counsel at this time.

3. The names of Appellees is:

Commonwealth of Virginia
City of Martinsville

4. The name, address, and telephone number of counsel for appellees' is:

G. Andrew Hall
Martinsville Commonwealth's Attorney
55 W. Church Street
Martinsville, VA 24112
(276) 403-5470

5. A copy of this Notice of Appeal has been electronically transmitted by Roberta Hill (electronic filing representative) via email to the Martinsville Circuit Court Clerk's

Office, to opposing counsel, and electronically filed by Roberta Hill (electronic filing representative) through the Court's VACES system to the Clerk of the Court of Appeals of Virginia, all on February 21, 2023.

The following parties with fax numbers and email addresses of the parties are listed herein:

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

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

That should satisfy the Certificate of Service regarding letters/pleadings. 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.


Signed

Brian D. Hill

U.S.W.G.O.



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

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF MARTINSVILLE

COMMONWEALTH OF VIRGINIA

v.

ORDER
Case No. CR19000009-00

BRIAN DAVID HILL

UPON CONSIDERATION of the defendant's Motion for Set Aside or Relieve
Defendant of Judgment of Conviction of Criminal Charge, it is ORDERED that said motion is
hereby DENIED.

ENTER: This 14th day of February, 2023.


Judge

Endorsement is dispensed with – Rule 1:13

TWENTY-FIRST
JUDICIAL CIRCUIT
OF VIRGINIA

By:  Deputy Clerk

*To be supplied by the Clerk

Record #

BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA, et al.

AFFIDAVIT OF INDIGENCE

CAV: Submitted on 02-21-2023 15:55:58 EST for filing on 02-21-2023

NAME: Brian David Hill

ADDRESS: 310 Forest Street, Apt. 2, Martinsville, VA 24112

OCCUPATION: Disabled, Permanently disabled, handicapped

HOUSEHOLD SIZE (TOTAL NUMBER OF PERSONS RESIDING IN THE HOME THAT YOU HAVE FINANCIAL RESPONSIBILITY FOR, INCLUDING YOURSELF): 1 Person in Apartment 2

NET MONTHLY INCOME: \$914.00, SSI Disability 42 U.S.C. §407 protected, from U.S. Treasury

NET MONTHLY INCOME OF SPOUSE: N/A

NET MONTHLY INCOME OF EMPLOYED DEPENDENTS: N/A

AMOUNT ON DEPOSIT IN BANKS: \$75.41 at the time of this Affidavit/Declaration

VALUE OF EQUITY IN REAL ESTATE: Own no Real Estate, pay \$500 monthly rent

INCOME PRODUCED BY REAL ESTATE: N/A

OTHER INCOME: Only SSI is my approved income by the Federal Government

VALUE OF PERSONAL PROPERTY: Used furniture and hygiene products, not much for used items. The furniture is rented and part of the Apartment being rented.

MAKE, MODEL, AND YEAR OF CARS OWNED: Own no cars

VALUE OF INTEREST IN OTHER PROPERTY: Own no land, own no cars, own no property

APPROXIMATE INDEBTEDNESS:	AMOUNT	LENDER
Circuit Court of Martinsville	\$1,224, likely more but I don't know what total legal debt is.	Legal Costs

NOTE:

I usually use up my entire monthly SSI money on things I need like paying any monthly bills such as Rent, hygiene products, legal or mailing expenses, things to deal with my anxiety and stress as I have Generalized Anxiety Disorder as documented in Fed. Court, and any other needs/necessities.

I declare under penalty of perjury that the foregoing is true and correct.

I hereby certify that the foregoing information is accurate to the best of my knowledge.

Executed on February 21, 2023.


Signed

Signature of Petitioner

Brian D. Hill

310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505
Filing Assistant:
Roberta Hill
rbhill67@comcast.net

Certificate of Service

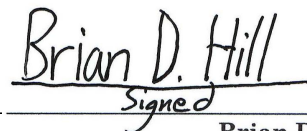
I hereby certify that a true and exact copy of the foregoing affidavit was transmitted by fax/facsimile and by Roberta Hill using email rbhill67@justiceforuswgo.nl/rbhill67@comcast.net, on the following counsel for Appellee's: (1) City of Martinsville and (2) Commonwealth of Virginia:

Martinsville Commonwealth's Attorney
Office 55 W Church St
PO Box 1311
Martinsville, VA 24114
ahall@ci.martinsville.va.us

Attorney General of Virginia
202 North Ninth Street
Richmond, VA 23219
oagcriminallitigation@oag.state.va.us
JHill@oag.state.va.us

on the 21st day of February, 2022
(date) (month)

I hereby certify that the foregoing Affidavit/Declaration was filed by Assistant/Representative Roberta Hill through rbhill67@justiceforuswgo.nl/rbhill67@comcast.net through Virginia Court eFiling System (VACES) with the Clerk of the Court of Appeals of Virginia due to the compliance with the Supervised Release conditions of Appellant:


Signed

Signature of Petitioner

Brian D. Hill

310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505
Filing Assistant:
Roberta Hill
rbhill67@comcast.net

ROBERTA HILL <rbhill67@comcast.net>

2/21/2023 3:39 PM

Martinsville Circuit Court, Two Notices of Appeal, no. CR19000009-00, Commonwealth of Virginia et al v. Brian David Hill

To Hon. Jean P. Nunn, Clerk of the Court <jnunn@ci.martinsville.va.us> •
Martinsville City Commonwealth's Attorney <ahall@ci.martinsville.va.us> • nsherman@ci.martinsville.va.us •
OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> •
Chris Coen <ccoen@oag.state.va.us> • ehamilton@ci.martinsville.va.us • Hill, Justin B. <jhill@oag.state.va.us>
Copy Ken & Stella Forinash <kenstella@comcast.net> •
kenstella2005@comcast.net <kenstella2005@comcast.net> •
stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl>

Clerk of Circuit Court for the City of Martinsville;
CC: Glen Andrew Hall, Esquire.;
CC: Assistant Attorney General Justin Hill, Esq.,

I am Roberta Hill, Brian's mother. I am filing two Notices of Appeal regarding two orders of the Circuit Court. It is all being filed through email to you on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading on his behalf. My son is having me to serve the respondents through email as well. This email to the Clerk with the Respondents in the email message headers prove to the Clerk that I had served the Respondents a copy of these pleadings, and may also be faxed as well by Brian D. Hill in the event that email fail.

Filings are attached:

1-Notice-of-Appeal-2-21-2023.pdf: - 1st Notice of Appeal regarding final order entered February 17, 2023

2-Notice-of-Appeal-2-21-2023.pdf: 2nd Notice of Appeal regarding final order entered February 14, 2023

To Clerk: Please confirm by read receipt or response message confirming that you have received this. Thank You!

Roberta Hill (representative for electronic filing)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112

Two Notices of Appeal, case no. CR19000009-00, Circuit Court for the City of Martinsville
Commonwealth of Virginia, City of Martinsville v. Brian David Hill

Defendant:
Brian David Hill
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

Thanks,
Roberta

CAV: Submitted on 02-21-2023 15:56:15 EST for filing on 02-21-2023

-
- 1-Notice-of-Appeal-2-21-2023.pdf (353 KB)
 - 2-Notice-of-Appeal-2-21-2023.pdf (619 KB)

ROBERTA HILL <rbhill67@comcast.net>

2/21/2023 3:49 PM

Re: Martinsville Circuit Court, Two Notices of Appeal, no.
CR19000009-00, Commonwealth of Virginia et al v. Brian David Hill
(Financial Affidavits)

To Hon. Jean P. Nunn, Clerk of the Court <jnunn@ci.martinsville.va.us> •
Martinsville City Commonwealth's Attorney <ahall@ci.martinsville.va.us> • nsherman@ci.martinsville.va.us •
OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> •
Chris Coen <ccoen@oag.state.va.us> • ehamilton@ci.martinsville.va.us • Hill, Justin B. <jhill@oag.state.va.us>
Copy Ken & Stella Forinash <kenstella@comcast.net> •
kenstella2005@comcast.net <kenstella2005@comcast.net> •
stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl>

Forgot the Affidavits of Indigence for both notices of appeal. They are attached as Aff-Indigence2-21-2023.pdf and 2Aff-Indigence2-21-2023.pdf.

On 02/21/2023 3:39 PM ROBERTA HILL <rbhill67@comcast.net> wrote:

Clerk of Circuit Court for the City of Martinsville;
CC: Glen Andrew Hall, Esquire.;
CC: Assistant Attorney General Justin Hill, Esq.,

I am Roberta Hill, Brian's mother. I am filing two Notices of Appeal regarding two orders of the Circuit Court. It is all being filed through email to you on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading on his behalf. My son is having me to serve the respondents through email as well. This email to the Clerk with the Respondents in the email message headers prove to the Clerk that I had served the Respondents a copy of these pleadings, and may also be faxed as well by Brian D. Hill in the event that email fail.

Filings are attached:

1-Notice-of-Appeal-2-21-2023.pdf: - 1st Notice of Appeal regarding final order entered February 17, 2023

2-Notice-of-Appeal-2-21-2023.pdf: 2nd Notice of Appeal regarding final order entered February 14, 2023

To Clerk: Please confirm by read receipt or response message confirming that you have received this. Thank You!

Roberta Hill (representative for electronic filing)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112

Two Notices of Appeal, case no. CR19000009-00, Circuit Court for the City of Martinsville Commonwealth of Virginia, City of Martinsville v. Brian David Hill

Defendant:
Brian David Hill
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

Thanks,
Roberta

-
- 2Aff-Indigience2-21-2023.pdf (227 KB)
 - Aff-Indigience2-21-2023.pdf (227 KB)
 - 2Aff-Indigience2-21-2023.pdf (227 KB)

SUMMARY

Brian David Hill, criminal case Defendant, and Appellant, pro se, hereby appeals to the Court of Appeals of Virginia from the final judgment of this Court by final order entered February 21, 2023.

There are no transcripts as there was no hearing over the denial of that motion.

Defendant/Appellant is also preserving all issues for appeal from all of the foregoing motion which were denied.

**PRESERVATION OF ISSUES FOR APPEAL RAISED IN MOTIONS
AND PRESERVATION OF ISSUES OF JUDGE GREER'S ORDER AND
DOCUMENTATION OF IGNORING OF EVIDENCE, IGNORING OF
WITNESSES, ALLOWING CONTEMPT OF COURT MULTIPLE TIMES,
ALLOWING CRIMES TO BE COMMITTED, REFUSAL TO ALLOW THE
COMMONWEALTH ATTORNEY TO RESPOND**

However, Defendant made it clear that ignoring the evidence and ignoring the case law authorities was violating due process of law under the Fourteenth Amendment of the U.S. Constitution and the Constitution of Virginia, Article I., Section 8. Criminal prosecutions, and Section 11. Due process of law; obligation of contracts; taking or damaging of private property; prohibited discrimination; jury trial in civil cases. The judge filed his order denying it all quickly without even

requesting a response from the Commonwealth's Attorney, without conducting any evidentiary hearing or inquiry hearing as to any of the issues, grounds, and elements which it raised.

1. Judge Greer has failed to address the issues of Attorney Scott Albrecht (Public Defender Assistant) who had represented the Defendant Brian David Hill had switched sides after losing Brian's case on purpose in the General District Court on December 21, 2018, Brian filed a pro se notice of appeal then Scott Albrecht was forced to file a notice of appeal too because Brian Hill wasn't going to put up with a lousy good for nothing traitor lawyer. This same lawyer allowed unlawful destruction of evidence by Martinsville Police Department as admitted by police chief Rob Fincher, allowed CONTEMPT OF COURT multiple times and Obstruction of Justice by unlawful destruction of evidence. Then Scott Albrecht is rewarded by not only having Defendant owe attorney fees, he was hired as an "Assistant Commonwealth's Attorney" working for Glen Andrew Hall, the very prosecutor who prosecuted the criminal case against the Defendant. That is a conflict of interest as was already brought in the Motion to Reconsider, brought up in Declaration of evidence that a Scott Albrecht is an Assistant Commonwealth's Attorney providing evidence of a printout from the City of Martinsville staff directory, a GOVERNMENT WEBSITE, mentions Glen Andrew Hall's name and Scott Albrecht working for the same Commonwealth's Attorney as said in the Staff

Directory. This is starting to prove that Scott Albrecht may have colluded with Glen Andrew Hall to commit a fraud upon the court. 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). Judge Greer allowed a conflict of interest without ever conducting an inquiry or investigation even though it is the Judge's duty to do so. A Judge has a DUTY to prevent any conflicts of interest involving attorneys in cases the judge presides over. He is allowing a conflict of interest in both the case and in the appeals (assuming if Glen Andrew Hall and his asst. Scott Albrecht has any influence over the Assistant Attorney General). Scott Albrecht betrayed Brian David Hill the criminal defendant in this case. This is not a normal situation or maybe this is how the Circuit Court has been operating for a long-time taking advantage of the poor people and mentally handicapped who are forced to have a Public Defender who works for the Commonwealth's Attorney. This is rigged, the criminal case is rigged, the jury trial was going to be rigged, the Trial in General District Court was RIGGED, it is a rigged judicial process, a rigged judicial system in the City of Martinsville. When a court is rigged, there can never be any justice, it is impossible to obtain any justice out of a rigged court. It is a clear conflict of interest here and this Judge is refusing to investigate or conduct any inquiries into this conflict of interest.

2. This Judge also refused to conduct any inquiry or investigation into the fraud on the court. The record is now a fraud, the court has allowed fraud on its court. He is colluding with the fraud on the court. Defendant asserts that Judge Greer has proven in the record of the Trial Court that he is colluding with both Glen Andrew Hall and Scott Albrecht to wrongfully convict the Defendant using Judge Greer's buddies or friends. They all know each other and seem to want to protect and defend each other like some kind of gang or mafia. They stick up for their own even when their own break laws and rules. This is collusion and fraud accepted by the Judge of this Circuit court. FRAUD, COLLUSION, Unethical, Conflict of interest. This violates the principles set by both the U.S. Constitution and Virginia Constitution's separation of powers clause. We have a separation of powers clause in the Constitutions for a reason. A judge should not be buddies with anybody else, or even if he/she was buddies with others that may get involved in the judicial system or case somehow, then ethics should strictly be enforced. This is unethical that Scott Albrecht was never inquired as to his relationship with Glen Andrew Hall, that Scott Albrecht allowed Glen Andrew Hall to help destroy police body-camera footage within the scope of three court orders in total. The body-camera footage was illegally destroyed on April 9, 2019 according to Police Chief Rob Fincher. Scott Albrecht knew Brian David Hill wanted this body-camera footage but refused to do anything to fight for it before it was destroyed, refused to fight to

enforce any of the court orders not complied with. Ignoring a Court Order is CONTEMPT OF COURT. Refusing to comply with a Court Order is CONTEMPT OF COURT. Glen Andrew Hall should be charged with CONTEMPT OF COURT three different times if not two times, that is the law. Scott Albrecht colluded with Glen Andrew Hall because Glen Andrew Hall had hired Scott Albrecht and this court refused to conduct any inquiry into this even though it is this COURT'S DUTY.

3. This is clear collusion, this Judge is buddies with Glen Andrew Hall, it is clear that this judge has committed serious ethics violations to hold an innocent man hostage for a crime he is innocent of. Innocent man Brian David Hill is being held hostage and only Governor Youngkin or any future Governor of Virginia can fix this mess. This is serious corruption issues. The Court of Appeals of Virginia (CAV) needs to strike down Judge Greer's orders. Judge Greer has acted in a manner inconsistent with due process of law. The Trial Court has acted in a manner inconsistent with due process of law, all along since the very beginning. Acted in an unethical manner and allowed a conflict of interest, is allowing one or more frauds to stand to keep an innocent man convicted and owing money to the Commonwealth of Virginia, owing a debt caused by such conflicts of interest and corruption and collusion and FRAUD.

4. Collusion, fraud, conflict of interest, depriving a criminal defendant of due process of law, both procedural due process of law and substantive due process of law. This is entirely become one or more abuses of discretion, and errors.

5. When Brian David Hill was sending letters to the Circuit Court from both Western Virginia Regional Jail (WVRJ) in December to January 2019 and Federal Correctional Institution 1 (FCI) in Butner, North Carolina from January 2019 on up, Judge Greer and Glen Andrew Hall worked together (colluded) to wanted to issue a capias against the Defendant when the Deputy Master Clerk Jeanie Nunn knew that Defendant was sending letters from a jail or prison at the time so she knew that Brian couldn't of failed to appear because he had no choice, HE WAS IN JAIL AND PRISON IN BUTNER NORTH CAROLINA A FEDERAL PRISON. Judge Greer and Glen Andrew Hall wanted a failure to appear against the Defendant in 2019 knowing that there was a federal detainer on him since November, 2018, before the Trial in General District Court. Then this same judge is okay with unlawful destruction of evidence in response to the court orders regarding discovery in sheer non-compliance with two court orders and a third court order after the dirty deed of illegally destroying evidence was done; and is okay with federal obstruction of justice in violation of 18 U.S. Code § 1519. It is an illegal obstruction of justice, A FEDERAL CRIME, ILLEGAL, for Martinsville Police Department under Police Chief G. E. Cassidy and Commonwealth's Attorney Glen Andrew Hall to have

deleted the body-camera footage on April 9, 2019 in the Digital Video Management System (DVMS) after multiple court orders, not even marking the footage as “evidence” when it clearly was material evidence to Defendant’s charge. THIS IS FRAUD, COLLUSION. Also, the Police Department had contacted U.S. Probation Officer Jason McMurray after Defendant gave him his Probation Officer’s name, they had his information and then the U.S. Probation Office conducted an investigation after Defendant’s arrest on September 21, 2018. The United States Probation Office is a federal office, they are considered a law enforcement agency even though they are an agency of the federal judiciary. They are within the scope of being protected by law from unlawful evidence destruction, then it becomes a federal crime after evidence is unlawfully destroyed.

6. 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. 18 U.S.C. § 1519 Added Pub. L. 107-204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.”)

7. Glen Andrew Hall, Judge Giles Carter Greer, Officer Robert Jones, Scott Albrecht who was Asst. Public Defender and Asst. Commonwealth's Attorney, and former Police Chief G. E. Eddie Cassady are all committing a federal crime of violating 18 U.S.C. § 1519. They all committed the crime by all taking part in the unlawful destruction of the police body-camera footage by the DVMS system, after being given plenty of warning by multiple letters to G. E. Cassady asking for the body-camera footage. The court orders, the policy of Martinsville Police Department, none of it was followed. It is ALL ILLEGAL. It is obstruction of justice with no excuse as to why they violated 18 U.S.C. § 1519. The U.S. Marshals need to arrest them all and try them for violation of 18 U.S.C. § 1519. Unlawful illegal destruction of evidence. They are allowing contempt of court by Glen Andrew Hall because he is a "COMMONWEALTH ATTORNEY". So, this Court is sending a dangerous message that he can violate any law he so desires. He can destroy any evidence he so desires, any evidence he wants to destroy he can do so with impunity and Judge Greer is his BUDDY, his FRIEND, he will protect his friend and buddy. This is collusion, unethical, criminal, criminal behavior, and is racketeering. They are all breaking laws and allowing laws to be broken by the lawyers, in sheer violation of the federal Racketeer Influenced and Corrupt Organizations Act. See Racketeer Influenced and Corrupt Organizations Act (RICO): Originally published: October 15, 1970; Public law: 91-452; Enacted by:

the 91st United States Congress; Long title: An Act relating to the control of organized crime in the United States; Statutes at Large: 84 Stat. 922-3 aka 84 Stat. 941; Titles amended: 18 U.S.C.: Crimes and Criminal Procedure; U.S.C. sections created: 18 U.S.C. §§ 1961–1968.

This appeal is being filed in good faith as it doesn't make sense for a Court to punish a criminal Defendant who has disproven multiple elements of the charged crime and not punish Glen Andrew Hall for refusing to comply with court orders and illegally destroying evidence. This is fraud, this is collusion. This is corruption. This is racketeering to demand any legal fees from the Defendant at this stage with all of the evidence on the record here. This is criminal racketeering and holding a man hostage who shouldn't be. He is innocent. **Brian David Hill = Innocence.**

No guilty plea was entered as the only plea this may resemble was an Alford Plea which is not a guilty plea when evidence surfaces at a later time on disproving the elements of the charge, Judge Greer knows that. None of this is right, none of this is moral. This is a complete miscarriage of justice and is collusion, fraud, and corruption without a doubt against an innocent man. I am being held hostage by these people, they are holding me hostage to my federal supervised release violation and causing my sentence to being extended. This is NOT MORAL; this is not the way criminal defendants should be treated in any court of law. Due process of law,

DUE PROCESS OF LAW, DUE PROCESS OF LAW, DUE PROCESS OF LAW,
GIVE ME LIBERTY OR GIVE ME DEATH!!!

Give me Liberty or Give Me Death. – As Patrick Henry said in Richmond,
Virginia at Saint John’s Church. The answer to George Orwell’s 1984 is 1776. The
answer to 1984 is 1776.

Respectfully submitted with the Court, This the 21st 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



U.S.W.G.O.

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

CERTIFICATE OF SERVICE, CERTIFICATE OF FILING

I hereby certify that a true and accurate copy of the foregoing NOTICE OF APPEAL 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) or delivered this
21st day of February, 2022, to the following parties:

The undersigned certifies as follows:

1. The name and address of the Appellant is:
 Brian David Hill – Ally of Q and Attorney Lin Wood
 Family/Friend site: JusticeForUSWGO.wordpress.com or JusticeForUSWGO.NL
 310 Forest Street, Apartment 2
 Martinsville, Virginia 24112

2. Appellant is not represented by counsel at this time.

3. The names of Appellees is:
 Commonwealth of Virginia
 City of Martinsville

4. The name, address, and telephone number of counsel for appellees' is:
 G. Andrew Hall
 Martinsville Commonwealth's Attorney
 55 W. Church Street
 Martinsville, VA 24112
 (276) 403-5470

5. A copy of this Notice of Appeal has been electronically transmitted by Roberta Hill (electronic filing representative) via email to the Martinsville Circuit Court Clerk's Office, to opposing counsel, and electronically filed by Roberta Hill (electronic filing representative) through the Court's VACES system to the Clerk of the Court of Appeals of Virginia, all on February 21, 2023.

The following parties with fax numbers and email addresses of the parties are listed herein:

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

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SUMMARY

Brian David Hill, criminal case Defendant, and Appellant, pro se, hereby appeals to the Court of Appeals of Virginia from the final judgment of this Court by final order entered February 17, 2023, denying Brian Hill's Motion entitled: "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 For Reconsideration), filed on February 17, 2023.

There are no transcripts as there was no hearing over the denial of that motion. The Defendant's "MOTION TO RECONSIDER THE ORDER...".

Defendant/Appellant is also preserving all issues for appeal from all of the foregoing motions which were denied.

PRESERVATION OF ISSUES FOR APPEAL RAISED IN MOTIONS AND PRESERVATION OF ISSUES OF JUDGE GREER'S ORDER AND DOCUMENTATION OF IGNORING OF EVIDENCE, IGNORING OF WITNESSES, ALLOWING CONTEMPT OF COURT MULTIPLE TIMES, ALLOWING CRIMES TO BE COMMITTED, REFUSAL TO ALLOW THE COMMONWEALTH ATTORNEY TO RESPOND

However, Defendant made it clear that ignoring the evidence and ignoring the case law authorities was violating due process of law under the Fourteenth Amendment of the U.S. Constitution and the Constitution of Virginia, Article I., Section 8. Criminal prosecutions, and Section 11. Due process of law; obligation of contracts; taking or damaging of private property; prohibited discrimination; jury trial in civil cases. The judge filed his order denying it all quickly without even requesting a response from the Commonwealth's Attorney, without conducting any evidentiary hearing or inquiry hearing as to any of the issues, grounds, and elements which it raised.

1. Judge Greer has failed to address the issues of Attorney Scott Albrecht (Public Defender Assistant) who had represented the Defendant Brian David Hill had switched sides after losing Brian's case on purpose in the General District Court on December 21, 2018, Brian filed a pro se notice of appeal then Scott Albrecht was forced to file a notice of appeal too because Brian Hill wasn't going to put up with a lousy good for nothing traitor lawyer. This same lawyer allowed unlawful destruction of evidence by Martinsville Police Department as admitted by police chief Rob Fincher, allowed CONTEMPT OF COURT multiple times and Obstruction of Justice by unlawful destruction of evidence. Then Scott Albrecht is rewarded by not only having Defendant owe attorney fees, he was hired as an "Assistant Commonwealth's Attorney" working for Glen Andrew Hall, the very

prosecutor who prosecuted the criminal case against the Defendant. That is a conflict of interest as was already brought in the Motion to Reconsider, brought up in Declaration of evidence that a Scott Albrecht is an Assistant Commonwealth's Attorney providing evidence of a printout from the City of Martinsville staff directory, a GOVERNMENT WEBSITE, mentions Glen Andrew Hall's name and Scott Albrecht working for the same Commonwealth's Attorney as said in the Staff Directory. This is starting to prove that Scott Albrecht may have colluded with Glen Andrew Hall to commit a fraud upon the court. 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). Judge Greer allowed a conflict of interest without ever conducting an inquiry or investigation even though it is the Judge's duty to do so. A Judge has a DUTY to prevent any conflicts of interest involving attorneys in cases the judge presides over. He is allowing a conflict of interest in both the case and in the appeals (assuming if Glen Andrew Hall and his asst. Scott Albrecht has any influence over the Assistant Attorney General). Scott Albrecht betrayed Brian David Hill the criminal defendant in this case. This is not a normal situation or maybe this is how the Circuit Court has been operating for a long-time taking advantage of the poor people and mentally handicapped who are forced to have a Public Defender who works for the Commonwealth's Attorney. This is rigged, the criminal case is rigged, the jury trial was going to be rigged, the Trial in

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2. This Judge also refused to conduct any inquiry or investigation into the fraud on the court. The record is now a fraud, the court has allowed fraud on its court. He is colluding with the fraud on the court. Defendant asserts that Judge Greer has proven in the record of the Trial Court that he is colluding with both Glen Andrew Hall and Scott Albrecht to wrongfully convict the Defendant using Judge Greer's buddies or friends. They all know each other and seem to want to protect and defend each other like some kind of gang or mafia. They stick up for their own even when their own break laws and rules. This is collusion and fraud accepted by the Judge of this Circuit court. FRAUD, COLLUSION, Unethical, Conflict of interest. This violates the principles set by both the U.S. Constitution and Virginia Constitution's separation of powers clause. We have a separation of powers clause in the Constitutions for a reason. A judge should not be buddies with anybody else, or even if he/she was buddies with others that may get involved in the judicial system or case somehow, then ethics should strictly be enforced. This is unethical that Scott Albrecht was never inquired as to his relationship with Glen Andrew

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unethical manner and allowed a conflict of interest, is allowing one or more frauds to stand to keep an innocent man convicted and owing money to the Commonwealth of Virginia, owing a debt caused by such conflicts of interest and corruption and collusion and FRAUD.

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contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both. 18 U.S.C. § 1519 Added Pub. L. 107-204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.”)

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lawyers, in sheer violation of the federal Racketeer Influenced and Corrupt Organizations Act. See Racketeer Influenced and Corrupt Organizations Act (RICO): Originally published: October 15, 1970; Public law: 91-452; Enacted by: the 91st United States Congress; Long title: An Act relating to the control of organized crime in the United States; Statutes at Large: 84 Stat. 922-3 aka 84 Stat. 941; Titles amended: 18 U.S.C.: Crimes and Criminal Procedure; U.S.C. sections created: 18 U.S.C. §§ 1961–1968.

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these people, they are holding me hostage to my federal supervised release violation and causing my sentence to being extended. This is NOT MORAL; this is not the way criminal defendants should be treated in any court of law. Due process of law, DUE PROCESS OF LAW, DUE PROCESS OF LAW, DUE PROCESS OF LAW, GIVE ME LIBERTY OR GIVE ME DEATH!!!

Give me Liberty or Give Me Death. – As Patrick Henry said in Richmond, Virginia at Saint John’s Church. The answer to George Orwell’s 1984 is 1776. The answer to 1984 is 1776.

Respectfully submitted with the Court, This the 21st 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

U.S.W.G.O.

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CERTIFICATE OF SERVICE, CERTIFICATE OF FILING

I hereby certify that a true and accurate copy of the foregoing NOTICE OF APPEAL 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) or delivered this 21st day of February, 2022, to the following parties:

The undersigned certifies as follows:

1. The name and address of the Appellant is:

Brian David Hill – Ally of Q and Attorney Lin Wood
Family/Friend site: JusticeForUSWGO.wordpress.com or JusticeForUSWGO.NL
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

2. Appellant is not represented by counsel at this time.

3. The names of Appellees is:

Commonwealth of Virginia
City of Martinsville

4. The name, address, and telephone number of counsel for appellees' is:

G. Andrew Hall
Martinsville Commonwealth's Attorney
55 W. Church Street
Martinsville, VA 24112
(276) 403-5470

5. A copy of this Notice of Appeal has been electronically transmitted by Roberta Hill (electronic filing representative) via email to the Martinsville Circuit Court Clerk's Office, to opposing counsel, and electronically filed by Roberta Hill (electronic filing representative) through the Court's VACES system to the Clerk of the Court of Appeals of Virginia, all on February 21, 2023.

The following parties with fax numbers and email addresses of the parties are listed herein:

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

Brian D. Hill
Brian D. Hill
Defendant



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Ally of Q
310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505
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SUMMARY

Brian David Hill, criminal case Defendant, and Appellant, pro se, hereby appeals to the Court of Appeals of Virginia from the final judgment of this Court by final order entered February 14, 2023 (attached thereto), denying Brian Hill's Motion entitled: "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", filed on January 26, 2023.

There are no transcripts as there was no hearing over the denial of that motion. 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".

Defendant/Appellant is also preserving all issues for appeal from all of the foregoing motions which were denied.

PRESERVATION OF ISSUES FOR APPEAL RAISED IN MOTIONS AND PRESERVATION OF ISSUES OF JUDGE GREER'S ORDER AND DOCUMENTATION OF IGNORING OF EVIDENCE, IGNORING OF

**WITNESSES, ALLOWING CONTEMPT OF COURT MULTIPLE TIMES,
ALLOWING CRIMES TO BE COMMITTED, REFUSAL TO ALLOW THE
COMMONWEALTH ATTORNEY TO RESPOND**

However, Defendant made it clear that ignoring the evidence and ignoring the case law authorities was violating due process of law under the Fourteenth Amendment of the U.S. Constitution and the Constitution of Virginia, Article I., Section 8. Criminal prosecutions, and Section 11. Due process of law; obligation of contracts; taking or damaging of private property; prohibited discrimination; jury trial in civil cases. The judge filed his order denying it all quickly without even requesting a response from the Commonwealth's Attorney, without conducting any evidentiary hearing or inquiry hearing as to any of the issues, grounds, and elements which it raised.

1. Judge Greer has failed to address the issues of Attorney Scott Albrecht (Public Defender Assistant) who had represented the Defendant Brian David Hill had switched sides after losing Brian's case on purpose in the General District Court on December 21, 2018, Brian filed a pro se notice of appeal then Scott Albrecht was forced to file a notice of appeal too because Brian Hill wasn't going to put up with a lousy good for nothing traitor lawyer. This same lawyer allowed unlawful destruction of evidence by Martinsville Police Department as admitted by police chief Rob Fincher, allowed CONTEMPT OF COURT multiple times and

Obstruction of Justice by unlawful destruction of evidence. Then Scott Albrecht is rewarded by not only having Defendant owe attorney fees, he was hired as an “Assistant Commonwealth’s Attorney” working for Glen Andrew Hall, the very prosecutor who prosecuted the criminal case against the Defendant. That is a conflict of interest as was already brought in the Motion to Reconsider, brought up in Declaration of evidence that a Scott Albrecht is an Assistant Commonwealth’s Attorney providing evidence of a printout from the City of Martinsville staff directory, a GOVERNMENT WEBSITE, mentions Glen Andrew Hall’s name and Scott Albrecht working for the same Commonwealth’s Attorney as said in the Staff Directory. This is starting to prove that Scott Albrecht may have colluded with Glen Andrew Hall to commit a fraud upon the court. 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). Judge Greer allowed a conflict of interest without ever conducting an inquiry or investigation even though it is the Judge’s duty to do so. A Judge has a DUTY to prevent any conflicts of interest involving attorneys in cases the judge presides over. He is allowing a conflict of interest in both the case and in the appeals (assuming if Glen Andrew Hall and his asst. Scott Albrecht has any influence over the Assistant Attorney General). Scott Albrecht betrayed Brian David Hill the criminal defendant in this case. This is not a normal situation or maybe this is how the Circuit Court has been operating for a long-time

taking advantage of the poor people and mentally handicapped who are forced to have a Public Defender who works for the Commonwealth's Attorney. This is rigged, the criminal case is rigged, the jury trial was going to be rigged, the Trial in General District Court was RIGGED, it is a rigged judicial process, a rigged judicial system in the City of Martinsville. When a court is rigged, there can never be any justice, it is impossible to obtain any justice out of a rigged court. It is a clear conflict of interest here and this Judge is refusing to investigate or conduct any inquiries into this conflict of interest.

2. This Judge also refused to conduct any inquiry or investigation into the fraud on the court. The record is now a fraud, the court has allowed fraud on its court. He is colluding with the fraud on the court. Defendant asserts that Judge Greer has proven in the record of the Trial Court that he is colluding with both Glen Andrew Hall and Scott Albrecht to wrongfully convict the Defendant using Judge Greer's buddies or friends. They all know each other and seem to want to protect and defend each other like some kind of gang or mafia. They stick up for their own even when their own break laws and rules. This is collusion and fraud accepted by the Judge of this Circuit court. FRAUD, COLLUSION, Unethical, Conflict of interest. This violates the principles set by both the U.S. Constitution and Virginia Constitution's separation of powers clause. We have a separation of powers clause in the Constitutions for a reason. A judge should not be buddies with anybody else,

or even if he/she was buddies with others that may get involved in the judicial system or case somehow, then ethics should strictly be enforced. This is unethical that Scott Albrecht was never inquired as to his relationship with Glen Andrew Hall, that Scott Albrecht allowed Glen Andrew Hall to help destroy police body-camera footage within the scope of three court orders in total. The body-camera footage was illegally destroyed on April 9, 2019 according to Police Chief Rob Fincher. Scott Albrecht knew Brian David Hill wanted this body-camera footage but refused to do anything to fight for it before it was destroyed, refused to fight to enforce any of the court orders not complied with. Ignoring a Court Order is CONTEMPT OF COURT. Refusing to comply with a Court Order is CONTEMPT OF COURT. Glen Andrew Hall should be charged with CONTEMPT OF COURT three different times if not two times, that is the law. Scott Albrecht colluded with Glen Andrew Hall because Glen Andrew Hall had hired Scott Albrecht and this court refused to conduct any inquiry into this even though it is this COURT'S DUTY.

3. This is clear collusion, this Judge is buddies with Glen Andrew Hall, it is clear that this judge has committed serious ethics violations to hold an innocent man hostage for a crime he is innocent of. Innocent man Brian David Hill is being held hostage and only Governor Youngkin or any future Governor of Virginia can fix this mess. This is serious corruption issues. The Court of Appeals of Virginia

(CAV) needs to strike down Judge Greer's orders. Judge Greer has acted in a manner inconsistent with due process of law. The Trial Court has acted in a manner inconsistent with due process of law, all along since the very beginning. Acted in an unethical manner and allowed a conflict of interest, is allowing one or more frauds to stand to keep an innocent man convicted and owing money to the Commonwealth of Virginia, owing a debt caused by such conflicts of interest and corruption and collusion and FRAUD.

4. Collusion, fraud, conflict of interest, depriving a criminal defendant of due process of law, both procedural due process of law and substantive due process of law. This is entirely become one or more abuses of discretion, and errors.

5. When Brian David Hill was sending letters to the Circuit Court from both Western Virginia Regional Jail (WVRJ) in December to January 2019 and Federal Correctional Institution 1 (FCI) in Butner, North Carolina from January 2019 on up, Judge Greer and Glen Andrew Hall worked together (colluded) to wanted to issue a capias against the Defendant when the Deputy Master Clerk Jeanie Nunn knew that Defendant was sending letters from a jail or prison at the time so she knew that Brian couldn't of failed to appear because he had no choice, HE WAS IN JAIL AND PRISON IN BUTNER NORTH CAROLINA A FEDERAL PRISON. Judge Greer and Glen Andrew Hall wanted a failure to appear against the Defendant in 2019 knowing that there was a federal detainer on him since November, 2018,

before the Trial in General District Court. Then this same judge is okay with unlawful destruction of evidence in response to the court orders regarding discovery in sheer non-compliance with two court orders and a third court order after the dirty deed of illegally destroying evidence was done; and is okay with federal obstruction of justice in violation of 18 U.S. Code § 1519. It is an illegal obstruction of justice, A FEDERAL CRIME, ILLEGAL, for Martinsville Police Department under Police Chief G. E. Cassady and Commonwealth's Attorney Glen Andrew Hall to have deleted the body-camera footage on April 9, 2019 in the Digital Video Management System (DVMS) after multiple court orders, not even marking the footage as "evidence" when it clearly was material evidence to Defendant's charge. THIS IS FRAUD, COLLUSION. Also, the Police Department had contacted U.S. Probation Officer Jason McMurray after Defendant gave him his Probation Officer's name, they had his information and then the U.S. Probation Office conducted an investigation after Defendant's arrest on September 21, 2018. The United States Probation Office is a federal office, they are considered a law enforcement agency even though they are an agency of the federal judiciary. They are within the scope of being protected by law from unlawful evidence destruction, then it becomes a federal crime after evidence is unlawfully destroyed.

6. 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. 18 U.S.C. § 1519 Added Pub. L. 107-204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.”)

7. Glen Andrew Hall, Judge Giles Carter Greer, Officer Robert Jones, Scott Albrecht who was Asst. Public Defender and Asst. Commonwealth’s Attorney, and former Police Chief G. E. Eddie Cassady are all committing a federal crime of violating 18 U.S.C. § 1519. They all committed the crime by all taking part in the unlawful destruction of the police body-camera footage by the DVMS system, after being given plenty of warning by multiple letters to G. E. Cassady asking for the body-camera footage. The court orders, the policy of Martinsville Police Department, none of it was followed. It is ALL ILLEGAL. It is obstruction of justice with no excuse as to why they violated 18 U.S.C. § 1519. The U.S. Marshals need to arrest them all and try them for violation of 18 U.S.C. § 1519. Unlawful illegal destruction of evidence. They are allowing contempt of court by Glen Andrew Hall because he is a “COMMONWEALTH ATTORNEY”. So, this Court is sending a dangerous message that he can violate any law he so desires. He can destroy any evidence he so desires, any evidence he wants to destroy he can do so

with impunity and Judge Greer is his BUDDY, his FRIEND, he will protect his friend and buddy. This is collusion, unethical, criminal, criminal behavior, and is racketeering. They are all breaking laws and allowing laws to be broken by the lawyers, in sheer violation of the federal Racketeer Influenced and Corrupt Organizations Act. See Racketeer Influenced and Corrupt Organizations Act (RICO): Originally published: October 15, 1970; Public law: 91-452; Enacted by: the 91st United States Congress; Long title: An Act relating to the control of organized crime in the United States; Statutes at Large: 84 Stat. 922-3 aka 84 Stat. 941; Titles amended: 18 U.S.C.: Crimes and Criminal Procedure; U.S.C. sections created: 18 U.S.C. §§ 1961–1968.

This appeal is being filed in good faith as it doesn't make sense for a Court to punish a criminal Defendant who has disproven multiple elements of the charged crime and not punish Glen Andrew Hall for refusing to comply with court orders and illegally destroying evidence. This is fraud, this is collusion. This is corruption. This is racketeering to demand any legal fees from the Defendant at this stage with all of the evidence on the record here. This is criminal racketeering and holding a man hostage who shouldn't be. He is innocent. **Brian David Hill = Innocence.**

No guilty plea was entered as the only plea this may resemble was an Alford Plea which is not a guilty plea when evidence surfaces at a later time on disproving

the elements of the charge, Judge Greer knows that. None of this is right, none of this is moral. This is a complete miscarriage of justice and is collusion, fraud, and corruption without a doubt against an innocent man. I am being held hostage by these people, they are holding me hostage to my federal supervised release violation and causing my sentence to being extended. This is NOT MORAL; this is not the way criminal defendants should be treated in any court of law. Due process of law, DUE PROCESS OF LAW, DUE PROCESS OF LAW, DUE PROCESS OF LAW, GIVE ME LIBERTY OR GIVE ME DEATH!!!

Give me Liberty or Give Me Death. – As Patrick Henry said in Richmond, Virginia at Saint John’s Church. The answer to George Orwell’s 1984 is 1776. The answer to 1984 is 1776.

Respectfully submitted with the Court, This the 21st 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 or JusticeForUSWGO.wordpress.com

CERTIFICATE OF SERVICE, CERTIFICATE OF FILING

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I hereby certify that a true and accurate copy of the foregoing NOTICE OF APPEAL 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) or delivered this 21st day of February, 2022, to the following parties:

The undersigned certifies as follows:

1. The name and address of the Appellant is:

Brian David Hill – Ally of Q and Attorney Lin Wood
Family/Friend site: JusticeForUSWGO.wordpress.com or JusticeForUSWGO.NL
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

2. Appellant is not represented by counsel at this time.

3. The names of Appellees is:

Commonwealth of Virginia
City of Martinsville

4. The name, address, and telephone number of counsel for appellees' is:

G. Andrew Hall
Martinsville Commonwealth's Attorney
55 W. Church Street
Martinsville, VA 24112
(276) 403-5470

5. A copy of this Notice of Appeal has been electronically transmitted by Roberta Hill (electronic filing representative) via email to the Martinsville Circuit Court Clerk's

Office, to opposing counsel, and electronically filed by Roberta Hill (electronic filing representative) through the Court's VACES system to the Clerk of the Court of Appeals of Virginia, all on February 21, 2023.

The following parties with fax numbers and email addresses of the parties are listed herein:

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


Signed

Brian D. Hill

U.S.W.G.O.



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

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF MARTINSVILLE

COMMONWEALTH OF VIRGINIA

v.

ORDER
Case No. CR19000009-00

BRIAN DAVID HILL

UPON CONSIDERATION of the defendant's Motion for Set Aside or Relieve
Defendant of Judgment of Conviction of Criminal Charge, it is ORDERED that said motion is
hereby DENIED.

ENTER: This 14th day of February, 2023.


Judge

Endorsement is dispensed with – Rule 1:13

TWENTY-FIRST
JUDICIAL CIRCUIT
OF VIRGINIA

By:  Deputy Clerk

ROBERTA HILL <rbhill67@comcast.net>

2/26/2023 8:04 AM

EMERGENCY Letter to Clerk of Court of Appeals of Virginia and Justin Hill, Judge Greer wants my son jailed

To OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> • Hill, Justin B. <jhill@oag.state.va.us> • Chris Coen <ccoen@oag.state.va.us> Copy
Lin Wood <lwood@linwoodlaw.com> • Lin Wood <lwood@fightback.law> • nisha@rutherford.org • staff@rutherford.org • James O'Keefe <veritastips@protonmail.com> • tips@projectveritas.com • DelLAdams@house.virginia.gov <delladams@house.virginia.gov> • district20@senate.virginia.gov

EMERGENCY Letter to Clerk of Court of Appeals of Virginia

My son Brian may be arrested for contempt of court for what he argued in preservation of issues for the three filed notices of appeals. Brian Hill may not be able to continue his appeals if he is jailed or who knows what may happen to my son.

I heard bad things about Judge Greer. I didn't know he was going after my son. He is retaliating. This judge is retaliating against my son. I and my son heard bad things about this judge from other people like one who ran a blog. <https://patrickcountyva.blog/>

Judge Greer wants to target my son, I am afraid for him, I don't know what to do, there is nothing I can do for him.

The corruption is bad when someone seems to be causing the clerks to block Brian from access to the complete record of the trial court. Brian messed with some very powerful people. Brian is not a powerful person, he is mentally disabled with autism. Brian will be crushed by the corruption.

Things keep getting worse and worse. **Brian David Hill = Innocence.** His appeals may be kaput now with Brian possibly being sent to jail after Judge Greer makes an example out of him. How can Brian comply with the rules of the Court of Appeals while sitting in jail with no law library and no type writer???

You will be served a copy of my son's emergency letter. In 2012, he faced corruption in town of Mayodan and got framed with child porn <https://wearechange.org/case-brian-d-hill/> because of local retaliation campaign. Now Judge Greer wants to target my son, who knows what they will do him there or what crimes may happen against my son. We are all scared, his family is scared.

My son has been shaking and trying to contact REACH crisis hotline. Brian is afraid. Brian is panicking and wondering if they will force the mRNA vaccine on him and kill him. Brian is fearing that the corruption will target Brian's life.

Files:

EMERGENCY-LETTER-FEB-26.pdf

1-Notice-of-Appeal-2-21-2023.pdf

2-Notice-of-Appeal-2-21-2023.pdf

3-Notice-of-Appeal-2-21-2023.pdf

contempt-charge.pdf

evidence-judge-greer.pdf

- EMERGENCY-LETTER-FEB-26.pdf (197 KB)
- 1-Notice-of-Appeal-2-21-2023.pdf (353 KB)
- 2-Notice-of-Appeal-2-21-2023.pdf (619 KB)
- 3-Notice-of-Appeal-2-21-2023.pdf (352 KB)
- contempt-charge.pdf (468 KB)
- evidence-judge-greer.pdf (767 KB)

CAV: Submitted on 02-26-2023 08:10:57 EST for filing on 02-27-2023



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Martinsville Circuit Court [\(details\)](#)

[Subscribe](#)

Case #: **CR19000009-01**

Defendant: **HILL, BRIAN DAVID**

Defendant Information

Address: **MARTINSVILLE, VA 24112**

Gender: **MALE**

Race: **WHITE**

DOB: **05/26/******

Attorney:

Case/Charge Information

Defendant Status: **SUMMONS**

Filed Date: **02/21/2023**

Locality: **COMMONWEALTH OF VA**

Code Section: [18.2-456\(A\)\(3\)](#)

Charge: **INSULT LANG TO JUDGE; CONTEMPT**

Case Type: **MISDEMEANOR**

Class: **UNCLASSIFIED**

Commenced By: **OTHER**

Offense Date: **02/21/2023**

Arrest Date:

Amended Code Section:

Amended Charge:

Amended Case Type:

Amended Class:

Appeal Information

Appeal Date:

Hearing Information

Date	Time	Result	Type	Courtroom	Plea	Duration	Jury
03/03/2023	09:00 AM		ADVISE ABOUT ATTORNEY ARRANGEMENTS				

Disposition Information

Disposition:

Disposition Date:

Concluded By:

Jail/Penitentiary:

Concurrent/Consecutive:

Life/Death:

Sentence Time:

Sentence Suspended:

Program Type:

Probation Type:

Probation Time:

Probation Starts:

Operator License Suspension Time:

Restriction Effective Date:

Operator License Restrictions:

Military:

Traffic Fatality: **NO**

CAV : Submitted on 02-26-2023 08:10:57 EST for filing on 02-27-2023

Court/DMV Surrender:
 Driver Improvement Clinic:
 VASAP:
 Restitution Paid:
 Restitution Amount:
 Fine: *
 Costs: *
 Fine/Costs Paid:
 Fine/Costs Paid Date:

Service/Process ^

Seq. #	Person Served	Notice Type	Hearing	Issued	Served	How Served
1	HILL, BRIAN DAVID	SHOW CAUSE	03/03/2023	02/24/2023		

Pleadings/Orders ^

Seq. #	Date	Type	Party	Judge	Book & Page	Instrument	Remarks
4	02/24/2023	OTHER	JPN				ATTACH SC - APPEAL 3
3	02/24/2023	OTHER	JPN				ATTACH SC-APPEAL 2
2	02/24/2023	OTHER	JPN	GCG			ATTACH SC-APPEAL 1
1	02/24/2023	SHOW CAUSE RULE	JPN				COURT ISSUED SC

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Patrick County VA Blog

Real News in Patrick County Virginia. Free speech and setting the record straight!

☰ Menu

Federal Civil Rights Cases.

Patrick County Virginia Corruption Updates:

Brian Clark won his USC 42 1983 case in Federal Courts against Patrick County Sherriff Officer Rob Coleman. **Rob Coleman** illegally stopped the Vehicle Mr. Clark was riding in after he just had left the Circuit Court of Patrick County Virginia where he was the civil Plaintiff. This Federal Case WIN stands up and protects our 4th amendment Rights under the US Constitution. Many who know a little bit about this matter may want to read this entire article to fully understand how this all began.

In short Mr. Clark had just asked **Judge G. Carter Greer** to recuse himself after he discovered a 27 year long standing Family relationship with the third-party defendant BB&T Bank. This discovery seemed to anger this Judge and ironically also the other Judges in the 21st District, according to eyewitnesses. After Mr. Clark then left Court that day he was followed out of court by the Local Police in Patrick County and was then pulled over into Moody's Funeral Home.

This entire incident was captured on Video by one of Mr. Clarks eyewitnesses, who was also harassed and ticketed that day just for pulling over and filming the Stop. The witness's ticket was later dismissed by the court after others testified to the incident and that she did nothing illegal. After Mr. Clark won the Federal Civil Right Violation Suit, Mrs. Vipperman, out of what appears to be clear retaliation, had Mr. Clark charged with Contempt of Court a second time in an orchestrated witch hunt styled trial. Judge Williams was the judge in that matter and of course they all ultimately had him convicted. Mr. Clark later had to spend 10 days in the local Patrick County "Jail" during the height of Covid-19 Pandemic before there was even a single reported case in Patrick County Virginia. Later after this the County had numerous Covid-19 related deaths and numerous increased cases of Covid-19 in Patrick County Virginia.

Mr. Clark has always and will continue to stand against any County Elected Officials that engages in unethical conduct. **Mrs. Vipperman** early on in these matters even called herself "So situated" as she requested to get outside prosecution help from Carrol Counties after her office had lost miserably on a fabricated Assault and Battery Case. Her friend in Carrol County also lost the prior Contempt of Court accusation attempt. Mrs. Vipperman and her office was later brought up on Malicious Prosecution Charges after they lost the Fabricated Assault and Battery Case, but of course the Judges threw it out of court claiming she has absolute immunity. Her key "Star Witness" in the fabricated Assault and Battery Case was **Mrs. Weeks** who came from **Dr. Mahoney's Office** where Mrs. Vipperman's own Sister-in-Law was "So situated" by her employment there as the Office Manager. They ultimately lost all these cases very miserably and yet they continued to harass Mr. Clark because he had essentially exposed this and also had a pending case against her and her office staff to include this ongoing federal suit against Officer Rob Coleman at that time. Mr. Clark ultimately Won every case both in Federal Courts and in Circuit Courts with a Jury Trail, except the last Contempt Case tried by Mr. Vipperman despite her

recusing her own self as being “So situated” in these case matters in the first contempt case. How does one become “So situated” in these cases and then magically becomes un-situated all of a sudden? It appears very evident that she has carried out a personal vendetta here

“When you stand up against unethical acts and you have essential caught them, be prepared that this entire County will do everything possible to try and cover it all up.” Said Mr. Clark

To date no Local Media or other local News Groups in Patrick County Virginia has released any updates on this matter. Is it because they are getting something out of it, or do they just truly want to keep everyone in the dark from knowing the true facts around these matters and what really goes on in Small Towns like Stuart, Virginia?

Local Judge Martin Clark Jr. What does he know, or what can he now remember about these cases?

One Judge in Patrick County turned author was also heavily engaged in these cases and it just makes one wonder where he gets his content for his legal thriller books. Some would say it’s just legal fiction and others would say it from his years behind the bench and the local politics of the small town of Stuart Virginia where his father was a Judge before him. Others claim that he has suffered from a serious medical condition that has since put him into retirement but is still unclear how that has affected his mental judgment.

Only time will reveal all things including how they even used Mr. Clarks 12-year-old son at the time in these matters and how they “planted” a local Trucking Companies Son named **“Kenneth Trent”** in place of the court ordered pastor, who was a neutral agreed upon party, and then allowed him to testify in court despite the fact that he was opposed and wasn’t supposed to be with his son. This is all very well documented according to the Court Documents. Judge Williams was also the one who heard this case, and yes it was also the same Judge Williams that later tried the Contempt of Court case and had Mr. Clark Jailed for 10 days. The Federal Civil Rights case won by Mr. Clark sheds a lot more insight onto the real truth behind these matters, one in which should be further investigated. BB&T continues to be a center focal point around all these cases and is recently the nations 6th largest Bank with their recent accusation of Sun Trust Bank. How fitting that the new name for this bank is called “Truist”.

Welcome to the Real Truth about Patrick County Virginia.

The Real Truth about the Patrick County Virginia Corruption.

On Jan 26th 2015 Brian H. Clark fully exposed the Commonwealth Attorneys Office lead by Stephanie Brinegar- Vipperman for attempting to prosecute and fabricate a Criminal accusation against him with preposterous and unsubstantiated claims. When they eventually lost this case in the circuit court of appeals before a Jury Trial of 7, since then she has continued to seek retaliation against Mr. Clark. This case has totally consumed and embroiled her along with the entire local 21st Judicial District. The Court recorded transcript of that case clearly exposed the great lengths that they would go to in order to attempt to place a known to be innocent man in Prison. One might ask why, so did we! So we started to do a little more research and have discovered that this isn’t the first time that she has been surrounded

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by controversial decisions in other cases as well. Even those involving Murder in this County. You can read about those and more case details in this blog below.

Was it to aid BB&T's Banks Liability for covering up over 300,000.00 of CASH being removed from accounts that was established and opened with BB&T without Mr. Clark's Signature that was allowed by local BB&T Executives in his Sole owned Business LLC name?

Was this about using this 21st Judicial District and the close BB&T Relationships that was uncovered to further extort and exploit well over more than a 100,000.00 in massive extorted legal fees? The facts and evidence are so prevailing and evident in these numerous fabricated criminal accusations and 7 years of tenaciously guarded civil case history , that's still ongoing to this very day? We invite you to be the Judge. If this true story and the court recorded facts on this blog don't get your attention here, not much will. This embroiling battle rages on to this very day between Brian Clark, Patrick County, and the 21 Judicial District. The Courts here will apparently stop short of nothing to include using your own children and local law enforcement to aid them in carrying out their narratives and agendas. When you stand up for your Rights against the establishment you will be targeted, threatened, and even assaulted. We would like to thank everyone that has come out as witnesses and has captured it on Video. Mr. Clark would like to personally thank them for their help and support in hopes that united as one voice that we can eventually hold those accountable and bring all those involved before lady Justice.

Corruption must be exposed and addressed if we are to prevent this from happening to others. This type of Tyranny, if allowed to go unchecked, can erode a families success and wealth in merely a blink of an eye. Imagine if you will, you've worked 10 to 20 years in Business only to have it eradicated and destroyed while those with "So Called" Immunity never have to face these injustices. Where do we draw the line as a free society in pursuit of the American Dream?

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness." Abraham Lincoln

Epperson vs Payne

This Case file below involves accusations of Civil Rights Violations involving Patrick County Sheriff Deputies and the Commonwealth Attorney Stephanie Brinegar-Vipperman.

Defendant Stephanie Brinegar-Vipperman's Motion to Dismiss will be granted, Defendants Calvin and Vickie Payne's Motion to Dismiss will be denied, and Defendants Brian Hubbard, Terry Mikels, and Danny Martin's Motion to Dismiss will be granted in part and denied in part.



Civil Right Violations under the Color of Law must be addressed.

In the present case, taking the facts in the light most favorable to the Eppersons, the deputies entered the Eppersons' leased property without permission. After entering the home through the garage without a warrant, they drew their guns on Mr. Epperson. They placed him under arrest and searched his person—all following an illegal entry into the home. They removed the keys from his pocket and gave the keys to the property to the Paynes—all without a court order or any legal authority to do so. They then removed their young Son from his home— at gunpoint. Again, this was done following an unauthorized and illegal entry into the home, and without probable cause that their Son—a minor who was sick in bed—had violated any law. No reasonable person could say that, under these facts, Plaintiffs' right to due process (Count I) or to be free from unreasonable searches and seizures (Count II) was not clearly established. Moreover, the deputies' arguments in support of qualified immunity all rise and fall on accepting their version of the facts. They argue that they were unaware of the history of the property and that they asked Brinegar-Vipperman if they could assist the Paynes. Those arguments are not appropriate at the motion to dismiss stage. At this stage, the Court assumes Plaintiffs' version of the facts is true—specifically that, without a court order, the deputies assisted the Paynes in evicting them from their home. They did this despite the fact that Plaintiffs had a rental agreement with the Paynes that had not been breached. Under those facts, the deputies violated Plaintiffs' clearly established constitutional rights, as well as the rights afforded them under the laws of Virginia (namely, their property rights as tenants).

Link to Full Case File as Published in the Danville Virginia Western District Federal Courts: Source of Public Released Records

[epperson-vs.-payne-1](https://patrickcountyvablog.files.wordpress.com/2019/01/epperson-vs.-payne-1.pdf) (<https://patrickcountyvablog.files.wordpress.com/2019/01/epperson-vs.-payne-1.pdf>) (https://patrickcountyvablog.files.wordpress.com/2019/01/epperson-vs.-payne-1.pdf?force_download=true)

Clark vs Rob Coleman

This Case file below involves accusations of Civil Rights Violations involving Patrick County Sheriff
Page 70 of 901

Officer Rob Coleman, County Assistant Administrator Geri Hazelwood, other Officer Does and the Patrick County Sheriff Dan Smith.



Civil Right Violations under the Color of Law must be addressed.

Link to Full Case File as Published in the Danville Virginia Western District Federal Courts: Source of Public Released Record

[clark-vs.-rob-coleman-2](https://patrickcountyvablog.files.wordpress.com/2019/01/clark-vs.-rob-coleman-2.pdf) (<https://patrickcountyvablog.files.wordpress.com/2019/01/clark-vs.-rob-coleman-2.pdf>) (https://patrickcountyvablog.files.wordpress.com/2019/01/clark-vs.-rob-coleman-2.pdf?force_download=true)

Although Coleman has since been promoted to the rank of Captain, at the time of the alleged encounter, he was a Lieutenant.

Taking the facts in the light most favorable to Plaintiff, the evidence establishes that Coleman, acting in his capacity as a deputy sheriff, seized Plaintiff without probable cause or reasonable suspicion of wrongdoing. After Inzerillo overheard some deputies discussing a plan to “take down” Plaintiff, Coleman followed Plaintiff from the courthouse and effectuated a traffic stop on the vehicle in which Plaintiff was riding. The vehicle was stopped without probable cause or reasonable suspicion, and Coleman’s expressed reason for stopping the vehicle is belied by Plaintiff’s testimony, which I accept as true. Clearly, Plaintiff has presented sufficient evidence to show that Coleman, acting under color of law, violated Plaintiff’s right to be free from unreasonable seizures. See *Rodriguez v. United States*, 135 S. Ct. 1609, 1617 (2015) (noting that a traffic stop constitutes a seizure for the purposes of the Fourth Amendment); *Whren v. United States*, 517 U.S. 806, 809–10 (1996) (“Temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a ‘seizure’ of ‘persons’ within the meaning of [the Fourth Amendment]. An automobile stop is thus subject to the constitutional imperative that it not be ‘unreasonable’ under the circumstances

See, e.g., *Johnson v. Campbell*, 332 F.3d 199, 213 (3rd Cir. 2003) (holding that arresting a man for disorderly conduct after calling a police officer a “son of a bitch” violated the defendant’s First Amendment rights); *Buffkins v. City of Omaha*, 922 F.2d 465, 472 (8th Cir. 1990) (holding that calling an officer an “asshole” was protected speech and thus could not form the basis for a disorderly conduct arrest); *Duran v. City of Douglas*, 904 F.2d 1372 (9th Cir. 1990); *Osborne v. Lohr-Robinette*, No.

1:05-0106, 2006 WL 3761597, at *2, 8 (S.D.W. Va. Dec. 20, 2006) (holding that calling a police officer an “asshole” and an “Opie-Taylor-looking motherfucker” was protected speech, but finding qualified immunity because the law was not clearly established in 2003). But see McCormick v. City of Lawrence, 325 F. Supp. 2d 1191 (D.

Local Police and a Virginia State Trooper seen here. Lying in wait to ambush Mr. Clark after leaving a Civil Circuit Court Hearing involving BB&T in Patrick County Stuart Virginia on July 25th 2016. 4th Amendment Violation of the US Constitution.

After leaving Civil Court July 25th 2016 a total of 6 Police Vehicles and 8 deputies surrounded Mr. Clark. Mr. Clark had asked Judge G. Carter Greer for his recusal because of his families long standing history with BB&T. During this court hearing Judge Greer attempted to charge Mr. Clark with Contempt of Court and wanted to try that case right then. After Mr. Clark requested it be addressed at the set Court Date and after he had adequate time to consult an Attorney, this appeared to anger this Judge but he sustained Mr. Clark’s request. After leaving court and being pulled over a Black Dodge Charger then came out from behind Moody’s Funeral Home and parked sideways in front of the burgundy Chevy where Mr. Clark was ridding as a Passenger just leaving the Circuit Court. These very same officers where just in Court and rushed out and got in their patrol cars as Mr. Clark exited the court house. Patrick County Officer Lt Rob Coleman as seen here in the Grey unmarked Dodge Charger, then used his lights to pull over the Vehicle into Moody Funeral Home in Stuart Virginia. He never approached the driver of the car or asked her for anything, he was claiming that Mr. Clark had gave him the middle finger as he drove by him. During court Judge G. Carter Greer who was visibly very angry in court on July the 25th over the recusal letter and Mr. Clark’s discovery of the Roanoke Times Article that was attached to the letter, which clearly had uncovered that there was in fact a long history between the Greer Family and BB&T Banks. BB&T was a named third party defendant in Mr. Clark’s Civil Suits before this court and this Judge. One of the local lawyers involved in these cases Phillip G. Gardner was later caught sending various emails to these Judges Assistant’s Mrs. Leigh Royal. He was making unfounded accusations that Mr. Clark had people at his Home and that they where part of some Security Force conspiracy theory and advised them in those emails to Alert the Sheriff. These emails where all discovered when Mrs. Cheryl Martin, the assistant for Judge David Williams, was also blind copied on that same email thread. The Originator of the email was Mr. Clark’s estranged wife, whom Mr. Gardner claimed he did not no longer represent. This also was not hidden from the Judges Assistants and gives the appearance that they where all in a “collusion together” in order to gain advantages in these cases. How do we know this? In the email thread exchange between the estranged Ex Wife, Mr. Gardner, and these Judges assistants, which was done on August 3rd 2016, was also less than 20 days before she and Mrs. Vipperman where to be facing the August 23rd 2016 case for abuse of process and malicious prosecution. Those emails was discovered when Judge Martin Clark Jr. sent them to the Virginia Supreme Courts in his response to the Writ of Prohibition filed by Mr. Clark’s Lawyer. In those records it showed internal emails between his assistant and Mrs. Cheryl Martin, Judge Williams assistant, where she was Blind Copied on this email thread. Judge Clark had also banned Mr. Clark from entering the Clerks Office, in what appears to be an effort to prevent him from making filings in his cases or obtaining his case records.

*Patrick County Vehicle Stop
Brian Clark vs Rob Coleman*

Patrick-County-Vehicle-stop-4th Amendment Violation.

Timeline of events:

The Assault on a NC Female Federal Witness to this stop was later done in Circuit Court on August 23rd

2016 by the Sheriff “Dan Smith”. This was reported to the Virginia State Police and placed under an extensive 2 year investigation ordered by the Virginia State Attorney General’s Office. This was done less than 30 days following this stop and after the dismissal of a Ticket that Rob Coleman gave another Witness for essentially videoing this Stop. She beat this ticket and was found Not Guilty. These Witnesses was then targeted and followed into Circuit Court later that same afternoon where the Assault took place. The Assault was witnessed by Judge David Carson, including 4 others Eye Witnesses to this assault, who gave verbal and written statements to Billy McCraw the Virginia State Trooper assigned to this investigation. Only the State Attorney General’s Office can order an investigation of an Elected Official, according to Billy McCraws statements he told the Victim.

(<https://patrickcountyvablog.files.wordpress.com/2019/07/patrick-county-vehicle-stop-harrasment.pdf>) Download (https://patrickcountyvablog.files.wordpress.com/2019/07/patrick-county-vehicle-stop-harrasment.pdf?force_download=true)

Rob-Coleman-flip-off-news Article (<https://patrickcountyvablog.files.wordpress.com/2019/07/rob-coleman-flip-off-news.pdf>) Download (https://patrickcountyvablog.files.wordpress.com/2019/07/rob-coleman-flip-off-news.pdf?force_download=true)

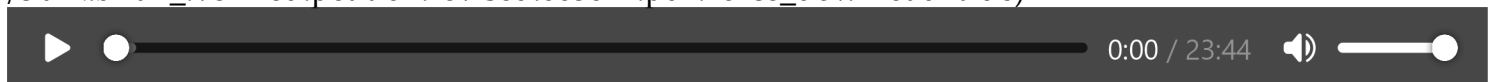
Judge Martin F. Clark Jr. was served with a Writ of Prohibition by Mr. Clark’s Attorney regarding an oral Banning of Mr. Clark from entering the Circuit Court Clerk’s Office. In turn he wrote a letter to Judge Williams seeking him to charge Mr. Clark a second time for Contempt, and he did so. This oral order was absent due process or any written or verbal notification to Mr. Clark. It also followed a recusal request letter sent to Judge G. Carter Greer. Mr. Clark, through his online discovery of a public released article posted in the Roanoke Times, learned that Judge Greer and his father was in business together and that his Father T Keister Greer (Now Deceased) had a 27 year relationship in the Banking industry. It was very apparent that the Greer family had invested interest with BB&T during those years. Naturally the relationships of the Father would follow the Son and this gave the appearance of a conflict of interest in the view of the public eye. Mr. Clark then asked for his recusal, attached this article which then angered this Judge and yet he denied to recuse himself and has since made rulings in cases involving BB&T. He did so without ever looking at any of the FACTS in these cases, according to the reviewed court recorded statements from the Judge himself. This recusal letter and public attached article apparently not only angered Judge Greer, but it also took umbrage with Judge Martin F. Clark Jr. as well according to these court records, letters and transcripts. Attached is the complete Writ of Prohibition as filed with the Virginia Supreme Courts by his counsel and a link to the Roanoke Times Article is included in both. SEE BELOW

https://www.roanoke.com/archive/column-past-times/article_eab9393c-3dcc-5abd-a697-b8ee076351b4.html (https://www.roanoke.com/archive/column-past-times/article_eab9393c-3dcc-5abd-a697-b8ee076351b4.html)

Link to the News Paper Article posted above by the Roanoke Times

Below is a Copy of the full Writ of Prohibition. All this is Public Records available under the protections of the FOIA and the 1st Amendment of the US Constitution.

clark.brian_.verified.petition.revised.063017 (https://patrickcountyvablog.files.wordpress.com/2019/07/clark.brian_.verified.petition.revised.063017.pdf) Download (https://patrickcountyvablog.files.wordpress.com/2019/07/clark.brian_.verified.petition.revised.063017.pdf?force_download=true)



Brian Clark WINS Federal Suit for USC 42 1983 CASE, but the Local Commonwealth Attorney illegally have a Witch Trail and had Mr. Clark Jailed in the Patrick County Jail for 10 days. This was done out of pure retaliation for filing a Writ of Prohibition, which Mr. Clark's Lawyer filed on his behalf. This was also done during COVID-19 Pandemic when Mr. Clark was ordered to report to Jail to serve out 10 days. At that time Patrick County had Zero Cases of COVID-19. Shortly afterwards they had 39 CASES and 1 reported death in Patrick County Virginia.

[brian-clark-usc42-1983-case \(https://patrickcountyvablog.files.wordpress.com/2020/07/brian-clark-usc42-1983-case.pdf\)](https://patrickcountyvablog.files.wordpress.com/2020/07/brian-clark-usc42-1983-case.pdf) Download (https://patrickcountyvablog.files.wordpress.com/2020/07/brian-clark-usc42-1983-case.pdf?force_download=true)

Assault and Battery Case (Clark found not Guilty)



No apparent Justice for the Victims of the wrongfully accused and prosecuted

Case # CR14000427-00 filed in the Patrick County Circuit Court on Jan 26th 2015.

“Brian Clark was found unanimously Not Guilty of an alleged Brutal Assault heard in the Patrick County Circuit Court before a 7 member Jury Trial on Jan 26th, 2015.

The Prosecutor in the case was the former Assistant Commonwealth Attorney Marcus Brinks, now the Honorable Judge Brinks. The Honorable Judge Martin Clark Jr. was the Presiding judge over the case.”

Statement of events according to the Court Recorded Transcripts.

The responding 911 deputy of this purported brutal assault call was Deputy Haymore. The Patrick County Virginia Sheriffs Deputy was actually a witness for the defense in the Commonwealth vs Brian Clark case. According to court recorded testimony records, Deputy Haymore stated that he “Did not charge Brian Clark with this warrant. He didn’t do so despite the fact that if he had been able to observe this level of severe bleeding or injuries, that he could have done so. McGraw, counsel for Mr. Clark stated, “And if there was a collaborating witness saying, yes I saw Brian Clark beat this person senseless that you could have issued a warrant for his arrest could you not have? Haymore’s response was “Yes

Sir." McGraw then asked him "And you did not do that on June 15th of 2013? Haymore's Response was. "No Sir".

The Prosecution's Key Medical Witness, whom it was later discovered, worked with the Clinic's Office Manager which was also the Sister-in Law of the Patrick County Commonwealth Attorney Mrs. Brinegar-Vipperman at the time. Both those two Clinic co workers were employees at the same local Doctors Office in Martinsville Virginia at the time of this incident. Perhaps this was just by some sheer coincidence, or by happenstance. In any Regards:

The Prosecution's Star key witness, gave qualified expert testimony during the court recorded transcripts of this case. Mainly identifying bruises to the plaintiffs hands in the numerous photos submitted. Her testimony further simply didn't sustain the prosecutions evidence regarding their plaintiffs accusation that she had sustained severe or bloody trauma to her head and neck areas. She stated that it was subjective data and that was what the patient had told her had happened. Her written medical examination report didn't align with the prosecutions purported physical evidence. None of the severe head and neck trauma with severe bruising was documented in her written report. Neither did the plaintiffs own testimony about the injuries she reported sustaining align with this report or Deputy Haymore's testimony.

On page 40 and 41 of the court recorded transcripts Mr. McGraw asked the plaintiff the following. Isn't it fair to say that you needed medical attention half and hour earlier at the end of the exchange? She answered, "I probably did, but I was sticky from the drink and I, you know, there was blood and my hair was matted and I just..." So in your opinion at the time it was more important for you to take a shower than to get immediate medical attention, Correct? She answered, "Right. I didn't feel like I needed to go right then. I knew I was going, but I just needed to wash the blood off." Did you intend to drive yourself to get medical attention, Correct? "She replied, I would never call my crew to come get me." Now, when Deputy Haymore came, you did not show him any bloody hair that you allege you had pulled out of the back of your head? Her answer was, "I threw it away." An you did not show Deputy Haymore any blood coming out of the back of your head? Her answer, "I took a shower. I washed it all off." So, you washed it all off. And you didn't even tell Deputy Haymore that you had been bleeding and your hair had fallen out? She answered, "I did." The court recorded transcripts in this case, simply didn't align with their purported "Brutal Assault" theory.

Where was the Hospital report where Deputy Haymore had taken her that night in his patrol vehicle? The jury had asked where was this report at, and the prosecution didn't produce one. Did the prosecution even talk to Deputy Haymore who was the first respondent onsite after the 911 call came in? The Patrick County Virginia Sheriff Deputy then proceeded to drive her back home after the visit to the jails offsite video magistrate, and the purported Hospital visit. After arriving back at the plaintiffs home some 27 miles on the other side of the County. Deputy Haymore proceeded to give her a breath analyzer test, again all at the Plaintiffs request not the Deputies. So after at least 2 hours with Deputy Haymore how was it even remotely feasible that she would be drunk and where was the probable cause, other than the plaintiff's accusations? Where was the bloody clumps of hair that the plaintiff alleged was pulled out of her head. If Deputy Haymore had saw evidence or any signs of this purported brutal and bloody attack then he could have easily charged Mr. Clark, and he didn't do so. So, why was Mr. Clark charged absent probable cause and evidence to support it? Mr. Clark had asked all these very same questions to the Sheriff, Dan Smith, during an exchange of several text messages to his personal cell phone after this case was decided.

McGraw argued for striking of the prosecutions evidence after hearing testimony from the Prosecutions
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Star Medical witness.

“However, the Commonwealth’s evidence cannot rise above the level of its own witnesses, and most recently the prosecution key star witness testified that there was simply no medical evidence, objective or subjective, of any injuries to Ms. Clark’s head, neck, upper extremity areas, that in light of this overwhelming weight of evidence the prosecution simply cant overcome.

That evidence of the Commonwealth is hopelessly in conflict with itself, even at this stage of the proceedings based on the standard, that – that inherent conflict cannot be resolved and whatever the standard would be it remains the Commonwealth’s burden. With that inherently conflicting testimony between their own witnesses, I think the motion to strike is appropriate and should be sustained at this time.”

The Honorable Judge Martin Clark Jr. denied his motion and brought back in the Jury to decide the case.

The Jury returned and the prosecution continued to try to prove their case. The Jury then convened and came back quickly with a Not Guilty Verdict.

Clark later Filed a Abuse of Process and Malicious Prosecution Case against the Plaintiff and the Commonwealth Attorney’s Office, which included Stephanie Brinegar-Vipperman, which was heard on August 23rd 2016.

Mr. Clark felt that there was an apparent collaboration in this criminal charge pursued by the Commonwealth Attorney Mrs. Brinegar-Vipperman and the defendant, which is what lead to him filing this suit. That was decided only after attempting to speak with the Sherriff Dan Smith on December 23, 2015 at the Patrick County Jail. Sheriff Smith had requested this 9 am meeting. Mr. Clark came at 8:45 am and waited for the Sheriff to show up. Mr. Clark just wanted to get some answers? The Sherriff came in but didn’t want to discuss it with Mr. Clark and he was very offensive and showed anger towards Mr. Clark, according to an eye witness. Mr. Clark didn’t feel as if Deputy Haymore did anything other than respond to the 911 call, and that he testified truthfully according to his oath in this case. It was Mr. Clark’s opinion however, that the Commonwealth Attorney had zero probable cause to charge him and should have “nolle prosequi” the case, yet her office pursued it anyway with their Key Star Witness from her Sister-in Laws Medical Clinic. Mr. Clark viewed it as highly suspect being that she wasn’t a witness in the lower courts decision, nor did the prosecutor bring the Patrick County Virginia’s Sheriffs deputy in as a witness, or even the Pioneer Hospital Report, which would have been done that night, according to the Patrick County Virginia Sheriff’s Deputies testimony. The Prosecutor didn’t concede and stuck to purporting this as a Bloody and Brutal Assault, despite that none of Commonwealth’s evidence sustained any of it, including their own Star Witnesses written medical report. They all just couldn’t seem to get their stories straight, according to the review of the court recorded transcripts. The Jury’s verdict was that Mr. Clark was “Not Guilty”.

One special notation worth additionally mentioning:

This case was set on docket and was set to be heard, less than 30 day after the effectuated traffic stop by Rob Coleman on July 25th 2016. That Case is listed above in Clark vs. Coleman. The Commonwealth’s defense Attorney, sought for Sanctions and Fees against Brian Clark in that August 23, 2016 case. Those Sanctions and fees were denied and the case was dismissed on his motions, according to the records in that case.

Roanoke Judge David Carson presided over this case on August 23rd 2016. This case is on file in the
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Circuit Court House of Patrick County Virginia. The full transcripts in the A&B case are available through Katherine P. Ford, RPR (Registered Professional Reporter #19867 under case number CR14000427-00. She was also the Court Reporter for the August 23rd motions hearing as well.



Corruption is Real, its not some paranoid conspiracy. We all know it is present and it must be addressed.

There is No Corruption in VA, only an Old Boy Network.

“Corrupt public officials undermine our country’s national security, our overall safety, the public trust, and confidence in the U.S. government, wasting billions of dollars along the way. This corruption can tarnish virtually every aspect of society.” — Special Agent Patrick Bohrer, assistant section chief of our Public Corruption/Civil Rights program at FBI Headquarters.

Virginia is in need of launching a grand jury investigation into the cozy relationships between controversial Arlington, Va elected judges, lawyers and politicians in response to community allegations that civil judgeships – with annual salaries \$150,000 or more – are for sale. At issue is an arcane system in which voters pick delegates to a judicial nominating convention, but do not pick the judges themselves. The system allows political party leaders to steer nominations to judicial candidates who have strong party ties and deep pockets – not sound legal credentials. And because Arlington is heavily Democratic, that party has a near lock on selecting judges. You have to be connected to get on the bench in Arlington. Are there payoffs? There’s always been that buzz in the court community. Democratic party leaders have denied that the selection process in Arlington is corrupt. It’s time for independent judge-selection panels, nonpartisan elections and other reforms to counter Virginia’s reputation for one of the most corrupt state, starting with judicial corruption in Arlington. Virginia Corruption Risk Report Card <http://www.stateintegrity.org/...> (<http://www.stateintegrity.org/virginia>)

Source Credits and Article Link:

By [Scott Guinness \(https://bluevirginia.us/author/Scott-Guinness\)](https://bluevirginia.us/author/Scott-Guinness) – September 14, 2013
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<https://bluevirginia.us/2013/09/grand-jury-investigation-into-the-cozy-relationships-between-controversial-arlington-va> (<https://bluevirginia.us/2013/09/grand-jury-investigation-into-the-cozy-relationships-between-controversial-arlington-va>)



“Corruption is a cancer: a cancer that eats away at a citizen’s faith in democracy, diminishes the instinct for innovation and creativity; already-tight national budgets, crowding out important national investments. It wastes the talent of entire generations. It scares away investments and jobs.” Joe Biden



Carolina Satellite Networks, LLC founded by Brian H. Clark in 2003 in Charlotte NC, which operated in Patrick County, Stuart Va

[Articles-of-Corporation](https://patrickcountyvablog.files.wordpress.com/2019/01/articles-of-corporation.pdf) (<https://patrickcountyvablog.files.wordpress.com/2019/01/articles-of-corporation.pdf>) (https://patrickcountyvablog.files.wordpress.com/2019/01/articles-of-corporation.pdf?force_download=true)

The above Articles of Corporation documents shows that Brian H. Clark is the Sole Founder and President/ CEO of Carolina Satellite Networks, LLC.

The Company was formed in 2003 in Charlotte North Carolina. It later located a office near Mr. Clark's home town in Bassett Virginia in 2004 before later settling in Stuart Virginia from 2007-2012, a move Mr. Clark deeply regrets doing to this very day. Carolina Satellite Networks, LLC was a very successful North Carolina Company. It was featured in Homeland Security Today Magazine in a January edition for ensuring always on E911 Solutions for Public Safety in 2012. The North Carolina LLC located in Stuart Virginia was noted as one of only 3 Companies in the United States mentioned in this Article for providing unique Mobile Communication Solutions for E911 services to the Department of Homeland Security. The Company provided Satellite Communications and mission critical services to clients like NASA, NASCAR, Nextel Sprint, DHS (Department of Homeland Security), DLA (Defense Logistics Agency) and numerous Fire Department Mobile Command Centers as far west as Las Vegas Nevada to as far East as Maryland. Mr. Clark is well known in the Satellite Communications Industry. He pioneered some of the first commercially available systems with Hughes Networks in early 2001. Mr. Clark also help advance VOIP and Push to Talk voice services over Satellite using IDirect Technologies. Mr. Clark worked closely with SDN (Satellite Data Networks) as a Mobile Systems Integration Company while in Charlotte North Carolina, which later became known as Satcom Global. While living in North Carolina his Company conducted FCC testing on sub 1 meter satellite terminals to help develop very precise auto acquisition alignment software to eliminate adjacent Satellite frequency interference issues.

About Brian H. Clark:

Mr. Clark began his career in 1988 in the US Army as a Combat Engineer serving in both Desert Shield and Desert Storm with the 18th Airborne Corp. He was among the first wave of ground troops to cross into Iraq in the famous northern left hook approach. His Battalion went on to provide support for the advancing troops by establishing critical communications and logistics points along the route of attack.

After several weeks of intense air attacks, coalition commander General Norman Schwarzkopf commenced the massive ground campaign on February 24. While US Marine divisions and Arab forces advanced into Kuwait from the south, fixing the Iraqis in place, VII Corps attacked north into Iraq to the west. Protected on their left by XVIII Airborne Corps, VII Corps drove north before swinging east to cut off the Iraqi retreat from Kuwait. This "left hook" caught the Iraqis by surprise and resulted in the surrender of large numbers of enemy troops. In approximately 100 hours of fighting, coalition forces shattered the Iraqi army before Pres. Bush declared a ceasefire on February 28.

After leaving the Army in 1991. Mr. Clark started a successful Trucking Company and owned several trucks from 1992 to 1999. In early 2000 Mr. Clark decided to pursue other interest and continue on with his passion for communication when he formed Carolina Satellite Networks, LLC in 2003. He went on to be featured on World Business review appearing with his late commanding General (Storming Norman) Schwarzkopf. They discussed the iNetVu, a mobile, auto-acquisition satellite antenna system that delivers high-speed internet access to NASA and how they also provide critical communications during National Disaster situations. To this day Mr. Clark's passion is driven to providing the Industries best in Mobile Communication Solutions and wireless technology for rural broadband and disaster response. Mr. Clark's joys included seeing his only daughter for the first time, who was born just 10 days before he returned home from Desert Storm. The birth of his one and only Son whom was born August 1st 2000. One year and a month before the twin towers where attacked in 2001. Mr. Clark has spent many years in support of operations in Afghanistan as a sub contractor with several defense agencies and he still supports our war fighters to this very day.

[carolina-satellite-experience \(https://patrickcountyvablog.files.wordpress.com/2019/01/carolina-satellite-experience.pdf\)](https://patrickcountyvablog.files.wordpress.com/2019/01/carolina-satellite-experience.pdf) (https://patrickcountyvablog.files.wordpress.com/2019/01/carolina-satellite-experience.pdf?force_download=true)

[Blog at WordPress.com.](#)

EMERGENCY LETTER TO CLERK OF COURT OF APPEALS OF VIRGINIA –

RE: Case nos. 0313-23-3, 0314-23-3, and 0317-23-3

Sunday, February 26, 2023

ATTN: Clerk of the Court Court of Appeals of Virginia	109 North Eighth Street Richmond, VA 23219-2321 Phone: (804) 371-8428
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CC: Respondents including Assistant Attorney General Justin Hill, served by c/o Roberta Hill rbhill67@comcast.net

Clerk of the Court and Justin Hill,

I have been retaliated against by Hon. Giles Carter Greer. I don't know what he found insulting in my three notices of appeal. Maybe you know what was considered contempt of court.

The three notices of appeal in cases no. 0313-23-3, 0314-23-3, and 0317-23-3, is the basis for my charge of contempt of court.

See the attached document file of my new criminal charge: “**contempt-charge.pdf**”

I am facing this contempt of court charge for trying to preserve issues for the appeals. All I was intentionally trying to do was follow the Rules of the Supreme Court of Virginia as best as I could for the appeal process. The motion already demonstrated the issues but not about evidence being ignored, not about the judge allowing contempt of court by Glen Andrew Hall who is allowed to break any laws he wants. I had to state in my notices of appeal the issues that had happened regarding why I believe the judge denied my motions. All I did was argue these issues and for that I face contempt of court. I am faced with retaliation and I may be targeted further, bad things could happen to me. There needs to be investigations into the crimes in Martinsville, VA, crimes of evidence destruction, refusing to follow

PAGE 1 OF 4 - EMERGENCY LETTER TO COURT OF APPEALS OF VIRGINIA CLERK – FEB. 26, 2023

court orders for discovery. There needs to be investigations for the public corruption. I am being targeted by public corruption. I am being retaliated against.

Clerks had instructed me last year that the rules require that the record support preserving issues in the trial court.

All I was trying to do was argue the issues which are being preserved for the appeal process in my three notices of appeal.

I don't know what to do at this point.

Do I ask for a 1 year extension of time for my appeals in case I am jailed for a year?

Do I ask for a 6 month extension of time for my appeals in case I am jailed for 6 months?

When I was in Martinsville City Jail in 2018, I was told rumors about how bad this judge was. Now I am scared, I am scared this judge could have me arrested, tortured, or killed. I am genuinely scared. I am getting ready to contact Attorney L. Lin Wood and Roger Stone from StoneColdTruth the one who knows Donald Trump. I am asking people to contact the Rutherford Institute, maybe the ACLU and NCLU, NCLJ, any legal organization out there. Judge Greer is ready to try to throw me in jail. I am scared.

I am scared I will be targeted and I am scared they will come and get me and kill me or torture me. This judge scares me.

Please extend my appeals indefinitely depending on how long I will be jailed if I am still alive at that point. I guess it won't matter if I die in jail. I guess it won't matter if an officer decides to do something to end my life. The crime in Martinsville is scary, the crime, the criminal activities, I am scared they may have control of the judge. I am scared. I don't know what to do.

I am scared of Judge Greer, he scares me.

I am filing the three notices of appeal again with this letter to show you what the basis is for the contempt of court.

I have heard rumors, I heard from other people that this judge targets people who criticize him or files a mandamus petition in the Court of Appeals of Virginia against Judge Greer. I have to assume bad things could happen to me.

If the State Police ever wishes to get involved to investigate the crimes of Glen Andrew Hall the Commonwealth Attorney and the crimes in Martinsville Police Department destroying evidence on April 9, 2019, I am willing to tell them the whole truth and nothing but the truth so help me God. I am willing to tell the state police, my mother is willing to tell the state police, we are willing to tell whatever truth we know to our knowledge.

I don't know what to do, the hearing is on Friday. I am assuming the worst.

See files:

- 1. 1-Notice-of-Appeal-2-21-2023.pdf**
- 2. 2-Notice-of-Appeal-2-21-2023.pdf**
- 3. 3-Notice-of-Appeal-2-21-2023.pdf**

Are my appeals done for with no hope of continuing since this judge wants me jailed???

What horrors will I face here???

I do feel that I am being retaliated against for simply arguing issues for preserving for the appeals. Now that doesn't matter because I am going to be jailed at some point or who knows what will happen to me.

If they do something to me, if bad things happen to me, and it was because of the contempt of court charge which I don't understand why Judge

Greer would do this over my appeal argument issues, and the police I don't know which cops are good and which ones could Jeffrey Epstein me, well then at least you will know what could happen to me in the future. I don't know what he will do to me.

I am scared.

I have AUTISM, I have type 1 brittle diabetes. I was only trying to do the judicial process, trying to do things the right way because I do not have a lawyer. I don't know what Judge Greer will do to me, I am scared.

I am scared, this judge is charging me for my appeals, maybe I could have done this better than I had been, maybe I argued a little too far and the judge got angry. I cannot turn back the clock, I am done for.

See the attachments:

This Court can watch the contempt proceedings if they want. Please extend my deadline until after I finish my sentence unless I am done away with by the criminals in the City of Martinsville, if the bad guys get me then I did my best to try to prove I was a law abiding citizen, I done my best to prove that I was innocent. OH WELL!!!!


Signed
Brian D. Hill

God bless you,
Brian D. Hill

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

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

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

U.S.W.G.O.

**PAGE 4 OF 4 - EMERGENCY LETTER TO COURT OF APPEALS OF VIRGINIA CLERK –
FEB. 26, 2023**

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: CR19000009-01

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’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.**

Respectfully submitted with the Court,

This the 26th 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



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COVER PAGE

NOTICE TO CIRCUIT COURT, NOTICE TO COMMONWEALTH OF VIRGINIA, AND NOTICE TO CITY OF MARTINSVILLE

Brian David Hill, criminal case Defendant, hereby files a notice with the Honorable Circuit Court for the City of Martinsville that he intends to bring up the defense of having Autism Spectrum Disorder, Obsessive Compulsive Disorder, and Generalized Anxiety Disorder in his legal defense to the charge of contempt of court on February 24, 2023, under Virginia Code § 18.2-456(A)(3). This defense is authorized as a matter of law by Virginia Code § 19.2-271.6. Evidence of defendant's mental condition admissible; notice to Commonwealth; and pursuant to Virginia Code § 19.2-271.6. As well as other legal and constitutional defenses and preserves them for raising these issues. Defendant asserts Due Process Clause and appellate rights as to his defenses as well. Also apologizes separately for any hyperbolic and potentially inflammatory statements and arguments raised in the notices of appeals which triggered the contempt of court charge.

CITATION OF Virginia Code § 19.2-271.6:

§ 19.2-271.6. Evidence of defendant's mental condition admissible; notice to Commonwealth.

A. For the purposes of this section:

"Developmental disability" means the same as that term is defined in § [37.2-100](#).

"Intellectual disability" means the same as that term is defined in § [37.2-100](#).

"Mental illness" means a disorder of thought, mood, perception, or orientation that significantly impairs judgment or capacity to recognize reality.

B. In any criminal case, evidence offered by the defendant concerning the defendant's mental condition at the time of the alleged offense, including expert testimony, is relevant, is not evidence concerning an ultimate issue of fact, and shall be admitted if such evidence (i) tends to show the defendant did not have the intent required for the offense charged and (ii) is otherwise admissible pursuant to the general rules of evidence. For purposes of this section, to establish the underlying mental condition the defendant must show that his condition existed at the time of the offense and that the condition satisfies the diagnostic criteria for (i) a mental illness, (ii) a developmental disability or intellectual disability, or (iii) autism spectrum disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

If a defendant intends to introduce evidence pursuant to this section, he, or his counsel, shall give notice in writing to the attorney for the Commonwealth, at least 60 days prior to his trial in circuit court, or at least 21 days prior to trial in general district court or juvenile and domestic relations district court, or at least 14 days if the trial date is set within 21 days of last court appearance, of his intention to present such evidence. In the event that such notice is not given, and the person proffers such evidence at his trial as a defense, then the court may in its discretion either allow the Commonwealth a continuance or, under appropriate circumstances, bar the defendant from presenting such evidence. The period of any such continuance shall not be counted for speedy trial purposes under § [19.2-243](#).

If a defendant intends to introduce expert testimony pursuant to this section, the defendant shall provide the Commonwealth with (a) any written report of the expert witness setting forth the witness's opinions and the bases and reasons for those opinions, or, if there is no such report, a written summary of the expected expert testimony setting forth the witness's opinions and bases and reasons for those opinions, and (b) the witness's qualifications and contact information.

C. The defendant, when introducing evidence pursuant to this section, shall permit the Commonwealth to inspect, copy, or photograph any written reports of any physical or mental examination of the accused made in connection with the case, provided that no statement made by the accused in the course of such an examination disclosed pursuant to this subsection shall be used by the Commonwealth in its case in chief, whether the examination was conducted with or without the consent of the accused.

D. Nothing in this section shall prevent the Commonwealth from introducing relevant, admissible evidence, including expert testimony, in rebuttal to evidence introduced by the defendant pursuant to this section.

E. Nothing in this section shall be construed as limiting the authority of the court from entering an emergency custody order pursuant to subsection A of § [37.2-808](#).

F. Nothing in this section shall be construed to affect the requirements for a defense of insanity pursuant to Chapter 11 (§ [19.2-167](#) et seq.).

G. Nothing in this section shall be construed as permitting the introduction of evidence of voluntary intoxication.

1. Once a lawyer is appointed by this court, for this new contempt of court charge, Defendant will ask his court appointed lawyer to push for an outpatient mental evaluation/examination to conduct a mental examination/evaluation of Brian David Hill and review over the papers and mental health evidence to make a determination on competency, sanity, and hopefully ask for an additional ground for this evaluation to determine matters of intent pursuant to Virginia Code § 19.2-271.6.

2. Evidence proving the Defendant has autism spectrum disorder, obsessive compulsive disorder, and generalized anxiety disorder are attached to this NOTICE. It is unorganized because Defendant is rushing to get this filed as soon as possible. All supporting mental health and medical evidence is attached.

1. Brian David Hill has evidence of having neurological disorder and mental health illnesses such as (1) Autism Spectrum Disorder, (2) Obsessive Compulsive Disorder, (3) Generalized Anxiety Disorder.

2. Brian David Hill had no intent to do anything which would be a contempt of court. Autism itself is a communications disorder and a communications disorder affects behavior and social communications. People who have autism can make statements or say things or even show gestures that could be misunderstood as a threat or insult. People with autism, can make false confessions and misleading statements. The Court misunderstood Brian's autism as a contempt of court. The Court considered written statements of an autistic individual as a contempt of court. People with autism can mean things in different ways. The Court doesn't know what exactly the Defendant meant by what he said or argued. The Court is not psychic and could not see that Defendant's autism behavior was not what the Court construed it to be. It was a misunderstanding.
3. Everybody has different perspectives. One's perspective may have different meaning than another. Brian's hyperbolic and potentially inflammatory statements and/or legal arguments in his notices of appeals were Brian Hill's attempt to argue issues in the record of the Trial Court, to only preserve such issues for the appeals in the Court of Appeals of Virginia. Defendant did not intend to do anything that could be considered illegal with the hyperbolic and potentially inflammatory

statements and/or legal arguments made or represented in his notices of appeals at issue in the show cause charge. **Brian Hill's perspective was he was only trying to comply with Rule 5A:20(c) of the Rules of the Supreme Court of Virginia governing appeal/appellate procedures.**

4. Citation of Rule 5A:20. Requirements for Opening Brief of

Appellant.; (c) "...**An exact reference to the page(s) of the record or appendix where the alleged error has been preserved in the trial court or other tribunal from which the appeal is taken** must be included with each assignment of error but is not part of the **assignment of error**. If the error relates to failure of the tribunal or court below to rule on any issue, error must be assigned to such failure to rule, **providing an exact reference to the page(s) of the record or appendix where the alleged error has been preserved in the tribunal** below, and specifying **the opportunity that was provided to the tribunal or court to rule on the issue(s).**"

5. Defendant was not intending to say or do anything with any intent to have any insult here as Defendant was only focusing on making legal arguments in the record of the Trial Court for preserving the issues from the Trial Court for the purposes of the appeal briefs.

6. If Defendant is jailed for this charge during the pending appeals with the Court of Appeals of Virginia which require certain type of briefs and

certain types of formats and text formats, it may interfere or fetter with Defendant's constitutional pending appeals in the Court of Appeals of Virginia. Due Process of Law is at issue here, and Due Process of law must be protected by all Courts. Defendant has seven pending appeals before the Court of Appeals of Virginia. In two appeals at this time, Defendant has a deadline of March 6, 2023, to file two appeal briefs, and is still waiting for the complete record of the Trial Court which he still does not have that complete record of the Trial Court. He has to comply with the rules and deadlines set by the Court of Appeals of Virginia. He cannot possibly comply with those rules and deadlines if he is in jail. That deprives Defendant of due process of law.

7. Defendant also asserts that his intent was following what he believed may have been the proper procedures of arguing the issues to preserve for the appeal process as stated in the notices of appeal. It was only to preserve the issues for the appeal. Appellate procedures are not illegal and following the procedures for appealing to a higher court is not contempt of court.

8. Defendant separately files an apology letter because he believes there was a misunderstanding of Defendant's hyperbolic and potentially inflammatory statements and/or legal arguments. That is because

Defendant has autism and it is a permanent neurological disability which affects communication.

9. Defendant believes he is innocent of this charge of contempt of court because Defendant's hyperbolic and potentially inflammatory statements and/or legal arguments in his notices of appeals which were misunderstood as attempting to insult the judge.

10. Defendant also never asked the Clerk to give this notice of appeal to the Honorable Judge of this Honorable Court. Defendant assumes when he files a notice of appeal, the clerk only receives it and the Commonwealth's Attorney and any other parties/attorneys, and then it is transmitted to the Court of Appeals of Virginia. Defendant never intended to write anything insulting directly to the Honorable Judge Giles Carter Greer; all Defendant was doing was filing his notices of appeals and making legal arguments to preserve issues for the appeals. Defendant asserts his only intent was to comply with the procedures of the Court of Appeals of Virginia pursuant to Rule 5A:20.

11. Defendant asserts that his notices of appeals may be protected under procedural due process of law and asserting Due Process Clause of both the U.S. Constitution and Virginia Constitution. See Amendment XIV, 14th Amendment to the United States Constitution. See Constitution of

Virginia, Article I. Bill of Rights; Section 11. Due process of law; obligation of contracts; taking or damaging of private property; prohibited discrimination; jury trial in civil cases.

12. The rule 5A:20 makes it clear that Appellant must address any and all issues in the Trial Court to later be preserved in the record to raise such issues, or raising such issues will not be allowed in the Court of Appeals of Virginia or may be considered constitutionally waived. Defendant asserts his only intention was preserving the issues by raising the issues in the notices of appeals to bring up assignments of error in the Court of Appeals of Virginia. Defendant/Appellant was only trying to follow the legal procedures for appealing to a higher court. Defendant/Appellant was only trying to assert his issues not raised in the motion as certain issues could not be raised in the record of the Trial Court until after a court makes a decision on a pending motion. Defendant is the Appellant and was only trying to raise issues and preserve them for usage in assignments of error. Defendant had no intent to ever commit a contempt of court in this instance. Defendant apologizes for any hyperbolic and any potentially inflammatory statements. Sometimes lawyers can make these hyperbolic or inflammatory statements. That is why usually a judge

normally warns a party when potentially crossing that line before ever considering a contempt charge.

Respectfully submitted with the Court, This the 26th 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



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CERTIFICATE OF SERVICE, CERTIFICATE OF FILING

I hereby certify that a true and accurate copy of the foregoing pleading 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) or delivered this 26th day of February, 2022, to the following parties:

The undersigned certifies as follows:

1. The name and address of the Appellant is:

Brian David Hill – Ally of Q and Attorney Lin Wood

Family/Friend site: JusticeForUSWGO.wordpress.com or JusticeForUSWGO.NL

310 Forest Street, Apartment 2


Martinsville, Virginia 24112

2. Appellant is not represented by counsel at this time.
3. The names of Appellees is:
Commonwealth of Virginia
City of Martinsville
4. The name, address, and telephone number of counsel for appellees' is:
G. Andrew Hall
Martinsville Commonwealth's Attorney
55 W. Church Street
Martinsville, VA 24112
(276) 403-5470
5. A copy of this pleading has been electronically transmitted by Roberta Hill (electronic filing representative) via email to the Martinsville Circuit Court Clerk's Office, to opposing counsel, and electronically filed by Roberta Hill (electronic filing representative) through the Court's VACES system to the Clerk of the Court of Appeals of Virginia, all on February 26th, 2023.


The following parties with fax numbers and email addresses of the parties are listed herein:

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 Nunn, Clerk 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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BRIAN HILL (174826) [DOB: 5/26/1990]

X Close  Print

DIAGNOSIS			
Axis/Order	Axis 3/1	Diagnosis	(F42.9) Obsessive-compulsive disorder, unspecified
Axis/Order	Axis 3/2	Diagnosis	(F84.0) Autistic disorder
Axis/Order	Axis 3/3	Diagnosis	(F29) Unspecified psychosis not due to a substance or known physiological condition
Axis/Order	Axis 3/4	Diagnosis	(F41.1) Generalized anxiety disorder
WHODAS 2.0 General Disability			
	Assessment Date	General Raw Score	General Average Score
	Score description	Raw Score	Average Score
	Cognition		
	Mobility		
	Self-care		
	Getting along		
	Life activities		
	Participation		

		Piedmont Community Services 13 MOSS ST SOUTH MARTINSVILLE, VA 24112	
Client Name:	BRIAN HILL	SSN/Acct #	591980319 / 174826
Address:	310 FOREST ST APT 2 MARTINSVILLE VA 24112-4939	Date/Time:	10/24/2018 9:51 AM to 10:23 AM
Insurance:		Employee Name:	CONRAD DAUM / MD
Diagnosis:		Visit Type/CPT	Med Note [Jail] / Nonbill
DOB	5/26/1990		
Notes:	Non-Face-to-Face Service		
HISTORY			
<p>Chief Complaint: Notes: "guy in hodie threatened to kill my mother if I didn't do what he said" "meltdown" He was arrested for walking down the street naked and charged with a probation violation.</p> <p>History of Present Illness (HPI): Notes: local is mental, quality he agreed to zyprexa and zoloft. severity moderate, duration 1st admit 2013 ONLY, time of tx start here 2013, context jail inmate. associated he was convicted for child porn and is on sex registry. He believes he was convicted unfairly by a conspiracy of the court officials. He believes Critical documents proving his innocence were deliberately destroyed. Modify is tx accepted, ils see med hx.</p> <p>Past Medical / Family Medical / Social Hx: . LEGAL HX: He would only discuss the child pron and probation violation convictions.</p> <p>PSYCH HX: He tried suicide, but no family hx, he denied wanting to harm self or others the past month. He denied any SUD or tobacco, Hx autism, OCD, GAD</p> <p>MEDICAL HX: Diabetes, IBS, Eczema, op only wisdom teeth, no fx hx, hypoglycemic seizures, hx concussions during seizures.</p> <p>FAMILY HX: 0 kids, 1/2 sisters=2, 0 brothers, mom living, dad hx unknown no hx of inpatient , SUD, jail. Hx Hypertension, ulcerative colitis,</p> <p>SOCIAL HX: born Orlando FL, raised NC, some HS, single, no church, on disability, lives alone with caretaker's help.</p>			
Review of Symptons (ROS)			
<p>Constitutional: Notes: sleeping ok</p> <p>Eyes: Notes: see ok</p> <p>Ears, Nose, Mouth, Throat: Notes: hear ok</p> <p>Cardiovascular: Notes: no chest pain</p>			

Respiratory: Notes:
breathing ok

Musculoskeletal: Notes:
no LBP

Integumentary (skin and/or breast): Notes:
no tattoos

Neurological: Notes:
seizure hx and diabetic foot neuropathy

Endocrine: Notes:
diabetes

Hematologic/Lymphatic: Notes:
no nodes

Allergic/Immunologic: Notes:
allergy see list

Genitourinary: Notes:
bladder frequency

Gastrointestinal: Notes:
GERD SX, episodic diarrhea

EXAM

Constitutional Vital Signs:

Musculoskeletal

Muscle strength and tone: Notes
ok

Gait and station: Notes
ok

Behavior

Appearance: Well-groomed

Activity: Normal

Attitude: Cooperative

Articulation (Speech): Normal Rate, Rhythm, Volume

Sensorium

Consciousness: Alert

Orientation: Full

Memory: Intact

Attention/Concentration: Adequate

Emotion

Affect: Comfortable and Reactive

Mood: Euthymic

Congruency: Congruent

Suicidal Ideation: None

Homicidal Ideation: None

Thought

Thought Process: Goal-directed

Thought Content: Delusional

Intelligence: Average

(based upon fund of knowledge, comprehension, and vocabulary)

Insight: Full

Judgement: Intact

Perception: Normal

Impression

Brief summary of present status of case: Notes
aims=0

DIAGNOSES

Current Diagnoses:

Effective Date : 10/24/2018

1 (F42.9) Obsessive-compulsive disorder, unspecified

Diagnosed By : **Diagnosed Date :**

Onset Date : **Previous Onset Date :**

Onset Prior to Admission:

R/O: No

Notes:

Date Updated: 03/21/2017

SNOMED: -

2 (F84.0) Autistic disorder

Diagnosed By : **Diagnosed Date :**

Onset Date : **Previous Onset Date :**

Onset Prior to Admission:

R/O: No

Notes:

Date Updated: 03/02/2016

SNOMED: -

3 (F29) Unspecified psychosis not due to a substance or known physiological condition

Diagnosed By : **Diagnosed Date :**

Onset Date : **Previous Onset Date :**

Onset Prior to Admission:

R/O: No

Notes:

Date Updated: 10/24/2018
SNOMED: -

4 (F41.1) Generalized anxiety disorder
Diagnosed By : Diagnosed Date :
Onset Date : Previous Onset Date :
Onset Prior to Admission:
R/O: No
Notes: BRITTLE DIABETES
Date Updated: 10/24/2018
SNOMED: -

WHODAS 2.0 General Disability Assessment Date:
Raw Score: Avg Score:
Cognition:
Mobility:
Self-care:
Getting along:
Life activities:
Participation:

Psych Diagnoses & Status

Diagnosis: all
Status: Stable

Medical Diagnoses & Status

COLUMBIA ASSESSMENT

1) Wished to be Dead:

Have you wished you were dead or wished you could go to sleep and not wake up?: No

2) Suicidal Thoughts:

Have you actually had any thoughts of killing yourself?: No

6) Suicidal Behavior Question:

Have you ever done anything, started to do anything, or prepared to do anything to end your life?: Yes

Was this within the past three months? (please explain): No

SUMMARY

Service Modality: Non-Face-to-Face Service

Current Medications:

Medication:insulin aspart U-100 100 unit/mL subcutaneous solution
Start Date:10/24/2018
Dosage:
Frequency:

Medication:olanzapine 2.5 mg tablet
Start Date:10/24/2018
Sig:Take 1 Caplet By Oral Route 1 time at bedtime for mood swings

Medication:sertraline 50 mg tablet
Start Date:10/24/2018
Sig:Take 1 Caplet By Oral Route 1 time after breakfast for anxiety

Plan

Medication Changes: .

Next Appointment: Date
pm

E/M Level: 5

E/M Score: 5

Employee Signature



10/24/18 2:51 PM
CONRAD DAUM - MD
MD



Supervisor's Signature

Approved by CDAUM on 10/24/18
CONRAD DAUM, MD, MD

DIVISION FOR TREATMENT AND EDUCATION OF AUTISTIC
AND RELATED COMMUNICATION HANDICAPPED CHILDREN

Department of Psychiatry
University of North Carolina

DIAGNOSTIC EVALUATION

Patient: Brian Hill

Chart #: 60373

D.O.B. 5-26-90

Center: High Point, NC

Date: 10-19-94

Staff: Marquita Fair, Child Therapist
Allison Butwinski, Parent Consultant
Dr. Roger D. Cox, Licensed Practicing Psychologist and
Clinical Director

TESTS ADMINISTERED:

Psychoeducational Profile-Revised (PEP-R)
Vineland Adaptive Behavior Scale

REFERRAL INFORMATION:

Child's Name: Brian Hill

Age: 4 years 5 months

Address: 133 Mike Lane, Reidsville, NC 27320

Parents: Roberta Hill

Current Status: Lives at home with mother and is being served in
a preschool developmental delayed classroom at Bethany

Referral Source: Sheila Shelton

Reason for Referral: Clarification of diagnosis and educational
planning

DEVELOPMENTAL HISTORY:

Brian was born prematurely weighing 3 pounds, 13 1/2 ounces. He received phototherapy for hyperbilirubinemia and was discharged from the hospital at approximately 2 weeks of age. At 18 months, he was hospitalized for 6 days with the onset of insulin dependent Diabetes Mellitus. He currently is taking NPH insulin and Regular insulin and his diet is regulated according to the American Diabetic Association diet. At 35 months Brian was seen at the Greensboro DEC due to language delays. There were concerns regarding Brian's social relatedness and language development. It was felt that his neurodevelopmental profile may represent a form of a pervasive developmental disorder and a TEACCH referral was recommended.

Currently, Brian uses words and short phrases to express his needs. He exhibits pronoun reversals, immediate and delayed echolalia, and repeats some phrases he has heard over and over. He understands and follows simple routine commands but cannot use or answer "Wh" questions.

Though aware of others, Brian has difficulty interacting with them. He is beginning to show an interest in other children but does not initiate interactions. Brian's favorite activities include stacking blocks and listening to music. He recently has become more aware of his mother when she picks him up from school and sometimes greets her by saying "mommy". Brian occasionally becomes upset when he does not have his way and is prone to small episodes of temper tantrums.

FAMILY STATUS:

Brian lives at home with his mother, Roberta Hill in Reidsville. His mother and father are divorced and Brian does not have contact with his father. His maternal grandparents live nearby and he sees them frequently. During the evaluation, Roberta was very friendly and easy to talk to. She offered some very nice information about Brian.

EDUCATIONAL PLACEMENT:

Brian is currently being served in a preschool developmental delayed class at Bethany Preschool in Reidsville. Brian's teacher, Sheila Shelton, who attended the evaluation, felt that Brian had made very nice progress since his enrollment. She appeared flexible and willing to develop a program that considers Brian's individual needs.

DESCRIPTION OF CHILD:

Brian is a cute 4 year 4 month old boy. He was appropriately dressed in long pants and a long sleeved shirt. He was accompanied to the TEACCH Center by his mother, Roberta Hill.

BEHAVIORAL OBSERVATIONS DURING TESTING:

Relating, Cooperating, and Human Interest:

Brian, joined by his mother, accompanied the examiner to the testing room. He whimpered as his mother left the room. When offered a toy, Brian immediately settled down and showed a fleeting interest in the toys on a table. At the start of testing, Brian resisted joining the examiner at the work table. When he became upset, his language consisted largely of echolalia. Although he frequently whined when he did not get his way, he never actually cried. Brian's behavior was unpredictable when he attempted to engage in an activity. When materials were presented, Brian perseverated with them, making it difficult for him to relinquish materials when the task was completed. For example, Brian continued to fuss and ask for bubbles and play-doh

even when they were put away. He asked for the bubbles so often that they were eventually used as a reinforcer when he completed tasks.

Brian's attention to test items varied depending on his interest in the task. When he showed an interest in the items presented, he resisted putting them away. For example, Brian enjoyed doing puzzles, matching colors, and copying shapes. When he was instructed to put them away, he whined and said "do again, do again". Once he became familiar with placing the completed tasks in the "finished basket" it was easier for him to continue on to the next task. He showed limited interest in the kaliedoscope and counting which resulted in him placing incomplete tasks in the "finished basket". Brian was distracted by noises heard outside the door and in the observation booth, which made it difficult to redirect him back to tasks.

Brian was always aware of the examiner's presence. Eye contact was frequent and usually brief. He initiated social interaction by requesting the examiner to join him at the mini-trampoline and holding his hand. Brian appropriately asked for help and used gestures. He often asked for a "tissue please", returning the tissue to the examiner for disposal. He enjoyed being tickled, and although he did not ask for this activity to continue, he backed into the examiner with his arms stretched out as if to indicate that he wanted more.

Sensory Behavior:

Brian usually responded to his name by repeating it. He did not look at the examiner. He appropriately responded to various noisemakers. No unusual interests in taste or textures were noted during testing.

Play and Interest in Materials:

Although Brian often resisted sitting at the work table, he was able to focus on materials when they were presented. He was usually creative in how he used many of the materials. For example, when he used blocks, he made a three dimensional design twice and called them "pyramids". Another time he used the blocks to build "towers". As he identified letters, he told the examiner what each letter stood for; "G for goose", "A for apple", and "Y for yarn". When he used the scissors, he cut out shapes (rectangle and square) and identified them. Brian had his own agenda for completing the tasks. He became upset whenever the examiner suggested that he attempt a task differently.

Brian was most cooperative with tasks that involved writing, copying, matching, and coloring. He anxiously wrote his first and last name several times although not in sequential order. Brian copied shapes, focusing his attention on the examples presented when he was not sure how to draw a shape (triangle and diamond). Brian showed little interest in playing with puppets and pantomiming object use.

During free play, Brian chose to jump on the mini-trampoline, play with a toy motorcycle with a man on it, and walk up and down the

wooden steps. When he realized the steps could be turned over to be a rocking boat, he asked for help to turn it over so he could use it alternately as steps and a boat. Several times, he stood near the door and asked for his mother. However, he was easily redirected back to a play activity.

Competence Motivation:

Brian quickly understood the routine of placing finished materials in the "finished basket" to his right. He often returned to the table if he forgot to put his completed tasks in the "finished basket". Organizing three tasks at a time on a table on Brian's left helped him understand how much work he had to do before he could leave the table to go play.

Brian often expressed pleasure with himself by smiling at the examiner and frequently saying "good job". Verbal praise from the examiner was also motivating to Brian.

Language:

Brian used language and gestures to communicate. At the start of testing, Brian's language consisted mostly of delayed and immediate echolalia. At times, his language was difficult to understand. He often commented during testing, but seldom directing his comments to the examiner. Brian asked questions such as, "can I blow?", "can I do bell again?", and "is this a birthday cake"? However, Brian had much more difficulty answering questions.

RESULTS AND SUMMARY OF THE PEP-R:

The Psychoeducational Profile-Revised (PEP-R) is a developmental test designed specifically for autistic and communication handicapped children. The child's performance is scored in several different function areas, and totalled to provide an overall developmental age score. Brian's overall score was 101, which resulted in an age equivalent of approximately 3 years 9 months.

On the PEP-R, Brian scored as follows:

<u>Function Area</u>	<u>Age Level</u>
Imitation	4 yrs. 6 mos.
Perception	4 yrs. 1 mo.
Fine Motor	3 yrs. 3 mos.
Gross Motor	3 yrs. 1 mo.
Eye Hand Integration	4 yrs. 7 mos.
Cognitive Performance	3 yrs. 3 mos.
Cognitive Verbal	3 yrs. 9 mos.
Developmental Score	3 yrs. 9 mos

When assessed with the PEP-R, Brian's test scores indicated relative weaknesses in the motor area and relative strengths in eye-hand integration.

Brian was able to receptively and expressively identify pictures in a language book, demonstrate the function of objects, sort cards, identify numbers, and sort objects. He had several emerging abilities, including identifying objects by touch, drawing a person, and copying a diamond.

DIAGNOSIS:

Autism - mild range

INTERPRETIVE CONFERENCE SUMMARY:

Attending Brian's interpretive conference were his mother, Roberta Hill, his preschool teacher, Sheila Shelton, and TEACCH staff, Allison Butwinski and Dr. Roger Cox. Results of the test administered were shared indicating Brian has many of the characteristics of mild autism. It is felt that Brian would benefit from a classroom with a small teacher to student ratio, individualized instruction, and autistic interventions.

RECOMMENDATIONS:

1. Brian would benefit from placement in a classroom with a small teacher to student ratio. The classroom environment should be free of distractions. A specific work area should be set up for Brian with a desk and boundaries to minimize distractions.
2. The classroom teacher should be experienced in autism, and have knowledge of structured teaching techniques. A three day training is being offered November 28-30 at the Gateway Education Center in Greensboro. The purpose of this training is to teach strategies that are typically successful in working with and teaching new skills to children with autism.
3. Brian should receive one-on-one teaching sessions 2-3 times a day to develop new skills. A teacher should sit across from Brian and present materials using the routine of working from left to right. Brian will place completed work to his right in a "finished basket". This will help him understand that what he has to do is in a basket to his left, how much work he has to do by the number of baskets with work in them, and he is finished when all the baskets are gone. He should be allowed breaks away from the table between tasks. It is important that Brian understand the contingency of working first and then receiving a break.
4. Brian's IEP should reflect the acknowledgement that he is a child diagnosed with autism. Specific strategies and teaching methods recommended by TEACCH should be addressed.

5. Brian's teacher for next year should be identified as early as possible in order that a request to attend TEACCH summer training for next year can be submitted.

Marquita Fair

Marquita Fair, Child Therapist

Allison Butwinski

Allison Butwinski, Parent Consultant

Roger D. Cox, Ph.D.

Roger D. Cox, Ph.D.
Licensed Practicing Psychologist

**DISABLED PARKING PLACARDS
 OR LICENSE PLATES
 APPLICATION**

Purpose: Use this form to apply for a disabled parking placard or disabled parking license plates.

Instructions: Submit to any Customer Service Center, DMV Select or mail to DMV, Data Integrity, P.O. Box 85815, Richmond, VA 23285-5815.

- For a parking placard, submit this form with a \$5.00 check or money order payable to DMV. Placard will be mailed to you in approximately 15 days. Only one placard may be issued to a customer.
- For disabled parking license plates, submit this form, a License Plate Application (VSA 10) and applicable fees.

DISABLED PARKING PLACARD ONLY (Disabled parking placard hangs from the rearview mirror.)			
CHECK ONE			
PERMANENT (5 years)	PERMANENT REPLACEMENT (5 years)	TEMPORARY (up to 6 months)	TEMPORARY REPLACEMENT
<input checked="" type="checkbox"/> Original (medical professional certification required)	<input type="checkbox"/> Lost	<input type="checkbox"/> Stolen	<input type="checkbox"/> Original
<input type="checkbox"/> Renewal (No medical professional certification required.)	<input type="checkbox"/> Destroyed	<input type="checkbox"/> Mutilated	<input type="checkbox"/> Lost
	<input type="checkbox"/> Reissue		<input type="checkbox"/> Stolen
			<input type="checkbox"/> Destroyed
			<input type="checkbox"/> Mutilated
			<input type="checkbox"/> Reissue

DISABLED PARKING (HP) LICENSE PLATES ONLY			
ORIGINAL PLATES	DUPLICATE	REISSUE	<input type="checkbox"/> Check this box if this vehicle is specifically equipped and used for transporting groups of physically disabled persons.
<input type="checkbox"/> Complete and submit form VSA 10	<input type="checkbox"/> Lost	<input type="checkbox"/> Unreadable (License plate letters or numbers unclear)	
	<input type="checkbox"/> Destroyed	<input type="checkbox"/> Never received license plates	

VEHICLE IDENTIFICATION NUMBER (VIN)	TITLE NUMBER
-------------------------------------	--------------

I am the vehicle owner and the parent/legal guardian of a disabled dependent(s). List the name of each disabled person below.

APPLICANT INFORMATION					
FULL LEGAL NAME (last)	(first)	(middle)	(suffix)	DMV ASSIGNED NUMBER OR SOCIAL SECURITY NUMBER	
HILL	BRIAN	David		[REDACTED]	
CURRENT RESIDENCE ADDRESS	<input checked="" type="checkbox"/> Check here if this is a new address.		CITY	STATE	ZIP CODE
310 Forest St, Apt. 2			Martinsville	VA	24112
CITY OR COUNTY OF RESIDENCE	DAYTIME TELEPHONE NUMBER OR CELL PHONE NUMBER				
Martinsville	276-790-3505				
MAILING ADDRESS (if different from above)	CITY	STATE	ZIP CODE		
BIRTH DATE (mm/dd/yyyy)	GENDER	HAIR COLOR	EYE COLOR	HEIGHT	WEIGHT
	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE			FT IN	LBS

APPLICANT CERTIFICATION	
<p>I understand that misuse, counterfeiting, or alteration of disabled placards may result in fines up to \$1000, and up to 6 months in jail and/or revocation of disabled parking privileges. I certify that I have a (check one): <input type="checkbox"/> Temporary <input checked="" type="checkbox"/> Permanent disability that limits or impairs my ability to walk or creates a safety concern while walking.</p> <p>I also understand that the disabled parking placard or plates issued to me cannot be loaned to anyone, including family members or friends, to benefit a person other than myself.</p> <p>I further certify and affirm that all information presented in this form is true and correct, that any documents I have presented to DMV are genuine, and that the information included in all supporting documentation is true and accurate. I make this certification and affirmation under penalty of perjury and I understand that knowingly making a false statement or representation on this form is a criminal violation.</p>	
APPLICANT SIGNATURE	DATE (mm/dd/yyyy)
Brian D. Hill Signed	08/18/2016

LICENSED PHYSICIAN/PHYSICIAN ASSISTANT/NURSE PRACTITIONER MEDICAL CERTIFICATION

(This section does not have to be completed to renew permanent placards.)

- Permanently limited or impaired. A permanent disability as it relates to disabled parking privileges shall mean: a condition that limits or impairs movement from one place to another or the ability to walk as defined in Virginia Code §46.2-1240, and that has reached the maximum level of improvement and is not expected to change even with additional treatment.
- Temporarily limited or impaired beginning in the month of _____ and ending in the month of _____ (not to exceed 6 months).

Reason this patient's ability to walk is limited or impaired or creates a safety condition while walking. (check below)

- Cannot walk 200 feet without stopping to rest.
- Uses portable oxygen.
- Cannot walk without the use of or assistance from any of the following: another person, brace, cane, crutch, prosthetic device, wheelchair, or other assistive device.
- Has a cardiac condition to the extent that functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association.
- Is restricted by lung disease to such an extent that forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 millimeters of mercury on room air at rest.
- Is severely limited in ability to walk due to an arthritic, neurological, or orthopedic condition.
- Has been diagnosed with a mental or developmental amentia or delay that impairs judgment including, but not limited to, an autism spectrum disorder.
- Has been diagnosed with Alzheimer's disease or another form of dementia.
- Is legally blind or deaf.
- Other condition that limits or impairs the ability to walk. Specific condition description must be specified below.

I certify and affirm that the described applicant is my patient, whose ability to walk, based on my examination, is limited or impaired or creates a safety concern while walking as described above.

I further certify and affirm that to the best of my knowledge and belief, all information I have presented in this form is true and correct, that any documents I have presented to DMV are genuine, and that the information included in all supporting documentation is true and accurate. I make this certification and affirmation under penalty of perjury and I understand that knowingly making a false statement or representation on this form is a criminal violation.

MEDICAL PROFESSIONAL NAME SHYAM BALAKRISHNAN		OFFICE TELEPHONE NUMBER (276) 870 3300	OFFICE FAX NUMBER (276) 634-0362
LICENSE TYPE MD	LICENSE NUMBER (required) [REDACTED]	STATE ISSUING LICENSE (required) VA	LICENSE EXPIRATION DATE (mm/dd/yyyy) (required) [REDACTED]
MEDICAL PROFESSIONAL SIGNATURE [REDACTED]			DATE (mm/dd/yyyy) 8/31/16

LICENSED CHIROPRACTOR OR PODIATRIST MEDICAL CERTIFICATION

(This section does not have to be completed to renew permanent placards.)

- Permanently limited or impaired. A permanent disability as it relates to disabled parking privileges shall mean: a condition that limits or impairs movement from one place to another or the ability to walk as defined in Virginia Code §46.2-1240, and that has reached the maximum level of improvement and is not expected to change even with additional treatment.
- Temporarily limited or impaired beginning in the month of _____ and ending in the month of _____ (not to exceed 6 months).

Reason this patient's ability to walk is limited or impaired or creates a safety condition while walking. (Checked below)

- Cannot walk 200 feet without stopping to rest.
- Cannot walk without the use of or assistance from any of the following: another person, brace, cane, crutch, prosthetic device, wheelchair, or other assistive device.
- Is severely limited in ability to walk due to an arthritic, neurological or orthopedic condition.
- Other condition that limits or impairs the ability to walk. Specific condition description must be specified below.

I certify and affirm that the described applicant is my patient, whose ability to walk, based on my examination, is limited or impaired or creates a safety concern while walking as described above.

I further certify and affirm that to the best of my knowledge and belief, all information I have presented in this form is true and correct, that any documents I have presented to DMV are genuine, and that the information included in all supporting documentation is true and accurate. I make this certification and affirmation under penalty of perjury and I understand that knowingly making a false statement or representation on this form is a criminal violation.

MEDICAL PROFESSIONAL NAME		OFFICE TELEPHONE NUMBER ()	OFFICE FAX NUMBER ()
LICENSE TYPE	LICENSE NUMBER (required)	STATE ISSUING LICENSE (required)	LICENSE EXPIRATION DATE (mm/dd/yyyy) (required)
MEDICAL PROFESSIONAL SIGNATURE			DATE (mm/dd/yyyy)

DMV USE ONLY			
PLATE/PLACARD NUMBER	PLACARD EXPIRATION DATE (mm/dd/yyyy)	EMPLOYEE STAMP	
CUSTOMER CREDIT CARD NUMBER	CREDIT CARD EXPIRATION DATE (mm/yyyy)	FEE COLLECTED	

Hill, Brian (MRN 7244793)

Encounter Date: 07/18/2016

Brian Hill

7/18/2016 3:30 PM Office Visit

Provider: Demetrios Herodotou, MD

Department: Carilion Clinic, Endocrinology

Dept Phone: 540-224-5170

Patient Preferred Name

No data filed

Basic Information

Date Of Birth	Sex	Race	Ethnicity	Preferred Language
5/26/1990	Male	White or Caucasian	Non-Hispanic	English

Department

Name	Address	Phone	Fax
Carilion Clinic, Endocrinology	3 Riverside Circle Roanoke VA 24016	540-224-5170	540-983-8229

Reason for Visit

Follow-up

Diabetes type 1
Reason for Visit History

Your Vitals Were

BP	Pulse	HT	WT	BMI	Smoking Status
132/78 mmHg	89	1.753 m (5' 9")	92.126 kg (203 lb 1.6 oz)	29.98 kg/m2	Never Smoker

To Do List

Friday September 02, 2016 Appointment with Herodotou, Demetrios at Carilion Clinic, Endocrinology
10:45 AM (540-224-5170)
 3 Riverside Circle
 Roanoke VA 24016

Pending Health Maintenance

	Date Due	Completion Dates
TDAP IMMUNIZATION	5/26/2001	---
DIABETIC FOOT EXAM	5/26/2008	---
DIABETIC EYE EXAM	5/26/2008	---
DIABETIC 6 MONTH HGA1C	11/6/2016	5/6/2016, 2/1/2016, 10/22/2015, 7/2/2015, 5/4/2015, 1/19/2015, 3/22/2013

Allergies

Anesthetic [Benzocaine-Aloe Vera] Other - See Comments
Resident gets out of control

Vaccine Adjuvant Emulsion Combination No. 1
Resident stated he gets out of control

Zantac [Ranitidine Hcl] Diarrhea

Your Current Medications Are

insulin aspart (NOVOLOG FLEXPEN) 100 unit/mL Insulin Pen (Taking) 10 Units by Subcutaneous route as directed for Other (follow the sliding scale.)

insulin glargine (LANTUS) 100 unit/mL Solution (Taking) 36 Units by Subcutaneous route every night

omeprazole (PRILOSEC OTC) 20 mg Tablet, Delayed Release (E.C.) (Taking) take 1 Tab by mouth every day

BD INSULIN SYRINGE ULTRA-FINE 0.5 mL 31 gauge x 5/16 Syringe 1 Each by Subcutaneous route four times daily

BD INSULIN PEN NEEDLE UF MINI 31 X 3/16" (BD INSULIN PEN NEEDLE UF MINI) 1 Each by Subcutaneous route four times daily

Your Current Medications Are (continued)

31 gauge x 3/16" Needle

Insulin Needles, Disposable, (BD INSULIN PEN NEEDLE UF SHORT) 31 gauge x 5/16" Needle 1 Units by Does not apply route four times daily

glucose blood VI test strips (FREESTYLE INSULINX TEST STRIPS) Strip 1 Strip by external route three times daily

Blood-Glucose Meter (ACCU-CHEK AVIVA PLUS METER) Misc 1 Device by Does not apply route three times daily

Insulin Syringe-Needle U-100 (BD INSULIN SYRINGE ULTRA-FINE) 1 mL 30 x 1/2" Syringe 1 Each by Does not apply route four times daily

Pharmacy

WALGREENS DRUG STORE 12495 - MARTINSVILLE, VA - 2707 GREENSBORO RD AT NWC OF RIVES & US 220
2707 GREENSBORO RD MARTINSVILLE VA 24112-9104
Phone: 276-632-0180 Fax: 276-632-6759
Open 24 Hours?: No



CARILION CLINIC

CARILION CLINIC, FAMILY AND INTERNAL MEDICINE
1107a Brookdale Street
Martinsville VA 24112
Phone: 276-670-3300
Fax: 276-634-0379

5/16/2017

RE:
Brian Hill
310 Forest St Apt 2
Martinsville VA 24112-4939

To Whom it May Concern:

This is to certify that Brian Hill is my patient since 11/2014. He has a diagnosis of diabetes, seizures, autism and obsessive compulsive disorder. One or more of these condition can limit his ability to be in social situation or among people and do work.

Please feel free to contact my office if you have any questions or concerns. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shyam E Balakrishnan'.

Shyam E Balakrishnan, MD

Interview and Interrogation of people with autism (including Asperger syndrome)

By Dennis Debbaudt

Conducting on-scene interviews of victims, witnesses, and suspects, a routine event for patrol officers, allows the officer to gather basic information such as who, what, where, when, and why. The officer uses this information to assess situations and decide on further action.

An interrogation differs somewhat from basic fact-gathering since it tends to focus more on a subject who probably is suspected of a criminal act. Different techniques, rules, and procedures apply during an interrogation. A law enforcement professional may be trained in the techniques of interrogation, the rules that apply - such as when to advise suspects of their legal rights - and what procedures to use - such as the venue, environment, or comfort level of the suspect. An interrogation is conducted when there is reason to suspect that a person knows more about or was involved in committing a criminal act.

Whether it is a simple field interview, or a more focused interrogation, dealing with persons with autism presents unique challenges and considerations.

Misleading indications of guilt

There will be occasions when first-responders refer a case involving a person with autism for further questioning. In most cases this will involve an individual who apparently communicates very well and has achieved a high level of independence in the community. The person may have been found at or been identified by others as being at the scene or possessing knowledge of a crime.

Higher-functioning or more independent individuals with autism may live alone or without constant supervision, be able to drive or use public transportation, hold a job, and enjoy leisure activities.

They may possess apparently normal verbal skills but be deficient in comprehension, social awareness, and decision-making. They may appear as quite normal at first, but the symptoms, behaviours, and characteristics - for example, providing blunt or tactless answers, changing the subject, or being unable to understand or accept a rational answer - will become apparent to the educated investigator. However, without an understanding of the disability it will be easy to misinterpret the information provided as an indicator of guilt.

They may provide no eye contact at all, even when a questioner shifts their position to obtain it. The person may have been taught to give eye contact but this may be perceived as insincere, glaring, or fixated. The interviewer may mistake this unusual eye contact as a tension-relieving technique used by a guilty person, when it is nothing more than a symptom of the condition of autism.

When stressed, communications skills may diminish or disappear. Answers may seem evasive or unconnected to the question that was asked. Individuals may appear belligerent, argumentative, stubborn, or inattentive - behaviour that may seem indicative of a person with something to hide.

They can easily become the object of increased scrutiny by the questioner. What started as a routine fact-gathering task may turn into an unnecessary interrogation because an officer, unfamiliar with the behaviours of ASDs may have had their law enforcement instincts rightfully aroused.

Possible traps when interrogating a person with autism

Techniques used during interrogations may include the use of trickery and deceit:

'Without some elements of "trickery", such as leading the suspect to believe that the police have some tangible or specific evidence of guilt, many interrogations will be totally ineffective' (Inbau and Reid 1967, p.196).

'Only one important qualification has been attached to the rule; the trickery or deceit must not be of such nature as to induce a false confession' (Inbau and Reid 1967, p.195).

The higher-functioning person through his or her responses, and the unaware interrogator through

their beliefs, may become unwitting accomplices to continuing a faulty investigation in the best case or, in the worst case, to extracting a false confession.

The following are some possible traps that interrogators can fall into when conducting the interrogation of a person with autism.

Memory Skills

Interrogators should understand that the person with autism may have highly developed memory skills. The person may have learned to commit facts or the statements of others to memory: This rote skill may allow him or her to quickly assimilate and regurgitate data. The individual may be more proficient in his or her expression of these facts than in comprehension of them. He or she may have developed a sophisticated form of echolalia, echoing and repeating the words of others. For example, the person with autism could memorize the allegations of a citizen overheard at the scene, facts inadvertently provided by a first-responding officer, and details of some of the circumstantial evidence that an interrogator has revealed during questioning. Under these circumstances, the person with autism could provide a very convincing untrue statement or false confession. At the least, this knowledge could be misconstrued as real familiarity of facts that only a guilty person could know.

The Interrogator as Authority Figure

Persons with autism may have been conditioned through their lifetime to look to authority figures to make many of life's important decisions for them. They have learned to depend on and trust these authority figures to be right. The interrogator may be viewed as another authority figure that is always right. 'If he thinks I robbed the bank, maybe he's right' is a conclusion that the confused person with autism may develop during an interrogation.

Friendly-Unfriendly

Persons with autism may have a hard time developing friends. They may seek the friendship of others, only to be continually disappointed. They may repeat social gaffes that others find repelling, and they may learn little from these friend-seeking experiences. Although they may not have learned how to make a friend, this will not stop them from trying.

The interrogation techniques of friendly-unfriendly interrogators have the potential to produce false confession from such persons. 'The friendly-unfriendly act is particularly appropriate in the interrogation of a subject who is politely apathetic - the person who just nods his head as though in agreement with the interrogator, but says nothing in response except possibly a denial of guilt' (Inbau and Reid 1967, p.64). The person with autism may involuntarily give an interrogator the impression that he or she is apathetic, and may deny guilt because he or she is innocent.

The friendly interrogator may convince the trusting individual that they are, truly, their friend. The person with autism has now just made a new friend, and 'if my friend wants to know about me robbing a bank, then I'll tell him just to keep him around.' Rather than telling the truth, the person will tell his or her 'friend' what he or she thinks they want to hear.

Concrete Thinkers

Persons with autism are concrete thinkers. Jokes, sarcasm, innuendo, satire, trickery and deceit are difficult concepts for them to understand and appreciate. Their world is unadorned with pretext, pretence, sham, and dishonesty. They are naturally guileless and very honest. They are not very able liars. They expect others to be honest and they can become confused or disappointed when they are not. We have learned that persons with autism may not have a complete understanding of what is expected of them, or the consequences of their actions. They may not understand how serious the consequences of the confession will be for them. They may be led to believe that lying is what is expected of them.

Poor Liars

An interrogator may seek an admission of lying about any part of the alleged offence. The person with autism may try to respond to this new friend or authority figure with what he or she believes is the reply that is wanted. The person may truly have made a mistake; to the interrogator, it was a lie.

When asked if he or she has ever thought about committing the offence in question, the honest-to-a-fault but innocent person with autism may answer 'Yes', as opposed to the characteristic answer of , No' from an innocent person. While both persons only thought in passing about

committing such an offence, the 'normal' person would not consider answering yes. The concrete-thinking autistic person may answer the question as it is asked, causing the interrogator to continue the probe.

It is possible that the person with autism has learned through experience to lie. But her or his attempts to lie will be done poorly. An interrogator should ask a series of unrelated questions to determine the person's ability and potential for lying. This should be done prior to asking questions that are pertinent to the matter at hand.

Tips for the interviewer/interrogator

The interviewer must be specific in what information is sought by asking questions that avoid ambiguity. If the interviewer asks, 'Did you take the money?', the person with autism may say 'Yes' whether or not she or he actually took it. It would be clearer to ask, 'What did you do?' allowing for the individual to provide a response. If you ask, 'Were you with your family or John?' the autistic person may respond, 'John', because that was the last choice of the sequence. If the question was asked again but in reverse order, the autistic person may answer, 'My family,' for the same reason (Perske 1991).

A more specific question might be, 'Who were you with?' which reduces the influence of suggestion on the subject. Obtaining a false confession is a situation for which no conscientious law enforcement officer would want to be responsible.

Some other factors investigators may consider:

- Be sure the subject understands his or her legal rights.
- Saying yes is not the same as understanding them. To the concrete thinker 'waiving your right' may mean waving your right hand.
 - To avoid confusion, ask questions that rely on narrative responses.
- Asking yes or no question is an essential and important element of determining guilt. But consider asking a series of yes or no questions to determine the style and dependability of the response. Then ask the key yes or no questions:
 - Seek the advice of a psychiatrist or psychologist who is familiar with autism. Consider contacting a specialist in autism from outside the criminal justice system.
 - Seek the advice of a prosecutor. You have a job to do and want to perform it in the best way possible. With their unusual responses to your questions, the higher-functioning person with autism may challenge all of your training.
 - Follow procedure, but also follow your gut instincts if you feel that something isn't 'quite right' with the subject of your investigation. Like the old adage, if the statement or confession is too good to be true, it probably is.

ROBERTA HILL <rbhill67@comcast.net>

2/26/2023 7:41 PM

Martinsville Circuit Court, Apology Letter and Notice of Autism Defense under Virginia law, no. CR19000009-00 and CR19000009-01, Commonwealth of Virginia et al v. Brian David Hill

To Hon. Jean P. Nunn, Clerk of the Court <jnunn@ci.martinsville.va.us> •
 Martinsville City Commonwealth's Attorney <ahall@ci.martinsville.va.us> • nsherman@ci.martinsville.va.us •
 OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> •
 Chris Coen <ccoen@oag.state.va.us> • ehamilton@ci.martinsville.va.us • Hill, Justin B. <jhill@oag.state.va.us> •
 cavbriefs@vacourts.gov <cavbriefs@vacourts.gov> Copy
 kenstella2005@comcast.net <kenstella2005@comcast.net> •
 stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl> •
 Ken & Stella Forinash <kenstella@comcast.net> • Lin Wood <lwood@linwoodlaw.com> •
 Lin Wood <lwood@fightback.law> • adriennadicioccio@yahoo.com <adriennadicioccio@yahoo.com> •
 Eric S. Clark <eric@whitestonepublishing.org> • VeritasTips@protonmail.com <veritastips@protonmail.com>

Note: Sorry made a correction to the last email and had to resent this.

Clerk of Circuit Court for the City of Martinsville;
 CC: Glen Andrew Hall, Esquire.;
 CC: Assistant Attorney General Justin Hill, Esq.,
 CC: Court of Appeals of Virginia; CAV Appeals case no. 0313-23-3, 0314-23-3, 0317-23-3

I am Roberta Hill, Brian's mother. I am filing Apology Letter and Notice of Autism Defense under Virginia law. It is all being filed through email to you on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading on his behalf. My son is having me to serve the respondents through email as well. This email to the Clerk with the Respondents in the email message headers prove to the Clerk that I had served the Respondents a copy of these pleadings, and may also be faxed as well by Brian D. Hill in the event that email fail.

Note: Because of the situation escalating to charges, Defendant will only want me to file these two filings on his behalf in the Circuit Court and then let the attorney handle future pleadings. However, Defendant Brian Hill wishes to address his notice of autism and OCD. It is very important and the letter of apology to Judge Greer because anything can be considered an insult. Different judges might feel insulted to different things. It is all about perspective. Please file this Hon. Jeanie Nunn and please take no offense to anything which I and my son do not know may make you feel offensive. I don't know how each person takes as an insult or takes offense to a certain argument or sets of words as Brian had said. I am afraid after I saw what happened to my son, They may come after me next for something I can say which another person may feel offended by with different religions and cultures, they may come after anybody. Defendant may plead the Fifth Amendment to any questioning other than what he is required to answer with because anything Brian say can be construed as any insult or cause any issue. He doesn't want to say anything that could then be used against him later. However, these two filings have to be filed, so that the apology is on record, and

CAV: Submitted on 02-26-2023 19:46:20 EST for filing on 02-27-2023

Brian's autism defense under law. He still has seven appeals in the CAV and he needs to tackle those appeals and comply with the rules of the CAV.

Filings are attached:

Notice-Autism-Defense-Feb-26-2023.pdf: 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.

Apology-Letter-Feb-26-2023.pdf: **Apology letter to Judge Greer, copy to Court of Appeals and to Justin Hill.**

To Clerk: Please confirm by read receipt or response message confirming that you have received this. Thank You!

Roberta Hill (representative for electronic filing)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112

Apology Letter and Notice of Autism Defense under Virginia law, no. CR19000009-00 and CR19000009-01, Circuit Court for the City of Martinsville
Commonwealth of Virginia, City of Martinsville v. Brian David Hill

Apology Letter and Notice of Autism Defense under Virginia law, CAV Appeals case no. 0313-23-3, 0314-23-3, 0317-23-3, Court of Appeals of Virginia
Brian David Hill v. Commonwealth of Virginia, City of Martinsville

Defendant:
Brian David Hill
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

Thanks,
Roberta

-
- Apology-Letter-Feb-26-2023.pdf (821 KB)
 - Notice-Autism-Defense-Feb-26-2023.pdf (2 MB)

APOLOGY LETTER TO HONORABLE GILES CARTER GREER (JUDGE); CLERK OF MARTINSVILLE CIRCUIT COURT

**CASE NO. CR19000009-01, CR19000009-00
CAV Appeal case nos. 0313-23-3, 0314-23-3, and 0317-23-3**

Sunday, February 26, 2023

<p>ATTN: Hon. Giles Carter Greer Presiding Judge Martinsville Circuit Court 55 W. Church Street Martinsville, VA 24114-1206 Phone: (276) 403-5106 Fax: (276) 403-5232 Email: cgreer@ci.martinsville.va.us</p>	<p>ATTN: Hon. Jean P. Nunn Clerk of the Court Martinsville Circuit Court 55 W. Church Street Martinsville, VA 24114-1206 Phone: (276) 403-5106 Fax: (276) 403-5232 Email: jnunn@ci.martinsville.va.us</p>
<p>ATTN: Clerk of the Court Court of Appeals of Virginia</p>	<p>109 North Eighth Street Richmond, VA 23219-2321 Phone: (804) 371-8428</p>

CC: Glen Andrew Hall, Esq. At ahall@ci.martinsville.va.us; Justin Hill, Assistant Attorney General

Hon. Giles Carter Greer (Judge) and Hon. Jeanie P. Nunn (Clerk),

I would like to apologize to you for any hyperbolic and potentially inflammatory statements and legal arguments made in my three Notices of Appeals.

I filed them with the Clerk and assumed that notices of appeal are filed by the Clerk and not with the judge then transmitted to a higher court. I didn't know that you read every page of every one of my notices of appeal. I assumed it was only the clerk who tells the higher court to enter the appeal and obtain the record. My words were not intending to be an insult. This is a misunderstanding. My autism has misunderstood. All I intended to do was do the appellate procedures to comply with Rule 5A:20. Requirements for

Opening Brief of Appellant; section or subsection (c) regarding assignments of error.

I am sorry. I was only trying to address the errors in the trial court before the Court of Appeals of Virginia then requires me to point to the areas of the Trial Court record to preserve any issues for the appeals. If I do not raise an issue in the Trial Court before an appeal is filed, I waive right to argue such assignment of error.

I had no intent to insult you. I don't know what can be considered an insult because I don't know you personally, I don't know what you take offense to. All I was trying to do was try to follow the appropriate appellate procedures for making sure I preserve my assignment of errors for my appeals briefs. After a motion is denied, the Court of appeals does not know what issues are preserved after a motion was denied, so I argued errors for the appeal court as to what issues are raised for a motion being denied, assuming that these issues have to be raised before the appeal.

I have a lot of anxiety and stress right now. I deal with carpal tunnel every day and having to use alternative medicine to prevent my wrists from hurting badly everyday. I am under a lot of stress because of a pending federal court case called a 2255 Motion where I am alleging under penalty of perjury my actual innocence claim to my supervised release violation stemming from my General District Court charge on September 21, 2018. I am under a lot of stress from the federal court expecting for me to be acquitted in the Circuit Court in order to prove that I didn't violate my supervised release. I have autism and obsessive compulsive disorder and generalized anxiety disorder. I didn't know this was going to somehow escalate into a contempt of court charge on myself when I tried to file my notices of appeal documents.

I am sorry, I apologize, I mean no insults. All I was trying to do was preserve my rights as required by Rule 5A:20(c). I have to preserve issues in the trial court before the appeal process begins. That is my obligation as an Appellant in a case, it is my duty as the rules require. Please forgive me on any of my hyperbolic and potentially inflammatory statements and legal

arguments I had made in my three Notices of Appeals.

I don't know which statements or legal arguments you are considering as an insult, so I apologize for whatever statements and legal arguments I made which you feel are an insult. I don't know what to do, I am not an attorney, you know I am not a licensed attorney. I have never been to law school. I have winged it as best as I can trying to draft the best legal pleadings I feel I can type up because of being educated by a pro se filer named Eric S. Clark from Kansas, eric@whitestonepublishing.org, (785) 214-8904. I learned a lot about filing pro se pleadings and documents from him teaching me how to do these types of filings.

I am not a lawyer, I never went to law school. I make arguments and do not know how they will be construed by a Court. Every judge is different and makes determinations differently. Anything can be construed as an insult. This scares me, this makes me be all shaken up, scared, and be in total fear. I am worried right now. I am afraid.

All I was ever trying to do was follow the legal procedures for appeals. I am sorry for any statements I made which you feel are insulting you. I meant no offense as all I was intending to do was comply with Rule 5A:20(c) for preserving the issues for the assignments of error I am going to have to argue as part of appellate procedures. Appellate procedures are not illegal, and doing what the Court of Appeals and rules asks me to do is not contempt of court. Appeals are not illegal.

If it is certain words I said or the way I said them that you take offense of, I apologize for that. I am sorry. I am only trying to do the best job that I can as a pro se filer. I am only human.

I will refrain from hyperbolic and potentially inflammatory legal arguments and/or statements. I didn't know when I make these arguments before a legal pleading how it may be interpreted or that it may even be interpreted criminally. I thought as long as I don't threaten anybody and things like that, I could argue law and legal arguments and have appellate courts review over them and determine if there were assignments of error.

I am sorry.

I apologize. I don't know how words I say and argue in a court will be interpreted.

Thank You! Thank you for your time and attention to this matter.


Signed

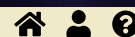
Brian D. Hill

God bless you,
Brian D. Hill

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

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com



[Return to Search Results](#)**Martinsville Circuit Court** ([details](#))[Subscribe](#)Case #: **CR19000009-01**Defendant: **HILL, BRIAN DAVID****Defendant Information**Address: **MARTINSVILLE, VA 24112**Gender: **MALE**Race: **WHITE**DOB: **05/26/******

Attorney:

Case/Charge InformationDefendant Status: **SUMMONS**Filed Date: **02/21/2023**Locality: **COMMONWEALTH OF VA**Code Section: **[18.2-456\(A\)\(3\)](#)**Charge: **INSULT LANG TO JUDGE; CONTEMPT**Case Type: **MISDEMEANOR**Class: **UNCLASSIFIED**Commenced By: **OTHER**Offense Date: **02/21/2023**

Arrest Date:

Amended Code Section:

Amended Charge:

Amended Case Type:

Amended Class:

Appeal Information

Appeal Date:

Hearing Information

Date	Time	Result	Type	Courtroom	Plea	Duration	Jury
03/03/2023	09:00 AM		ADVISE ABOUT ATTORNEY ARRANGEMENTS				

Disposition Information

Disposition:

Disposition Date:

Concluded By:

Jail/Penitentiary:

Concurrent/Consecutive:

Life/Death:

Sentence Time:

Sentence Suspended:

Program Type:

Probation Type:

Probation Time:

Probation Starts:

Operator License Suspension Time:

Restriction Effective Date:

Operator License Restrictions:

Military:

Traffic Fatality: **NO**

Court/DMV Surrender:
 Driver Improvement Clinic:
 VASAP:
 Restitution Paid:
 Restitution Amount:
 Fine: *
 Costs: *
 Fine/Costs Paid:
 Fine/Costs Paid Date:

Service/Process ^

Seq. #	Person Served	Notice Type	Hearing	Issued	Served	How Served
1	HILL, BRIAN DAVID	SHOW CAUSE	03/03/2023	02/24/2023		

Pleadings/Orders ^

Seq. #	Date	Type	Party	Judge	Book & Page	Instrument	Remarks
4	02/24/2023	OTHER	JPN				ATTACH SC - APPEAL 3
3	02/24/2023	OTHER	JPN				ATTACH SC-APPEAL 2
2	02/24/2023	OTHER	JPN	GCG			ATTACH SC-APPEAL 1
1	02/24/2023	SHOW CAUSE RULE	JPN				COURT ISSUED SC

[Return to Search Results](#)

VIRGINIA:

IN THE COURT OF APPEALS

BRIAN DAVID HILL,

Appellant,

v.

**Record Nos. 0313-23-3
0314-23-3
0317-23-3**

COMMONWEALTH OF VIRGINIA,

Appellee.

NOTICE OF APPEARANCE OF COUNSEL

Please take notice of the appearance of Assistant Attorney General Justin Hill as counsel for the Commonwealth of Virginia, in the above-styled matters.

By: _____/s/_____
Counsel

Justin B. Hill (VSB#93564)
Assistant Attorney General
Office of the Attorney General
202 N. 9th Street
Richmond VA 23219
Phone: (804) 786-1445
Fax: (804) 371-0151
Email: jhill@oag.state.va.us;
oagcriminallitigation@oag.state.va.us

CERTIFICATE OF SERVICE

On February 28, 2023, a copy of the foregoing Notice of Appearance was mailed to Brian David Hill, *pro se*, at 310 Forest Street, Apartment 2, Martinsville, Virginia 24112.

_____/s/_____
Justin B. Hill
Assistant Attorney General

CITY OF MARTINSVILLE

Circuit Court

55 W CHURCH STREET, 24112

ADDRESS OF COURT

RESPONDENT:

BRIAN DAVID HILL
310 FOREST ST APT 2
MARTINSVILLE, VA 24112

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
W	M	MO.	DAY	YR.	FT.	IN.		BL	BR
		05	26	1990	6	00	150	BL	BR
SSN		591 [REDACTED]							

PERSONAL SERVICE REQUIRED

TO ANY AUTHORIZED OFFICER: You are commanded to serve this Rule on the Respondent.
TO THE RESPONDENT:

You are hereby commanded to appear before this Court on

FRIDAY, 03/03/2023, at 09:00 AM to show cause why you should not:

INSULTING LANGUAGE TO JUDGE; CONTEMPT (18.2-456(A)(3))

DESCRIBE CHARGE

MARCH 3, 2023 WILL BE COUNSEL HEARING AND TRIAL WILL BE HELD ON ANOTHER DATE

Supplemental document(s) attached and incorporated.

be imprisoned, fined or otherwise punished for:

failure to appear in this Court on _____
DATE AND TIME

failure to pay fines, costs and/or restitution or an installment thereof:
payment due: \$ _____ on _____

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.

Addendum listing additional charges is attached and incorporated.

WARNING TO THE RESPONDENT: You must appear for a hearing/trial at the time and place shown above.

Willful failure to appear is a separate offense.

FEBRUARY 24, 2023

DATE

JEAN P. NUNN, Clerk

JUDGE CLERK MAGISTRATE

by

DEPUTY CLERK

Offense Tracking Number:

690CR1900000901

(For Administrative Use Only)

Virginia Crime Code:

CON-3281-S9

RETURN OF SERVICE

EXECUTED by delivering a true copy of this summons to the Accused in person this day.

SERVING OFFICER

BADGE NO., AGENCY AND JURISDICTION

for

SHERIFF

DATE AND TIME

CAV: Submitted on 03-02-2023 22:13:19 EST for filing on 03-02-2023

File Name Change Record for VACES submission

VACES SYSTEM WON'T ACCEPT THE ORIGINAL FILE NAMES

Appellant will shorten filenames to the following:

Emergency Petition to Governor Glenn Youngkin - March 1, 2023(2).pdf to Emergency-Petition-GovernorMar12023.pdf

Proof of filings email Clerk of Court.pdf to ProofOfFilingsGovernor.pdf

USWGO_20230227_172612(OCR).pdf to Show-Cause-Order-Contempt.pdf

**EMERGENCY PETITION FOR INSTANT PARDON UPON
WRONGFUL CONVICTION TO THE HONORABLE GOVERNOR
GLENN YOUNGKIN OF VIRGINIA**

**RE: Court of Appeals of Virginia Case nos. 0313-23-3, 0314-23-3,
and 0317-23-3; Circuit Court case no. CR19000009-01**

Wednesday, March 1, 2023

<p>ATTN: Governor Glenn Youngkin Email: glenn.youngkin@governor.virginia.gov</p>	<p>The State Capitol, Third Floor Richmond VA 23219 PO Box 1435, Richmond, VA 23218 Phone: (804) 786-2211</p>
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Hon. Governor Glenn Youngkin,

I, Brian David Hill, citizen of this great Constitutional Commonwealth of Virginia, hereby make this EMERGENCY PETITION requesting an instant pardon upon a wrongful conviction of my charge accusing me of committing a “crime” of filing my notices of appeals, and I make these statements under penalty of perjury subject to Virginia Code § 8.01-4.3. “Unsworn declarations under penalty of perjury; penalty”.

I will explain herein how I am facing unconstitutional/unlawful retaliation by a Court when they filed a criminal charge against me by a judge or clerk against me directly caused by filing my NOTICES OF APPEALS which is procedural due process of law. I am being made into a criminal for appealing a decision from the Circuit Court from the City of Martinsville. The criminal charge even says my Notices of Appeals are the reason for my criminal charge. That itself is unconstitutional. I will explain why.

On February 21, 2023, I filed three notices of appeal through my mother Roberta Hill to filed these through email on my behalf due to my supervised release conditions where I cannot use the internet without

permission.

I filed the notices of appeal in the Circuit Court for the City of Martinsville. I had filed them with the Clerk and never intended to file them with the judge and didn't direct the Clerk to file them with the judge.

They are attached to this EMERGENCY PETITION.

I also understand as an Appellant that I have to follow the Rules of the Supreme Court of Virginia, my duties and rights as a citizen of this Commonwealth, as a litigant, as a defendant. Being charged for my duties.

Rule 5A:6 - Notice of Appeal, Va. R. Sup. Ct. 5A:6 (“(a) Filing Deadline; Where to File. - Except as otherwise provided by statute, no appeal will be allowed unless, within 30 days after entry of final judgment or other appealable order or decree, or within any specified extension thereof granted by this Court under Rule 5A:3(a), counsel files with the clerk of the trial court a notice of appeal, and at the same time transmits, mails, or delivers a copy of such notice to all opposing counsel. A notice of appeal filed after the trial court announces a decision or ruling-but before the entry of such judgment or order-is treated as filed on the date of and after the entry. A party filing a notice of an appeal of right to this Court must simultaneously file in the trial court an appeal bond if required by Code § 8.01-676.1. ”)

Rule 5A:6 - Notice of Appeal, Va. R. Sup. Ct. 5A:6 (“(b) Content. - The notice of appeal must contain a statement whether any transcript or statement of facts, testimony, and other incidents of the case will be filed.”)

I was doing my duty as an Appellant. I was making sure to preserve the issues in the Trial Court by preserving the issues as to why I believe my motions were wrongfully denied.

On February 24, 2023, I was charged criminally with CONTEMPT OF COURT. That is attached to this Emergency Petition. The reason for this charge is my NOTICES OF APPEALS. This is direct proof of retaliation by a Judge who did not respect my constitutional right to my statutory appeal

process under procedural due process of law and/or substantive due process of law. Procedural due process of law does apply to statutory rights including the right to present my cause before a higher court.

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.”).

I have a right to appeal because of the statute and/or rule prescribed by the General Assembly of Virginia and/or the Supreme Court of Virginia, this opens up procedural due process of law.

I have asserted to the Circuit Court in a filing that I have legal defenses to the charge of contempt of court.

I asserted my First Amendment right under the U.S. Constitution to engage in a protected process of appealing to a higher court, and asserted that the contempt of court charge is unconstitutional because it is retaliation against me for filing my legally protected process of filing appeals. I filed this notice on March 1, 2023 with the Clerk as entitled: “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”.

I also have Autism Spectrum Disorder which is a neurological disability and a social communications disorder, affecting the way I communicate and talk with other people. The Judge knew that I had autism and yet he is charging me with a crime for legal arguments I made in my NOTICES OF APPEALS caused by my autism. I still have my First Amendment to a protected process, but autism is another potential legal defense of lack of intent under law.

The U.S. Supreme Court said that retaliation of any kind for engaging in the First Amendment of the U.S. Constitution when participating in a

protected process is unconstitutional. It violates the First Amendment. Appealing a judge's decision to a higher court is a protected process, and thus the First Amendment should apply. The contempt of court charge is illegal because it was directly caused by my notices of appeals, and the charge document doesn't even deny that the sole purpose of charging me with CONTEMPT OF COURT is over my lawfully filed appeals.

The U.S. Department of Justice has something to say about “retaliation” being unconstitutional. Family provided Defendant with link and text copied from that link. See <https://www.justice.gov/crt/fcs/T6Manual8> (certain internal citations omitted, certain areas underlined and in bold to highlight certain issues) (“Section VIII- Proving Discrimination-Retaliation...**The Supreme Court has defined retaliation as an intentional act in response to a protected action.** Jackson v. Birmingham Bd. of Educ., 544 U.S. 167, 173-74 (2005). Citing Jackson, the court in Gutierrez underscored the intentional nature of a retaliation complaint: **“Retaliation is, by definition, an intentional act. It is a form of “discrimination” because the complainant is being subjected to differential treatment.”** Gutierrez, 2005 WL 2346956, at *5. **The complained of matter need not be a complaint; it can be any lawful conduct that an individual engages in connected with a protected right.** “The very concept of retaliation is that the retaliating party takes action against the party retaliated against after, and because of, some action of the latter.” **Fed. Mar. Bd. v. Isbrandtsen Co., 356 U.S. 481, 514 (1958).** It **carries with it the notion of “getting even.”** See id. As noted in a 2011 law review article: **Retaliation is a deliberate action used to send a clear message that complaining is unwelcome and risky. It is employed to instill fear in others who might consider making a complaint in the future. Those with cause for complaining are frequently among the most vulnerable in an institution. Once they complain, they are labeled “troublemakers.” Retaliation, and the fear of retaliation, becomes a potent weapon used to maintain the power structure within the institution.** Ivan E. Bodensteiner, The Risk of Complaining-Retaliation, 38 J.C. & U.L. 1, 1 (2011)”).

This same judge has allowed Glen Andrew Hall, the Commonwealth's attorney to willfully and deliberately disobey multiple court orders for discovery. I obtained evidence from Kendall Davis the PIO of the City of

Martinsville proving that the body-camera footage subject to discovery court orders was illegally destroyed on April 9, 2019. I addressed evidence of these crimes (disobedience to follow court orders) with the judge and the judge refused to charge Glen Andrew Hall with any contempt of court, the judge did not file any show cause order for any contempt charge against him.

So for me addressing the issues in my notices of appeals and complaining that this judge is protecting a lawbreaker and evidence destroyer by allowing evidence to be destroyed after court orders asking for the discovery evidence, a contemnor, and instead I face a contempt of court charge for simply telling the truth for the Appeals Court and bringing up these issues to be preserved for the Court of Appeals of Virginia, I face this retaliation I believe illegally and unconstitutionally.

My request to you is this EMERGENCY PETITION because the Governor may not have the power to file a post-charge pardon (unlike with the President of the United States who has that power) but a Governor has the power to file a pardon after a conviction is entered against me.

My request is EMERGENCY because a judge is trying to jail me for simply exercising my legal rights, my duties and obligations as an Appellant in my case.

I am aware historically centuries ago that Patrick Henry had fought for our Bill of rights to be added to the United States Constitution, and that when he spoke in Richmond, Virginia, when he used to be a Governor he said “give me liberty or give me death!”. He thought the Government would have too much power and wanted a Bill of Rights to at least put a restraint on the Government to at least protect our rights and have a lawful separation of powers to protect the Virginians, to protect all of the American people from tyranny.

I hereby have my mother email, file, or submit to you the following evidence:

1. USWGO_20230227_172612(OCR).pdf – Contempt of Court

charge against me for exercising my right to appeal a judge's decision under procedural due process of law. My statutory right to present my cause to a higher court.

2. Proof of filings email Clerk of Court.pdf – Proof of email filings by my mother with the Clerk of the Circuit Court. The emails prove that I didn't direct these to Judge Greer, I didn't ask Judge Greer to review over my filings, I was doing my duty as an Appellant and filed my notices of appeals with the clerk of the court.
3. 1-Notice-of-Appeal-2-21-2023.pdf – Notice of Appeal at issue with me being charged with contempt of court. My crime I am charged with is my appeals.
4. 2-Notice-of-Appeal-2-21-2023.pdf – Notice of Appeal at issue with me being charged with contempt of court. My crime I am charged with is my appeals.
5. 3-Notice-of-Appeal-2-21-2023.pdf – Notice of Appeal at issue with me being charged with contempt of court. My crime I am charged with is my appeals.

However, under the First Amendment of the United States Constitution, and under the Virginia Constitution's freedom of speech clause and petition for seeking a redress of grievances clause; I have a right to file a petition to a higher court for seeking a redress of grievances. I have a right to petition the government for a redress of grievances. That is my protected right.

The last three court appointed lawyers I had representing me in my case or cases in the Circuit Court and John Ira Jones in the Court of Appeals of Virginia, every one of them betrayed me. Attorney named John Ira Jones lied to the Court of Appeals of Virginia that I entered a guilty plea in 2019. That isn't true as the judge or clerk struck the words guilty plea with marker pen or some kind of pen because I was maintaining my innocence. All I entered was the same thing as an Alford Plea, meaning that I maintain my innocence for a later time to prove my innocence, but I had a lawyer at the time (Matthew Clark) who refused to do anything to help me clear my name and kept begging me to withdraw my appeal. So I withdrawn my appeal but maintained my actual innocence. So I entered what is considered

as an Alford Plea. I never plead guilty to anything but the court appointed lawyer appointed by Judge Greer had lied against me in the Court of Appeals of Virginia, then the CAV ordered me to pay \$300 to the very lawyer who betrayed me and wrecked my direct appeals of my criminal case.

I fear that Judge Greer will appoint me yet another rigged court appointed lawyer who won't fight for me and won't try to protect my constitutional rights including procedural due process right to my statutory-created rights to appeal. I fear he will imprison me, have me possibly tortured, and punish me for simply appealing to a higher court. He is retaliating against me for my appeals which is violating my First Amendment right and trying to deprive me of procedural due process of law by giving me a criminal charge for simply challenging this judge to a higher court. Regarding my notices of appeal, I did nothing illegal to the best of my belief. Regarding my notices of appeal, I never intended to do anything illegal to the best of my belief. All my intent was is exercising my rights and duties as required by law, by the Rules of the Supreme Court of Virginia, and by the statutory right to appeal if such statute exists.

If Judge Greer does wrongfully convict me, I ask the Governor to immediately grant me a full Absolute Pardon over the basis that I was retaliated against for exercising my First Amendment right to file multiple notices of appeal to the Court of Appeals of Virginia for multiple court orders with non-favorable decisions in my case.

I ask that I be fully pardoned and acquitted to protect my right to appeal as Appellant, pursuant to the Fourteenth Amendment of the United States Constitution guaranteeing my right.

I ask that I be fully pardoned and acquitted to protect my right to file any lawful legal process against a judge for violating any law or Constitutional right or for any unethical behavior, pursuant to the First Amendment of the United States Constitution guaranteeing my right.

I ask that I not be imprisoned for simply exercising my rights under Due Process of law and Freedom of Speech under both the Virginia

Constitution and United States Constitution.

In the event a conviction occurs over this, I ask for relief, for nullification or acquittal of my wrongful conviction of contempt of court if it occurs, as soon as the order of conviction is ever entered against me.

You can ask somebody to monitor the Online Case Information System or even make phone calls to the Clerk of the Circuit Court to inquire as to when the hearings will be and as to if I am found guilty for my alleged criminal charge of filing my notices of appeals.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 1, 2023.


Signed
Brian D. Hill

God bless you,
Brian D. Hill
310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

U.S.W.G.O.

ROBERTA HILL <rbhill67@comcast.net>

3/2/2023 8:59 PM

Fwd: Emergency Letter to Governor Youngkin, emergency issues (appeal cases no. 0313-23-3, 0314-23-3, and 0317-23-3)

To OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> • Hill, Justin B. <jhill@oag.state.va.us> • cavbriefs@vacourts.gov <cavbriefs@vacourts.gov> Copy
 Lin Wood <lwood@linwoodlaw.com> • Lin Wood <lwood@fightback.law> • stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl> • VeritasTips@protonmail.com <veritastips@protonmail.com> • info@projectveritas.com <info@projectveritas.com>

Appellees in CAV cases no. 0313-23-3, 0314-23-3, and 0317-23-3,

Brian had filed this Emergency petition with the Governor for if the Honorable Judge decides to convict my son Brian David Hill for his first amendment protected process right to appeal. The contempt of court charge is retaliation according to what is defined by the U.S. Supreme Court. <https://www.justice.gov/crt/fcs/T6Manual8>

The Supreme Court has defined retaliation as an intentional act in response to a protected action. Jackson v. Birmingham Bd. of Educ., 544 U.S. 167, 173-74 (2005). Citing Jackson, the court in Gutierrez underscored the intentional nature of a retaliation complaint: “Retaliation is, by definition, an intentional act. It is a form of “discrimination” because the complainant is being subjected to differential treatment.” Gutierrez, 2005 WL 2346956, at *5. The complained of matter need not be a complaint; it can be any lawful conduct that an individual engages in connected with a protected right. “The very concept of retaliation is that the retaliating party takes action against the party retaliated against after, and because of, some action of the latter.” Fed. Mar. Bd. v. Isbrandtsen Co., 356 U.S. 481, 514 (1958). It carries with it the notion of “getting even.” See id. As noted in a 2011 law review article:

Retaliation is a deliberate action used to send a clear message that complaining is unwelcome and risky. It is employed to instill fear in others who might consider making a complaint in the future. Those with cause for complaining are frequently among the most vulnerable in an institution. Once they complain, they are labeled “troublemakers.” Retaliation, and the fear of retaliation, becomes a potent weapon used to maintain the power structure within the institution.

Brian also wanted me to notify you that he may ask for a three month or six month extension of time depending on how long this contempt of court case persists, and based on how long Brian may be in jail if this judge is really out to get Brian. He still has not received the transmitted record of the Trial Court from last month. The clerks are refusing to give him the record of the trial court. So Brian can't proceed his appeal without a complete record. The contempt of court charge may be used to have his appeals dismissed while he sits in jail. If that is the plan, Brian David Hill has a right to appeal, a right to be heard, a right to present his cause in the Court of Appeals of Virginia under procedural due process of law. Fourteenth Amendment.

A judge should not jail him to prevent him from his appeals. He must be allowed to be heard in his appeals.

What was filed with Governor Youngkin and forwarded to you will be filed on the VACES

CAV: Submitted on 03-02-2023 22:13:19 EST for filing on 03-02-2023

system to let the Court of Appeals of Virginia know that Brian is petitioning the Governor to pardon him upon any conviction for contempt of court to protect his right to appeal the decision of the Trial Court in his three recently pending appeals, and that he should not have to face jail-time for any appeals or lawsuits or Mandamus petitions or anything. If an appellant fears jail-time for filing a complaint or petition for a redress of grievances with a higher court, then it creates a chilling effect making an appellant afraid to preserve his rights in the record of the trial court for an appeal. Out of fear of facing a contempt charge, preserving issues for appeal may be lost and the appeal rules can no longer be complied with out of fear of jail-time or some form of retaliation from the trial court for doing a duty.

The contempt of court charge may jeopardize his three CAV appeal cases no. 0313-23-3, 0314-23-3, and 0317-23-3. It is a criminal punishment for filing three appeals. Charging somebody with a crime for issues to preserve in the trial court record legal arguments or to even file what may be construed as objections in notices of appeals creates a chilling effect to prevent my son from complying with the rules of the Court of Appeals of Virginia. With every contempt charge he risks, he can no longer comply with Appeal Rules out of fear of going to jail for every duty he follows. This is unconstitutional. Brian should be protected from the contempt of court charge.

His appeal rights are being threatened, his procedural due process rights are being threatened with the contempt of court charge. **Brian will be appointed a rigged counsel tomorrow who will make sure that Brian David Hill is convicted and loses his appeal for contempt of court. Brian will face a rigged trial in front of the very judge out to get Brian.**

Thanks,
Roberta Hill

----- Forwarded Message -----

Subject:Emergency Letter to Governor Youngkin, emergency issues

Date:Wed, 1 Mar 2023 22:18:39 -0500 (EST)

From:ROBERTA HILL <rbhill67@comcast.net>

To:glenn.youngkin@governor.virginia.gov <glenn.youngkin@governor.virginia.gov>, ltgov@ltgov.virginia.gov <ltgov@ltgov.virginia.gov>

CC:Kenstella <kenstella@comcast.net>, kenstella2005@comcast.net <kenstella2005@comcast.net>, stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl>, VeritasTips@protonmail.com <VeritasTips@protonmail.com>

Governor Youngkin,

My son Brian David Hill wanted me to email you this emergency letter and supporting attachments. They are attached.

Attachments:

Emergency Petition to Governor Glenn Youngkin - March 1, 2023(2).pdf: Emergency letter to Governor Youngkin. Brian is facing illegal retaliation over exercising his constitutional rights and statutory right to appeal. The judge has a history of targeting people who challenges him in the legal system. See <https://patrickcountyva.blog/>. Brian is being illegally targeted for exercising his right to appeal. This is not a normal thing to punish somebody for

following the law. If Brian faces a contempt of court charge for every appeal or any litigation Brian files, then Brian will fear retaliation for anything he legally files with any court or agency. This is illegal and the judge is tyrannical.

USWGO_20230227_172612(OCR).pdf: attachment in support of Emergency Letter.

Proof of filings email Clerk of Court.pdf: attachment in support of Emergency Letter.

1-Notice-of-Appeal-2-21-2023.pdf: attachment in support of Emergency Letter.

2-Notice-of-Appeal-2-21-2023.pdf: attachment in support of Emergency Letter.

3-Notice-of-Appeal-2-21-2023.pdf: attachment in support of Emergency Letter.

Thanks,
Roberta Hill

- Emergency Petition to Governor Glenn Youngkin - March 1, 2023(2).pdf (399 KB)
- USWGO_20230227_172612(OCR).pdf (820 KB)
- Proof of filings email Clerk of Court.pdf (637 KB)
- 1-Notice-of-Appeal-2-21-2023.pdf (353 KB)
- 3-Notice-of-Appeal-2-21-2023.pdf (352 KB)
- 2-Notice-of-Appeal-2-21-2023.pdf (619 KB)

CAV: Submitted on 03-02-2023 22:13:19 EST for filing on 03-02-2023

Subject: RE: Martinsville Circuit Court, 3rd Notice of Appeal and financial affidavit, no. CR19000009-00, Commonwealth of Virginia et al v. Brian David Hill
From: Jeanie Nunn <JNUNN@ci.martinsville.va.us>
Date: 2/22/2023, 9:31 AM
To: ROBERTA HILL <rbhill67@comcast.net>

Documents received.

JEANIE

JEAN P. NUNN, Clerk of Court
Martinsville Circuit Court Clerk's Office
(276-403-5251)

From: ROBERTA HILL <rbhill67@comcast.net>
Sent: Tuesday, February 21, 2023 11:03 PM
To: Jeanie Nunn <JNUNN@ci.martinsville.va.us>; Andy Hall <ahall@ci.martinsville.va.us>; Nancy Sherman <nsherman@ci.martinsville.va.us>; OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us>; Coen, Chris <ccoen@oag.state.va.us>; ER Hamilton <EHAMILTON@ci.martinsville.va.us>; Hill, Justin B. <JHill@oag.state.va.us>
Cc: Ken & Stella Forinash <kenstella@comcast.net>; kenstella2005@comcast.net; stanleybolten@justiceforuswgo.nl
Subject: Martinsville Circuit Court, 3rd Notice of Appeal and financial affidavit, no. CR19000009-00, Commonwealth of Virginia et al v. Brian David Hill
Importance: High

CAUTION: This email originated outside the City of Martinsville's email system.
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Clerk of Circuit Court for the City of Martinsville;
CC: Glen Andrew Hall, Esquire.;
CC: Assistant Attorney General Justin Hill, Esq.,

I am Roberta Hill, Brian's mother. I am filing 3rd Notice of Appeal and financial affidavit. It is all being filed through email to you on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading on his behalf. My son is having me to serve the respondents through email as well. This email to the Clerk with the Respondents in the email message headers prove to the Clerk that I had served the Respondents a copy of these pleadings, and may also be faxed as well by Brian D. Hill in the event that email fail.

Filings are attached:
3-Notice-of-Appeal-2-21-2023.pdf: - 3rd Notice of Appeal regarding final order entered February 21, 2023
3Aff-Indigience2-21-2023.pdf: Affidavit of Indigence for 3rd Notice of Appeal

To Clerk: Please confirm by read receipt or response message confirming that you have received this. Thank You!

Roberta Hill (representative for electronic filing)

310 Forest Street, Apartment 1
Martinsville, Virginia 24112

3rd Notice of Appeal and financial affidavit, case no. CR19000009-00, Circuit Court for the City of
Martinsville
Commonwealth of Virginia, City of Martinsville v. Brian David Hill

Defendant:
Brian David Hill
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

Thanks,
Roberta

Subject: RE: Martinsville Circuit Court, Two Notices of Appeal, no. CR19000009-00, Commonwealth of Virginia et al v. Brian David Hill (Financial Affidavits)
From: Jeanie Nunn <JNUNN@ci.martinsville.va.us>
Date: 2/22/2023, 9:31 AM
To: ROBERTA HILL <rbhill67@comcast.net>

Documents received.

JEANIE

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Martinsville Circuit Court Clerk's Office
(276-403-5251)

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To: Jeanie Nunn <JNUNN@ci.martinsville.va.us>; Andy Hall <ahall@ci.martinsville.va.us>; Nancy Sherman <nsherman@ci.martinsville.va.us>; OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us>; Coen, Chris <ccoen@oag.state.va.us>; ER Hamilton <EHAMILTON@ci.martinsville.va.us>; Hill, Justin B. <JHill@oag.state.va.us>
Cc: Ken & Stella Forinash <kenstella@comcast.net>; kenstella2005@comcast.net; stanleybolten@justiceforuswgo.nl
Subject: Re: Martinsville Circuit Court, Two Notices of Appeal, no. CR19000009-00, Commonwealth of Virginia et al v. Brian David Hill (Financial Affidavits)
Importance: High

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Forgot the Affidavits of Indigence for both notices of appeal. They are attached as Aff-Indigence2-21-2023.pdf and 2Aff-Indigence2-21-2023.pdf.

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Roberta Hill (representative for electronic filing)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112

Two Notices of Appeal, case no. CR19000009-00, Circuit Court for the City of Martinsville
Commonwealth of Virginia, City of Martinsville v. Brian David Hill

Defendant:
Brian David Hill
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

Thanks,
Roberta

Subject: Re: Martinsville Circuit Court, Two Notices of Appeal, no. CR19000009-00, Commonwealth of Virginia et al v. Brian David Hill (Financial Affidavits)

From: ROBERTA HILL <rbhill67@comcast.net>

Date: 2/21/2023, 3:49 PM

To: "Hon. Jean P. Nunn, Clerk of the Court" <jnunn@ci.martinsville.va.us>, Martinsville City Commonwealth's Attorney <ahall@ci.martinsville.va.us>, nsherman@ci.martinsville.va.us, "OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us)" <oagcriminallitigation@oag.state.va.us>, "Coen, Chris" <ccoen@oag.state.va.us>, ehamilton@ci.martinsville.va.us, "Hill, Justin B." <JHill@oag.state.va.us>

CC: Ken & Stella Forinash <kenstella@comcast.net>, "kenstella2005@comcast.net" <kenstella2005@comcast.net>, "stanleybolten@justiceforuswgo.nl" <StanleyBolten@justiceforuswgo.nl>

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Thanks,
Roberta

— Attachments: —

2Aff-Indigience2-21-2023.pdf	166 KB
Aff-Indigience2-21-2023.pdf	166 KB
2Aff-Indigience2-21-2023.pdf	166 KB

ROBERTA HILL <rbhill67@comcast.net>

2/21/2023 11:02 PM

Martinsville Circuit Court, 3rd Notice of Appeal and financial affidavit, no. CR19000009-00, Commonwealth of Virginia et al v. Brian David Hill

To Hon. Jean P. Nunn, Clerk of the Court <jnunn@ci.martinsville.va.us> •
Martinsville City Commonwealth's Attorney <ahall@ci.martinsville.va.us> • nsherman@ci.martinsville.va.us •
OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> •
Chris Coen <ccoen@oag.state.va.us> • ehamilton@ci.martinsville.va.us • Hill, Justin B. <jhill@oag.state.va.us>
Copy Ken & Stella Forinash <kenstella@comcast.net> •
kenstella2005@comcast.net <kenstella2005@comcast.net> •
stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl>

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2/21/2023 3:39 PM

Martinsville Circuit Court, Two Notices of Appeal, no. CR19000009-00, Commonwealth of Virginia et al v. Brian David Hill

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Chris Coen <ccoen@oag.state.va.us> • ehamilton@ci.martinsville.va.us • Hill, Justin B. <jhill@oag.state.va.us>
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**INFORMAL MOTION FOR ONE YEAR EXTENSION OF TIME
FOR APPEALS OR APPOINTMENT OF COUNSEL –**

**RE: Case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3,
0289-22-3, 0290-22-3**

**– Note: This is the last Motion, for six months I won't be allowed to
file anything with the Court of Appeals of Virginia, or any state
court.**

Thursday, March 9, 2023

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

CC: Assistant Attorney General Justin Hill, served by one of my friends

Clerk of the Court and Justin Hill,

I need a one year extension of time to file appeal briefs, maybe longer.

The reason why is that I may within days be put under a stipulation on six months of probation once I sign an agreement, where I will not be allowed to file pro se, including I will be barred from filing anything in the Commonwealth/state court including appeals.

I cannot afford a lawyer, and there is the chance that the appeals may prevail or may not prevail. Maybe the Supreme Court of Virginia may decide to have a new case law authority. I do have the right to present my appeal regardless of the decision made by this Court or even the Supreme Court of Virginia. I accept whatever decision comes out of any court.

I will agree not to file in the state courts and be on the condition not to file. That is why I am filing this last pleading, I am asking for one year at least of an extension of time for all appeals. It will be legally impossible for me to be able to comply with the orders of this court without violating my

probation condition which will be set up within days. Maybe even tomorrow. This is my last motion, my last request. Informal motion.

It will take months to try to find a pro bono lawyer to represent me in these pending appeals. I cannot afford an attorney. I only live off of SSI disability. My application with the Innocence Project of Virginia, still pending.

If this Court wishes to appoint me counsel, I will be grateful and the attorney can pursue all pending appeals.

My mother no longer wants to file anything under her email. So I am getting one of my friends to serve copies with Justin Hill. This is my LAST filing because the Court needs to know the following facts.

STATEMENT OF THE FACTS

1. I will within days sign an agreement to be placed on probation barring me from pro se filing in the state courts. Hopefully the agreement does not include federal courts because I have a right to petition timely for a Writ of Habeas Corpus. If I am barred from that then it becomes an unlawful government impediment which prevents me from prosecuting my pending 28 U.S.C. Section 2255 Motion in the U.S. Dist. Court, Middle District of North Carolina. I am in a pending 2255 case right now, and I am not barred from filing anything in the Middle District of North Carolina. At some point the federal judge will file a notice and recommendation or order and recommendation. It is my obligation to comply with the court orders of the Middle District of North Carolina.
2. I will not file anything which criticizes or accuses a judge. I made a mistake with my arguments in the notices of appeal and will not happen again. My duty is to comply with the orders of the court and let them decide whatever they decide. My intent was misunderstood.
3. I do wish to see the pending appeals through while complying with the probation demands that I not file anything pro se in the state courts. I cannot afford an attorney. Either the Court of Appeals of Virginia can

appoint me counsel so that I comply with my probation conditions or wait until after the six months of probation before I file the necessary pleadings required to comply with the Court of Appeals of Virginia. I will not be able to answer this Court and the probation will not permit me my duty or duties to follow any orders of this Court pro se without risking violation of probation conditions once they are set.

4. It is clear that the extension of time should be at least one year. That way I can comply with the conditions of probation and finish any remaining appeals since there is the chance I may prevail or new precedent could be set. Otherwise please appoint me counsel so that I comply with the probation once they start it up.
5. I am indigent, these are criminal case appeals. These are appeals of right. Please appoint me a lawyer or give me a one year extension of time for all pending appeals so that I can comply with the restriction of not being allowed to file pro se in the state including the appeals.

I also have one more request. Please have one of your Court of Appeals of Virginia deputy clerks send me the complete record of the trial court. I would like to at least have it while I get started at some point on the probation conditions. I would like to be able to take the time to review over the record so that after six months, I can have assignments of error and I accept any decision by your Court. I will not make the same mistake I did in my notices of appeal. I will not make the mistake I made, I hope everyone understands that. I am not trying to do anything wrong here.

I hope I can at least see all of the hard work I had done and see the complete record in PDF Format. I would like to see all of that. I am at least entitled to the complete record. Once I am under probation I may not even be allowed to ask for the complete record of the trial court. I would at least like to have the complete record, to be able to review over it. Then after I am off probation, then I would like to see where things go from there. Maybe I am appointed a lawyer, maybe I may get lucky and find a lawyer pro bono willing to help me.

This is my last filing. Please consider this. Thank you and God Bless everyone including the Commonwealth of Virginia. I never meant to hurt anybody's feelings, I never meant to make somebody angry, and I apologize for if I did. All I ever tried to seek was justice. I tried to be like one of those attorneys who fights really good in cases. The problem is I am not a lawyer. I don't even know if filing pro se means anything anymore.

All I ask for is any relief or remedy which this Court may deem proper. If this Court can order the appointment of counsel so that I can comply with the probation conditions coming in days, I am grateful about that. If they can give me a one year extension of time, I am grateful with that as well, and gives me time to sort out the mess of being charged with contempt of court. I don't ever want to repeat what happened with my notices of appeal, ever again, I promise I will not make the same mistakes. That mistake will never happen again. I didn't know what that mistake would cost me. I don't think my appeals mean nothing. I filed the appeal in good faith because there is the chance I will prevail somehow. The Supreme Court of Virginia may decide that Brian's case is the one they will set new precedent.

So I am not trying to be frivolous in any way, I do feel like as a pro se filer that I may have merit somewhere or someday. I am not an attorney.

Please I pray to this Court for relief of anything. Extension of time for one year, lawyer. Anything. Please allow me to continue the appeals legally.

Brian D. Hill
Signed

Brian D. Hill

God bless you,

Brian D. Hill

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

310 Forest Street, Apartment 2

Martinsville, Virginia 24112

(276) 790-3505

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com



CERTIFICATE OF SERVICE

On March 9, 2023, It has been served on Justin Hill who is counsel for the Appellees. Andrew Hall has recused himself from the case, special prosecutor. Appellees City of Martinsville and Commonwealth of Virginia.

I certify that my last pleading asking for extension of time or appointment of counsel was served on the Attorney General, Appellees'. Appointment of counsel or extension of time is necessary since I will soon have to be on probation and agree not to file pro se with the state courts. I will not be allowed to file anything or send anything in writing to ther Court of Appeals of Virginia without risking a probation violation once I sign those papers. So please accept proof of service.

Hill, Justin B. <jhill@oag.state.va.us>
OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us)
<oagcriminallitigation@oag.state.va.us>

It has been served by usage of a friend since I cannot use the internet due to supervised release conditions. It doesn't matter anyways.

Proof of service shall accompany this informal motion.


Signed

Brian D. Hill

God bless you,
Brian D. Hill

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

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

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

U.S.W.G.O.

ROBERTA HILL <rbhill67@comcast.net>

2/26/2023 8:04 AM

EMERGENCY Letter to Clerk of Court of Appeals of Virginia and Justin Hill, Judge Greer wants my son jailed

To OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> • Hill, Justin B. <jhill@oag.state.va.us> • Chris Coen <ccoen@oag.state.va.us> Copy
Lin Wood <lwood@linwoodlaw.com> • Lin Wood <lwood@fightback.law> • nisha@rutherford.org • staff@rutherford.org • James O'Keefe <veritastips@protonmail.com> • tips@projectveritas.com • DelAdams@house.virginia.gov <delladams@house.virginia.gov> • district20@senate.virginia.gov

EMERGENCY Letter to Clerk of Court of Appeals of Virginia

My son Brian may be arrested for contempt of court for what he argued in preservation of issues for the three filed notices of appeals. Brian Hill may not be able to continue his appeals if he is jailed or who knows what may happen to my son.

I heard bad things about Judge Greer. I didn't know he was going after my son. He is retaliating. This judge is retaliating against my son. I and my son heard bad things about this judge from other people like one who ran a blog. <https://patrickcountyva.blog/>

Judge Greer wants to target my son, I am afraid for him, I don't know what to do, there is nothing I can do for him.

The corruption is bad when someone seems to be causing the clerks to block Brian from access to the complete record of the trial court. Brian messed with some very powerful people. Brian is not a powerful person, he is mentally disabled with autism. Brian will be crushed by the corruption.

Things keep getting worse and worse. **Brian David Hill = Innocence.** His appeals may be kaput now with Brian possibly being sent to jail after Judge Greer makes an example out of him. How can Brian comply with the rules of the Court of Appeals while sitting in jail with no law library and no type writer???

You will be served a copy of my son's emergency letter. In 2012, he faced corruption in town of Mayodan and got framed with child porn <https://wearechange.org/case-brian-d-hill/> because of local retaliation campaign. Now Judge Greer wants to target my son, who knows what they will do him there or what crimes may happen against my son. We are all scared, his family is scared.

My son has been shaking and trying to contact REACH crisis hotline. Brian is afraid. Brian is panicking and wondering if they will force the mRNA vaccine on him and kill him. Brian is fearing that the corruption will target Brian's life.

Files:

EMERGENCY-LETTER-FEB-26.pdf

1-Notice-of-Appeal-2-21-2023.pdf

2-Notice-of-Appeal-2-21-2023.pdf

3-Notice-of-Appeal-2-21-2023.pdf

contempt-charge.pdf

evidence-judge-greer.pdf

- EMERGENCY-LETTER-FEB-26.pdf (197 KB)
- 1-Notice-of-Appeal-2-21-2023.pdf (353 KB)
- 2-Notice-of-Appeal-2-21-2023.pdf (619 KB)
- 3-Notice-of-Appeal-2-21-2023.pdf (352 KB)
- contempt-charge.pdf (468 KB)
- evidence-judge-greer.pdf (767 KB)

CAV: Submitted on 02-26-2023 08:10:57 EST for filing on 02-27-2023

**REQUEST TO APPELLEES COUNSEL JUSTIN HILL OF
OFFICE OF THE ATTORNEY GENERAL; ON ISSUES OF
PRESERVING RIGHT TO APPEAL AND CONTINUE APPEALS
UNTIL AFTER SIX MONTHS OF STATE PROBATION**

**CC: RE: Case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-
23-3, 0289-22-3, 0290-22-3, Court of Appeals of Virginia**

Saturday, March 11, 2023

ATTN: Justin Hill Office of the Attorney General Appellees	202 North Ninth Street Richmond, Virginia 23219 Phone: (804) 786-2071
---	--

Justin Hill,

I am sorry but I am going to have to rush filing the opening brief and Designation of the Record for cases no. 1424-22, 1425-22. I am sorry but I do not have the luxury of time before the court appointed lawyer and special prosecutor may have me sign an agreement to serve six months of probation barring me from filing pro se in the state courts without a lawyer, and I cannot afford a lawyer. I risk my appeals being defaulted or that I lose the appeals because of not being allowed to file anything pro se. The state probation will tie my hands behind my back figuratively and prevent me from filing anything in my appeal cases. I may have no choice because I made a big mistake in my three notices of appeal and that mistake may cause me to be temporarily barred from any filings or any state filings.

So if I do have to agree to it, then I ask that Appellees allow me to continue my appeals after the six months of state probation. I do truly believe I have good assignments of error to argue. I have a procedural due process right under the Fourteenth Amendment of the U.S. Constitution. I have a due process right to at least finish my remaining appeals while they are still pending.

You can ask for an extension of time. I don't know when I will sign an agreement for the six months. That was why I was asking in an informal motion for a one-year continuance or one year extension of time.

Then there is also the chance that the Court of Appeals of Virginia makes a decision in cases no. 0289-22-3, 0290-22-3. Then I would not be allowed to file a Petition for Appeal in the Supreme Court of Virginia without a lawyer. So I need to negotiate this issue with Appellees right now before my hands are tied. I would like to be allowed to continue all of my pending appeals after I serve the six months of probation if nothing has changed. I hope I can even notify you when I sign the papers, I don't know.

I have to be sure that I protect my constitutional right to due process of law. Just because I made a mistake which caused me to be charged with contempt of court, it doesn't mean that I should be punished by not being allowed to my pending appeals. I am very respectful in my Designation of the Record and I am going to be respectful in my opening brief, and in my future opening briefs and designations of the record in cases no. 0313-23-3, 0314-23-3, 0317-23-3. I will be respectful and so I ask that I be allowed to continue my appeals after the six months of probation. Please let me protect my rights, please protect my rights to procedural due process of law. I cannot afford a lawyer, and I still feel like my appeals have merit somehow, somewhere. I am not a lawyer, but I know that there are rare victories from pro se litigants as long as they don't lose their cool. I will keep my cool.

I ask the Appellees to allow me to finish my remaining appeals and continue with the process after the six months of probation. My lawyer Fred told me that the reason my motions were denied by the judge was because of my 2019th filed motion to withdraw appeal in the Circuit Court, but that very motion has a lot of pages and preserves my right to collaterally attack/challenge my wrongful conviction and to maintain my innocence. I am explaining about this in one or two of my Assignments of Error to address what Fred my court appointed lawyer told me. I am addressing why my 2019th filed Motion to withdraw appeal in the Circuit Court. I did preserve my rights when I filed that pleading, and so the Court may treat this

differently than with any other person who simply files a formal notice of withdrawing appeal. My notice was different and preserved my right to be found innocent, the right to prove my innocence, and the right to overturn my conviction.

So I do believe I have merit somehow or somewhere. I do believe I am not wasting anybodies time here. I do want to see if I can make a miracle happen. I want to try to fight for my Constitutional rights because I am innocent of my charge of indecent exposure. I have disproved the elements of being medically and psychologically cleared, of obscenity.

I do believe I have good cause. I do believe I have good faith here. I made one mistake, one mistake which made the judge get angry at me in my notices of appeals. I apologized in writing last month. I should be allowed to finish my appeals and not be barred from them. I have the statutory right to appeal and that means the Fourteenth Amendment due process of law clause is part of this too once the state gives the statutory right to appeal. My right to appeal is protected under procedural due process of law when the statute invokes that I may appeal a decision from the Circuit Court.

I ask Justin Hill on the issue that I be given a continuance or agree to continuance until after my six months of state probation assuming that the special prosecutor still is giving this offer for me. I need to preserve my rights. I am innocent of indecent exposure. I have proven quite a lot.

Thank You, and I appreciate the time and effort made into this.


Signed

Brian D. Hill

God bless you,
Brian D. Hill

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

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

U.S.W.G.O.

CAV : Submitted on 03-11-2023 23:47:46 EST for filing on 03-13-2023

Designation of record, urgent letter, Motion for leave of court



From Stanley Bolten <stanleybolten@justiceforuswgo.nl>
To Hill, Justin B. <jhill@oag.state.va.us>, <oagcriminallitigation@oag.state.va.us>
Cc <rbhill67@comcast.net>
Date 2023-03-11 23:30
Priority Highest

Letter-Appellees3-11-2023.pdf (~254 KB) Motion-Leave-Court-3-11-2023.pdf (~591 KB) Appellant-Designation-3-11-2023.pdf (~594 KB)

ATTN: Justin Hill,

Brian David Hill wanted me to file a copy of this with you, his Designation of record, urgent letter, Motion for leave of court.

Brian is not barred from filing pro se yet. He was shocked that the staff gave Brian the complete record of the trial court yesterday. I made sure that his mother received the links and Brian was happy when he obtained the complete record of the Trial Court. So, Brian made the decision to work on the pleadings this weekend, and to ask for consolidating two appeals. That will be filed tomorrow. He wants to get this done before he may be barred from filing pro se. He believes there are important issues which need to be addressed.

FILES being sent to you:

Letter-Appellees3-11-2023.pdf	Urgent letter to counsel of Appellees asking for a continuance or agree to a continuance until after the six-month timeout period. Appellant made a mistake, one mistake, and that shouldn't mean the end of the world here. We are all human and we humans are not perfect. Brian Hill is not perfect. He has autism, please give him a break.
Motion-Leave-Court-3-11-2023.pdf	Motion for leave of court to file Designation of the Record, cases no. 1424-22, 1425-22
Appellant-Designation-3-11-2023.pdf	Designation of the Record, cases no. 1424-22, 1425-22

Brian is about to be under probation within days if not weeks which will bar him from filing in a state court pro se anymore. It will be six months of probation where he cannot be legally allowed to comply with the Court of Appeals of Virginia, meaning he cannot be legally allowed to correct deficiencies or file anything or in any state court pro se, or he risks a violation charge.

Brian wishes to finish his remaining appeals and not be fettered from them. He promises to be respectful and keep his cool and not accuse the judge of anything. He still can argue errors and abuses of discretion, that is his constitutional right. That is the process. Participating in the appeal process is Brian's right.

Brian still thinks new precedent can be set a year from now. Even with the current case law, maybe there is merit somewhere. Brian would still like to finish his remaining appeals just to try to prove he had merit. If they succeed, great, if not then he moves on with his life regardless of the decision.

Please respect his last wish and please respect his last filings for his appeals before he is put on probation not allowing him to file anything pro se in the state courts. Brian needs a lawyer, or he needs a one-year extension of time or continuance. His rights are too important, and no local judge should fetter with his right to appeal. If we cannot appeal, then we live under a local dictatorship like North Korea. America is not North Korea. Vets have fought and died for the United States of America to remain free. WWG1WGA Us Vets have fought for our Constitution.

Thank you and have a great day.

Thank you for reading,
Stanley Bolten
StanleyBolten@justiceforuswgo.nl.

Brian David Hill v. Commonwealth of Virginia and City of Martinsville

Court of Appeals of Virginia

RE: Case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3,
0289-22-3, 0290-22-3

On behalf of:

Brian D. Hill

Appellant

310 Forest Street, Apartment 2

Martinsville, VA 24112

(276) 790-3505

Daphne Brown

From: Court of Appeals of VA _2 <court_of_appeals_of_va_2@vacourts.gov>
Sent: Wednesday, March 29, 2023 3:33 PM
To: Brian David Hill (rbhill67@comcast.net); Justin B. Hill (jhill@oag.state.va.us);
oagcriminallitigation@oag.state.va.us
Subject: Brian David Hill v. Commonwealth of Virginia, et al.; Record Nos. 0313-23-3, 0314-23-3 & 0317-23-3
Attachments: 032923 order - deny mot to say, ob ext & appt of counsel 0313-23-3.pdf; 032923 order - deny mot to say, ob ext & appt of counsel 0314-23-3.pdf; 032923 order - deny mot to say, ob ext & appt of counsel 0317-23-3.pdf



COURT OF APPEALS OF VIRGINIA

Attached are this Court's orders entered today in the above-referenced matters. Pursuant to Rule 5A:19, an opening brief is not due to be filed until 40 days from the date on which the trial court's record is received in this office. The record in these cases has not yet been received. Appellant may file a motion for an extension of time to file the opening brief at that time.

No paper copies of the attachment(s) will be mailed.

Effective June 1, 2021, all counsel are required to file all pleadings, letters, briefs, etc., electronically through the VACES system. Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings are located on the Virginia Judicial System Website at <https://eapps.courts.state.va.us/help/robo/vaces/index.htm>. Pro se/self-represented litigants may, but are not required to, file pleadings through the VACES system. Otherwise, such individuals are required to transmit one paper copy of a filing to the Clerk of the Court.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219

VIRGINIA:

In the Court of Appeals of Virginia on Wednesday the 29th day of March, 2023.

Brian David Hill, Appellant,

against Record No. 0314-23-3
 Circuit Court No. CR19000009-00

Commonwealth of Virginia, Appellee.

From the Circuit Court of the City of Martinsville

On February 27, 2023, came the appellant, in proper person, and filed a motion requesting that the Court stay the proceedings in this case.

On March 9, 2023, came again the appellant, in proper person, and filed a motion requesting, *inter alia*, a one-year extension of time to file his appeal briefs and praying that the Court appoint counsel to represent him on this appeal.

Upon consideration whereof, the motion for a stay hereby is denied.

Upon further consideration whereof, the motion for an extension of time and for the Court to appoint the appellant counsel on appeal hereby is denied.

A Copy,

Teste:

A. John Vollino, Clerk

By:



Deputy Clerk

VIRGINIA:

IN THE COURT OF APPEALS

BRIAN DAVID HILL,

Appellant,

**Record Nos. 0289-22-3, 0290-22-3,
1424-22-3, 1425-22-3,
0313-23-3, 0314-22-3,
and 0317-23-3**

COMMONWEALTH OF VIRGINIA,

Appellee.

MOTION TO CONSOLIDATE

The Commonwealth of Virginia, by counsel, moves the Court to consolidate Brian David Hill's appeals under record numbers 0289-22-3, 0290-22-3, 1424-22-3, 1425-22-3, 0313-23-3, 0314-23-3, and 0314-23-3. In support of this motion states the following:

1. Cases 0289-22-3 and 0290-22-3 are both appeals from the trial court's denial of two separate, but nearly identical motions for a judgment of acquittal or a new trial which collaterally attacked his 2018 misdemeanor indecent exposure conviction. On motion of the Commonwealth, this Court ordered those two cases to be consolidated on November 9, 2022.

2. Cases 1424-22-3 and 1425-22-3 are also both appeals from the trial court's denial of two additional motions for a judgment of acquittal or a new trial. On Hill's motion, this Court ordered those two cases to be consolidated on March 29, 2023.

3. All four of Hill's motions for a judgment of acquittal were denied by the trial court for lack of jurisdiction. Accordingly, they share not only a common nucleus of operative facts but also present the same legal issue: whether the trial court had jurisdiction over Hill's motions attempting to overturn his 2018 misdemeanor indecent exposure conviction.

4. Because all four of these matters present the same essential facts and legal questions, consolidating them will aid the decisional process and preserve judicial resources.

5. Furthermore, Hill has noted his appeal in cases 0313-23-3, 0314-23-3, and 0317-23-3. No record has been filed in those cases as of the date of filing this motion.

6. Upon information and belief, however, those three cases are also appeals from the trial court's denial of three similar motions for a judgment of acquittal or a new trial. Therefore, upon information and belief, those three cases also appear to present the same essential facts and legal questions as Hill's other four pending appeals.

CERTIFICATE OF SERVICE

On May 19, 2023, a copy of this motion was filed electronically with VACES and a copy mailed to Brian David Hill, appellant *pro se*, at 310 Forest Street, Apartment 2, Martinsville, Virginia 24112.

_____/s/_____
Justin B. Hill
Assistant Attorney General

Daphne Brown

From: Court of Appeals of VA _2 <court_of_appeals_of_va_2@vacourts.gov>
Sent: Monday, June 12, 2023 2:54 PM
To: Justin B. Hill (jhill@oag.state.va.us); oagcriminallitigation@oag.state.va.us
Cc: Brian David Hill (rbhill67@comcast.net)
Subject: Brian David Hill v. Commonwealth of Virginia, et al.; Record Nos. 0289-22-3, 0290-22-3, 1424-22-3, 1425-22-3, 0313-23-3, 0314-23-3 & 0317-23-3
Attachments: 061223 letter - delay motion for record 0313-23-3.pdf



COURT OF APPEALS OF VIRGINIA

Counsel:

Attached is this Court's letter sent today in the above-referenced matters.

Effective June 1, 2021, all counsel are required to file all pleadings, letters, briefs, etc., electronically through the VACES system. Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings are located on the Virginia Judicial System Website at <https://eapps.courts.state.va.us/help/robo/vaces/index.htm>. Pro se/self-represented litigants may, but are not required to, file pleadings through the VACES system. Otherwise, such individuals are required to transmit one paper copy of a filing to the Clerk of the Court.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219

COURT OF APPEALS OF VIRGINIA

CHIEF JUDGE

MARLA GRAFF DECKER

JUDGES

ROBERT J. HUMPHREYS

RANDOLPH A. BEALES

GLEN A. HUFF

MARY GRACE O'BRIEN

RICHARD Y. ATLEE, JR.

MARY B. MALVEAUX

CLIFFORD L. ATHEY, JR.

JUNIUS P. FULTON, III

DANIEL E. ORTIZ

DORIS HENDERSON CAUSEY



109 NORTH EIGHTH STREET
RICHMOND, VIRGINIA 23219-2321
(804) 371-8428 (V/TDD)

JUDGES

FRANK K. FRIEDMAN

VERNIDA R. CHANEY

STUART A. RAPHAEL

LISA M. LORISH

DOMINIQUE A. CALLINS

KIMBERLEY SLAYTON WHITE

SENIOR JUDGES

ROSEMARIE ANNUNZIATA

JEAN HARRISON CLEMENTS

JAMES W. HALEY, JR.

WILLIAM G. PETTY

June 12, 2023

Hon. Justin B. Hill
Assistant Attorney General
Office of the Attorney General
202 N. 9th Street
Richmond VA 23219

Re: Consolidation of Record Nos. 0289-22-3 and 0290-22-3
Consolidation of Record Nos. 1424-22-3 and 1425-22-3
Consolidation of Record Nos. 0313-23-3, 0314-23-3, and 0317-23-3

Dear Mr. Hill:

This letter serves as notice that the Court has received your motion to consolidate all of the cases filed by the appellant, Brian David Hill. The Court will take no further action on Record Nos. 0289-22-3 and 0290-22-3, which are already consolidated. The Court will also take no further action on Record Nos. 1424-22-3 and 1425-22-3, which are already consolidated as well.

The Court will hold the motion to consolidate for Record Nos. 0313-23-3, 0314-23-3, and 0317-23-3 until the record has been received in those cases.

Please contact the Court with any further inquiries.

Sincerely,

A handwritten signature in black ink, appearing to read "Abby M. Russo".

Abby M. Russo, Esq.
Deputy Clerk

cc: Brian David Hill

From: [Court of Appeals of VA_5](#)
To: jhill@oag.state.va.us; [OAG Criminal Litigation \(oagcriminallitigation@oag.state.va.us\)](mailto:OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us))
Subject: CAV Record # 0313-23-3, 0314-23-3, and 0317-23-3 BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA, ET AL.
Date: Wednesday, June 14, 2023 3:23:00 PM



COURT OF APPEALS OF VIRGINIA

0313-23-3: 2/17/23 Final Order

0314-23-3: 2/14/23 Final Order

0317-23-3: 2/21/23 Final Order

This is to notify you that the Clerk's Office of the Court of Appeals received the lower tribunal record of the proceedings in these cases on **June 16, 2023**.

The Rules of the Court of Appeals of Virginia are found in Part 5A of the [Rules of the Supreme Court of Virginia](#). Under those Rules, the date on which the Court received the record establishes the time allowed for filing certain documents and pleadings. In particular:

1. 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).
2. In appeals by petition (which would be in limited circumstances), the petition for an appeal is due no later than 40 days after the date on which the record is received by the Court of Appeals. [Code § 17.1-408](#); Rule 5A:12(a).

Please note that the trial court record was filed with this Court in electronic format. You can download the electronic record here:

<https://vacourts.box.com/s/069v91c0dl65ou6ppy6z61j8mjcpk102>

Please note that the above link will expire in 60 days. Accordingly, please be sure to download the record. If all or a portion of the lower tribunal record is sealed, you will receive a separate email containing a passcode that will allow access to the record.

Please consult Part 5A of the Rules for information on filing times and other requirements. Failure to comply with the Rules may result in various sanctions, including dismissal of the appeal.

Effective June 1, 2021, all counsel are required to file all pleadings, letters, briefs, etc., electronically through the [VACES](#) system. Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings can be found in the [Guidelines for Submission](#). Pro se/self-represented litigants may, but are not required to, file pleadings through the VACES system. Otherwise such individuals are required to transmit one paper copy of a filing to the Clerk of this Court.

Civil appeals where both the appellant(s) and the appellee(s) are represented by counsel may qualify for the Appellate Mediation Pilot Project. The Court of Appeals does not cover the cost of mediation. Participation in the pilot program is voluntary. If all parties to this appeal agree to participate in appellate mediation, counsel must advise this office in writing within 14 days of this notice. The timely filing of your notice will result in a 30-day stay of the appellate deadlines to permit the parties to mediate. If your case cannot be mediated within 30 days, an extension of the stay may be requested by filing a motion.

You may find more information about the Appellate Mediation Pilot Project, including the lists of Virginia-certified appellate mediators, at:

<https://www.vacourts.gov/courtadmin/aoc/djs/programs/drs/mediation/ampp/home.html>.

A copy of this record acknowledgment has been mailed to:

Brian David Hill
310 Forest Street
Martinsville, VA 24112

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address.

Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219.

Daphne Brown

From: Court of Appeals of VA _2 <court_of_appeals_of_va_2@vacourts.gov>
Sent: Friday, June 30, 2023 12:19 PM
To: Brian David Hill (rbhill67@comcast.net); Justin B. Hill (jhill@oag.state.va.us);
oagcriminallitigation@oag.state.va.us
Subject: Brian David Hill v. Commonwealth of Virginia, et al.; Record Nos. 0289-22-3, 0290-22-3, 1424-22-3,
1425-22-3, 0313-23-3, 0314-23-3 & 0317-23-3
Attachments: 063023 three-judge order, GRANT motion to consolidate 0289-22-3, 0290-22-3, 1424-22-3,
1425-22-3, 0313-23-3, 0314-23-3 & 0317-23-3.pdf



COURT OF APPEALS OF VIRGINIA

Attached is this Court's order entered today in the above-referenced matter.

No paper copies of the attachment(s) will be mailed.

Effective June 1, 2021, all counsel are required to file all pleadings, letters, briefs, etc., electronically through the VACES system. Information on how to register to file through VACES and other instructions regarding the filing of electronic pleadings are located on the Virginia Judicial System Website at <https://eapps.courts.state.va.us/help/robo/vaces/index.htm>. Pro se/self-represented litigants may, but are not required to, file pleadings through the VACES system. Otherwise, such individuals are required to transmit one paper copy of a filing to the Clerk of the Court.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219

VIRGINIA:

*In the Court of Appeals of Virginia on **Friday** the **30th** day of **June, 2023.***

Brian David Hill, Appellant,
against Record No. 0289-22-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia Appellee.

Brian David Hill, Appellant,
against Record No. 0290-22-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia Appellee.

Brian David Hill, Appellant,
against Record No. 1424-22-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, Appellee.

Brian David Hill, Appellant,
against Record No. 1425-22-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, Appellee.

Brian David Hill, Appellant,
against Record No. 0313-23-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, Appellee.

Brian David Hill, Appellant,
against Record No. 0314-23-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, Appellee.

Brian David Hill, Appellant,
against Record No. 0317-23-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, Appellee.

From the Circuit Court of the City of Martinsville

On May 19, 2023, came the Commonwealth, by the Attorney General of Virginia, and moved the Court to consolidate the above appeals in the interests of judicial economy. Appellant has not filed a response to the Commonwealth's motion and the time to do so has expired. *See* Rule 5A:2(a)(2).

Upon consideration of the Attorney General's motion, these appeals hereby are consolidated for all purposes.

A Copy,

Teste:

A. John Vollino, Clerk

By:



Deputy Clerk

CAV : Submitted on 10-27-2023 07:10:49 EDT for filing on 10-27-2023

EXHIBIT 1

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News
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Subject: Emergency Letter to Justin Hill, Attorney General

From: ROBERTA HILL <rbhill67@comcast.net>

Date: 6/20/2023, 2:12 AM

To: "Hill, Justin B." <jhill@oag.state.va.us>, "OAG Criminal Litigation

(oagcriminallitigation@oag.state.va.us)" <oagcriminallitigation@oag.state.va.us>, "Coen, Chris"

<ccoen@oag.state.va.us>, "Henderson, Deborah J." <DHenderson@oag.state.va.us>

CC: adriennadicioccio@yahoo.com, Lin Wood <lwood@linwoodlaw.com>, Lin Wood

<lwood@fightback.law>, "stanleybolten@justiceforuswgo.nl" <StanleyBolten@justiceforuswgo.nl>,

"rbhill67@justiceforuswgo.nl" <rbhill67@justiceforuswgo.nl>

Justin Hill,

My son Brian Hill wanted me to email you his emergency letter and affidavit since he cannot file anything in the Court of Appeals in Virginia or any state court until the day after Friday, October 13, 2023. They are attached.

Emergency_Letter_Justin_Hill_6_19_2023.pdf - Emergency Letter

Declaration_Affidavit_Justin_Hill_6_20_2023.pdf - Affidavit in support of emergency letter

There is a public petition now asking people all over America to get behind asking Virginia to pardon Brian Hill. In case his due process rights get taken away from him, Brian is mailing a new documentary about federal corruption to more and more prominent activists about his whole legal plight. More and more people will be notified about Brian's legal horrors overtime.

<https://www.change.org/p/pardon-innocent-man-brian-d-hill-in-virginia>

Best Regard,
Roberta Hill

— Attachments: —

Emergency_Letter_Justin_Hill_6_19_2023.pdf	164 KB
Declaration_Affidavit_Justin_Hill_6_20_2023.pdf	182 KB

EXHIBIT 2

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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**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**

Monday, June 19, 2023

ATTN: Justin Hill Office of the Attorney General	202 North Ninth Street Richmond, Virginia 23219 Phone: (804) 786-2071
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Justin Hill,

I am concerned about the way things are going in the Court of Appeals of Virginia and the filings which just come in (two motions I wasn't even served with a copy) while I cannot participate in my own pending appeal cases. I am attaching a Declaration/Affidavit explaining why.

See 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.

I am sorry I never notified the Court of Appeals of Virginia that I was not served with the two motions you had filed with the Court:

1. "Hill 1244, 1245 – Motion for Extension.PDF"
2. "Hill – Motion to Consolidate all 7.PDF"

I have no choice but to write this emergency letter to you asking that

the appeal cases be delayed for the remainder of the six months of me not filing anything pro se until the day after October 13, 2023.

Here are the facts in summary from the Declaration/Affidavit and based on the record of the lower court:

1. I was charged with contempt of court for accusing Judge Greer of fraud in three notices of appeal. I was not accused of lying and I did not threaten any harm against the judge. The contempt charge was over Judge Greer being offended because of me accusing him of fraud. I believe that truthful accusation is protected under the First Amendment of the United States Constitution as those accusations were argued in the notices of appeal which were a petition to the Court of Appeals of Virginia for a redress of grievances of the trial court judge. So in the spirit of the law, I broke no law and never should be convicted of contempt of court. However, my court appointed lawyer said that he refused to argue a First Amendment defense for me and said that I would have to get another lawyer to do it. He also uttered that he would lose his law license if he argued what I had argued in my notices of appeal. I am not a licensed attorney, and am entitled to the First Amendment of the U.S. Constitution as a U.S. Citizen in the Commonwealth of Virginia. This attorney would not present a constitutional defense for me which would require that I be found not guilty of contempt.

2. I expressed my concerns to the court appointed attorney on the issue that since I had accused Judge Greer of fraud on his court record, this judge would be biased or partial. Arguably, this judge has knowledge of the disputed evidentiary facts of me accusing him of fraud on his court record. So for the accusations alone against this judge, he shouldn't even be involved in the contempt case because of the nature and circumstances of this case. But this attorney Fred Smith would not fight for a change of venue and would not fight for recusal. This attorney also said that I would face a jury trial for the contempt case, which is unusual for the case which has been undertaken. So I would face a rigged jury trial in front of the very judge I accused of fraud, TRUTHFULLY in my notices of appeal asking the higher Court to review over the judge's decisions. I would be guaranteed a conviction and 11 days in jail when it operates as a Kangaroo Court jumping

to a predetermined conclusion. This is dangerous for the American republic.

3. The Attorney Fred Smith refused to fight for any constitutional relief, except that I agree not to file pro se for six months in the state courts. I made the verbal agreement not to file in the state courts on April 13, 2023. The date of the end of the six months period of timeout would be on October 13, 2023. I would be allowed to file after October 13, 2023. So that date when I can file in the Court of Appeals of Virginia again would be on October 14, 2023, on a Saturday.

4. Your office never served me with the two motions you had filed. I have a disagreement with the consolidation of all cases which I had found out because of the last court order. Recently I had received a court order about your motion which you had not served me. I assumed that you are asking to consolidate all cases. You have not reviewed over the record of 2023 filings and you were already asking to consolidate all seven cases.

5. The three appeals this year were for denying different motions. For all appeals prior to the year of 2023, they were for denying motions for judgment of acquittal and/or new trial.

6. The three notices of appeal, the three appeals this year are regarding different type of motions denied. They were not asking for a new trial but were over asking for an independent action to address the fraud on the court including recently obtained proof from the new Police Chief Rob Fincher admitting that the Commonwealth's Attorney did not ask the Martinsville Police Department to preserve the body-camera footage. That proves Glen Andrew Hall, Commonwealth's Attorney had willfully ignored and refused to follow court orders from Hon. Giles Carter Greer of the Circuit Court of the City of Martinsville asking for discovery materials to be turned over to defense while this same judge was willing to charge me with a capias for being involuntarily detained at FCI-1 Butner in North Carolina because of failing to appear while I was detained by the Feds; so appearing would have been impossible. So this judge was willing to get me with a capias, but was refusing to get Glen Andrew Hall for willful non-compliance with multiple court orders asking for Brady material, discovery material, including

recorded statements of what defendant made to law enforcement, aka the body-camera footage. The police admitted it was destroyed because Glen Andrew Hall, the Commonwealth's Attorney never asked Martinsville Police Department to preserve that as evidence. This is CORRUPTION, CORRUPTION from the Commonwealth's Attorney Office for the City of Martinsville. They violated court orders and got away with it yet I was charged with contempt for complaining about the judge's bias and prejudicial treatment in my criminal case. This is CORRUPTION.

7. So the three appeals this year, filed this year, were not over motions filed last year which were asking for a new trial or judgment of acquittal. In all of those motions, the judge ruled that he did not have jurisdiction over the motions. However, in the motions filed this year, the judge did have jurisdiction to act on those motions and he denied them. This is clearly not the same thing as last year, and thus I believe that consolidating all cases is not the correct course of action due to circumstances in this year's notice of appeals. I think you should have asked to consolidate all three cases filed this year since it is over the same motions asking for an independent action against the fraud on the court and over asking for reconsideration of the decision denying that motion asking for an independent action.

So I had agreed not to file anything in the state courts until the day after October 13, 2023. I had agreed to this timeout period for things to cool down between Judge Greer and me.

I don't like that your filing additional things without serving me with a copy and I cannot complain about it because on April 13, 2023 I had agreed not to file in the state courts for six months in order for the wrongful charge of contempt of court to be dismissed, for it to go away.

I cannot file, but you can file. As an attorney, you are counsel and are an officer of the court, you must follow your Oath of Office since your a government attorney. It is the job of the Government to protect both parties CONSTITUTIONAL right to due process of law. Both procedural due process of law and substantive due process of law. Since I have filed this

Affidavit with you, you can so notify the Court of Appeals of Virginia that I had agreed in a verbal contract with Fred Smith (due to his negotiation with the special prosecutor for the contempt of court case) not to file anything in the state courts for six months. That ends on October 13, 2023, Friday.

It is your job due to my timeout period, to notify the Court of my situation. You can file a notice or letter then show my Affidavit with the court since you are allowed to file but I cannot file at this time as explained in my Affidavit. I have evidence to back up my affidavit, but I would rather not disclose the methods of the additional evidence due to the severe corruption in the Martinsville Judicial System. I have experienced nothing but corruption and loss of my constitutional rights in the Circuit Court of Martinsville. What a shame since this is the very state/Commonwealth where Patrick Henry was Governor pushing for the Bill of Rights in our Constitution. I have evidence and will not disclose this at this time unless I am called a liar, then I will present this evidence. There are others who have this evidence and are disgusted with the Martinsville judicial system after reviewing over the evidence. Right now, you have my affidavit, and my mother Roberta Hill, Stella Forinash, and Kenneth Forinash can all agree to send you an affidavit upon your request.

Because I cannot file in the Court of Appeals of Virginia or any Virginia state court for six months, I am not permitted to participate in my own appeals because of my verbal agreement with the court appointed defense counsel Fred Smith. If I do file then I risk being given a rigged jury trial for the 11-day jail sentence of contempt of court for me telling the truth to the Court of Appeals of Virginia in my filed notices of appeal. In front of the very judge I accused of fraud, finding me in contempt for my truthful allegations because it offended him or made him feel insulted. We have a First Amendment right, this is NOT North Korea, and this is NOT Soviet Russia, and this is not supposed to be Communist CHINA.

America has not been declared a Communist country. Yet I am being treated like a victim of Communism. Virginia Courts are not under the communist party and the U.S. Constitution is still in effect, and the Virginia Constitution along with its Bill of Rights is still in effect as well. America is

not communist, but I am being treated like I live in a Communist country or in the beginning stages of communism. This is uncalled for.

So you have to remedy this as a government lawyer.

I was being fair with you. I knew when the entire record was not submitted by the former Clerk of the Court, Ashby R. Pritchett, I fought to make sure that the entire record of the Trial Court was submitted to the Court of Appeals of Virginia or you would have been deprived of due process of law by not knowing what was in the record. I always made sure that even when we agree and disagree on things, I made sure that you have a fair chance at presenting the Commonwealth's side of the story. That is why you were served PDF files of my pleadings, because it was easier to copy and paste, and it is easier than reviewing over a bulk of papers/pages. I did what I could as a pro se Appellant to protect both of our rights to due process of law; and made sure that you would receive the entire record of the trial court. I fought for your rights as well as my rights, and now you must fight to ensure that I have my right to finish my remaining appeals, regardless of what the outcome is. I must preserve my right to file a brief, and I only plan to file one brief for the three appeals filed this year. I feel like just one brief is needed for the three appeals filed in February. With how scary Judge Greer is, I am afraid to file anything further in the Circuit Court. That judge scares me with the rumors I heard about him from both inside jail and outside of jail.

Both parties have a right to procedural due process of law.

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.”).

I am being denied an adequate opportunity to present my claims because of the agreement I had to have with attorney Fred Smith not to file anything for six months. I did not waive my right to appeal, and I did not waive my right to participate in my appeals. I only agreed not to file in the

state courts for six months. Within six months, I can proceed with the appeals.

That is why my emergency request letter is asking for the following from Appellee(s):

1. That the Appellee(s) so notify the Court of Appeals of Virginia about this letter and about the attached Declaration/Affidavit under penalty of perjury as to why I cannot file in the state courts until the day after October 13, 2023. It is your duty to notify the Court of Appeals of Virginia when I present a compelling reason as to why, as to why I cannot file myself in the Court of Appeals of Virginia. This has nothing to do with any issues regarding e-filing. I can't file in any way, shape, or form in the state courts for six months. I ask you to notify the court, that I be permitted to comply with the verbal agreement or verbal contract between me, my lawyer, and based upon another agreement between Fred Smith and the special prosecutor in the contempt of court case until the agreed upon timeout period has been completed.

2. If the Appellee(s) cannot agree to the above request, then write me back that I have permission from the Office of the Attorney General that I can file in all of my pending appeal cases in the Court of Appeals of Virginia. I request that I receive written permission from the Attorney General or from Assistant Justin Hill, to protect my procedural due process of law, and please let me know in writing that this granted permission will not negatively affect the contempt of court case in any way, shape, or form. You can contact the special prosecutor to seek that I be given permission to file any required pleadings or documents with the Court of Appeals of Virginia. You can explain to the special prosecutor that I do still have procedural due process rights and did not waive my right to finish my remaining appeals but did agree to the timeout period of six months of not filing in any of the Virginia state courts. So you can seek that I be given written permission to file the brief, cite the record, file any necessary motions in the appeals, and be served with your motion to consolidate appeals and be allowed to file a response to explain that the three appeals are different than the other appeals since the pleadings this year are not asking for a new trial or

judgment of acquittal. They are not the same as the appeals filed last year where Judge Greer ruled that he did not have jurisdiction while his orders filed this year said that he did have jurisdiction. Consolidating all may negatively affect my right to file a brief, just one brief, for the three appeal cases. I have no issue with consolidating the three appeals this year. Appealing all pending appeals may complicate my due process right to present a brief for what was denied this year where the court had jurisdiction. The word limits are tough as is.

3. That the Commonwealth of Virginia and City of Martinsville serve me with the missing pleadings noted above. The missing motions for delay and consolidation. I call them missing because I had not received them. I also should have a right to respond to the Motion to consolidate seven. I should have a right to oppose it and be allowed to type up an opposition brief or counter motion asking to consolidate the three appeals this year since the appeals this year the court did rule as to having jurisdiction while the appeals filed last year the judge proclaimed to not having jurisdiction to act on those motions. So consolidating all seven would be confusing and not appropriate for the situation.

I ask that you protect my procedural due process of law since I cannot file at this time until the day after Friday, October 13, 2023. I ask that you notify the Court of Appeals of Virginia about my current situation as described, and that you serve me a copy if you do notify them so that I know that you had done the right thing.

I did not make an agreement not to file with the U.S. District Court for six months, and the U.S. District Court is a federal court.

I ask that you review over this letter and the attached Declaration/Affidavit and acknowledge receipt of it. I have a procedural due process of law right under the constitution to participate in my timely filed appeals. The Supreme Court of Virginia had ruled that I have a right to

have an “**adequate opportunity to present his claims** within the adversary system.”. Once appeal became a statutory right, due process of law guarantees the right to present my claims.

I ask that you respond and take appropriate action to remedy this situation within 14 days of receiving this letter. If you cannot guarantee my procedural due process of law right to participate in my own appeals now or if you cannot guarantee my procedural due process of law right to participate in my own appeals after the next business day after the day of Friday, October 13, 2023, then I will consider asking an attorney to file a federal temporary injunction or restraining order asking the Court of Appeals of Virginia to hold off on any further action until I am allowed to file pro se again in the state courts. I am not prohibited from asking a Federal Court to protect my procedural due process of law. Since I cannot file in any state court, only the federal court can give me relief within this six month period. I may even ask the U.S. Supreme Court for an injunction on the Court of Appeals of Virginia to give me time to comply with my agreement not to file pro se in the state courts for six months in Virginia.

I could also file a motion a day after October 13, 2023, asking for delayed appeal, where I present this letter, the attached Affidavit/Declaration and proof that you or any of your staff at the Office of Attorney General had received this letter and attached Affidavit/Declaration . As the officer of the court, it is your duty to notify the Court if I am not permitted to file pro se for six months. I am an Appellant. I am not ordered as to being barred from filing but am complying with an agreement to not file for six months in order to dismiss a contempt of court case filed against me over telling the truth in my notices of appeal which is protected under the First Amendment of the U.S. Constitution.

I do ask that I not be forced to live under Communism type circumstances. America is not supposed to be under Communism. It is communism when I cannot participate in my appeals when the U.S. Supreme Court and Virginia Supreme Court guaranteed all parties (both civil and criminal) the right to present their cause and the right to be heard under Due Process of Law. It is communism when I cannot participate in my

own appeals while you file things against me in the Court of Appeals of Virginia. It is one sided when you can file anything you want against me but I can't file anything and you don't have to serve me with the motions you had filed electronically with the Court.

So for the foregoing reasons and for the facts alleged in my Affidavit/Declaration, I ask that you at least consider my requests in this EMERGENCY LETTER and make sure that I have my procedural due process of law rights.

After October 13, 2023, I can always file a copy of this letter and affidavit with the Court of Appeals of Virginia asking for delayed appeal or vacatur based on you being notified via this letter and not doing anything about it.

I was fair with you, making sure that you have the whole trial court record. I tried to make sure that you have the whole record, to protect due process of law. Now it is your job as an officer of the court to ensure that my rights are protected. Otherwise the judicial system has become as Roger J. Stone said re: Donald Trump case, “a two-tiered justice system”.

America is not Communist or at least not legally supposed to be Communist. Freedom of Speech is not illegal. Telling the truth is not supposed to be illegal. I was charged with contempt for telling the truth, for exercising my right to tell the truth under the First Amendment of the U.S. Constitution. No statute in Virginia gives a judge the right to end the First Amendment of the U.S. Constitution and punish Appellants in the Circuit Court for telling the truth. Telling the truth is not supposed to be illegal.

What the judge had done has been so heinous, such deprivation of my constitutional rights and a mockery of justice, a miscarriage of justice on top of another miscarriage of justice, my friends and family have a page dedicated to me being pardoned by the Governor of Virginia with a petition asking people to vote to have me pardoned for being innocent of my wrongful conviction. Check the links out which my family gave me to use.

Petition - Pardon innocent man Brian D. Hill in Virginia, he has Autism. ·
Change.org - <https://www.change.org/p/pardon-innocent-man-brian-d-hill-in-virginia>

Virginia Pardon Brian D. Hill NOW - Justice for Brian D. Hill of USWGO
Alternative News - <https://justiceforuswgo.wordpress.com/virginia-pardon-now/>

I am concerned that the Circuit Court in the City of Martinsville has become a court of fraud and retaliation. Where telling the truth is a misdemeanor, like in “1984” George Orwell's novel, and Brave New World. The same court who convicted seven innocent black men, known as the Marttinsville Seven. I guess that city hasn't changed with convicting innocent people. Lots of people get convicted in Martinsville, there was even a nws article about that. I guess things haven't changed in many years.


Signed

Brian D. Hill

God bless you,
Brian D. Hill

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

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

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

U.S.W.G.O.

EXHIBIT 3

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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VIRGINIA: IN THE COURT OF APPEALS OF VIRGINIA

**BRIAN DAVID HILL,
APPELLANT,**

v.

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

)
)
) **CASE NO: 1424-22, 1425-22, 0313-
23-3, 0314-23-3, 0317-23-3, 0289-22-
3, 0290-22-3**

)
) **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

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

Respectfully attached to letter,
This the 19th/20th day of June, 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



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Pursuant to the Virginia Code § 8.01-4.3. “Unsworn declarations under penalty of perjury; penalty.”, Appellant Brian David Hill hereby state to Appellee(s) the statement of facts as under penalty of perjury,

1. I am Brian David Hill, Appellant in the case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3, 0289-22-3, 0290-22-3.

2. I am typing this Declaration/Affidavit in support of the letter being sent to Justin Hill, the letter dated June 19, 2023 because that was the date it was typed up. The purpose of the letter and this Declaration/Affidavit, is to make sure that the Commonwealth of Virginia and the Attorney General of Virginia are comporting with protecting my constitutional rights to Due Process of Law including Substantive Due Process of Law and Procedural Due Process of Law. The sole purpose of Government is to protect our Constitutional rights, not take them away with making excuses. The founding fathers would be turning in their graves wanting to come back to life to deal with what has happened to America. The government seems to be at war with the Constitution, in my opinion.

3. On or about February 24, 2023, I was charged with criminal contempt of court for essentially accusing the Hon. Giles Carter Greer (Circuit Court Judge in Martinsville) of fraud in three notices of appeal filed in February 2023. I had never lied in my allegations of Judge Greer, but the contempt charge was purely based on authorization by a statute giving a judge the statutory ability to charge me with

contempt for what the judge viewed as vile, contemptuous, or insulting language. We have a First Amendment in the Constitution of the United States of America, and this IS NOT NORTH KOREA, this is NOT COMMUNIST CHINA. This is supposed to be America, land of the free, and as long as you can prove your innocent of a crime then justice requires that you not be punished. What has happened to America??? I do not believe I had broken any law because I had never threatened harm against the judge, I had never advocated violence against the judge, and I had never lied about the judge. So what excuse can the Government use to take away my First Amendment right??? I don't know but it seems like America is heading for ruin just like a third world country. The reason in my opinion for the charge is because I believe I had offended Judge Greer and have heard from other people that this judge may have a history of charging his critics with contempt charges. YEAH, what a free country for a judge to charge his critics with contempt charges??? Criticism is all what America is about, the right to debate and criticize. That was the old America, the America I used to know. I won't be celebrating the fourth of July anymore to protest what America has become, like Communist China. However, I believe what I had argued in my three notices of appeal were protected under the First Amendment of the United States Constitution, Bill of Rights which gives somebody the right to criticize the Government when you believe as a citizen that the government had done something wrong to you or

somebody you know. Appealing is a constitutionally protected right under the Due Process Clause and the First Amendment of the U.S. Constitution. Retaliation against a protected first amendment activity is supposed to be against the Constitution or against the law. Appealing is a form of critiquing or criticizing a judge's decision in the handling of a case in a court of law, and asking a higher court to review over what errors were made. I did write a letter to the judge back in February 26, 2023, apologizing about offending the judge to deescalate the situation. It didn't deescalate and the case continued forward. Case number for that contempt case was: CR19000009-01. Sorry for the ranting in this paragraph but I am starting to feel that America is a disappointment with a judge being given too much power to go after a critic for exercising peacefully his/her freedom of speech. America has become as bad as Great Britain of taxation without representation before 1776 in my opinion. America isn't appearing to be a free country anymore. I can't salute the flag anymore, because to me (because I can't file pro se for six months over one mistake of being a critic) justice has become an illusion to me and my family, a fantasy that I will never be able to obtain no matter what evidence or case law I use. I am ranting because freedom of speech is gone, America is devolving into communism ideology of taking away Constitutional rights of an individual for the community, for the collective.

4. I was appointed Fred Smith, an attorney, for my defense in the contempt of court criminal case, case number: CR19000009-01. When I had my first meeting with him, he gave me a stern look in front of me and witnesses Roberta Hill, Kenneth Forinash, and Stella Forinash. He said when he read over the notices of appeal and the contempt of court charge, he argued that he would have been lost his law license (disbarred) if he had argued what I had argued in my notices of appeal. While the Commonwealth Attorney can openly destroy evidence in response to court orders and never get in trouble. Just like how Hunter Biden can smoke crack cocaine in Virginia, never face prosecution, and get away with it because he is the President's son. The government usually can commit whatever crimes they want to and never face a criminal trial or faces a different trial under a different set of rules than the rest of the citizens.

5. First court hearing over the contempt charge was on March 3, 2023. The judge said at the hearing: "after you read them, you are going to want to recuse yourselves", referring to the notices of appeal printed out. Judge also said at the hearing: "You are going to want to make this a priority". The Commonwealth Attorney Glen Andrew Hall did recuse himself as the judge did an order for a special prosecutor. I rather not know who he is and I rather not know his name. I have gone through enough retaliation and I don't need to get myself in more barbed wire of retaliation.

6. The next appointment meeting noted in this Declaration/Affidavit, that is the appointment with Attorney Fred Smith at his office was on March 9, 2023. Roberta Hill, Stella Forinash, Kenneth Forinash, and myself were present at this meeting. He made it clear verbally that he will not present a First Amendment defense in my contempt case, that he refuses to even present this defense. Without a first amendment challenge, I am at risk of being found guilty of contempt of court under some technicality or twisting of my words because a Constitutional challenge is the only usual remedy for a statutory charge since the Constitution is supposed to override statutes when a statute violates the Constitution. See *Marbury v. Madison*, 5 U.S. 137 (1803). This lawyer had refused to protect my First Amendment right to criticize a judge for not charging Glen Andrew Hall for contempt of court for him not complying with multiple court orders requesting discovery but instead the judge charges me for simply pointing out the obvious two-tiered justice system I had been through. Theoretically, I can get held accountable for not complying with any court order, but when I have evidence of willful non-compliance by the Commonwealth's Attorney Glen Andrew Hall, the judge refuses to hold that party accountable simply because he is an attorney for the Commonwealth of Virginia. I don't understand why the laws don't apply to everybody. I thought they did, that was the rule of law, hold everybody accountable, even the Government. The witnesses have heard it what Fred Smith had said, I have evidence of what this attorney told me at that

meeting. I will not say any further what evidence I have, but I have evidence that this attorney will not fight for my First Amendment right to the contempt of court charge. I didn't lie about the judge at all, so there was no defamation. I didn't threaten harm against the judge, so the charge was over me simply telling the truth and the way I told the truth had offended Judge Greer. So, if I tell the truth, I get in trouble. What am I supposed to do, LIE??? Theoretically, are people supposed to lie in court since telling the truth gets people retaliated against??? In a free country I can tell the truth, but in a communist country I have to keep my mouth shut. I have to know my place and shut my face, as a poster had shown where the government tells the citizen to be "Quiet! Know your place, shut your face". I feel like I have to shut my face, that I cannot tell the truth in this supposed free country.

7. At another meeting, Attorney Fred Smith at his office was on March 9, 2023, had also admitted what the contempt of court charge was about, which was why I had described above what the charge was about. I think I remember my family or me asking at the meeting what the contempt charge was about. He told me and my family that it was because I had accused the judge "of fraud". Yes, it was because I had accused Judge Greer of fraud. I didn't lie, I wasn't accused of lying or defamation. I never threatened harm against the judge. Simply I had told the truth about the state of affairs in my criminal case. So, I was charged with

contempt for accusing the judge of fraud, truthfully, but this same attorney Fred Smith said that he would not present a First Amendment defense or challenge.

8. I was concerned that the very judge I had accused of fraud in his court was presiding over the contempt of court case as the judge would be partial since the accusation against the very judge presiding over the contempt proceedings. He expressed concern for a need of a special prosecutor in my contempt case but did not express that he himself as the accused judge should not participate through the proceedings of the case. It should have been under a different judge or different courthouse (if there is only one presiding trial judge) according to the rules of the Supreme Court of Virginia.

a. Canon 1 - A Judge Must be Impartial, Va. R. Sup. Ct. Canon 1 (“D. Recusal or Disqualification 1. A judge must recuse himself or herself in a proceeding in which the **judge's impartiality might reasonably be questioned**, including but not limited to instances where: (a) the judge is cognizant of a **personal bias or prejudice concerning an issue**, a party or a party's lawyer, or **personal knowledge of disputed evidentiary facts concerning the proceeding**; (b) the judge served as a lawyer in the matter in controversy; (c) a lawyer with whom the judge previously practiced law personally and substantially participated in the matter as a lawyer while

associated with the judge; (d) **the judge is a material witness in the matter;**”)

9. I had asked Roberta Hill to express these concerns in email to attorney Fred Smith or his staff person. *The email missaid Danville instead of Rocky Mount when it referred to Franklin County, but I asked her to type it up quickly, a mistake was made.* One such email said:

----- Forwarded Message -----

Subject: Re: Brian David Hill, court appointed attorney

Date: Fri, 3 Mar 2023 11:00:03 -0500 (EST)

From: ROBERTA HILL <rbhill67@comcast.net>

To: anita@freddsmithjrpc.com

Also another issue my son and his grandmother and grandpa has been the conflict of interest here.

Judge Greer felt offended or angered about what was in the notices of appeal.

[Email contents partially omitted]

[Email contents partially omitted]

This judge is angry at Brian for the truthful things he said in his Notices of Appeal. Brian doesn't think he will get a fair trial since the allegations came from Judge Greer. Brian asks for a change of venue to Danville, Virginia, since Judge Greer doesn't have connections there. He has connections in Rocky Mount. He has connections possibly in Danville and Franklin County, but he does not have connections with people in Danville.

So my son would like for a change of venue. Please get this done as soon as possible.

The hearing will be next Friday. Please email me back as soon as possible. My son will try to call you.

Thanks,
Roberta

10. I also typed up a letter to Attorney Fred Smith entitled: "LETTER TO ATTORNEY FRED SMITH", dated Monday, April 10, 2023, where I again expressed concern that the Circuit Court for the City of Martinsville would not act impartially and expressed the need for a change of venue. Here I am excerpting part of the letter and I quote (citations omitted) from pages 9 and 10 of letter:

So the Virginia Constitution and U.S. Constitution requires impartiality in criminal trials. That a trier of fact remain impartial. Since I made an allegation, based on evidence of fraud, against Judge Greer, he will not be impartial. He needs to recuse himself or there needs to be a change in venue.

My family researched how well connected this judge is. He is connected to Franklin County, Roanoke County, Martinsville, Henry County, and Patrick County. We do not believe he is connected to anybody in Danville. We believe Danville will be a fair venue and would not be too far from my location. It takes about 35-45 minutes to get to Danville by vehicle.

I ask that if the special prosecutor does not agree to let me file in the federal court system and continue my supervised release 2255 case which is still pending, that I been given a change of venue to face trial in Danville. You know I will not have a fair trial. With my allegations, I became a target two months ago. Judge Greer made me a target. He hates me, he made it known somehow that he is out to get me by wanting a jury trial which is unheard of for a contempt of court case. You told me this over the

phone that he wanted a jury trial for a 11 day jail sentence case. The Constitution at minimum does not guarantee a jury trial unless the jail sentence is six months or more.

Judge Greer is clearly out to get me, and the threatening email says that they have Martinsville. They have the drug houses, and there appears to be some kind of criminal corruption in the City of Martinsville.

So it is clear that if this cannot go away with state probation allowing me to participate in my federal case, and bar me from participating in the federal court system to finish my federal case, then I must be allowed to request venue change to Danville or any other county which Judge Greer has no connections with, has no personal friends or any financial connections with.

11. The attorney Fred Smith never did address my concerns for a change of venue or request recusal due to the issues which may require disqualification of judge Greer despite the concerns for my legal rights, due process rights, and constitutional rights at stake here. This contempt case from the very beginning is a constitutional crisis and deprives me of my statutory right to appeal a judge's verdict or order.

12. On or about April 13, 2023, I had another meeting at the office of Attorney Fred Smith with my mother Roberta Hill. He expressed verbally to me and my mother that he had some kind of conversation (written or oral or both) with the special prosecutor and had agreed to have the contempt case dismissed if I agree to the special condition not to file in the state court for six months. I am assuming that he also applies this condition to the Court of Appeals of Virginia and even the

Supreme Court of Virginia. Because this attorney would not change venue and would not get me in front of an impartial judge when this attorney told me over the phone that Judge Greer wanted a jury trial for the contempt case which was unusual to be undertaking, I had no choice but to agree to the special condition in order for the contempt case to be dismissed.

13. On or about April 13, 2023, I felt I had no other choice (as he would not give me a First Amendment defense), I would lose because of an angry judge with a court appointed attorney who would refuse to present a Constitutional first amendment challenge. I had no choice but to verbally agree to not file in the state courts for six months. This started in April 13, 2023. The attorney then stated that the case would be continued for six months, both agreed to this continuance, and that after six months of me not filing anything in the state courts (including Appeals), that the case would be dismissed. The end of the 6 months would be on October 13, 2023. The next hearing date where the special prosecutor had agreed to dismiss the contempt case (that is what I understand from what Fred Smith had told me) if I agree not to file for six months, that hearing would be on the date of October 23, 2023. This came from Attorney Fred Smith, and from what he had told me and Roberta Hill, that seems to be the agreement. Because he had received my letter entitled: "LETTER TO ATTORNEY FRED SMITH", dated Monday, April

10, 2023, he did express that I can still file in the Federal Court system but not in the state court, meaning the Virginia courts.

14. On May 22, 2023, I received an envelope by UPS, from “Wendy MacDonald, (804) 823-6345, Office of Attorney General, 202 N. Ninth Street, Richmond, VA 23219 to myself. I also saw a “DOCUMENT SUBMISSION SUMMARY” of what the Office of the Attorney General had filed with the Court of Appeals of Virginia by e-filing. It appears that they had filed three documents. I was only served with the “Brief of the Commonwealth” which was in the envelope. I did not see any other pleadings in the envelope. I did not see the “Motion for Extension of Time” and “Motion to Consolidate”. So those two motions were filed but I was not served with either of those motions. Those motions were not served on Appellant, which is myself. I couldn’t inform the Court of Appeals of Virginia about it because it may breach the agreement between me and Fred Smith when he made an agreement with the special prosecutor to dismiss the contempt of court case in the Circuit Court for the City of Martinsville. So, when Justin Hill or his assistant or whoever, had e-filed the “Hill 1244, 1245 – Motion for Extension.PDF”, and “Hill – Motion to Consolidate all 7.PDF” with the Court of Appeals of Virginia, they did not serve me those pleadings which were two motions. I thought that was weird not to be served with all three pleadings. I feel like they may know that I cannot file and can get away with anything. Because

government can commit as many crimes and do as much wrong as they wish. They don't have to follow any rules, who needs rules right??? The law doesn't apply to the government but only applies to the serfs, the citizens.

15. I do disagree with consolidating all appeals because I haven't had an opportunity to ask to consolidate the three appeals filed in 2023, and didn't get a chance to file one brief over the initiation of the three notices of appeals filed in 2023.

16. I can't just simply tell the Court that I cannot file for six months because it may mess up the agreement between me and court appointed attorney Fred Smith. I had tried to warn the court previously that I may not be allowed to file pro se for six months, and asked for an extension of time but that had failed but if I file something, then I risk being given a rigged jury trial then to be jailed for contempt with a partial/biased judge with a court appointed lawyer who refuses to present a First Amendment defense which would constitutionally protect me from being convicted on contempt on legal grounds. As long as I don't actually disrupt the court proceedings which I did not do so as the contempt charge wasn't over disrupting. The charge was purely over me telling the truth but it offended the judge when I told the harsh truth. Telling the truth is not supposed to be illegal in the United States of America because we have Freedom of Speech, the right to tell the truth in a court of law even when telling the truth offends the judge. The truth is not

a crime, and all courts of law are supposed to be about telling the truth, honoring the truth, and about presenting facts and arguments of law. Not about lies, puppet shows, and deceit. So, I risk 11 days of jail/imprisonment after a rigged jury trial if I file pro se in the state court which may include the Court of Appeals of Virginia with a rigged court appointed lawyer with a rigged partial tribunal. I know and understand that it is all set up, and I have no power. I am just a serf, that I am a nobody who can be squashed like a bug in a forest by the giants.

17. I used a date calculation tool on my computer to see when the six months end for me to be allowed to file pro se in the state courts. The date calculation tool says that April 13, 2023, and October 13, 2023 is six months to be exact from the date I had verbally agreed.

18. On or about April 13, 2023, I had verbally agreed not to file pro se in the state courts in order to not be wrongfully convicted with contempt of court for telling the truth about the judge in that court. I had made a verbal agreement, which under contract law may be construed as a verbal contract between me and my lawyer, and this agreement is that I not file for six months in order to not be wrongfully convicted of contempt. Because I made this verbal agreement, which may legally be construed as a verbal contract witnessed by Roberta Hill who can attest to this verbal contract or agreement. I have to abide by this agreement and

once the six months have passed, then I can file in the Court of Appeals of Virginia or any State Court regarding any of my pending appeals.

19. I hope that this Affidavit/Declaration will be sufficient to the Office of the Attorney General to constitute that my constitutional rights are important as me being an Appellant. I did not waive my right to my appeals. I did not waive my appeals on April 13, 2023. The only thing I had to agree to with my lawyer Fred Smith was not to file pro se in the state courts. I did not waive my right to appeal, I did not waive my right to finish my pending appeals pending before the Court of Appeals of Virginia. I still retain my rights to procedural and substantive due process of law. It is a timeout period where I do not file pro se for a certain period of time. So, I am in a timeout period and hope that the Court of Appeals of Virginia and Justin Hill respect this timeout period while protecting my procedural due process of law and substantive due process of law. I hope Justin Hill will do the right thing. If I can't get any justice at all, then I will forever lose faith in the courts, and will no longer celebrate the Fourth of July because then it means nothing to me, because I will never truly be free again.

I am concerned here, extremely concerned. Free Speech is going away.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 20, 2023 between 1-2AM.


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

EXHIBIT 4

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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USWGO.COM // JUSTICEFORUSWGO.NL



Subject: RE: Emergency Letter to Justin Hill, Attorney General

From: ROBERTA HILL <rbhill67@comcast.net>

Date: 6/20/2023, 5:51 PM

To: "Hill, Justin B." <JHill@oag.state.va.us>

I had been the one who received the UPS envelope and gave it to my son. I am aware that the only things in that envelope were the e-filing summary and the brief of the Commonwealth. I saw him open up the envelope and all that was in there was the brief and summary page which I was aware of when he expressed his frustration. Then he did rant about not being able to respond to the opposition brief, and not being able to inform the court that he saw the summary but didn't see the two motions. His hands are tied right now.

We don't know why only the brief and summary were in there but nothing else was in the envelope. Probably a mistake, the staff person likely thought it was in there and just shuffled papers around, got misplaced. Misplacing papers can happen. That is making assumptions without going into conspiracy theories. Whatever the reason is, it is just not in there, in the UPS envelope. His address is still the same.

Although Brian can't respond to anything in the state court system at this time until this time-out period is done. My son can't be convicted of another crime (*that is why he had to agree to whatever was offered for his contempt of court case to go away*), or it affects his federal probation. If he wasn't on probation, he would be willing to risk 11 days of jail-time in a rigged jury trial facing off against Judge Greer and still continue his appeals after going to jail. Because of the circumstances, he has to get out of his contempt charge or he faces another revocation of supervised release and possibly up to two years of imprisonment. He has gotten more and more angry each year these cases continued so he created a documentary about the Deep State framing people, because he was framed back in 2012. If it weren't for his fed conviction, Martinsville likely never would have convicted him as they (corrupt former police chief, corrupt officials) would likely wanted to protect their drug houses by covering everything up. Covering up lab work, covering up body-camera footage, drug cartels were noted as to being found in Axton, VA near Martinsville or Henry County. Ever since the new police chief Rob Fincher, the evidence of cover up regarding the body camera footage had surfaced. Martinsville did at one time really protected their drug houses as they did nothing about the drug houses in the streets. We saw houses with lots of cars going by them, in the past there were neighbors complaining about smelling drugs (when Cassady was Chief), and former police Chief G. E. Cassady (who helped cover up the body-camera footage in my son's case) doing nothing about these issues. But because the feds were investigating Brian's indecent exposure, they had to throw the book at him by convicting him. The Martinsville case is just as corrupt and political as the federal case. <https://rumble.com/v2ozhp6-the-deep-state-can-frame-you-the-documentary.html> if it weren't for the feds, Brian never would have fought so hard trying to file appeals and fight alone without a lawyer.

All he can do is hope that the Commonwealth will ask for a continuance until after October 13, 2023. Brian may still be able to look at the record of the trial court if he just happens to get the record, but he can't file anything. They tied his hands to set him up for his appeals to fail, and all of this to protect Judge Greer. All of this to protect his pride.

A continuance is the only thing that can protect Brian's rights because I personally heard Fred Smith telling us all that he will not fight for Brian's constitutional rights, and doesn't agree with Brian's appeals. He was ignorant when he thought Brian lost the right to obtain the body-camera footage discovery because he had withdrawn his appeal, but later on he

did probably found out that it was months prior to that. Brian expressed that Fred may be doing this to protect Judge Greer so he doesn't look bad for protecting the cover ups, the malfeasance, and the misconduct of Glen Andrew Hall. Likely we believe the cartels are involved with these government officials. We can't prove it but we feel that the corruption there explains why Brian never wins no matter what he files. Brian can ask for a new lawyer but Judge Greer would be the one appointing a new lawyer which would be just as bad as the past court appointed lawyers. Brian is stuck. Legally Fred Smith doesn't represent Brian over his appeals and has no representation of those cases. The judicial corruption is extremely bad in Martinsville. At this point all Brian has left is his appeals. Lawyers are afraid to fight for Brian in this corrupt locality. We been to private lawyers and they all sounded afraid to fight in Martinsville against certain elements, certain people they were afraid to go up against. It is likely corrupt everywhere.

It is a problematic situation when court appointed lawyers do not care about the Constitution. That is high treason to refuse to follow the Constitution. But what can we expect, the BAR association is part of Great Britain where lawyers and judges are considered nobility as long as they don't rock the boat. The British Accredited Registry. The BAR doesn't have to be loyal to the U.S. Constitution but is loyal to Britain and it's royalty including Prince Andrew and the Jeffrey Epstein blackmailed individuals. I asked his past court appointed lawyer Lauren McGarry about reasonable doubt in a jury trial and she acted like there was no such thing as "reasonable doubt" in a jury trial. So reasonable doubt has disappeared, and can't be brought up. So these lawyers have forgotten about how important the Constitution is. That is my opinion.

Filing a continuance is Brian's only way to protect his rights as he is on his own, and there is a certain amount of risk he is willing to take where it doesn't end up in his death or another police raid with evidence planting. Luckily Chief Rob Fincher isn't corrupt, so a evidence-planting police raid likely will not happen to him again, at least right now. Brian is willing to finish his appeals and hopes that he will not be set up again like he was in 2012.

I wish the corruption would disappear, go away, leave us alone, and that governments could be free of the corruption. Instead the corruption gets worse every day and more criminals have infiltrated the state, local, and federal government.

Best regards,
Roberta

On 06/20/2023 2:42 PM EDT Hill, Justin B. <jhill@oag.state.va.us> wrote:

Good Afternoon Ms. Hill,

I am in receipt of your son's letter and affidavit attached to your last e-mail. At the outset of his letter, he indicated that he did not receive a copy of my previously filed motion for an extension or motion to consolidate. Could the two of you please confirm whether he still lives at 310 Forest Street, Apartment 2, Martinsville, Virginia 24112? According to my records, copies of both motions were mailed to that address. Because he stated that he did not receive them, I wanted to ensure I

still have a correct address for any future mailings. As a courtesy, I have also attached to this email a copy of both of the motions Mr. Hill stated that he did not receive as well as the Court of Appeals' response. I would ask that you please pass those along in the event Mr. Hill still needs them.

With regard to the other issues Mr. Hill raised, please understand that I cannot give him legal advice nor can I take any legal action on his behalf. I would recommend that he speak with his attorney, Fred Smith, about his concerns over filing pleadings in the Court of Appeals. I would note however, that the Commonwealth would be amenable to a continuance request in cases 0313-23, 0314-23, and 0317-23 while Mr. Hill handles his pending contempt charge in the circuit court. If you could pass that information on to Mr. Hill, I would appreciate it.

I hope you both have a wonderful evening.

Best Regards,



Justin B. Hill | Assistant Attorney General

Office of the Attorney General

202 North 9th Street

Richmond, Virginia 23219

O: (804)786-1445 | M: | F:

JHill@oag.state.va.us

<https://www.oag.state.va.us>

From: ROBERTA HILL <rbhill67@comcast.net>

Sent: Tuesday, June 20, 2023 2:12 AM

To: Hill, Justin B. <JHill@oag.state.va.us>; OAGCriminalLitigation <OAGCriminalLitigation@oag.state.va.us>; Coen, Chris <ccoen@oag.state.va.us>; Henderson, Deborah J. <DHenderson@oag.state.va.us>

Cc: adriennadicioccio@yahoo.com; Lin Wood <lwood@linwoodlaw.com>; Lin Wood <lwood@fightback.law>; stanleybolten@justiceforuswgo.nl; rbhill67@justiceforuswgo.nl

Subject: Emergency Letter to Justin Hill, Attorney General

Importance: High

Justin Hill,

My son Brian Hill wanted me to email you his emergency letter and affidavit since he cannot file anything in the Court of Appeals in Virginia or any state court until the day after Friday, October 13, 2023. They are attached.

Emergency_Letter_Justin_Hill_6_19_2023.pdf - Emergency Letter

Declaration_Affidavit_Justin_Hill_6_20_2023.pdf - Affidavit in support of emergency letter

There is a public petition now asking people all over America to get behind asking Virginia to pardon Brian Hill. In case his due process rights get taken away from him, Brian is mailing a new documentary about federal corruption to more and more prominent activists about his whole legal plight. More and more people will be notified about Brian's legal horrors overtime.

<https://www.change.org/p/pardon-innocent-man-brian-d-hill-in-virginia>

Best Regard,
Roberta Hill

EXHIBIT 5

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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Subject: 2nd Emergency Letter to Justin Hill, Attorney General

From: ROBERTA HILL <rbhill67@comcast.net>

Date: 6/28/2023, 4:18 AM

To: "Hill, Justin B." <jhill@oag.state.va.us>, "OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us)" <oagcriminallitigation@oag.state.va.us>, "Coen, Chris" <ccoen@oag.state.va.us>, "Henderson, Deborah J." <DHenderson@oag.state.va.us>
CC: adriennadicioccio@yahoo.com, Lin Wood <lwood@linwoodlaw.com>, Lin Wood <lwood@fightback.law>, "stanleybolten@justiceforuswgo.nl" <StanleyBolten@justiceforuswgo.nl>, "rbhill67@justiceforuswgo.nl" <rbhill67@justiceforuswgo.nl>

Justin Hill,

I spoke with Brian's attorney Fred Smith who wanted Brian to notify you about continuing his appeals after the period where he agreed that he cannot file in the Virginia courts for a certain period of time for the contempt case (I believe was filed out of emotion or anger out of what my son had said) to go away after things cool down from that escalation. My son Brian Hill wanted me to email you his 2nd emergency letter about this new development. It is attached.

Emergency_Letter_Justin_Hill_6_28_2023.pdf.pdf - 2nd Emergency Letter

Brian's court appointed lawyer from his contempt case doesn't object to Brian continuing his appeals and moving the filing deadlines to after he is allowed to file again in the "state court". I think this lawyer may have realized that Brian has real evidence filed in the court. He isn't just talking. He does have proof. Proof documents. That was why Brian wanted the State Police to come and interview him about the evidence he wanted them to have and investigate. Brian does have real proof that laws were violated here by the government. Rob Fincher is a better police chief for Martinsville. He actually cared more about listening to the citizens who are concerned about crimes and issues which need police intervention. Brian is bold when he feels that he is innocent of his charge, Brian ain't afraid to prove to the police that he is innocent when there is evidence favorable to him. It is his right.

The DEEP STATE can Frame You - the Documentary

<https://rumble.com/v2ozhp6-the-deep-state-can-frame-you-the-documentary.html>

Best Regard,
Roberta Hill

— Attachments: —

Emergency_Letter_Justin_Hill_6_28_2023.pdf.pdf

129 KB

EXHIBIT 6

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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**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**

Wednesday, June 28, 2023

ATTN: Justin Hill Office of the Attorney General	202 North Ninth Street Richmond, Virginia 23219 Phone: (804) 786-2071
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Justin Hill,

My court appointed attorney Fred Smith had attempted to contact me on June 22, 2023. He spoke with my mother over the phone, she explained the situation; and his position on the appeals matter was that I can continue with my appeals after that timeout period, that is what I call it, a timeout period. Fred didn't call it a timeout period but I call it that as that I believe is the right term to call the six months no filing period in the state courts.

He wanted me to notify you about this, since Fred Smith was the one who asked and I had agreed with him verbally on me not filing for six months in the state court, assuming it means all courts in the Commonwealth of Virginia, but not including the United States District Courts, United States Courts of Appeals, and United States Supreme Court.

I am glad that the Commonwealth/Appellees' does not oppose some kind of continuance or delay until after this timeout period had concluded. If you want, you can ask Fred Smith for an affidavit if that is necessary for the Court of Appeals of Virginia to continue the appeals or delay the appeals until after October, 2023.

My mother did witness me not having all pleadings in the UPS envelope from your office. I did not receive your motions but I did receive your opposition brief and e-filing paper of what was electronically filed. I did wanted her to email that information to you that she was also aware that I

did not receive all motions. So I do ask that the continuance also allows me to explain to the Court of Appeals of Virginia that the three appeals this year are not the same as the appeals filed last year. Judge Greer's orders this year where he claimed to have jurisdiction but denied my motions. He claimed not to have jurisdiction in the orders which were appealed last year. So there are issues I do have with any mass consolidation request for appeal cases when the appeals filed this year are of different substance. Like the difference being that Judge Greer did not invoke or argue that there was lack of jurisdiction to have acted on my motions filed this year in 2023.

I do wish to have a counter response to your motion for consolidation, at least of the three appeals filed this year. I did receive the court order where they were not acting on your consolidation motion until the record had been received where it can be reviewed by the clerks. I am sure the Clerks and judges may see differences in the type of motions which were denied this year and last year, differences in the court orders appealed from this year and last year. They may not completely agree with your request in the motion for mass appeal cases consolidation, at least with three appeals.

Also I should at least be allowed to file one brief for my remaining three appeals this year. That is all I need to file as the issues in all three appeals filed this year do deserve a consolidation of those appeal cases. Even if all appeal cases are consolidated, I should have a right to still file one more brief for the appeals filed this year since there was no brief filed this year for the three appeals. Hopefully you understand the issues I have with a consolidation of all appeals. Evidence this year wasn't on record last year.

Anyways, I have plenty of time during the timeout period to think of what the assignments of error should be. I think the reason why I was targeted with a contempt of court charge over telling the truth about the judge involved in the Circuit Court, was because I think these appeals have a better chance of succeeding than the ones last year. That is because I had caught the corrupt former Chief of Police G. E. Cassady and Glen Andrew Hall the Corrupt Commonwealth Attorney destroying evidence in violation of two court orders from the Circuit Court and the court order from the General District Court. Crimes were committed and perpetuated by Glen Andrew Hall, the Commonwealth Attorney for the City of Martinsville.

That is why these three appeals are important and why I risked jail time and a contempt charge over the three appeals, is because I HAVE THE PROOF, I HAVE THE EVIDENCE. Evidence I did not have last year, proof I did not have last year. I could speculate and make conspiracy theories about Martinsville, but I didn't have the solid proof that evidence was ILLEGALLY COVERED UP by Glen Andrew Hall. I knew once Rob Fincher the new Police Chief of the City of Martinsville had admitted that the body-camera footage had been deleted because it was NOT MARKED AS EVIDENCE when they knew of the prosecution against me, well Glen A. Hall aka Andy Hall knew of the prosecution against me, he prosecuted me yet he didn't inform Martinsville Police Department about the criminal prosecution which Robert Jones of Martinsville Police Department had pushed for. They were all in on this criminal conspiracy, they knew body-camera footage had been recorded. They VIOLATED my BRADY RIGHTS, they violated my right to all discovery materials as the COURT ORDERED.

You see why the judge wanted me charged with CONTEMPT, because I had solid proof that I didn't have before, solid evidence from Chief of Police Rob Fincher of Martinsville when he took over in January, 2023.

I also informed the U.S. Probation Officer on the real reason I was charged with contempt of court by Judge Greer. My federal Probation Officer who investigated my indecent exposure charge in 2018, didn't receive all evidence pertinent to the investigation by the United States Probation Office, which is a federal law enforcement office of the United States Judiciary. Jason knows that he was deceived, that he never got a chance to review over the body-camera footage. So it wasn't just court orders being violated. Criminal laws in the United States were violated by Glen Andrew Hall. Under 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records in Federal investigations and bankruptcy, Glen Andrew Hall knowingly had evidence (body camera footage, admitted by Rob Fincher, Chief of Police) he did not disclose to the Defendant or Defendant's lawyer (myself as Appellant); and the Commonwealth Attorney Andy Hall and Martinsville Police under G. E. Cassady (corrupt Police Chief) did not disclose to ANY FEDERAL INVESTIGATORS including Jason McMurray a United States Probation Officer. Andy Hall did not disclose to the United

States Attorney Office the body-camera footage and acted like it didn't exist by calling me delusional. Yeah I was diagnosed wrongfully with delusional disorder in federal court over disagreements and issues while I was in jail in 2014 being messed with by the jail guards and some weird things that went on by the court officials. There was some dirty stuff there. Anyways, because of that label of “delusional disorder” they thought me talking about the body-camera footage was a product of a delusion and didn't believe me.

WELL, ROB FINCHER, Chief of Police admitted that there were recordings from Martinsville Police Department concerning my name, aka the body-camera footage proving beyond doubt that it did exist, that I was NOT delusional. Now they have to cover that up by charging me with contempt of court for telling the truth about Judge Greer protecting them.

I couldn't prove this under corrupt former Police Chief G. E. Cassady and corrupt former City Attorney Eric Monday, worked hand in hand to keep the corruption going where I am the victim. Once those corrupt bastards left office, I was able to obtain evidence and proof I could not obtain previously. Rob Fincher saved my life from disarray by bringing me the truth, by admitting that the destroyed evidence had once existed.

So Justin, be aware of the corruption and criminality involving Appellees' in my case, involving Martinsville. There is a reason why Justice for Brian D. Hill of USWGO Alternative News talks about my case. There is a reason why I created the Documentary entitled: The DEEP STATE can Frame You - the Documentary. There is a reason my family uploaded this to the world.

My family gave me the link to the Rumble video:

<https://rumble.com/v2ozhp6-the-deep-state-can-frame-you-the-documentary.html>

If I can get popular in any way, shape, or form, I can defeat Judge Greer and expose the two tiered justice system, same system that Donald John Trump is under right now in the communist court of New York City. The two tiered court system is WRONG, and is unAmerican. It is not constitutional for a judge to operate a two tiered justice system. WRONG!!!

Wrong!!!! Wrong!!!!!! That is not a fair trial and is not constitutional.

The Qanons know about my situation. I do not need the internet to know this. I have a friend who has spoken with me over the phone, who I am allowed to text, and they are Qanons involved with other people including Roger Stone who I had text messaged begging for a presidential pardon (due to the judicial corruption and malfeasance) and he had almost succeeded. They are aware that I am suffering under the two-tiered justice system in Martinsville. They are aware of Fred Smith, they are aware of the procedural due process being violated here when I cannot file for six months for telling the truth. My Documentary will continue getting more and more popular. I had been mailing DVD copies of my documentary to big name people and at some point I will have the verification that they received it. The Deep State and the federal frame up against me in 2012-2013. Tulsi Gabbard has a copy, I am trying to make sure that Robert F. Kennedy has a copy who agreed with John F. Kennedy who vowed to splinter the CIA in Virginia into a thousand pieces and scatter them to the winds. I am asking for investigations into the CIA/NSA tampering with my judicial cases and possibly for other dirty things they may have done to me including potential murder with carbon monoxide poisoning which I had proof of thanks to Pete Compton of ACE Chimney and Wildlife in Bassett, Virginia. I ain't afraid to die in clearing my name and proving my innocence to every criminal charge I had ever received where I have actual proof that shows I am innocent and was wrongfully convicted. When I have evidence, or seen things in federal discovery papers, anything which shows I am innocent, I am not afraid to die in proving this to the world. The Deep State can go to hell, the corruption can go to hell too. I am not letting them hold me hostage over my right to appeal in the Court of Appeals of Virginia. I am tired of being hostage by the Deep State. My mom voted for Donald Trump, my grandparents voted for Donald Trump in 2016 because Tim Kaine is DIRTY, so is Hillary Clinton. They are dirty people and corrupt politicians. Donald Trump didn't drain the swamp before he left office as promised. Hopefully one day the swamp will be drained. Tim Kaine doesn't care about my autism, we know it.

I have enough evidence to prove that the Circuit Court in Martinsville operates a TWO-TIERED Justice System where the laws don't apply to the Commonwealth but only apply to me. That is unconstitutional under the

Fourteenth Amendment of the United States Constitution. I can prove this in these three appeals. The record proves it. It proves that Rob Fincher admitted the destruction of the body-camera footage and the lawyer refusing to comply with court orders. That is CONTEMPT, yet I am charged with contempt but not the contemnor Glen Andy Hall.

So I will give you a few assignments of error I plan on arguing after October of 2023. You did wanted me to notify you ahead of time of potentially what assignments of error I plan on bringing up.

1. Martinsville Circuit Court aka the Trial Court refused to charge prosecutor Glen Andrew Hall with contempt and refuses any kind of action or sanction against the contemnor when evidence surfaces from a new Police Chief that evidence was unlawfully deleted and illegally deleted while knowing that the United States Probation Office was investigating Brian's indecent exposure charge. They didn't get all of the evidence, because some of it was COVERED UP by Glen Andrew Hall and others involved in Martinsville Police Department. They charged Brian with a criminal litigation and yet allowed evidence to be deleted and not marked as evidence in violation of multiple court orders. Then the Trial Court refuses to hold Glen Andrew Hall accountable when the contempt allegations were proven by a letter from Rob Fincher and FOIA Officer of Martinsville. Refusing to follow or obey a court order is contempt. So the court had erred by not enforcing it's own court orders when evidence recently surfaces proving the allegations by Appellant. Didn't ask questions, just deny another motion.

2. It is a proven fraud when Officer Robert Jones admitted in federal court under penalty of perjury that Appellant was not obscene, yet charged Brian with making an obscene display. The same officer who charged Brian with making an obscene display said under oath in federal court that Brian was not obscene. He didn't know that the lab tests were deleted from the chart, officer was ignorant. Clearly the charge on September 21, 2018 was fraudulent or wrongful or both. Evidence was covered up. Appellant proved it, and the Trial Court had decided to deny the motions asking for relief. The Trial Court at least should have had an obligation to hold a hearing, a show cause hearing, to ask about Appellant's claims and supporting affidavits, and compel Officer Robert Jones to answer a few questions under oath in the

Trial Court about what he said at the federal court about Brian not being obscene. If he affirms what he said in the federal court in 2019, then this proves the entire basis for the ARREST WARRANT was FALSE, and no criminal conviction should sustain over a false arrest charge. Fraud on the court to such an extent where I had every right to accuse Judge Greer of what I had accused him of in those notices of appeal. I did nothing criminal here when I accused the judge of fraud on his court. It was Glen Andrew Hall and Officer Robert Jones who destroyed evidence or at least allowed it and deceived the U.S. Probation Office which I also have proof of in the federal court case where even the U.S. Attorney didn't object that Martinsville Police deceived them, ON RECORD, Robert Jones knowingly lied under oath or affirmation in the ARREST WARRANT. They knowingly deceived the United States Probation Office and not even the U.S. Attorney objected to those arguments that they were deceived by Glen Andrew Hall and G. E. Cassady the former Police Chief.

Crimes were committed here, the proof is in the record in my federal case and in the trial court record, and I have proven it on the record in the three appeals this year. My appeals this year are full of merit, and should have warranted better treatment by the Circuit Court. I want to check the record and be sure that it isn't tampered with. If everything is in order, I will file my brief after my timeout period of not filing anything except in the federal courts.

A continuance is warranted here, until after the timeout period on Friday, October 13, 2023.

As an attorney you are aware that I cannot file in the state courts at this time. Arguably, If you were not allowed to file for six months in the case and you begged me for a continuance or delay until you were allowed to file again, I would file a motion doing so to give you your Due Process right. I don't care that your opposing counsel. A real lawyer understands the Constitutional right to procedural due process of law and substantive due process of law. The right to be heard, the right to file in court.

Criminal conspiracy or not involved in my case, my constitutional rights are what is at stake here. It is very important. Fred Smith knows this,

he is a lawyer. If he had reviewed the entire record of what caused me to lash out at Judge Greer with fraud allegations, he understands why if he had read the FOIA response letter from Rob Fincher and the FOIA officer, the three page FOIA response letter. If he read that Officer Jones said that I was not being obscene in federal court, it can easily be confirmed by simply having him appear in the Circuit Court to answer a few questions, and that can easily fix any potential issues of any hearsay. Officer Jones did admit I (Brian) was not obscene in the General District Court but there was no transcript so I didn't have that. It's clear that my appeals this year have more teeth and evidence than last year. I have so much evidence, I am swimming in it. A continuance is best for these appeals.

A continuance is best because more and more my criminal conviction is a fraud in itself. If I can prove even half of the elements were a fraud, does that warrant me having a criminal record???

When the judge realizes my appeals may have teeth and started charging me with contempt for telling the truth based on new evidence proving a two-tiered justice system, then the lawyers work to prevent me from my appeals???. Does that not violate procedural due process to tie my hands and hold me hostage???. Then racketeer by demanding legal fees out of my SSI money to pay for a criminal case based entirely on fraud and covered up evidence???. The U.S. Probation Office being deceived by Martinsville???


Brian D. Hill

God bless you,
Brian D. Hill

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

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

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com



EXHIBIT 7

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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Subject: RE: Emergency Letter to Justin Hill, Attorney General**From:** "Hill, Justin B." <JHill@oag.state.va.us>**Date:** 6/20/2023, 2:42 PM**To:** ROBERTA HILL <rbhill67@comcast.net>

Good Afternoon Ms. Hill,

I am in receipt of your son's letter and affidavit attached to your last e-mail. At the outset of his letter, he indicated that he did not receive a copy of my previously filed motion for an extension or motion to consolidate. Could the two of you please confirm whether he still lives at 310 Forest Street, Apartment 2, Martinsville, Virginia 24112? According to my records, copies of both motions were mailed to that address. Because he stated that he did not receive them, I wanted to ensure I still have a correct address for any future mailings. As a courtesy, I have also attached to this email a copy of both of the motions Mr. Hill stated that he did not receive as well as the Court of Appeals' response. I would ask that you please pass those along in the event Mr. Hill still needs them.

With regard to the other issues Mr. Hill raised, please understand that I cannot give him legal advice nor can I take any legal action on his behalf. I would recommend that he speak with his attorney, Fred Smith, about his concerns over filing pleadings in the Court of Appeals. I would note however, that the Commonwealth would be amenable to a continuance request in cases 0313-23, 0314-23, and 0317-23 while Mr. Hill handles his pending contempt charge in the circuit court. If you could pass that information on to Mr. Hill, I would appreciate it.

I hope you both have a wonderful evening.

Best Regards,

**Justin B. Hill | Assistant Attorney General****Office of the Attorney General**

202 North 9th Street

Richmond, Virginia 23219

O: (804)786-1445 | M: | F:

JHill@oag.state.va.us<https://www.oag.state.va.us>

From: ROBERTA HILL <rbhill67@comcast.net>**Sent:** Tuesday, June 20, 2023 2:12 AM**To:** Hill, Justin B. <JHill@oag.state.va.us>; OAGCriminalLitigation <OAGCriminalLitigation@oag.state.va.us>; Coen, Chris <ccoen@oag.state.va.us>; Henderson, Deborah J. <DHenderson@oag.state.va.us>**Cc:** adriennadicioccio@yahoo.com; Lin Wood <lwood@linwoodlaw.com>; Lin Wood <lwood@fightback.law>; stanleybolten@justiceforuswgo.nl; rbhill67@justiceforuswgo.nl**Subject:** Emergency Letter to Justin Hill, Attorney General**Importance:** High

Justin Hill,

My son Brian Hill wanted me to email you his emergency letter and affidavit since he cannot file anything in the Court of Appeals in Virginia or any state court until the day after Friday, October 13, 2023. They are attached.

Emergency_Letter_Justin_Hill_6_19_2023.pdf - Emergency Letter

Declaration_Affidavit_Justin_Hill_6_20_2023.pdf - Affidavit in support of emergency letter

There is a public petition now asking people all over America to get behind asking Virginia to pardon Brian Hill. In case his due process rights get taken away from him, Brian is mailing a new documentary about federal corruption to more and more prominent activists about his whole legal plight. More and more people will be notified about Brian's legal horrors overtime.

<https://www.change.org/p/pardon-innocent-man-brian-d-hill-in-virginia>

Best Regard,
Roberta Hill

— Attachments: —

Hill - Motion to Consolidate all 7.pdf	122 KB
061223 letter - delay motion for record 0313-23-3.pdf	45.4 KB
061223 letter - delay motion for record 0313-23-3.pdf	45.4 KB

EXHIBIT 8

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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VIRGINIA:

IN THE COURT OF APPEALS

BRIAN DAVID HILL,

Appellant,

**Record Nos. 0289-22-3, 0290-22-3,
1424-22-3, 1425-22-3,
0313-23-3, 0314-22-3,
and 0317-23-3**

COMMONWEALTH OF VIRGINIA,

Appellee.

MOTION TO CONSOLIDATE

The Commonwealth of Virginia, by counsel, moves the Court to consolidate Brian David Hill's appeals under record numbers 0289-22-3, 0290-22-3, 1424-22-3, 1425-22-3, 0313-23-3, 0314-23-3, and 0314-23-3. In support of this motion states the following:

1. Cases 0289-22-3 and 0290-22-3 are both appeals from the trial court's denial of two separate, but nearly identical motions for a judgment of acquittal or a new trial which collaterally attacked his 2018 misdemeanor indecent exposure conviction. On motion of the Commonwealth, this Court ordered those two cases to be consolidated on November 9, 2022.

2. Cases 1424-22-3 and 1425-22-3 are also both appeals from the trial court's denial of two additional motions for a judgment of acquittal or a new trial. On Hill's motion, this Court ordered those two cases to be consolidated on March 29, 2023.

3. All four of Hill's motions for a judgment of acquittal were denied by the trial court for lack of jurisdiction. Accordingly, they share not only a common nucleus of operative facts but also present the same legal issue: whether the trial court had jurisdiction over Hill's motions attempting to overturn his 2018 misdemeanor indecent exposure conviction.

4. Because all four of these matters present the same essential facts and legal questions, consolidating them will aid the decisional process and preserve judicial resources.

5. Furthermore, Hill has noted his appeal in cases 0313-23-3, 0314-23-3, and 0317-23-3. No record has been filed in those cases as of the date of filing this motion.

6. Upon information and belief, however, those three cases are also appeals from the trial court's denial of three similar motions for a judgment of acquittal or a new trial. Therefore, upon information and belief, those three cases also appear to present the same essential facts and legal questions as Hill's other four pending appeals.

CERTIFICATE OF SERVICE

On May 19, 2023, a copy of this motion was filed electronically with VACES and a copy mailed to Brian David Hill, appellant *pro se*, at 310 Forest Street, Apartment 2, Martinsville, Virginia 24112.

_____/s/_____
Justin B. Hill
Assistant Attorney General

EXHIBIT 9

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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COURT OF APPEALS OF VIRGINIA

CHIEF JUDGE

MARLA GRAFF DECKER

JUDGES

ROBERT J. HUMPHREYS
RANDOLPH A. BEALES
GLEN A. HUFF
MARY GRACE O'BRIEN
RICHARD Y. ATLEE, JR.
MARY B. MALVEAUX
CLIFFORD L. ATHEY, JR.
JUNIUS P. FULTON, III
DANIEL E. ORTIZ
DORIS HENDERSON CAUSEY



109 NORTH EIGHTH STREET
RICHMOND, VIRGINIA 23219-2321
(804) 371-8428 (V/TDD)

JUDGES

FRANK K. FRIEDMAN
VERNIDA R. CHANEY
STUART A. RAPHAEL
LISA M. LORISH
DOMINIQUE A. CALLINS
KIMBERLEY SLAYTON WHITE

SENIOR JUDGES

ROSEMARIE ANNUNZIATA
JEAN HARRISON CLEMENTS
JAMES W. HALEY, JR.
WILLIAM G. PETTY

June 12, 2023

Hon. Justin B. Hill
Assistant Attorney General
Office of the Attorney General
202 N. 9th Street
Richmond VA 23219

Re: Consolidation of Record Nos. 0289-22-3 and 0290-22-3
Consolidation of Record Nos. 1424-22-3 and 1425-22-3
Consolidation of Record Nos. 0313-23-3, 0314-23-3, and 0317-23-3

Dear Mr. Hill:

This letter serves as notice that the Court has received your motion to consolidate all of the cases filed by the appellant, Brian David Hill. The Court will take no further action on Record Nos. 0289-22-3 and 0290-22-3, which are already consolidated. The Court will also take no further action on Record Nos. 1424-22-3 and 1425-22-3, which are already consolidated as well.

The Court will hold the motion to consolidate for Record Nos. 0313-23-3, 0314-23-3, and 0317-23-3 until the record has been received in those cases.

Please contact the Court with any further inquiries.

Sincerely,

A handwritten signature in black ink, appearing to read "AM Russo".

Abby M. Russo, Esq.
Deputy Clerk

cc: Brian David Hill

EXHIBIT 10

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

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COURT OF APPEALS OF VIRGINIA

CHIEF JUDGE

MARLA GRAFF DECKER

JUDGES

ROBERT J. HUMPHREYS
RANDOLPH A. BEALES
GLEN A. HUFF
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RICHARD Y. ATLEE, JR.
MARY B. MALVEAUX
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DORIS HENDERSON CAUSEY



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KIMBERLEY SLAYTON WHITE

SENIOR JUDGES

ROSEMARIE ANNUNZIATA
JEAN HARRISON CLEMENTS
JAMES W. HALEY, JR.
WILLIAM G. PETTY

June 12, 2023

Hon. Justin B. Hill
Assistant Attorney General
Office of the Attorney General
202 N. 9th Street
Richmond VA 23219

Re: Consolidation of Record Nos. 0289-22-3 and 0290-22-3
Consolidation of Record Nos. 1424-22-3 and 1425-22-3
Consolidation of Record Nos. 0313-23-3, 0314-23-3, and 0317-23-3

Dear Mr. Hill:

This letter serves as notice that the Court has received your motion to consolidate all of the cases filed by the appellant, Brian David Hill. The Court will take no further action on Record Nos. 0289-22-3 and 0290-22-3, which are already consolidated. The Court will also take no further action on Record Nos. 1424-22-3 and 1425-22-3, which are already consolidated as well.

The Court will hold the motion to consolidate for Record Nos. 0313-23-3, 0314-23-3, and 0317-23-3 until the record has been received in those cases.

Please contact the Court with any further inquiries.

Sincerely,

A handwritten signature in black ink, appearing to read "AM Russo".

Abby M. Russo, Esq.
Deputy Clerk

cc: Brian David Hill

EXHIBIT 11

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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Subject: Re: 2nd Emergency Letter to Justin Hill, Attorney General

From: "Hill, Justin B." <JHill@oag.state.va.us>

Date: 6/28/2023, 9:34 AM

To: ROBERTA HILL <rbhill67@comcast.net>

Good Morning Ms. Hill,

I am in receipt of your son's letter. In it, your son appears to request that I submit a motion for a continuance on his behalf to the Court of Appeals.

I would ask that you please pass along to him the same response I gave last time: I am prohibited from taking any legal action on his behalf. Your son, or an attorney representing him, are the only persons allowed to file a motion or request on his behalf. I remain amenable to a motion requesting a continuance, were he to file one. But, I cannot request a continuance or take any other action on your son's behalf.

I appreciate your understanding and hope you have a wonderful afternoon.

Best Regards,

From: ROBERTA HILL <rbhill67@comcast.net>

Sent: Wednesday, June 28, 2023 4:19:05 AM

To: Hill, Justin B. <JHill@oag.state.va.us>; OAGCriminalLitigation <OAGCriminalLitigation@oag.state.va.us>; Coen, Chris <ccoen@oag.state.va.us>; Henderson, Deborah J. <DHenderson@oag.state.va.us>

Cc: adriennadicioccio@yahoo.com <adriennadicioccio@yahoo.com>; Lin Wood <lwood@linwoodlaw.com>; Lin Wood <lwood@fightback.law>; stanleybolten@justiceforuswgo.nl <StanleyBolten@justiceforuswgo.nl>; rbhill67@justiceforuswgo.nl <rbhill67@justiceforuswgo.nl>

Subject: 2nd Emergency Letter to Justin Hill, Attorney General

Justin Hill,

I spoke with Brian's attorney Fred Smith who wanted Brian to notify you about continuing his appeals after the period where he agreed that he cannot file in the Virginia courts for a certain period of time for the contempt case (I believe was filed out of emotion or anger out of what my son had said) to go away after things cool down from that escalation. My son Brian Hill wanted me to email you his 2nd emergency letter about this new development. It is attached.

Emergency_Letter_Justin_Hill_6_28_2023.pdf.pdf - 2nd Emergency Letter

Brian's and moving the filing deadlines to after he is allowed to file again in the "state court". I think this lawyer may have realized that Brian has real evidence filed in the court. He isn't just talking. He does have proof. Proof documents. That was why Brian wanted the State Police to come and interview him about the evidence he wanted them to have and investigate. Brian does have real

EXHIBIT PAGES 63 OF 82

proof that laws were violated here by the government. Rob Fincher is a better police chief for Martinsville. He actually cared more about listening to the citizens who are concerned about crimes and issues which need police intervention. Brian is bold when he feels that he is innocent of his charge, Brian ain't afraid to prove to the police that he is innocent when there is evidence favorable to him. It is his right.

The DEEP STATE can Frame You - the Documentary

<https://rumble.com/v2ozhp6-the-deep-state-can-frame-you-the-documentary.html>

Best Regard,
Roberta Hill

EXHIBIT 12

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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Pursuant to the Virginia Code § 8.01-4.3. “Unsworn declarations under penalty of perjury; penalty.”, Appellant Brian David Hill hereby state to Appellee(s) the statement of facts as under penalty of perjury,

1. I am Brian David Hill, Appellant in the case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3, 0289-22-3, 0290-22-3.

2. I am typing this Declaration/Affidavit in support of the Appellant’s MOTION FOR LEAVE OF COURT TO FILE ONE MORE APPELLANT OPENING BRIEF AND/OR MODIFY JUNE 30, 2023 ORDER. The purpose of this Declaration/Affidavit, is to inform the Court of Appeals of Virginia and of Appellees of the recent developments in my contempt of court charge which were favorable to Appellant but Appellant had to comply with a six-month cooldown period due to the emotions and things which led up to what was said in Appellant’s three notices of appeal in CAV cases no. 0313-23-3, 0314-23-3, 0317-23-3 then it had caused the contempt of court charge on Filed Date: 02/21/2023, then it was issued on February 24, 2023. Appellant is not a lawyer and isn’t a licensed attorney. The dates sounded a little confusing so I had thought I was charged on February 24, 2023, but the charge documents were issued on February 24, 2023, according to the Online Case Information System (OCIS) 2.0 researched by my family.

3. On or about February 21, 2023 or on February 24, 2023, a summons or show cause or charge was filed and then on February 24, 2023, the summons

process was issued on February 24, 2023, (*OCIS 2.0 can get confusing just looking at the printout*) I was charged with criminal contempt of court for essentially accusing the Hon. Giles Carter Greer (Circuit Court Judge in Martinsville) of fraud in three notices of appeal filed in February 2023. Case number for that contempt case was: CR19000009-01.

4. On October 23, 2023, the last hearing in the contempt case had resulted in a favorable decision for Appellant. Appellant had complied with not filing any documents with the clerk or the judge for six months. The special prosecutor had not shown up at that particular hearing likely because the prosecutor and my court appointed attorney Fred Smith had filed a joint motion for dismissing the contempt case. Judge Greer was nice and polite when I was at the hearing, he was professional as a judge. He was professional at every hearing. Fred Smith was the one who asked to approach the bench then approached the bench after he was approved to do so, to file the motion with the judge directly, and the judge took time to read over the document then orally gave the indication that the case was dismissed. I also reviewed over DISMISSAL ORDER where the judge ordered dismissal of the case along with signatures of two attorneys. One attorney was Fred D. Smith, Jr., SB# 12786, Counsel for Defendant, and the other signature was Aaron L. Foster, VSB # 96971, Attorney for the Commonwealth. After the judge had orally gave the indication that the case was dismissed, Fred and I had left the

courtroom. The contempt case was clearly dismissed and was disposed of in the legal system.

5. On or about October 20, 2023, I had met with Fred Smith, and he had explained the situation. It was clear that the special prosecutor and Fred Smith were both pushing to dismiss my contempt charge. He did suggest or advise not to file anything in the Court of Appeals of Virginia yet until after the hearing, and that he would speak with Justin Hill, counsel for Appellees, regarding the holding off on filing issue. So, he would make sure that the special prosecutor or Justin Hill, whoever he has to inform or ask the question, would indicate that I can start filing again without issue. I am sure that six months had already been fulfilled since the case was clearly dismissed. I don't see how six months would run off into after the joint motion to dismiss my case and the hearing.

6. What led up to the emotional remarks or arguments made in the three notices of appeal was over discovering in February 2023, from Public Information Officer Kendall Davis (See pages 4211-4219 of the Record of the Trial Court), that Police Chief acknowledged the existence of the body-camera footage at one time and then the police recorded body-camera footage had been deleted after multiple court orders including both General District Court and Circuit Court were not complied with, they were not followed by Commonwealth Attorney Glen Andrew Hall. Mr. Hall even deceived the U.S. Probation Office by never providing a copy

of the body-camera footage to the U.S. Attorney Office and U.S. Probation Office during initial investigation over my supervised release violation charge, because that body-camera footage possibly would have shown me intoxicated (Carbon Monoxide) or not looking well for somebody who the officer assumed at the time that I was medically and psychologically cleared when the evidence shown that I wasn't fully medically and psychologically cleared with a lot of deficiencies. Deficiencies such as no confirmed laboratory tests, no MRI, no EEG, tachycardia without explanation or investigation by Emergency Room as to why, and no diabetic blood sugar glucose reading/test despite me being a type 1 diabetic as I take insulin every day. I was angry and emotional at the time, and after the Honorable Judge Greer denied my motion (See page 4277 of the Record of the Trial Court), I typed up accusations which are not a lie but were likely considered a personal attack which led to the contempt charge (See pages 4278-4327 of the Record of the Trial Court). I did go too far in that. I do have the First Amendment of the U.S. Constitution, freedom of speech. I never threatened, I never disrupted his proceedings, but I did say things in those notices of appeal which did cause the contempt of court charge. I do not wish to make that mistake again. All I want is justice and that has always been my intent.

7. My goal originally has always been for seeking justice and what I felt would be the right courses of action in my criminal case in the Circuit Court. I did

get emotional. I did write an apology letter to Judge Greer after the contempt charge was filed. I did have the cooldown period which was a good idea, and the special prosecutor wanting me not to file for six months but my appeals are still active, that was the best idea by both attorneys for me to cool down for six months. The cooldown period of six months was the best idea and suggestion from Attorney Fred Smith after being in contact with the special prosecutor. I didn't break the contempt law because of the First Amendment to the United States Constitution protects freedom of speech as long as I don't threaten harm and that I don't encourage lawbreaking (of course though I am not a lawyer), but I did get emotional and that led me to saying things about the judge in my notices of appeal which landed me in hot water. I didn't lie, I believe I told the truth but did so in an emotional way which emotions can lead to saying things which can get me in trouble.

8. Hope that Appellees and the Court of Appeals of Virginia understand that I made an emotional error and that is what led up to the contempt charge. For good reasons. Because I did receive new evidence of proving that the body-camera footage was illegally destroyed in the response to my FOIA request and that letter was received in February, 2023. Then I had also found out that my former court appointed lawyer Scott Albrecht (Assistant Public Defender) does indeed work for the Commonwealth's Attorney Glen Andrew Hall (prosecutor) after I had suspected

such before, I was charged with contempt (See pages 4257-4276 of the Record of the Trial Court). I was right about my suspicions when I had addressed this issue with the Court, with Judge Greer in writing. At two of the contempt of court hearings, I had personally seen my former defense lawyer Scott Albrecht walk into the courtroom and/or walked through one of the doors into the courtroom. It was him and he recognized me and my family. He quickly tried to enter the courtroom at as fast of pace as he could despite using crutches (he is disabled and/or handicapped with his legs). So, he knew that it is a conflict of interest for him to be involved with Glen Andrew Hall and yet he represented me as my defense attorney after he was appointed by the Office of the Public Defender being appointed in my case. Scott Albrecht had represented me in my case in both General District Court and in the Circuit Court for the City of Martinsville. He was up to his eyeballs in asking the court for a discovery order. Both Judge Greer and the judge in General District Court had entered orders for discovery. Scott Albrecht did nothing to seek that the body-camera footage be marked as evidence and be preserved as evidence for my criminal trials. I believe personally that he somehow took part in the cover up or unlawful destruction of the body-camera footage after Scott sought court orders for discovery. Heck, he works for the prosecutor in Martinsville, Virginia, he works for Glen Andrew Hall. I have personally seen Scott Albrecht work at the prosecution table with another person, likely another prosecutor. So, I now know

for a fact that Scott Albrecht works for the prosecutor Glen Andrew Hall and yet has filed nothing in my criminal case in the Circuit Court to recuse himself from involvement with Commonwealth's Attorney Glen Andrew Hall with my case. He was my attorney. He knows my case from the defense standpoint, he could have still retained notes of any kind involving my case and he can remember what we had discussed concerning my case. I am concerned of the issue that Scott Albrecht was part of my defense failing in General District Court so that he can switch sides at a later time to the prosecution. I am afraid honestly that he could have sabotaged my criminal case, he could have sabotaged my defense, he could have sabotaged me getting the body-camera footage, he could have sabotaged me asking to be drug tested when I had first met him in Martinsville City Jail because I had blackouts and thought I was drugged by somebody, and he could have sabotaged anything where I can win in order to later join the prosecution team. I don't think it would be just my case. I had personally heard other inmates at Martinsville City Jail complaining about Scott Albrecht. I ignored their words at my own peril, because jail inmates can complain about stuff. So, I ignored the words of other inmates who spoke of Scott Albrecht representing them. I screwed up by believing he was going to have me found not guilty. He misled me, I was deceived, that is how I feel.

9. So now the Court understands why I said some things about Judge Greer in my notices of appeal and what led up to the contempt charge. I was emotional

after finding out by clear and convincing evidence that the body-camera footage was illegally destroyed in non-compliance with multiple court orders for discovery. The court orders for discovery which Scott Albrecht had pushed for motions for discovery which led to those court orders. That same Scott Albrecht did nothing to protect the body-camera footage from being illegally destroyed. Then later I find out that he does indeed work for Glen Andrew Hall, the same prosecutor who did not even comply with the court orders asking for discovery and Brady materials under Brady v. Maryland. I felt like I had been betrayed by my Assistant Public Defender, he works for the other side. I have seen him at the prosecution table, and when he sees me outside of the courtroom, he rushes away from where I can see him, as if he felt ashamed or embarrassed seeing me. I felt that he betrayed me, and he caused the body-camera footage to be illegally destroyed by doing absolutely nothing to try to protect the police recorded body-camera footage. I know for a fact that Scott Albrecht works for the prosecution at some point after he left the Public Defender Office. I did apologize in a letter to Judge Greer for my remarks in the notices of appeal. I was angry and emotional after I had seen enough evidence that it demonstrated to me that I was deceived by Scott Albrecht the former Assistant Public Defender who I thought represented me, he deceived me. I thought the body-camera footage was destroyed at some point in 2019 after I was told by Matthew Clark another court appointed lawyer, that the body-cam footage had been

destroyed. I didn't know what exact date when it had been destroyed when I was first told by attorney Matthew Clark in 2019. I didn't know about Martinsville Police Department policy. It was thanks to that letter from the Public Information Officer and thanks to Police Chief Rob Fincher that now I know I was deceived by Scott Albrecht. I feel that he had deceived me or misled me and I was convicted of indecent exposure because he had not obtained all discovery evidence when he said to me about obtaining all discovery evidence, and he was deceitful in asserting to me that I would be found not guilty of indecent exposure because he told me that I was not obscene. I have to lay out the facts as to why I got emotional which led up to my contempt of court charge. I rather be honest than hold it all inside which holding such emotions inside can cause emotional issues in the future. So, I have to tell the full truth in this affidavit and let it all come out. Now it is clear that I should have my right to my appeals. I was charged with contempt because of the things I had said because of my emotions which came from reviewing over evidence in February, 2023 which had caused me to believe that I had been deceived by my own lawyer who now works for the prosecution in my criminal case.

10. One more critical issue in support of my motion to be granted leave of court to file. I clearly did see the same Scott Albrecht working at the prosecution table in the very same Circuit Court with the very judge who denied my motions which caused the filing of initiating the very appeals regarding the issues in the

Trial Court. Of course, I confirmed this after the notices of appeal documents were filed, so it would not be on the record of the Trial Court that I confirmed Scott Albrecht works for the prosecution (same one who was my defense lawyer) with my own two eyes but my affidavit about seeing in the staff directory that a Scott Albrecht became an Assistant Commonwealth's Attorney is concerning and that portion is in the record of the Trial Court (See pages 4257- 4276 of the Record of the Trial Court). However, those areas of the record does not have what will need to be filed in the future such as the visual confirmation of seeing the very same Scott Albrecht of the Declaration and Staff Directory (pages 4257- 4276 of the Record of the Trial Court) which will require affidavits from all witnesses to seeing Scott Albrecht being an assistant Commonwealth's Attorney. Those witnesses are Stella Forinash, Kenneth Forinash, Roberta Hill, and myself. So, I am concerned that there is enough evidence in the record at least for me to have an assignment of error in my appeals as to the ethics issues or even potential conflict of interest issue that the Trial Court should take seriously concerning Scott Albrecht. I hate to file in this affidavit what that assignment of error I am planning to argue would be since it would restrict what I would argue in my assignments of error since I could argue what this error would be or what that error would be. This affidavit is not the format for me to argue assignments of error. I do have assignments of error planned for my brief which I believe this Court would see some very serious concerns or issues

which I believe should require something to be done about it so that we don't see yet another miscarriage of justice or issues of law and ethics not being followed in the Trial Court.

11. Attorney Fred Smith did the best job he could for representing me under the circumstances of the contempt of court charge against me. I am grateful to Fred Smith and think he did a great job as an attorney. At one time I didn't like that he wouldn't pursue a first amendment challenge to what I had said in my notices of appeal filings but he has more experience than I do, as I am not an attorney. He did find a viable solution and a better solution for my contempt case to be dismissed without me having to file an appeal and without me sitting in jail for contempt while I would try to figure out how to appeal any contempt conviction which could have happened. As much as I hated not being able to notify the Court of Appeals of Virginia of being unable to file for six months, I did file something months ago trying to warn them that I wouldn't be able to file for a certain number of months, the appeals are still active, and Fred did say that I do have a right to my appeals. I feel like he did the best job that he could under the circumstances of that case and the contempt case was dismissed. Now it is my job to prosecute these appeals to the best of my knowledge and belief in good faith. I am not a lawyer, but I am all I've got in the appeals. Fred did give me an indicated that he respected my work on the day I met with him, he pretty much respected the hard work, the digging and

evidence gathering, and the effort I had put into my legal filings which were done pro se. He just thinks I should use the right legal lango and not conduct any personal attacks. He is right, I got emotional and I understand what he was trying to say. I have autism and sometimes I may not perceive someone's intent correctly. I am only human and do the best that I can. Hopefully Fred gave me a second chance to do a better job in my appeals and hope that he gave me enough advice to give me a better chance of succeeding in any of my pending appeals before this Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 27, 2023 1 AM.



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

EXHIBIT 13

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF MARTINSVILLE

COMMONWEALTH

v.

CASE NO.: CR19000009-01

BRIAN DAVID HILL

Defendant

DISMISSAL ORDER

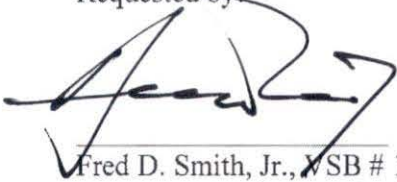
For good cause shown, and upon the joint motion of the Defendant and the Commonwealth, this case is dismissed and stricken from the court's docket.

Entered on October 23, 2023.



Judge

Requested by:



Fred D. Smith, Jr., VSB # 12786
Counsel for Defendant



Aaron L. Foster, VSB # 96971
Attorney for the Commonwealth

EXHIBIT 14

for

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

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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Martinsville Circuit Court [\(details\)](#)

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Case #: **CR19000009-01** Defendant: **HILL, BRIAN DAVID**

Defendant Information		
Address: MARTINSVILLE, VA 24112		
Gender: MALE	Race: WHITE	DOB: 05/26/****
Attorney: SMITH, FRED		

Case/Charge Information		
Defendant Status: SUMMONS	Filed Date: 02/21/2023	Locality: COMMONWEALTH OF VA
Code Section: 18.2-456(A)(3)	Charge: INSULT LANG TO JUDGE; CONTEMPT	Offense Tracking Number: 690CR1900000901
Case Type: MISDEMEANOR	Class: UNCLASSIFIED	Commenced By: OTHER
Offense Date: 02/21/2023	Arrest Date:	
Amended Code Section:	Amended Charge:	
Amended Case Type:	Amended Class:	

Appeal Information
Appeal Date:

Hearing Information						
Date	Time	Result	Type	Courtroom	Plea	Duration
10/23/2023	10:00 AM	DISMISSED	TRIAL			
04/14/2023	09:00 AM	CONTINUED MOTION OF DEFENSE	TRIAL			
03/10/2023	09:00 AM	SET FOR TRIAL	ARRAIGNMENT			
03/03/2023	09:00 AM	SET FOR TRIAL	ADVISE ABOUT ATTORNEY ARRANGEMENTS			

Disposition Information		
Disposition: DISMISSED	Disposition Date: 10/23/2023	Concluded By: TRIAL - JUDGE WITH WITNESS
Jail/Penitentiary:	Concurrent/Consecutive:	Life/Death:
Sentence Time:	Sentence Suspended:	Program Type:
Probation Type:	Probation Time:	Probation Starts:
Operator License Suspension Time:	Restriction Effective Date:	
Operator License Restrictions:		
Military:	Traffic Fatality: NO	
Court/DMV Surrender:	Driver Improvement Clinic:	VASAP:
Restitution Paid:	Restitution Amount:	
Fine: *	Costs: *	
Fine/Costs Paid:	Fine/Costs Paid Date:	

* This system cannot process online payments at this time. Please refer to ' [How to Pay Traffic Tickets and Other Offenses](#) ' for more information.

Service/Process						
Seq. #	Person Served	Notice Type	Hearing	Issued	Served	How Served
1	HILL, BRIAN DAVID	SHOW CAUSE	03/03/2023	02/24/2023	02/27/2023	IN PERSON/NOTIFIED IN COURT

Pleadings/Orders

EXHIBIT PAGES 82 OF 82

Seq. #	Date	Type	Party	Judge	Book & Page	Instrument	Remarks
44	10/23/2023	FINAL ORDER	BEW	GCG			DISMISSAL ORDER
43	10/23/2023	CLERK'S WORKSHEET	BEW	GCG			COURTROOM NOTES
42	10/20/2023	LETTER	BEW	GCG			FROM A FOSTER ACA PULASKI
41	04/14/2023	NOTICE	BEW				APPEAR 10-23-23 @ 10
40	04/14/2023	CONTINUANCE ORDER	BEW	GCG			UNTIL 10-23-23 @ 10AM
39	03/10/2023	NOTICE	BEW				APPEAR 4-14-23 @ 9AM
38	03/08/2023	LETTER	JCC				EMAIL-FRM SMITH-W/D MOT
37	03/07/2023	ORDER	TTM	GCG			APPOINT SPECIAL PROSECUTOR
36	03/07/2023	MOTION	JCC				MOT FOR CODE 19.2-169.5 EV
35	03/03/2023	NOTICE	JPN				APPEAR 3/10/23 9 AM
34	03/03/2023	OTHER	JPN				FINANCIAL STATEMENT
33	03/03/2023	APPOINTMENT OF COUNSEL	JPN				APPT FRED SMITH
32	03/03/2023	CLERK'S WORKSHEET	JPN				HEARING NOTES
31	03/03/2023	OTHER	JPN				COPY EMAIL 3/3/2023
30	03/03/2023	NOTICE	JPN				NOTICE-AUTISM-DEFENSE
29	03/03/2023	NOTICE	JPN				NOTICE-ADDITIONAL-LEGAL-DE
28	03/03/2023	MOTION	JPN				EMERGENCY-MOTION-TO-DISMIS
27	03/01/2023	NOTICE	JPN				NOTICE-ADDITIONAL-LEGAL-DE
26	02/28/2023	OTHER	JPN				K BRIDGES-ADA COORDINATOR
25	02/26/2023	OTHER	JPN				ADA ACCOMMODATIONS-GCG
24	02/27/2023	OTHER	JPN				SIGNED ADA FORM DIABETES
23	02/27/2023	OTHER	JPN				EMAIL SIGNED ADA FORM
22	02/26/2023	NOTICE	JPN				(3)NOTICE-AUTISM-DEFENSE
21	02/26/2023	NOTICE	JPN				(2) NOTICE-AUTISM-DEFENSE
20	02/26/2023	NOTICE	JPN				NOTICE-AUTISM-DEFENSE 2/26
19	02/26/2023	OTHER	JPN				EMAIL-ADA-19.2-271.6
18	02/26/2023	OTHER	JPN				EMAIL-ADA-TEACCH PAPERS
17	02/26/2023	OTHER	JPN				ADA ACCOMM FILED-ADA
16	02/26/2023	LETTER	JPN				(3) APOLOGY LETTER
15	02/26/2023	OTHER	JPN				EMAIL -APOLOGY LETTER (3)
14	02/26/2023	LETTER	JPN				(2) APOLOGY LETTER
13	02/26/2023	OTHER	JPN				EMAIL-APOLOGY LETTER(2)
12	02/26/2023	OTHER	JPN				APOLOGY LETTER
11	02/26/2023	OTHER	JPN				EMAIL-APOLOGY LETTER
10	02/26/2023	OTHER	JPN				EMAIL-ADA CONFIRMATION
9	02/26/2023	OTHER	JPN				EMAIL- 19.2-271.6
8	02/26/2023	OTHER	JPN				TEACCH PAPERS.PDF
7	02/26/2023	OTHER	JPN				EMAIL -TEACCH PAPERS
6	02/26/2023	OTHER	JPN				SIGNED ADA FORM W/EVIDENCE
5	02/26/2023	OTHER	JPN				EMAIL-ADA ACCOMMODATION
4	02/24/2023	OTHER	JPN				ATTACH SC - APPEAL 3
3	02/24/2023	OTHER	JPN				ATTACH SC-APPEAL 2
2	02/24/2023	OTHER	JPN	GCG			ATTACH SC-APPEAL 1
1	02/24/2023	SHOW CAUSE RULE	JPN				COURT ISSUED SC

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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
Founder of USWGO Alternative News
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(276) 790-3505
c/o: Rbhill67@comcast.net; Roberta Hill



Pro Se Appellant

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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



Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

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

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



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Virginia 24112
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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.


Signed

Brian D. Hill

U.S.W.G.O.



Brian David Hill – Ally of Qanon
Founder of USWGO Alternative News
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Pro Se Appellant

CAV: Submitted on 10-27-2023 07:10:49 EDT for filing on 10-27-2023

Subject: Appellant Motion for leave of court to be filed today
From: ROBERTA HILL <rbhill67@comcast.net>
Date: 10/27/2023, 3:48 AM
To: "Hill, Justin B." <JHill@oag.state.va.us>, "OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us)" <oagcriminallitigation@oag.state.va.us>, "Coen, Chris" <ccoen@oag.state.va.us>

Hey Justin Hill,

I am Roberta Hill, Brian Hill's mother. I am filing this (1) Motion asking for Leave of Court for Appellant to file a brief and designation of the record and (2) exhibits in support of that motion on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading and exhibits on his behalf. This should serve the counsel for Appellees through email. This motion and exhibits will filed via VACES with the Court of Appeals of Virginia.

Also Attorney Fred Smith had said before the final hearing that he would speak with you about Brian's situation in his contempt of court case. The contempt case was dismissed.

File list of attachments:

- 1. Motion-10-27-2023.pdf
- 2. ALL-EXHIBITS-10-27-2023.pdf

Roberta Hill (representative for electronic filing)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112

Court of Appeals of Virginia, cases no. 0313-23-3, 0314-23-3 and 0317-23-3:
Brian David Hill v. Commonwealth of Virginia, City of Martinsville

Appellant:
Brian David Hill
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

Thanks,
Roberta Hill

— Attachments: —————

Motion-10-27-2023.pdf	446 KB
ALL-EXHIBITS-10-27-2023.pdf	2.5 MB

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**

OPENING BRIEF OF APPELLANT



**Brian David Hill – Ally of Q
Founder of USWGO Alternative News
310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505**

**c/o: Rbhill67@comcast.net; Roberta Hill
JusticeForUSWGO.NL // rbhill67@justiceforuswgo.nl**



Pro Se Appellant

– JusticeForUSWGO.wordpress.com

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SUMMARY 1

Assignments of Error 3

Assignment of error 1. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion (pg. 3516) for reconsideration of the Trial Court’s denial of Appellant’s “*MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...*” (pg. 4148-4206); when the Trial Court overlooked evidence which was presented in support of Appellant’s “fraud on the court” claims by Appellant which demonstrated an issue that the court appointed defense attorney Scott Albrecht had switched sides to the prosecution (pg. 4260-4276, 4236-4248) which would be the Commonwealth’s Attorney Glen Andrew Hall without ever filing anything with the Trial Court recusing himself with any involvement with Mr. Hall concerning Appellant’s cases since his court appointed attorney Scott Albrecht had represented Appellant prior to directly switching to the prosecution team of Appellees. It is a conflict of interest for the former defense attorney of a criminal defendant which would be Appellant to switch sides to the Commonwealth’s Attorney who had prosecuted a case against the criminal defendant aka Appellant in the

circumstances where the defense attorney has the easy ability to create an unfair advantage against the criminal defendant. 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). *Powell v. Commonwealth*, 3 Va. App. 555, 556 (Va. Ct. App. 1987) (“*When a trial court fails to initiate an inquiry when it knows or reasonably should know that a particular conflict may exist it is presumed that the conflict resulted in ineffective assistance of counsel.*”). *Powell v. Commonwealth*, 3 Va. App. 555, 556 (Va. Ct. App. 1987) (“*Where a probable risk of conflict of interest is brought to a trial court's attention, the trial judge must take adequate steps to ascertain the extent of a conflict of interest in joint representation.*”). The reason for Appellant’s concerns was documented in his declaration/affidavit (pg. 4236-4246). Appellant said under penalty of perjury the following statement (pg. 4244): “*...If this is the same Scott Albrecht, then I have no choice but to inform the Circuit Court that my Trial in the General District Court, I feel it was rigged against me. When my own court appointed lawyer who did a terrible job defending me, I am found guilty, no enforcement of court orders not complied with by Glen Andrew Hall that he pushed for as my defense attorney, no asking for sanctions for noncompliance with those court orders, and then a “Scott Albrecht” works for the very same prosecuting attorney who prosecuted me at the Trial in the General District Court on December 21, 2018, with Scott Albrecht as my defense attorney.*” The Trial Court should have conducted an inquiry into this before making a final decision on the Appellant’s motion for reconsideration. This sounds like a conflict of interest for a defense attorney to do a terrible job for a defendant, not pursuing any contempt of court charges or any enforcement proceedings against the prosecutor of the criminal case of Appellant, and then years later joins that same prosecutor as an Assistant Commonwealth’s Attorney. The concern for this assignment of error is this: Why this conflict-of-interest issue is extremely important and not merely some ineffective assistance of counsel issue. This issue is different. The error is that Scott Albrecht allowed the prosecutor to get away with unlawful deletion of evidence then works for the prosecutor at a later time and receiving a salary/money/\$\$\$ and any financial or any other benefits working for the prosecutor attorney Glen Andrew Hall. Appellant had proven to the Trial Court that: (1) There were three court orders proposed by defense Attorney Scott Albrecht (pg. 3921-3929) “*ORDERED that the Commonwealth's Attorney permit counsel for the Defendant to inspect and copy or photograph, within a reasonable time, before the trial or sentencing, the following...Any relevant written or recorded statements or confessions made by the Defendant, or copies thereof, or the substance of any oral statements or confessions made by the Defendant to any law enforcement officer, the existence of which is known to the attorney for the Commonwealth...*”. (2) The Public Information Officer (“PIO”) Kendall Davis had responded to Appellant’s request under Virginia’s Freedom of Information Act (“FOIA”) by providing information directly from Chief of Police Rob Fincher proving that the body-camera footage had

existed and was deleted on April 9, 2019, because it was not marked as evidence when it was the responsibility of the Commonwealth's Attorney Glen Andrew Hall to mark body-camera footage concerning Appellant as material evidence (pg. 4093-4095, 4212-4214). (3) Appellant kept begging for the body-camera footage (pg. 3881-3891, 4139-4144, 3916-3918), Attorney Scott Albrecht did absolutely nothing, and allowed evidence to be permanently destroyed by deletion (pg. 4093-4095, 4212-4214). This assignment of error isn't attempting to portray the conflict-of-interest issue to that of ineffective assistance of counsel per se but is bringing up the issue of "fraud on the court" where both the defense counsel and prosecution had allowed evidence to be illegally deleted, allowed multiple court orders to never be complied with and neither enforced. The evidence would not have been destroyed if it was favorable to the prosecution against Appellant for indecent exposure. In fact, the prosecution would have loved to show the Trial Court the body-camera footage if it had painted Appellant as a pervert or somebody who was charged with making an obscene display. However, that was not what happened. The prosecution did everything they could to prevent the body-camera footage from ever being acquired by the defendant and his attorney. In fact, the police chief through the PIO said in their FOIA response letter (pg. 4094, 4213) that: "...If I had the videos, I would have no problem giving them to you but unfortunately, I do not." The letter on the first page had said that it was up to the Commonwealth's Attorney to mark a video as evidence from Martinsville Police Department. They said from pg. 4093 and 4212, the following: "*If the Commonwealth's Attorney's Office designates a video as evidence it is retained indefinitely. All other videos are subject to the DVMS retention schedule...The DVMS begins cleanup when a video is within the minimum and maximum hold period for its event classification and when the disk usage is more than 80% and have not been accessed in 150 days. DVMS cleanup refers to changing the file allocation address of that data file to allow for other data to be stored in place of that file.*". So, the police department was not responsible for the unlawful destruction of the body-camera footage, it is clearly the responsibility of prosecutor Glen Andrew Hall. The public defender Scott Albrecht protected this prosecutor and now the evidence had shown that Scott Albrecht may actually be working for the prosecutor. There should have been inquiry on all of those issues presented before the judge of the Trial Court. The Trial Court had erred or abused discretion by conducting no inquiry and not asking Assistant Commonwealth Attorney Scott Albrecht on the record if he was the defense attorney for Appellant Brian David Hill, why he did nothing to preserve the evidence of the body-camera footage, on why he allowed Glen Andrew Hall to not comply with the court orders for discovery which is contempt of court, and why he had botched Appellant's defense which would be favorable to Glen Andrew Hall, the Commonwealth's Attorney, who had defrauded the court. Appellant asserted those arguments in his motion (pg. 3568-3581) to set aside or relief from judgment. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of

Error (See Statement of the Facts in Appeal Brief Pg. 37-47)..... 3

Assignment of error 2. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion for relief (pg. 3543-3649) and Appellant’s motion for reconsideration of the Trial Court’s denial of Appellant’s “MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...” (pg. 4148-4206); when the Trial Court had overlooked evidence which was presented in support of Appellant’s “fraud on the court” claims by Appellant which demonstrated that the Martinsville Police Officer named Robert Jones had lacked credibility as a witness who had initiated the indecent exposure charge against Appellant. The reason why he had lacked credibility was that he had changed his statements in a different courthouse while testifying under oath. In his initial charge, see pages 3651-3653 of the record, Officer Jones had said under oath in the Arrest Warrant that Defendant had: “*intentionally make an obscene display of the accused's person or private parts in a public place or in a place where others were present.*” He then stated under oath in the facts of the Criminal Complaint that: “*He was medically and psychologically cleared. He was arrested for indecent Exposure.*” He said that Appellant was “medically” cleared. Let us see if that is true or not true based on the record at a later time. See pages 3987-4008 of the record. Robert Jones had testified under oath in Federal Court in North Carolina over the same exact charge since Appellant was on federal supervised release. It is common sense that the same person who charged Appellant with making an obscene display would appear before the federal court under penalty of perjury to testify as a witness. He was questioned by Attorney Renorda Pryor and she was directed by Appellant and his family to ask Robert Jones if Appellant had been obscene. He responded by saying under oath that Appellant had not been obscene. That right there is a contradiction of what he had signed and typed up under oath or affirmation in the Warrant for Appellant’s arrest (pg. 3651). Not only that but was sure enough to say under oath that Appellant was medically and psychologically cleared. Appellant had argued the fraud of the witness Robert Jones where his statements do not match the Criminal Complaint and Arrest Warrant, meaning that the witness had lacked credibility after the original assumption that witness did not deliberately make an untruthful or false statement. Either the witness had lacked credibility or made multiple non-factual or untruthful statements. The truth is not the truth under oath when contradictions are made when stating the facts in contradiction with each other. Like for theoretical example for the argument: I first say I saw an apple on the way to the dentist office on January 1, whatever year it was, and I say so under oath in a court of law. Then let’s say 10 months later I am in another court giving the same testimony but then I claimed under oath that I did not see an apple but an orange on the way to the dentist office on January 1, whatever year it was. It is quite clear that a witness contradicting himself/herself under oath as a witness creates a credibility issue where something wasn’t truthful or something wasn’t factual as previously presented before a judge and before a

clerk of the court. He claimed Appellant was medically cleared but yet Appellant presents evidence in support of his motion which demonstrates that Officer Jones did not know for an absolute fact at all if Appellant was medically cleared (See pg. 3558-3568, 3581-3590, 3592-3627). The record from the very motion itself demonstrated that Officer Jones didn't know that Appellant was even a type one diabetic, didn't know he had obsessive compulsive disorder (OCD), didn't know that lab tests were ordered but were deleted from the chart, and never drug tested Appellant but yet said under oath that Appellant was "medically and psychologically cleared". I don't know how he would know whether Appellant was "medically and psychologically cleared" but yet he knows nothing of Appellant having insulin dependent diabetes, and didn't have the lab tests or drug tests saying if Appellant was A-Okay. There was none of that. A lot of assumptions from Robert Jones, but those are not facts, they are assumptions. It is clear that the very officer who had charged Appellant had lacked credibility. His claims were not truthful and not factual when other evidence comes to light in the Trial Court. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47)..... 7

Assignment of error 3. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant's motion for relief (pg. 3543-3649) and Appellant's motion for reconsideration of the Trial Court's denial of Appellant's "MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE..." (pg. 4148-4206); when the Trial Court judge had failed to follow his ministerial duties of charging Commonwealth's Attorney Glen Andrew Hall with contempt of court under Virginia Code § 18.2-456. Appellant had argued in his motion for relief that Glen Andrew Hall of the Commonwealth of Virginia had committed contempt of court (pg. 3568-3581) by not following or ignoring multiple court orders (pg. 3921-3929) which had ordered him to turn over the discovery materials to the defendant's counsel for defendant to review over with his attorney. Instead, the Commonwealth Attorney had not marked the body-camera footage as evidence (pg. 4093-4095, 4212-4214) which had been an act to not follow an order of the court. In fact, Appellant had filed a copy of his FOIA request (pg. 3851-3858) in support of the motion and later received a response (pg. 4093-4095, 4212-4214) from the Public Information Officer proving that Glen Andrew Hall was solely responsible for marking the body-camera footage as evidence. The very same body-camera footage which the court orders (pg. 3921-3929) had specified in its orders for discovery. Appellant had proven beyond doubt that a contempt of court was committed at least one time if not two or three times. The Trial Court judge has a ministerial duty under law to charge a contemnor with contempt of court when evidence is presented to the judge and the clerk in support of the claims of contempt of court. Those claims had been proven after the FOIA response letter from Kendall Davis (pg. 4093-4095, 4212-4214). Some form of relief should have been afforded

to Appellant or the Trial Court should have at least charged Glen Andrew Hall with contempt of court under Virginia Code § 18.2-456(A)(4) and (A)(5). Even if arguably the Commonwealth's Attorney could be legally immune from all criminal charges, the Trial Court has the authority of law and the exercise of law to hold an attorney accountable for contempt of court. The Trial Court could have even recommended investigation by the Virginia State Bar of the Supreme Court of Virginia. The Trial Court failed and neglected to do their duty to safeguard the administration of justice from fraud, abuse, and acts of non-compliance with an order of the court. If Appellant had decided not to follow a court order and got caught, he would surely be charged with contempt of court with hardly any way out of it, he would be convicted of contempt if Appellant had done the same thing as Glen Andrew Hall had done. A government must not be a lawbreaker even under the guise/facade of prosecuting a "private criminal", and that includes the Commonwealth Attorney. See the wise words of the U.S. Supreme Court in the case law authority of *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."). What if the private criminal wasn't a private criminal? What if evidence being illegally covered up was to cover up evidence of innocence? Does it matter that court orders have been violated here? What does it mean when a court order is disregarded/disobeyed by a party to a criminal case? Theoretically could Appellant get away with the same type of misconduct as Glen Andrew Hall of Appellees of not following any court order at will? Is Appellees above the law? Can the Commonwealth of Virginia be given free rein to just decide not to follow any order of the judge if such court order may hurt the prosecution? Is this not fraud or contempt or what not? It is clear that Glen Andrew Hall needs to be charged and prosecuted for contempt of court. The Trial Court has the discretion but also has a duty to ensure that penalties are enacted against anybody who disobeys/defies a court order or decree or directive from a judge. That is the law, and is the matter of law. The Trial Court is supposed to be a court of law. It is an error or abuse of discretion, a failure of duty, a dereliction of duty, to not charge Glen Andrew Hall with contempt of court in response to the motion and evidence filed by Appellant as demonstrated in this assignment of error. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47)...... 10

Assignment of error 4. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion for relief (pg. 3543-3649) and Appellant’s motion for reconsideration of the Trial Court’s denial of Appellant’s “MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...” (pg. 4148-4206); when the Trial Court had overlooked valid legal arguments and evidence of proving extrinsic fraud which was presented in support of Appellant’s “fraud on the court” claims by Appellant which demonstrated that a new Police Chief Rob Fincher admitted in writing by Public Information Officer (“PIO”) Kendall Davis (pg. 4089-4095), admitted that the body-camera footage which the Circuit Court/Trial Court had ordered the Commonwealth’s Attorney aka Appellees multiple times (pg. 4081-4088), was deleted without ever being marked as evidence in complete violation of court orders for discovery and prevented the Appellant from presenting a fair submission of the controversy to the court. It is extrinsic fraud because of multiple common-sense reasons why in the evidence submitted in support of Appellant’s motion for setting aside judgment/order or relieving Defendant of the judgment/order upon evidence of fraud on the court. The prima facie evidence is what was in the three-page letter from PIO Kendall Davis (pg. 4093-4095) mirroring what Police Chief Rob Fincher admitted in that letter. **Common Sense reason #1:** The body-camera footage had been illegally destroyed as admitted by new Police Chief Rob Fincher (pg. 4093-4095) on the date of February 10, 2023. The final judgment/order of the Trial Court closing the criminal case litigation without the timely filed appeal was on the date of November 18, 2019 (pg. 3920-3920). The timely filed criminal case appeal where its final decision was made by the Court of Appeals of Virginia was rendered on the date of September 6, 2021, on the opinion by the Court of Appeals of Virginia rendered on that date (See Hill v. Commonwealth, Record No. 1294-20-3 (Va. Ct. App. Sep. 2, 2021); Hill v. Commonwealth, Record No. 1295-20-3 (Va. Ct. App. Sep. 2, 2021). Almost two years later, Appellant had learned from a new police chief in Martinsville Police Department where the record supports this notion (*name of new police chief is named in three-page FOIA response letter*), named Rob Fincher. Appellant files a Motion (pg. 3543-3649) asking for relief from judgment/order or setting aside judgment on the basis of fraud on the court. As part of that initiative, Appellant had filed a Freedom of Information Act Request (pg. 3851-3858) asking about the existence of the body-camera footage, and the Police Department policies regarding the body-camera footage retention. Addendum filing was entered when Kendall Davis had given an invalid response to Appellant’s FOIA request which is at issue for his Motion for relief due to fraud on the court. See pg. 4064-4088. The letter was addressed to both the judge of the Trial Court and the Clerk of the Trial Court, so this is part of the record necessary for this assignment of error. Kendall Davis the PIO had acknowledged his mistake of submitting the wrong response and submitted the correct response (pg. 4089-4099) to Appellant’s FOIA request which concluded his **Exhibit**

12 evidence (pg. 3851-3858) in support of his motion requesting relief due to fraud on/upon the court. The Trial Court did not appropriately enter a decision denying or granting the motion until that evidence was entered or reviewed. The order denying his motion (pg. 4120-4120) was made around the same time or same day on record of a status letter which was filed with the very judge and clerk of the Trial Court (pg. 4131-4147) regarding the prima facie proof of extrinsic fraud. It is extrinsic fraud because it is the Police Department of the City of Martinsville and Commonwealth of Virginia which admitted on February 10, 2023 that the body-camera footage had once existed and was deleted in contradiction/defiance to the court orders for discovery. **Common Sense reason #2:** The evidence was extrinsic fraud because no prima facie evidence (*something in writing from a credible source or credible witness, THE POLICE CHIEF!!!*) had existed on the record of the Trial Court prior to February 10, 2023 proving beyond a reasonable doubt as to the unlawful destruction of the body-camera footage. No written proof or statements from somebody working in Martinsville Police Department represented by Appellees until the letter from PIO Kendall Davis (pg. 4089-4099) which had responded to Appellant's FOIA request (pg. 3851-3858) for evidence at-one-time in the possession of Martinsville Police Department before that piece of evidence was unlawfully deleted and destroyed which did not comply with multiple court orders (**EXHIBIT #22**, pg. 3921-3929) asking for the discovery evidence. All of that was appropriately submitted to the Court in support of Appellant's request for relief from the judgment/order convicting Appellant of indecent exposure on November 18, 2019 (**EXHIBIT #21**, pg. 3919-3920). Appellant had finally proven that the body-camera footage was deleted after the multiple court orders asking for the very thing which was deleted. That itself is evidence of CONTEMPT OF COURT. Appellees should have been separately charged with contempt of court in the Trial Court and the charge should have been initiated by the Trial Court; whether fraud was proven or not on a separate issue. Anyways back to the next common-sense reason. **Common Sense reason #3:** Violating any law and violating any court order whether state or federal has consequences. Violating any federal, state, or local law has consequences. That includes willful failure or refusal/disobedience to follow court orders and that includes destroying evidence during a FEDERAL INVESTIGATION by the United States Probation Office. All of that is on the record of the Trial Court. First of all, Police Chief G. E Cassady (pg. 3889-3895, **EXHIBIT #13:** 3859-3864) and Commonwealth Attorney Glen Andrew Hall are both potentially liable for not just violating court orders but the police chief would possibly be liable for destruction of evidence during a pending investigation or case by the United States Probation Office who supervises Appellant for a federal conviction, and that sentencing is on the record of the Trial Court (pg. 217-223 and **EXHIBIT #2:** pg. 3654-3735). The transcript of the supervised release violation hearing mentions nothing about the introduction of the body-camera footage because the Martinsville Police Department never turned over that evidence from the state case to the federal investigation by the U.S.

Probation Office. That itself proves evidence was willfully kept from the United States Probation Office after investigating the supervised release violation charge of Brian David Hill, the Appellant, in 2018. That means either the Commonwealth's Attorney Glen Andrew Hall, Esq. aka Appellees at the Trial Court level (*Note: Attorney General did not violate federal law and did not violate the court orders themselves since they including Justin Hill just represents Appellees at the Appellate level, Appellant is not blaming the Attorney General but refers to Glen Andrew Hall, Esq. as to Appellees*) or Martinsville Police Chief G. E. Cassady had violated 18 U.S.C. § 1519. The motion to reconsider (pg. 4189-4191) also brought up the issues of federal law being violated here. Not just violating the court orders and committing contempt of court two or three separate times (pg. 4186-4188). Family provided link for citation of lawyer page

<https://www.criminaldefenselawyer.com/crime-penalties/federal/Tampering-with-evidence.htm> (“**A person commits the federal crime of tampering with evidence** when **he or she knowingly** alters, **conceals**, falsifies, or **destroys any record, document, or tangible object** with **the intent** to **interfere with an investigation, possible investigation, or other proceedings by the federal government**. (18 U.S.C. § 1519.)”). United States Probation Officers are federal officers and lying to a federal probation officer is a federal crime. Hiding evidence then destroying or deleting evidence which exists at one time with the purpose of interfering with a proper investigation or any possible investigation conducted by a federal agent or federal officer. The destroyed and deleted evidence was the BODY-CAMERA footage on record (pg. 4093-4095) which isn't just fraud on the court, it is violation of both court orders and federal law of a U.S. Probation Office investigation into Appellant's state charge, supervised release revocation or charge, and conviction by the General District Court and later with the Trial Court. This proves with the prima facie evidence that former Police Chief G. E. Cassady and/or Glen Andrew Hall, Esq. of Appellees would be potentially held liable criminally and/or civilly for the act/acts of evidence destruction and deletion after court orders (**EXHIBIT #22**, pg. 3921-3929) asking to provide the evidence to the Defendant and/or his attorney. The final argument for this third common sense reason is this. The Police Department will not admit they illegally destroyed the body-camera footage themselves if it would or could create both criminal and/or civil liability issues for the Police Chief if responsible for the wrongdoing at the top. Police Chief G. E. Cassady never would have admitted that they concealed from the Trial Court the body-camera footage evidence which Attorney Scott Albrecht had caused/filed a proposed court order asking for that very thing and was signed by the judge, then they secretly deleted the body-camera footage (pg. 4093-4095) on APRIL 9, 2019, while Appellant was sitting in a Federal Prison (pg. 81-98) and was released on federal bond on May 14, 2019, a month after the body-camera footage was illegally deleted. Appellant had mailed letters (**EXHIBIT #15**: pg. 3871-3895; pg. 4139-4144) to the Police Chief asking for that very piece of evidence without

realizing that multiple court orders (**EXHIBIT #22**, pg. 3921-3929) were already on file with the Trial Court record ordering the body-camera footage and any other material evidence under Brady v. Maryland of the U.S. Supreme Court. The deletion of the very evidence was not a mistake with the paper trail, the letters to the Police Chief including one by certified mail and was typed up by Brian Hill's family members (pg. 4139-4144). It is clear that the former police chief G. E. Cassady could very well be held liable. If the letters to the police chief were mailed from a Federal Prison, there may very well be mailing logs by the Federal Bureau of Prisons which Appellant can introduce as evidence if the conviction/judgment is set aside. Appellant would potentially have even more prima facie evidence in the future if prevailing on the three appeals (CAV No. 0313-23-3, 0314-23-3 and 0317-23-3) this brief is filed for. It is clear that the police chief had plenty of chances to follow the court orders when the Appellant had mailed letters to the police chief about the body-camera footage. The letter from the PIO Kendall Davis through Police Chief Rob Fincher (pg. 4093-4095) proves that the body-camera footage did IN FACT exist and was deleted while not complying with the Court Orders and not ever providing a copy to the United States Probation Office during its initial investigation and supervised release violation charge against Appellant. **The argument is this. LIABILITY**, that is the final argument for this common-sense reason. The former police chief would never have admitted to the destruction of the body-camera footage regardless of Appellant filing a FOIA request. It is common sense to wait until a new police chief is appointed or is designated (by retirement of former police chief) to be the top chief position of Martinsville Police Department. A new police chief comes in, admits the evidence was deleted in violation of court orders. That makes this piece of evidence destruction, the prima facie evidence is EXTRINSIC FRAUD. Not intrinsic fraud. It is extrinsic because of the liability issues with the former police chief. The FOIA request was filed in 2023 (pg. 3851-3858), when Rob Fincher (pg. 4093-4095) was the police chief of Martinsville Police Department. The criminal appeal had concluded in September, 2021. The final verdict of guilty/criminal conviction was on November 18, 2019 (pg. 3920-3920). The discovery of the extrinsic fraud proof was on February 10, 2023, the date of receipt of the FOIA response letter and that same day it was filed with the Trial Court as evidence (pg. 4089-4099) in support of the Motion asking for relief before the Trial Court rendered its order/judgment (pg. 4120-4120) denying that motion. Rob Fincher the new Police Chief would not be held criminally and/or civilly liable for the destruction of evidence pursuant to the court orders for discovery and potential evidence for the United States Probation Office who charged Appellant with a supervised release violation for the very state criminal charge and conviction at issue with this entire appeal and with past appeals with the Court of Appeals of Virginia, this court. So, for him, he had no issue with his written/typed information proving that the body-camera footage was illegally destroyed thus proving prima facie evidence of fraud on the court. Former Police Chief G. E. Cassady (pg. 4139-4143) would have

had an issue with the body-camera footage ever being admitted in writing as to being deleted. **Common Sense reason #4:** Appellant's past claims of the body-camera footage at issue in any older appeals was only based on what he heard from his court appointed lawyer Matthew Scott Thomas Clark (pg. 4072-4088) in the Trial Court from 2019. The only evidence Appellant had until February 10, 2023, was in an affidavit about what he heard from his own lawyer, and that may be considered "hearsay". May be considered 'hearsay' when the only evidence Appellant had of the unlawful destruction of the body-camera footage was of what he heard from his court appointed lawyer. That lawyer provided no written statements, had produced no written statements, and had no affidavits of himself/herself about what was told to Appellant. Appellant had filed a FOIA request with no guarantee that any good response could come of it. The Virginia's Freedom of Information Act (FOIA) law doesn't matter when it comes to the human brain, and only legally pertains to existing records not under a justified exemption under law. The police chief could have denied Appellant's FOIA request and claim that Appellant was delusional or just simply plead the Fifth Amendment out of fear of facing criminal and/or civil liability. Appellant would not be able to easily prevail if the police chief could instead doubled down or tripled down or claim there was no body-camera footage and then the FOIA request would have been deemed satisfied by simply claiming no record exists, even by a judge of the highest Court in the United States. The FOIA is not a guarantee to find evidence favorable to a criminal defendant once a criminal case is either dismissed or receives a verdict of guilty then becomes a final verdict of the defendant in the case. The FOIA is not a guarantee while a criminal case is pending before the General District Court and/or the Circuit Court of any district. A law cannot guarantee the FOIA request prevails if the police chief could just claim that no possible record exists including the body-camera footage. However, the police chief did admit the existence of the body-camera footage evidence during a past Police Chief and his administration in 2018-2019. A new police chief was not worried about any potential criminal and/or civil liability. So, the police chief admits it was destroyed under the previous boss. **FINAL ARGUMENT AS TO Common Sense reasons:** Therefore, it is EXTRINSIC FRAUD. All Common-sense reasons are given as to the argument that the fraud proof is not intrinsic fraud but is extrinsic fraud, prima facie evidence, and is therefore subject to relief under 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. Extrinsic fraud is "conduct which prevents a fair submission of the controversy to the court." Id. (quoting Jones v. Willard, 224 Va. 602, 607, 299 S.E.2d 504, 508 (1983)). Extrinsic fraud includes: "[k]eeping the unsuccessful party away from the court by a false promise of a compromise, or purposely keeping him in ignorance of the suit; or where an attorney fraudulently pretends to represent a party[] and connives at his defeat." McClung v. Folks, 126 Va. 259, 279, 101 S.E. 345, 348 (1919); accord F.E. v. G.F.M., 35 Va. App. 648, 660, 547 S.E.2d 531, 537 (2001). In such circumstances, the fraud perpetrated

“prevents the court or non-defrauding party from discovering the fraud through the regular adversarial process.” F.E., 35 Va. App. at 660, 547 S.E.2d at 537 (quoting Peet, 16 Va. App. at 327, 429 S.E.2d at 490). “Extrinsic fraud, therefore, is ‘fraud that . . . deprives a person of the opportunity to be heard.’” Id. (quoting Hagy v. Pruitt, 339 S.C. 425, 431, 529 S.E.2d 714, 717 (S.C. 2000)). See preservation of argument in pg. 3556-3556. Deleting evidence and preventing it from ever going to the Defense after multiple court orders is a type of fraud which “deprives a person of the opportunity to be heard.” Under the **Wigmore standard**, evidence destruction/spoliation is fraud and indicates that the case is a weak or unfounded one. The **Wigmore standard of evidence** is used by courts all across the United States of America regarding evidence and fraud. See Evidence in Trials at Common Law § 278, at 133 (James H. Chadbourn ed., rev. ed. 1979): (“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, and all similar conduct 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. The inference thus does not necessarily apply to any specific fact in the cause, but operates, indefinitely though strongly, against the whole mass of alleged facts constituting his cause.”; Quote from John H. Wigmore)

Note: Family obtained for Appellant from

<https://www.lawasitis.com/judgment-obtained-by-fraud-american-jurisprudence-quote/> - Judgment obtained by Fraud - American

Jurisprudence Quote. The Wigmore argument was also argued on the record of the Trial Court in Appellant’s motions, see pg. 3558 (16th page of the first denied Motion based on fraud on the court at issue in this appeal); pg. 4161-4163 (page 14 through 16 of denied Motion to Reconsider denying the first motion. Motion to reconsider starts at pg. 4148 of the Trial Court record.)).

Black’s Law Dictionary (11th Edition) defines spoliation as the intentional destruction, mutilation, alteration, or concealment of evidence. Spoliation interferes with a party’s ability to investigate the facts to determine potential causes of action (or defend against claims and lawsuits).

Appellant has proven based on the record of the Trial Court that Wigmore standard was argued in the very motion which was denied and thus preserves that issue for appeal, and that extrinsic fraud was found and proven by the statements from the new police chief Rob Fincher of the City of Martinsville in Kendall Davis’s response to Appellant’s FOIA request. All of that has been proven and is on the record. The Court of Appeals of Virginia can make independent findings of the arguments laid before the Trial Court in the Motions in pages 3543-4008 of the record for the first motion and pages 4148-4254 and 4257-4276 of the record for the second motion. This Assignment of Error has established from the record of the Trial Court that the Trial Court had overlooked valid legal arguments and evidence of proving extrinsic fraud which was presented in support of Appellant’s “fraud

on the court” claims. Extrinsic fraud had been proven and thus Appellant had been entitled to relief and the Trial Court had erred. For arguments sake, if the body-camera footage had been favorable to the Commonwealth of Virginia and City of Martinsville, the Appellees, then that never would have been deleted. In fact, the Commonwealth Attorney would have presented the body-camera footage in General District Court and it would have been used against the Appellant as tangible evidence, irrefutable evidence on video. The fact that the video was deleted and not marked as evidence meant that (theoretically) if the video had been viewed by the Officer or prosecution, saw things in the body-camera footage which would have caused the judge or jury to have second thoughts or consider a not-guilty verdict on both the obscenity element and the intent element. The body-camera footage must have been fatal to the Appellees in their fraudulent prosecution, and would have caused a non-favorable verdict. Adverse inference is also warranted here since the prima facie proof is given to the Trial Court and the adverse inference was preserved in the record of the Trial Court (see pg. 3553, 3580-3581, 4089-4099). Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47)..... 13

Assignment of error 5. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion for relief (pg. 3543-3649) and Appellant’s motion for reconsideration of the Trial Court’s denial of Appellant’s “MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...” (pg. 4148-4206); when the Trial Court had overlooked that there was enough evidence of fraud that no criminal conviction should have ever been sustained in the first place. The evidence cited and arguments made in **Assignment of Error 4** have demonstrated that evidence was unlawfully destroyed by the Appellees (*Note: Not Justin Hill and not the Attorney General, as he and the Attorney General’s office only represents Appellees at the Appellate level which the lower Trial Court case was prosecuted under Glen Andrew Hall, Esquire*). Appellant had provided enough prima facie evidence that the entire basis for the criminal charge (pg. 3650-3653) and the entire basis for the conviction (pg. 3920-3920) should have never had any guilty verdict in the first place. There never should have been a conviction. First of all, Appellant had argued in his first motion (pg. 3581-3622) that Appellant was never medically cleared because the laboratory tests were never completed after being ordered (pg. 3688-3689, 3909). The police never drug tested Appellant, and even if there is no law in Virginia requiring them to do any laboratory work on a suspect whom they arrested for indecent exposure, it does completely disprove the element of (pg. 3653) “He was medically and psychologically cleared.” When an element has been completely disproven, it is a fraud on the court. Even Officer Robert Jones admitted under penalty of perjury that he never knew Appellant was diabetic (pg. 3614-3616, 3688, 3836-3841) considering how important it is for the arresting police officer Robert Jones to know that Brian

the Appellant was diabetic which required INSULIN SHOTS and glucose upon hypoglycemia. Appellant was arrested by an officer who said under oath that Appellant was medically cleared but the hospital didn't even check his blood sugar and the officer never checked Appellant's medical records (pg. 3688-3689) and knew nothing of the permanent health issue of type one diabetes. Appellant could have DIED IN CUSTODY since the arresting officer Robert Jones didn't even know that Appellant was diabetic. He was not medically and psychologically cleared. The only witness who charged Appellant with making an obscene display had lacked credibility (See pg. 3581-3590; DECLARATIONS/AFFIDAVITS pg. 3987-4008). The witness Robert Jones lacked credibility by claiming Appellant had made an obscene display which was why he was charged with indecent exposure (pg. 3650-3653). The sole basis of obscenity when Appellant was charged then arrested was based on a fraud since the information was not credible and not factual, the medically and psychologically cleared element of his criminal charge and arrest was based on a fraud and was not credible and neither was it factual. All of that was argued (pg. 3543-3649) with supporting evidence (pg. 3650-3986, 3987-4008) included within the Appellant's motion and subsequent supportive filings (pg. 4064-4088, 4089-4114). There is evidence of body-camera footage deletion in violation of court orders as already documented in **Assignment of Error 4** and the U.S. Probation Officer being ignorant about the body-camera footage and the U.S. Attorney who prosecuted the Appellant was ignorant of the body-camera footage. Nobody knew in the Federal Court that such evidence was proven to have existed. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47)..... 26

Assignment of error 6. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant's motion for relief (pg. 3543-3649) and Appellant's motion for reconsideration of the Trial Court's denial of Appellant's "MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE..." (pg. 4148-4206); when the Trial Court had not held any evidentiary hearing or inquiry hearing before its three court orders denying Appellant's motions when there was enough evidence of fraud of both extrinsic and intrinsic. See the motion (pg. 3543-3649) with supporting evidence (pg. 3650-3986 and 3987-4008) included within the Appellant's motion and subsequent supportive filings (pg. 4064-4088, 4089-4114). The **Assignment of Error 4** had already argued factually and legally that the body-camera footage destruction had been proven with the FOIA response letter, and it had proven that three court orders (**EXHIBIT #22**, pg. 3921-3929) regarding discovery were not complied with by Glen Andrew Hall, Esquire. It is clear that some sort of hearing or contempt of court charge was warranted here. Appellant had provided the "judge" of the Trial Court with clear and convincing evidence. A Police Chief, is credible evidence/witness, the top police officer of Martinsville Police Department, a higher position of legal authority than the lower position of charging police officer Robert Jones

who arrested Appellant for the charge of indecent exposure. The Police Chief is a credible witness, and a judge of the Trial Court is supposed to take the word of a credible witness, especially a top law enforcement officer who admitted what date the body-camera footage was deleted from the DVMS system (pg. 4094-4094) which was on April 9, 2019. Based on **every other assignment of error**, the evidence is enough to warrant at least an inquiry hearing or evidentiary hearing to determine the extrinsic fraud and if there is enough to legally require that the Trial Court consider vacating the criminal conviction (pg. 3920-3920) or setting it aside. The whole point of deterring fraud upon the court or fraud on the court is to keep the criminal records truthful, credible, legal, and factual. Same with the civil records, keeping them truthful, credible, legal, and factual. When a charge is potentially false or is based on false pretenses or has one or more fraudulent elements, there should be no criminal conviction to be sustained. If a conviction is sustained on fraud or frauds, then nobody will see the credibility of any record of the Trial Court that allows fraud to be considered the valid verdict of a case or cases. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47)..... 29

Assignment of error 7. This Court should extend and/or modify existing law to hold that the Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion for relief (pg. 3543-3649) and Appellant’s motion for reconsideration of the Trial Court’s denial of Appellant’s “MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...” instead of initiating one, two, or three contempt of court charges or inquiries to determine whether the Appellees at the Trial Court level (Not Appellate level) such as Glen Andrew Hall, Esquire, and Assistant Commonwealth’s Attorney Scott Albrecht have intentionally disobeyed one, two or three court orders in such an egregious way as to the inability to recover evidence which has been permanently destroyed/deleted and spoliated(spoliation). That under the law and the rule of law, any officer of a court who had deceived the judge of the court by concealing the existence of evidence then it was reported as deleted at a certain date years later by not being marked as evidence, then that officer had defrauded the court. Not just defrauded the court but has refused to follow one or more court orders. See Va. Code § 18.2-456 (“4. Misbehavior of an officer of the court in his official character; 5. Disobedience or resistance of an officer of the court, juror, witness, or other person to any lawful process, judgment, decree, or order of the court”). See what was argued in the Motion for Reconsideration (Pg. 4148-4206) and it’s supporting exhibits (pg. 4207-4254). It is clear that when a court order is not followed and the Commonwealth’s Attorney can get away with it without any penalty or sanction, no punishment, then it creates issues of an untrustworthy prosecutor. See article citation (given to Appellant by family and Appellant did not use internet) <https://www.city-journal.org/article/untrustworthy-prosecutors> - Untrustworthy Prosecutors |

City Journal, (“Under two Supreme Court cases, Brady v. Maryland and Giglio v. United States, prosecutors are constitutionally required to disclose to defense lawyers the credibility problems of potential prosecution witnesses, such as a history of lying or drug use. Police officers are justifiably warned that lying in any capacity can not only endanger their ability to testify but also result in termination.”). Termination meaning termination from their employment, their career is gone. See the argument from Appellant’s motion to reconsider (pg. 4185-4186) arguing the potential issues of allowing the prosecutor Glen Andrew Hall, Esquire of Appellees to totally get away with a fraudulent prosecution and disobeying court orders without any repercussions or consequences creates a lawless Government (pg. 4188-4189). See what was argued in the record of the Trial Court in 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.”). It is not just the law for a judge or Clerk to charge a person or lawyer for disobeying a court order, it prevents anarchy. It prevents vigilantism. It prevents the average American people from trying to become a law unto himself. Usually, the average citizen respects the law and that only lawbreakers are punished when each suspect is proven to have broken the law in a court of law under the exercise of due process of law. When a Commonwealth Attorney or District Attorney decides to disobey the law or disobey even a court order, then it is the duty of the court to sanction or have penalties against the Commonwealth Attorney or District Attorney to at least give the appearance of the rule of law, equal protection of law. The rule of law requires that everyone obey the law including the Government, including the law enforcers, otherwise the law is set up for only a certain class or tier of people. This would turn America into the caste system which is a class-based system (pg. 4192). Where government lawyers can break the law and even rob innocent people of their money, while the average person is held accountable to the law even when no law was broken. A system of slavery where the 13th Amendment can be abused to bring slavery back to the average citizen of the United States of America, where no crime has to be proven to imprison and enslave a prisoner. No crime even has to exist to enslave somebody. What kind of world? What kind of society do we want? Do we want a society based on merits or based on who is in a position of power? Are we the rule of law or law of man (pg. 4193)? Anyways, the motion for reconsideration at issue for

this assignment of error brings up the horrible consequences of allowing Glen Andrew Hall to break the law and never face any justice. See pg. 4185-4187, 4190-4191. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47). Relief is warranted, motions should have been granted. 30

Assignment of error 8. The Trial Court should have granted either the Motion for relief (pages 3543-3649) or the Motion to Reconsider (pg. 4148-4206) on the basis of the Statement of the Facts (See Statement of the Facts in Appeal Brief Pg. 37-47), all material evidence and relevant evidence within the Statement of the Facts of both motions, and based on the law. 34

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1. The Commonwealth may have their own “Statement of the Facts” as is their right, but the Appellant will present his own Statement of the Facts based upon what was filed in the Motion for relief and Motion for reconsideration of denying Appellant’s motion for relief. 37
2. For the sake of brevity and the word limit, Appellant will not reproduce the entire “STATEMENT OF THE FACTS” in the first “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” in this Opening Appeal Brief. Therefore, Appellant hereby incorporates by reference, as if fully set forth herein, all Statement of the Facts in pages 3563-3622 of the record from the Trial Court submitted by the Clerk..... 37
3. For the sake of brevity and the word limit, Appellant will not reproduce the entire “STATEMENT OF THE FACTS” in the second “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”” in this Opening Appeal Brief. Therefore, Appellant hereby incorporates by reference, as if fully set forth herein, all Statement of the Facts in pages 4155-4194 of the record from the Trial Court submitted by the Clerk..... 38
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3649). This was pursuant to Virginia Code § 8.01-428(D), Virginia Code § 8.01-428(A) AND Virginia Code § 8.01-428(B). This motion itself has

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5. Appellant had filed a “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”” (4148-4206). This motion was asking for reconsideration of the first motion being denied:..... 42
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7. Appellant was pushing for relief from a wrongful conviction due to the prosecution’s fraud upon the court (See paragraphs 2-5 of this opening brief concerning the STATEMENT OF THE FACTS) disproving the elements of the Appellant’s charge. 45
8. On September 21, 2018, Appellant was arrested and charged with “13-17/18.2-387, Code or Ordinances of this city, county or town: intentionally make an obscene display of the accused’s person or private parts in a public place or in a place where others were present.” (pg. 3651-3653) 46
9. Appellant filed the new evidence for the purposes of demonstrating a severe case of fraud upon the court. Rule 1:1 does not bar a motion for a relief from a fraudulent begotten judgment based on evidence proving fraud, pursuant to the laws of Virginia Code § 8.01-428(D), Virginia Code § 8.01-428(A) and Virginia Code § 8.01-428(B)..... 46
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SUMMARY

Brian David Hill, (“Appellant”) files this Opening Brief pursuant to Rule 5A:16(a) and of this Court, and this is directly appealing the Circuit Court’s final judgment/orders (pg. 4120, 4255, 4277) denying Appellant’s Motion for relief (Motion #1 pg. 3543-4008; 4064-4114), and Motion to Reconsider (Motion #2 pg. 4148-4254). Those decisions were made on February 14, February 17, and February 21, 2023. This is a criminal appeal of right.

This case concerns the extrinsic and intrinsic frauds upon the court committed by Appellees (not at the Appellate level) at the Trial Court level against a criminal defendant’s due process right to present a fair and just controversy/defense at a fair trial due to the prosecution’s “conduct which prevents a fair submission of the controversy to the court.” *Id.* (quoting *Jones v. Willard*, 224 Va. 602, 607, 299 S.E.2d 504, 508 (1983)). Appellant had filed a motion to have the Court set aside or vacate the fraudulent begotten judgment which is a criminal conviction/judgment of guilty (pg. 264-264) regarding the charged offense (pg. 1-3). The Trial Court denied Appellant’s motions but did not assert lack of jurisdiction.

Specifically, it involves the credibility of the prosecution’s witness or witnesses, the elements of prosecution being fraudulent, and the proven unlawful destruction of evidence by admission of a new police chief of the City of Martinsville. For many reasons below, the orders/judgments should be reversed,

ordered and remanded with instructions in regard to the assignments of error, abuses of discretion, and/or amending to or modify existing law in this criminal case appeals. Three appeals cases no. 0313-23-3, 0314-23-3 and 0317-23-3 are what this appeal brief is regarding.

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).

The Trial Court said in its reasoning for denying the motion for relief that: “UPON CONSIDERATION of the defendant's Motion for Set Aside or Relieve Defendant of Judgment of Conviction of Criminal Charge, it is ORDERED that said motion is hereby DENIED,” See the Order on page 4120-4120.

The Trial Court said in its reasoning for denying the motion to Reconsider that: “UPON CONSIDERATION of the defendant's Motion to Reconsider, it is ORDERED that said motion is hereby DENIED.” See the Orders on pages 4255 and 4277.

All assignments of error concern the final orders/judgments (pg. 4120, 4255, and 4277) denying Appellant’s motion for relief, and motion to Reconsider the order denying the same.

Because the record of the Trial Court was filed electronically, a joint appendix is unnecessary. Citation is entirely based on the record filed by the Clerk.

Assignments of Error

Assignment of error 1. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant's motion (pg. 3516) for reconsideration of the Trial Court's denial of Appellant's "*MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...*" (pg. 4148-4206); when the Trial Court overlooked evidence which was presented in support of Appellant's "fraud on the court" claims by Appellant which demonstrated an issue that the court appointed defense attorney Scott Albrecht had switched sides to the prosecution (pg. 4260-4276, 4236-4248) which would be the Commonwealth's Attorney Glen Andrew Hall without ever filing anything with the Trial Court recusing himself with any involvement with Mr. Hall concerning Appellant's cases since his court appointed attorney Scott Albrecht had represented Appellant prior to directly switching to the prosecution team of Appellees. It is a conflict of interest for the former defense attorney of a criminal defendant which would be Appellant to switch sides to the Commonwealth's Attorney who had prosecuted a case against the criminal defendant aka Appellant in the circumstances where the defense attorney has the easy ability to create an unfair advantage against the criminal defendant. 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). *Powell v. Commonwealth*, 3 Va. App. 555, 556 (Va. Ct. App. 1987) (“*When a trial court fails to initiate an inquiry when it knows or reasonably should know that a particular conflict may exist it is presumed that the conflict resulted in ineffective assistance of counsel.*”). *Powell v. Commonwealth*, 3 Va. App. 555, 556 (Va. Ct. App. 1987) (“*Where a probable risk of conflict of interest is brought to a trial court's attention, the trial judge must take adequate steps to ascertain the extent of a conflict of interest in joint representation.*”). The reason for Appellant’s concerns was documented in his declaration/affidavit (pg. 4236-4246). Appellant said under penalty of perjury the following statement (pg. 4244): “*...If this is the same Scott Albrecht, then I have no choice but to inform the Circuit Court that my Trial in the General District Court, I feel it was rigged against me. When my own court appointed lawyer who did a terrible job defending me, I am found guilty, no enforcement of court orders not complied with by Glen Andrew Hall that he pushed for as my defense attorney, no asking for sanctions for noncompliance with those court orders, and then a “Scott Albrecht” works for the very same prosecuting attorney who prosecuted me at the Trial in the General District Court on December 21, 2018, with Scott Albrecht as my defense attorney.*” The Trial Court should have conducted an inquiry into this before making a final decision on the Appellant’s motion for reconsideration. This sounds like a conflict of interest for a defense attorney to do a terrible job for a defendant, not pursuing any contempt of court charges or any enforcement

proceedings against the prosecutor of the criminal case of Appellant, and then years later joins that same prosecutor as an Assistant Commonwealth's Attorney. The concern for this assignment of error is this: Why this conflict-of-interest issue is extremely important and not merely some ineffective assistance of counsel issue. This issue is different. The error is that Scott Albrecht allowed the prosecutor to get away with unlawful deletion of evidence then works for the prosecutor at a later time and receiving a salary/money/\$\$\$ and any financial or any other benefits working for the prosecutor attorney Glen Andrew Hall. Appellant had proven to the Trial Court that: (1) There were three court orders proposed by defense Attorney Scott Albrecht (pg. 3921-3929) "*ORDERED that the Commonwealth's Attorney permit counsel for the Defendant to inspect and copy or photograph, within a reasonable time, before the trial or sentencing, the following...Any relevant written or recorded statements or confessions made by the Defendant, or copies thereof, or the substance of any oral statements or confessions made by the Defendant to any law enforcement officer, the existence of which is known to the attorney for the Commonwealth...*". (2) The Public Information Officer ("PIO") Kendall Davis had responded to Appellant's request under Virginia's Freedom of Information Act ("FOIA") by providing information directly from Chief of Police Rob Fincher proving that the body-camera footage had existed and was deleted on April 9, 2019, because it was not marked as evidence when it was the responsibility of the Commonwealth's Attorney Glen Andrew Hall to mark body-camera footage concerning Appellant as

material evidence (pg. 4093-4095, 4212-4214). (3) Appellant kept begging for the body-camera footage (pg. 3881-3891, 4139-4144, 3916-3918), Attorney Scott Albrecht did absolutely nothing, and allowed evidence to be permanently destroyed by deletion (pg. 4093-4095, 4212-4214). This assignment of error isn't attempting to portray the conflict-of-interest issue to that of ineffective assistance of counsel per se but is bringing up the issue of "fraud on the court" where both the defense counsel and prosecution had allowed evidence to be illegally deleted, allowed multiple court orders to never be complied with and neither enforced. The evidence would not have been destroyed if it was favorable to the prosecution against Appellant for indecent exposure. In fact, the prosecution would have loved to show the Trial Court the body-camera footage if it had painted Appellant as a pervert or somebody who was charged with making an obscene display. However, that was not what happened. The prosecution did everything they could to prevent the body-camera footage from ever being acquired by the defendant and his attorney. In fact, the police chief through the PIO said in their FOIA response letter (pg. 4094, 4213) that: "...*If I had the videos, I would have no problem giving them to you but unfortunately, I do not.*" The letter on the first page had said that it was up to the Commonwealth's Attorney to mark a video as evidence from Martinsville Police Department. They said from pg. 4093 and 4212, the following: "*If the Commonwealth's Attorney's Office designates a video as evidence it is retained indefinitely. All other videos are subject to the DVMS retention schedule...The DVMS begins cleanup when a video is within the*

minimum and maximum hold period for its event classification and when the disk usage is more than 80% and have not been accessed in 150 days. DVMS cleanup refers to changing the file allocation address of that data file to allow for other data to be stored in place of that file.”. So, the police department was not responsible for the unlawful destruction of the body-camera footage, it is clearly the responsibility of prosecutor Glen Andrew Hall. The public defender Scott Albrecht protected this prosecutor and now the evidence had shown that Scott Albrecht may actually be working for the prosecutor. There should have been inquiry on all of those issues presented before the judge of the Trial Court. The Trial Court had erred or abused discretion by conducting no inquiry and not asking Assistant Commonwealth Attorney Scott Albrecht on the record if he was the defense attorney for Appellant Brian David Hill, why he did nothing to preserve the evidence of the body-camera footage, on why he allowed Glen Andrew Hall to not comply with the court orders for discovery which is contempt of court, and why he had botched Appellant’s defense which would be favorable to Glen Andrew Hall, the Commonwealth’s Attorney, who had defrauded the court. Appellant asserted those arguments in his motion (pg. 3568-3581) to set aside or relief from judgment. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 2. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion

for relief (pg. 3543-3649) and Appellant's motion for reconsideration of the Trial Court's denial of Appellant's "MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE..." (pg. 4148-4206); when the Trial Court had overlooked evidence which was presented in support of Appellant's "fraud on the court" claims by Appellant which demonstrated that the Martinsville Police Officer named Robert Jones had lacked credibility as a witness who had initiated the indecent exposure charge against Appellant. The reason why he had lacked credibility was that he had changed his statements in a different courthouse while testifying under oath. In his initial charge, see pages 3651-3653 of the record, Officer Jones had said under oath in the Arrest Warrant that Defendant had: "*intentionally make an obscene display of the accused's person or private parts in a public place or in a place where others were present.*" He then stated under oath in the facts of the Criminal Complaint that: "*He was medically and psychologically cleared. He was arrested for indecent Exposure.*" He said that Appellant was "medically" cleared. Let us see if that is true or not true based on the record at a later time. See pages 3987-4008 of the record. Robert Jones had testified under oath in Federal Court in North Carolina over the same exact charge since Appellant was on federal supervised release. It is common sense that the same person who charged Appellant with making an obscene display would appear before the federal court under penalty of perjury to testify as a witness. He was questioned by Attorney Renorda Pryor and she was directed by Appellant and

his family to ask Robert Jones if Appellant had been obscene. He responded by saying under oath that Appellant had not been obscene. That right there is a contradiction of what he had signed and typed up under oath or affirmation in the Warrant for Appellant's arrest (pg. 3651). Not only that but was sure enough to say under oath that Appellant was medically and psychologically cleared. Appellant had argued the fraud of the witness Robert Jones where his statements do not match the Criminal Complaint and Arrest Warrant, meaning that the witness had lacked credibility after the original assumption that witness did not deliberately make an untruthful or false statement. Either the witness had lacked credibility or made multiple non-factual or untruthful statements. The truth is not the truth under oath when contradictions are made when stating the facts in contradiction with each other. Like for theoretical example for the argument: I first say I saw an apple on the way to the dentist office on January 1, whatever year it was, and I say so under oath in a court of law. Then let's say 10 months later I am in another court giving the same testimony but then I claimed under oath that I did not see an apple but an orange on the way to the dentist office on January 1, whatever year it was. It is quite clear that a witness contradicting himself/herself under oath as a witness creates a credibility issue where something wasn't truthful or something wasn't factual as previously presented before a judge and before a clerk of the court. He claimed Appellant was medically cleared but yet Appellant presents evidence in support of his motion which demonstrates that Officer Jones did not know for an absolute fact at all if Appellant

was medically cleared (See pg. 3558-3568, 3581-3590, 3592-3627). The record from the very motion itself demonstrated that Officer Jones didn't know that Appellant was even a type one diabetic, didn't know he had obsessive compulsive disorder (OCD), didn't know that lab tests were ordered but were deleted from the chart, and never drug tested Appellant but yet said under oath that Appellant was "medically and psychologically cleared". I don't know how he would know whether Appellant was "medically and psychologically cleared" but yet he knows nothing of Appellant having insulin dependent diabetes, and didn't have the lab tests or drug tests saying if Appellant was A-Okay. There was none of that. A lot of assumptions from Robert Jones, but those are not facts, they are assumptions. It is clear that the very officer who had charged Appellant had lacked credibility. His claims were not truthful and not factual when other evidence comes to light in the Trial Court. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 3. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant's motion for relief (pg. 3543-3649) and Appellant's motion for reconsideration of the Trial Court's denial of Appellant's "MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE..." (pg. 4148-4206); when the Trial Court judge had failed to follow his ministerial duties of charging Commonwealth's Attorney Glen Andrew Hall with contempt of

court under Virginia Code § 18.2-456. Appellant had argued in his motion for relief that Glen Andrew Hall of the Commonwealth of Virginia had committed contempt of court (pg. 3568-3581) by not following or ignoring multiple court orders (pg. 3921-3929) which had ordered him to turn over the discovery materials to the defendant's counsel for defendant to review over with his attorney. Instead, the Commonwealth Attorney had not marked the body-camera footage as evidence (pg. 4093-4095, 4212-4214) which had been an act to not follow an order of the court. In fact, Appellant had filed a copy of his FOIA request (pg. 3851-3858) in support of the motion and later received a response (pg. 4093-4095, 4212-4214) from the Public Information Officer proving that Glen Andrew Hall was solely responsible for marking the body-camera footage as evidence. The very same body-camera footage which the court orders (pg. 3921-3929) had specified in its orders for discovery. Appellant had proven beyond doubt that a contempt of court was committed at least one time if not two or three times. The Trial Court judge has a ministerial duty under law to charge a contemnor with contempt of court when evidence is presented to the judge and the clerk in support of the claims of contempt of court. Those claims had been proven after the FOIA response letter from Kendall Davis (pg. 4093-4095, 4212-4214). Some form of relief should have been afforded to Appellant or the Trial Court should have at least charged Glen Andrew Hall with contempt of court under Virginia Code § 18.2-456(A)(4) and (A)(5). Even if arguably the Commonwealth's Attorney could be legally immune from all criminal charges, the Trial Court has the

authority of law and the exercise of law to hold an attorney accountable for contempt of court. The Trial Court could have even recommended investigation by the Virginia State Bar of the Supreme Court of Virginia. The Trial Court failed and neglected to do their duty to safeguard the administration of justice from fraud, abuse, and acts of non-compliance with an order of the court. If Appellant had decided not to follow a court order and got caught, he would surely be charged with contempt of court with hardly any way out of it, he would be convicted of contempt if Appellant had done the same thing as Glen Andrew Hall had done. A government must not be a lawbreaker even under the guise/facade of prosecuting a "private criminal", and that includes the Commonwealth Attorney. See the wise words of the U.S. Supreme Court in the case law authority of *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.”). What if the private criminal wasn’t a private criminal? What if evidence being illegally covered up was to cover up evidence of innocence? Does it matter that court orders have been violated here? What does it mean when a court order is disregarded/disobeyed by a party to a criminal case? Theoretically could Appellant get away with the same type of misconduct as Glen Andrew Hall of Appellees of not following any court order at will? Is Appellees above the law? Can the Commonwealth of Virginia be given free rein to just decide not to follow any order of the judge if such court order may hurt the prosecution? Is this not fraud or contempt or what not? It is clear that Glen Andrew Hall needs to be charged and prosecuted for contempt of court. The Trial Court has the discretion but also has a duty to ensure that penalties are enacted against anybody who disobeys/defies a court order or decree or directive from a judge. That is the law, and is the matter of law. The Trial Court is supposed to be a court of law. It is an error or abuse of discretion, a failure of duty, a dereliction of duty, to not charge Glen Andrew Hall with contempt of court in response to the motion and evidence filed by Appellant as demonstrated in this assignment of error. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 4. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion for relief (pg. 3543-3649) and Appellant’s motion for reconsideration of the Trial

Court's denial of Appellant's "MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE..." (pg. 4148-4206); when the Trial Court had overlooked valid legal arguments and evidence of proving extrinsic fraud which was presented in support of Appellant's "fraud on the court" claims by Appellant which demonstrated that a new Police Chief Rob Fincher admitted in writing by Public Information Officer ("PIO") Kendall Davis (pg. 4089-4095), admitted that the body-camera footage which the Circuit Court/Trial Court had ordered the Commonwealth's Attorney aka Appellees multiple times (pg. 4081-4088), was deleted without ever being marked as evidence in complete violation of court orders for discovery and prevented the Appellant from presenting a fair submission of the controversy to the court. It is extrinsic fraud because of multiple common-sense reasons why in the evidence submitted in support of Appellant's motion for setting aside judgment/order or relieving Defendant of the judgment/order upon evidence of fraud on the court. The prima facie evidence is what was in the three-page letter from PIO Kendall Davis (pg. 4093-4095) mirroring what Police Chief Rob Fincher admitted in that letter. **Common Sense reason #1:** The body-camera footage had been illegally destroyed as admitted by new Police Chief Rob Fincher (pg. 4093-4095) on the date of February 10, 2023. The final judgment/order of the Trial Court closing the criminal case litigation without the timely filed appeal was on the date of November 18, 2019 (pg. 3920-3920). The timely filed criminal case appeal where its final decision was made by the Court of

Appeals of Virginia was rendered on the date of September 6, 2021, on the opinion by the Court of Appeals of Virginia rendered on that date (See Hill v. Commonwealth, Record No. 1294-20-3 (Va. Ct. App. Sep. 2, 2021); Hill v. Commonwealth, Record No. 1295-20-3 (Va. Ct. App. Sep. 2, 2021). Almost two years later, Appellant had learned from a new police chief in Martinsville Police Department where the record supports this notion (*name of new police chief is named in three-page FOIA response letter*), named Rob Fincher. Appellant files a Motion (pg. 3543-3649) asking for relief from judgment/order or setting aside judgment on the basis of fraud on the court. As part of that initiative, Appellant had filed a Freedom of Information Act Request (pg. 3851-3858) asking about the existence of the body-camera footage, and the Police Department policies regarding the body-camera footage retention. Addendum filing was entered when Kendall Davis had given an invalid response to Appellant's FOIA request which is at issue for his Motion for relief due to fraud on the court. See pg. 4064-4088. The letter was addressed to both the judge of the Trial Court and the Clerk of the Trial Court, so this is part of the record necessary for this assignment of error. Kendall Davis the PIO had acknowledged his mistake of submitting the wrong response and submitted the correct response (pg. 4089-4099) to Appellant's FOIA request which concluded his **Exhibit 12 evidence** (pg. 3851-3858) in support of his motion requesting relief due to fraud on/upon the court. The Trial Court did not appropriately enter a decision denying or granting the motion until that evidence was entered or reviewed. The

order denying his motion (pg. 4120-4120) was made around the same time or same day on record of a status letter which was filed with the very judge and clerk of the Trial Court (pg. 4131-4147) regarding the prima facie proof of extrinsic fraud. It is extrinsic fraud because it is the Police Department of the City of Martinsville and Commonwealth of Virginia which admitted on February 10, 2023 that the body-camera footage had once existed and was deleted in contradiction/defiance to the court orders for discovery. **Common Sense reason #2**: The evidence was extrinsic fraud because no prima facie evidence (*something in writing from a credible source or credible witness, THE POLICE CHIEF!!!*) had existed on the record of the Trial Court prior to February 10, 2023 proving beyond a reasonable doubt as to the unlawful destruction of the body-camera footage. No written proof or statements from somebody working in Martinsville Police Department represented by Appellees until the letter from PIO Kendall Davis (pg. 4089-4099) which had responded to Appellant's FOIA request (pg. 3851-3858) for evidence at-one-time in the possession of Martinsville Police Department before that piece of evidence was unlawfully deleted and destroyed which did not comply with multiple court orders (**EXHIBIT #22**, pg. 3921-3929) asking for the discovery evidence. All of that was appropriately submitted to the Court in support of Appellant's request for relief from the judgment/order convicting Appellant of indecent exposure on November 18, 2019 (**EXHIBIT #21**, pg. 3919-3920). Appellant had finally proven that the body-camera footage was deleted after the multiple court orders asking for the very thing

which was deleted. That itself is evidence of CONTEMPT OF COURT. Appellees should have been separately charged with contempt of court in the Trial Court and the charge should have been initiated by the Trial Court; whether fraud was proven or not on a separate issue. Anyways back to the next common-sense reason.

Common Sense reason #3: Violating any law and violating any court order whether state or federal has consequences. Violating any federal, state, or local law has consequences. That includes willful failure or refusal/disobedience to follow court orders and that includes destroying evidence during a FEDERAL INVESTIGATION by the United States Probation Office. All of that is on the record of the Trial Court. First of all, Police Chief G. E Cassady (pg. 3889-3895, **EXHIBIT #13:** 3859-3864) and Commonwealth Attorney Glen Andrew Hall are both potentially liable for not just violating court orders but the police chief would possibly be liable for destruction of evidence during a pending investigation or case by the United States Probation Office who supervises Appellant for a federal conviction, and that sentencing is on the record of the Trial Court (pg. 217-223 and **EXHIBIT #2:** pg. 3654-3735). The transcript of the supervised release violation hearing mentions nothing about the introduction of the body-camera footage because the Martinsville Police Department never turned over that evidence from the state case to the federal investigation by the U.S. Probation Office. That itself proves evidence was willfully kept from the United States Probation Office after investigating the supervised release violation charge of Brian David Hill, the

Appellant, in 2018. That means either the Commonwealth’s Attorney Glen Andrew Hall, Esq. aka Appellees at the Trial Court level (*Note: Attorney General did not violate federal law and did not violate the court orders themselves since they including Justin Hill just represents Appellees at the Appellate level, Appellant is not blaming the Attorney General but refers to Glen Andrew Hall, Esq. as to Appellees*) or Martinsville Police Chief G. E. Cassady had violated 18 U.S.C. § 1519. The motion to reconsider (pg. 4189-4191) also brought up the issues of federal law being violated here. Not just violating the court orders and committing contempt of court two or three separate times (pg. 4186-4188). Family provided link for citation of lawyer page <https://www.criminaldefenselawyer.com/crime-penalties/federal/Tampering-with-evidence.htm> (“**A person commits the federal crime of tampering with evidence** when **he or she knowingly** alters, **conceals**, falsifies, or **destroys any record, document, or tangible object** with **the intent** to **interfere with an investigation, possible investigation, or other proceedings by the federal government**. (18 U.S.C. § 1519.)”). United States Probation Officers are federal officers and lying to a federal probation officer is a federal crime. Hiding evidence then destroying or deleting evidence which exists at one time with the purpose of interfering with a proper investigation or any possible investigation conducted by a federal agent or federal officer. The destroyed and deleted evidence was the BODY-CAMERA footage on record (pg. 4093-4095) which isn’t just fraud on the court, it is violation of both court orders and federal law of a U.S. Probation

Office investigation into Appellant's state charge, supervised release revocation or charge, and conviction by the General District Court and later with the Trial Court. This proves with the prima facie evidence that former Police Chief G. E. Cassady and/or Glen Andrew Hall, Esq. of Appellees would be potentially held liable criminally and/or civilly for the act/acts of evidence destruction and deletion after court orders (**EXHIBIT #22**, pg. 3921-3929) asking to provide the evidence to the Defendant and/or his attorney. The final argument for this third common sense reason is this. The Police Department will not admit they illegally destroyed the body-camera footage themselves if it would or could create both criminal and/or civil liability issues for the Police Chief if responsible for the wrongdoing at the top. Police Chief G. E. Cassady never would have admitted that they concealed from the Trial Court the body-camera footage evidence which Attorney Scott Albrecht had caused/filed a proposed court order asking for that very thing and was signed by the judge, then they secretly deleted the body-camera footage (pg. 4093-4095) on APRIL 9, 2019, while Appellant was sitting in a Federal Prison (pg. 81-98) and was released on federal bond on May 14, 2019, a month after the body-camera footage was illegally deleted. Appellant had mailed letters (**EXHIBIT #15**: pg. 3871-3895; pg. 4139-4144) to the Police Chief asking for that very piece of evidence without realizing that multiple court orders (**EXHIBIT #22**, pg. 3921-3929) were already on file with the Trial Court record ordering the body-camera footage and any other material evidence under Brady v. Maryland of the U.S. Supreme Court. The deletion

of the very evidence was not a mistake with the paper trail, the letters to the Police Chief including one by certified mail and was typed up by Brian Hill's family members (pg. 4139-4144). It is clear that the former police chief G. E. Cassady could very well be held liable. If the letters to the police chief were mailed from a Federal Prison, there may very well be mailing logs by the Federal Bureau of Prisons which Appellant can introduce as evidence if the conviction/judgment is set aside. Appellant would potentially have even more prima facie evidence in the future if prevailing on the three appeals (CAV No. 0313-23-3, 0314-23-3 and 0317-23-3) this brief is filed for. It is clear that the police chief had plenty of chances to follow the court orders when the Appellant had mailed letters to the police chief about the body-camera footage. The letter from the PIO Kendall Davis through Police Chief Rob Fincher (pg. 4093-4095) proves that the body-camera footage did IN FACT exist and was deleted while not complying with the Court Orders and not ever providing a copy to the United States Probation Office during its initial investigation and supervised release violation charge against Appellant. **The argument is this. LIABILITY**, that is the final argument for this common-sense reason. The former police chief would never have admitted to the destruction of the body-camera footage regardless of Appellant filing a FOIA request. It is common sense to wait until a new police chief is appointed or is designated (by retirement of former police chief) to be the top chief position of Martinsville Police Department. A new police chief comes in, admits the evidence was deleted in violation of court orders. That

makes this piece of evidence destruction, the prima facie evidence is EXTRINSIC FRAUD. Not intrinsic fraud. It is extrinsic because of the liability issues with the former police chief. The FOIA request was filed in 2023 (pg. 3851-3858), when Rob Fincher (pg. 4093-4095) was the police chief of Martinsville Police Department. The criminal appeal had concluded in September, 2021. The final verdict of guilty/criminal conviction was on November 18, 2019 (pg. 3920-3920). The discovery of the extrinsic fraud proof was on February 10, 2023, the date of receipt of the FOIA response letter and that same day it was filed with the Trial Court as evidence (pg. 4089-4099) in support of the Motion asking for relief before the Trial Court rendered its order/judgment (pg. 4120-4120) denying that motion. Rob Fincher the new Police Chief would not be held criminally and/or civilly liable for the destruction of evidence pursuant to the court orders for discovery and potential evidence for the United States Probation Office who charged Appellant with a supervised release violation for the very state criminal charge and conviction at issue with this entire appeal and with past appeals with the Court of Appeals of Virginia, this court. So, for him, he had no issue with his written/typed information proving that the body-camera footage was illegally destroyed thus proving prima facie evidence of fraud on the court. Former Police Chief G. E. Cassady (pg. 4139-4143) would have had an issue with the body-camera footage ever being admitted in writing as to being deleted. **Common Sense reason #4**: Appellant's past claims of the body-camera footage at issue in any older appeals was only based on what he

heard from his court appointed lawyer Matthew Scott Thomas Clark (pg. 4072-4088) in the Trial Court from 2019. The only evidence Appellant had until February 10, 2023, was in an affidavit about what he heard from his own lawyer, and that may be considered “hearsay”. May be considered ‘hearsay’ when the only evidence Appellant had of the unlawful destruction of the body-camera footage was of what he heard from his court appointed lawyer. That lawyer provided no written statements, had produced no written statements, and had no affidavits of himself/herself about what was told to Appellant. Appellant had filed a FOIA request with no guarantee that any good response could come of it. The Virginia’s Freedom of Information Act (FOIA) law doesn’t matter when it comes to the human brain, and only legally pertains to existing records not under a justified exemption under law. The police chief could have denied Appellant’s FOIA request and claim that Appellant was delusional or just simply plead the Fifth Amendment out of fear of facing criminal and/or civil liability. Appellant would not be able to easily prevail if the police chief could instead doubled down or tripled down or claim there was no body-camera footage and then the FOIA request would have been deemed satisfied by simply claiming no record exists, even by a judge of the highest Court in the United States. The FOIA is not a guarantee to find evidence favorable to a criminal defendant once a criminal case is either dismissed or receives a verdict of guilty then becomes a final verdict of the defendant in the case. The FOIA is not a guarantee while a criminal case is pending before the General District Court and/or the Circuit

Court of any district. A law cannot guarantee the FOIA request prevails if the police chief could just claim that no possible record exists including the body-camera footage. However, the police chief did admit the existence of the body-camera footage evidence during a past Police Chief and his administration in 2018-2019. A new police chief was not worried about any potential criminal and/or civil liability. So, the police chief admits it was destroyed under the previous boss. **FINAL ARGUMENT AS TO Common Sense reasons**: Therefore, it is EXTRINSIC FRAUD. All Common-sense reasons are given as to the argument that the fraud proof is not intrinsic fraud but is extrinsic fraud, prima facie evidence, and is therefore subject to relief under 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. Extrinsic fraud is “conduct which prevents a fair submission of the controversy to the court.” Id. (quoting Jones v. Willard, 224 Va. 602, 607, 299 S.E.2d 504, 508 (1983)). Extrinsic fraud includes: “[k]eeping the unsuccessful party away from the court by a false promise of a compromise, or purposely keeping him in ignorance of the suit; or where an attorney fraudulently pretends to represent a party[] and connives at his defeat.” McClung v. Folks, 126 Va. 259, 279, 101 S.E. 345, 348 (1919); accord F.E. v. G.F.M., 35 Va. App. 648, 660, 547 S.E.2d 531, 537 (2001). In such circumstances, the fraud perpetrated “prevents the court or non-defrauding party from discovering the fraud through the regular adversarial process.” F.E., 35 Va. App. at 660, 547 S.E.2d at 537 (quoting Peet, 16 Va. App. at

327, 429 S.E.2d at 490). “Extrinsic fraud, therefore, is ‘fraud that . . . deprives a person of the opportunity to be heard.’” Id. (quoting Hagy v. Pruitt, 339 S.C. 425, 431, 529 S.E.2d 714, 717 (S.C. 2000). See preservation of argument in pg. 3556-3556. Deleting evidence and preventing it from ever going to the Defense after multiple court orders is a type of fraud which “deprives a person of the opportunity to be heard.” Under the **Wigmore standard**, evidence destruction/spoliation is fraud and indicates that the case is a weak or unfounded one. The **Wigmore standard of evidence** is used by courts all across the United States of America regarding evidence and fraud. See Evidence in Trials at Common Law § 278, at 133 (James H. Chadbourn ed., rev. ed. 1979): (“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, and all similar conduct 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. The inference thus does not necessarily apply to any specific fact in the cause, but operates, indefinitely though strongly, against the whole mass of alleged facts constituting his cause.”; Quote from John H. Wigmore) *Note: Family obtained for Appellant from <https://www.lawasitis.com/judgment-obtained-by-fraud-american-jurisprudence-quote/> - Judgment obtained by Fraud - American Jurisprudence Quote.* The Wigmore argument was also argued on the record of the

Trial Court in Appellant's motions, see pg. 3558 (*16th page of the first denied Motion based on fraud on the court at issue in this appeal*); pg. 4161-4163 (*page 14 through 16 of denied Motion to Reconsider denying the first motion. Motion to reconsider starts at pg. 4148 of the Trial Court record.*)). **Black's Law Dictionary (11th Edition) defines spoliation as the intentional destruction, mutilation, alteration, or concealment of evidence. Spoliation interferes with a party's ability to investigate the facts to determine potential causes of action (or defend against claims and lawsuits).** Appellant has proven based on the record of the Trial Court that Wigmore standard was argued in the very motion which was denied and thus preserves that issue for appeal, and that extrinsic fraud was found and proven by the statements from the new police chief Rob Fincher of the City of Martinsville in Kendall Davis's response to Appellant's FOIA request. All of that has been proven and is on the record. The Court of Appeals of Virginia can make independent findings of the arguments laid before the Trial Court in the Motions in pages 3543-4008 of the record for the first motion and pages 4148-4254 and 4257-4276 of the record for the second motion. This Assignment of Error has established from the record of the Trial Court that the Trial Court had overlooked valid legal arguments and evidence of proving extrinsic fraud which was presented in support of Appellant's "fraud on the court" claims. Extrinsic fraud had been proven and thus Appellant had been entitled to relief and the Trial Court had erred. For arguments sake, if the body-camera footage had been favorable to the Commonwealth of

Virginia and City of Martinsville, the Appellees, then that never would have been deleted. In fact, the Commonwealth Attorney would have presented the body-camera footage in General District Court and it would have been used against the Appellant as tangible evidence, irrefutable evidence on video. The fact that the video was deleted and not marked as evidence meant that (theoretically) if the video had been viewed by the Officer or prosecution, saw things in the body-camera footage which would have caused the judge or jury to have second thoughts or consider a not-guilty verdict on both the obscenity element and the intent element. The body-camera footage must have been fatal to the Appellees in their fraudulent prosecution, and would have caused a non-favorable verdict. Adverse inference is also warranted here since the prima facie proof is given to the Trial Court and the adverse inference was preserved in the record of the Trial Court (see pg. 3553, 3580-3581, 4089-4099). Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 5. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant's motion for relief (pg. 3543-3649) and Appellant's motion for reconsideration of the Trial Court's denial of Appellant's "MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE..." (pg. 4148-4206); when the Trial Court had overlooked that there was enough evidence of fraud that no criminal conviction should have ever been sustained in the

first place. The evidence cited and arguments made in **Assignment of Error 4** have demonstrated that evidence was unlawfully destroyed by the Appellees (*Note: Not Justin Hill and not the Attorney General, as he and the Attorney General's office only represents Appellees at the Appellate level which the lower Trial Court case was prosecuted under Glen Andrew Hall, Esquire*). Appellant had provided enough prima facie evidence that the entire basis for the criminal charge (pg. 3650-3653) and the entire basis for the conviction (pg. 3920-3920) should have never had any guilty verdict in the first place. There never should have been a conviction. First of all, Appellant had argued in his first motion (pg. 3581-3622) that Appellant was never medically cleared because the laboratory tests were never completed after being ordered (pg. 3688-3689, 3909). The police never drug tested Appellant, and even if there is no law in Virginia requiring them to do any laboratory work on a suspect whom they arrested for indecent exposure, it does completely disprove the element of (pg. 3653) "He was medically and psychologically cleared." When an element has been completely disproven, it is a fraud on the court. Even Officer Robert Jones admitted under penalty of perjury that he never knew Appellant was diabetic (pg. 3614-3616, 3688, 3836-3841) considering how important it is for the arresting police officer Robert Jones to know that Brian the Appellant was diabetic which required INSULIN SHOTS and glucose upon hypoglycemia. Appellant was arrested by an officer who said under oath that Appellant was medically cleared but the hospital didn't even check his blood sugar and the officer never checked

Appellant's medical records (pg. 3688-3689) and knew nothing of the permanent health issue of type one diabetes. Appellant could have DIED IN CUSTODY since the arresting officer Robert Jones didn't even know that Appellant was diabetic. He was not medically and psychologically cleared. The only witness who charged Appellant with making an obscene display had lacked credibility (See pg. 3581-3590; DECLARATIONS/AFFIDAVITS pg. 3987-4008). The witness Robert Jones lacked credibility by claiming Appellant had made an obscene display which was why he was charged with indecent exposure (pg. 3650-3653). The sole basis of obscenity when Appellant was charged then arrested was based on a fraud since the information was not credible and not factual, the medically and psychologically cleared element of his criminal charge and arrest was based on a fraud and was not credible and neither was it factual. All of that was argued (pg. 3543-3649) with supporting evidence (pg. 3650-3986, 3987-4008) included within the Appellant's motion and subsequent supportive filings (pg. 4064-4088, 4089-4114). There is evidence of body-camera footage deletion in violation of court orders as already documented in **Assignment of Error 4** and the U.S. Probation Officer being ignorant about the body-camera footage and the U.S. Attorney who prosecuted the Appellant was ignorant of the body-camera footage. Nobody knew in the Federal Court that such evidence was proven to have existed. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 6. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion for relief (pg. 3543-3649) and Appellant’s motion for reconsideration of the Trial Court’s denial of Appellant’s “MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...” (pg. 4148-4206); when the Trial Court had not held any evidentiary hearing or inquiry hearing before its three court orders denying Appellant’s motions when there was enough evidence of fraud of both extrinsic and intrinsic. See the motion (pg. 3543-3649) with supporting evidence (pg. 3650-3986 and 3987-4008) included within the Appellant’s motion and subsequent supportive filings (pg. 4064-4088, 4089-4114). The **Assignment of Error 4** had already argued factually and legally that the body-camera footage destruction had been proven with the FOIA response letter, and it had proven that three court orders (**EXHIBIT #22**, pg. 3921-3929) regarding discovery were not complied with by Glen Andrew Hall, Esquire. It is clear that some sort of hearing or contempt of court charge was warranted here. Appellant had provided the “judge” of the Trial Court with clear and convincing evidence. A Police Chief, is credible evidence/witness, the top police officer of Martinsville Police Department, a higher position of legal authority than the lower position of charging police officer Robert Jones who arrested Appellant for the charge of indecent exposure. The Police Chief is a credible witness, and a judge of the Trial Court is supposed to take the word of a credible witness, especially a top

law enforcement officer who admitted what date the body-camera footage was deleted from the DVMS system (pg. 4094-4094) which was on April 9, 2019. Based on **every other assignment of error**, the evidence is enough to warrant at least an inquiry hearing or evidentiary hearing to determine the extrinsic fraud and if there is enough to legally require that the Trial Court consider vacating the criminal conviction (pg. 3920-3920) or setting it aside. The whole point of deterring fraud upon the court or fraud on the court is to keep the criminal records truthful, credible, legal, and factual. Same with the civil records, keeping them truthful, credible, legal, and factual. When a charge is potentially false or is based on false pretenses or has one or more fraudulent elements, there should be no criminal conviction to be sustained. If a conviction is sustained on fraud or frauds, then nobody will see the credibility of any record of the Trial Court that allows fraud to be considered the valid verdict of a case or cases. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 7. This Court should extend and/or modify existing law to hold that the Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant's motion for relief (pg. 3543-3649) and Appellant's motion for reconsideration of the Trial Court's denial of Appellant's "MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE..." instead of

initiating one, two, or three contempt of court charges or inquiries to determine whether the Appellees at the Trial Court level (Not Appellate level) such as Glen Andrew Hall, Esquire, and Assistant Commonwealth's Attorney Scott Albrecht have intentionally disobeyed one, two or three court orders in such an egregious way as to the inability to recover evidence which has been permanently destroyed/deleted and spoliated (spoliation). That under the law and the rule of law, any officer of a court who had deceived the judge of the court by concealing the existence of evidence then it was reported as deleted at a certain date years later by not being marked as evidence, then that officer had defrauded the court. Not just defrauded the court but has refused to follow one or more court orders. See Va. Code § 18.2-456 ("4. Misbehavior of an officer of the court in his official character; 5. Disobedience or resistance of an officer of the court, juror, witness, or other person to any lawful process, judgment, decree, or order of the court"). See what was argued in the Motion for Reconsideration (Pg. 4148-4206) and its supporting exhibits (pg. 4207-4254). It is clear that when a court order is not followed and the Commonwealth's Attorney can get away with it without any penalty or sanction, no punishment, then it creates issues of an untrustworthy prosecutor. See article citation (given to Appellant by family and Appellant did not use internet) <https://www.city-journal.org/article/untrustworthy-prosecutors> - Untrustworthy Prosecutors | City Journal, ("Under two Supreme Court cases, Brady v. Maryland and Giglio v. United States, prosecutors are constitutionally required to disclose to defense lawyers the

credibility problems of potential prosecution witnesses, such as a history of lying or drug use. Police officers are justifiably warned that lying in any capacity can not only endanger their ability to testify but also result in termination.”). Termination meaning termination from their employment, their career is gone. See the argument from Appellant’s motion to reconsider (pg. 4185-4186) arguing the potential issues of allowing the prosecutor Glen Andrew Hall, Esquire of Appellees to totally get away with a fraudulent prosecution and disobeying court orders without any repercussions or consequences creates a lawless Government (pg. 4188-4189). See what was argued in the record of the Trial Court in *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.”). It is not just the law for a judge or Clerk to charge a person or lawyer for disobeying a court order, it prevents anarchy. It

prevents vigilantism. It prevents the average American people from trying to become a law unto himself. Usually, the average citizen respects the law and that only lawbreakers are punished when each suspect is proven to have broken the law in a court of law under the exercise of due process of law. When a Commonwealth Attorney or District Attorney decides to disobey the law or disobey even a court order, then it is the duty of the court to sanction or have penalties against the Commonwealth Attorney or District Attorney to at least give the appearance of the rule of law, equal protection of law. The rule of law requires that everyone obey the law including the Government, including the law enforcers, otherwise the law is set up for only a certain class or tier of people. This would turn America into the caste system which is a class-based system (pg. 4192). Where government lawyers can break the law and even rob innocent people of their money, while the average person is held accountable to the law even when no law was broken. A system of slavery where the 13th Amendment can be abused to bring slavery back to the average citizen of the United States of America, where no crime has to be proven to imprison and enslave a prisoner. No crime even has to exist to enslave somebody. What kind of world? What kind of society do we want? Do we want a society based on merits or based on who is in a position of power? Are we the rule of law or law of man (pg. 4193)? Anyways, the motion for reconsideration at issue for this assignment of error brings up the horrible consequences of allowing Glen Andrew Hall to break the law and never face any justice. See pg. 4185-4187, 4190-4191. Statement of the Facts

are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47). Relief is warranted, motions should have been granted.

Assignment of error 8. The Trial Court should have granted either the Motion for relief (pages 3543-3649) or the Motion to Reconsider (pg. 4148-4206) on the basis of the Statement of the Facts (See Statement of the Facts in Appeal Brief Pg. 37-47), all material evidence and relevant evidence within the Statement of the Facts of both motions, and based on the law.

The Assignments of Error are the most necessary issue in this brief since this Court will only take notice of the assignments of error.

**STATEMENT OF THE NATURE OF THE CASE AND MATERIAL
PROCEEDINGS BELOW**

Brian David Hill, the Appellant, filed a motion on or about January 26, 2023 entitled: “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” (pages 3543-3649). This motion itself has twenty-five (25) Exhibits of evidence, four (4) evidence Declarations under oath/penalty of perjury, ADDENDUM TO FOIA REQUEST TO MARTINSVILLE

POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST
(ORIGINALLY JANUARY 20, 2023) (Pg. 4064-4071), response to Appellant’s
FOIA request (pg. 4089-4119).

The Circuit Court had entered a judgment/order (pg. 4120-4120) denying Appellant’s motion (pg. 3543-3649) for setting aside or relieving defendant of judgment 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. That was in the Circuit Court for the City of Martinsville. Case number is CR19000009-00. That decision was made on February 14, 2023.

In summary, after the quick and expedient denial of the first motion, Brian David Hill, the Appellant, had filed a second motion (pg. 4148-4206) to reconsider the order (pg. 4120-4120) denying Appellant’s motion (pg. 3543-3649) for setting aside or relieving defendant of judgment 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. That motion was filed on February 17, 2023.

The Circuit Court had entered a second judgment/order (pg. 4255-4255) denying Appellant’s second motion (pg. 4148-4206) to reconsider the order (pg. 4120-4120) denying Appellant’s motion (pg. 3543-3649) for setting aside or relieving defendant of judgment 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. That was in the Circuit Court for the City of Martinsville. Case number is CR19000009-00. That decision was made on February 17, 2023. Same day that motion was filed, it was denied.

Appellant's mother Roberta Hill who files online (internet, filing by email) on Appellant's behalf due to his federal supervised probation conditions where he cannot use the internet, Roberta had filed concerns that Appellant made a clerical mistake in not including all evidence (missing evidence) and notification was given to both the Clerk and the judge of the Trial Court (pg. 4257-4276). The judge of the Trial Court had considered this clerical mistake of certain evidence not being attached to a previous filing/pleading by entering the final third judgment/order (pg. 4277-4277) denying Appellant's second motion (pg. 4148-4206) with consideration of the clerical mistake (pg. 4257-4276) but had still denied Appellant's second motion to reconsider the order (pg. 4120-4120) denying Appellant's motion (pg. 3543-3649) for setting aside or relieving defendant of judgment 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. That was in the Circuit Court for the City of Martinsville. Case number is CR19000009-00.

The Appellant had filed a Notice of Appeal (1) on February 21, 2023 (pg. 4278-4291) appealing the judgment/order (pg. 4255-4255) on February 17, 2023 denying Appellant's motion (pg. 4148-4206).

The Appellant had filed a Notice of Appeal (2) on February 21, 2023 (pg.

4292-4306) appealing the judgment/order (pg. 4120-4120) on February 14, 2023 denying Appellant's motion (pg. 3543-3649).

The Appellant had filed a Notice of Appeal (3) on February 21, 2023 (pg. 4313-4325) appealing the judgment/order (pg. 4277-4277) on February 21, 2023 denying Appellant's motion (pg. 3543-3649) when this decision was made after clarification of missing evidence.

There are no transcripts as there were no hearings by the Circuit Court in regards to the Motions for relief due to fraud on the court. They were denied without any evidentiary hearing, denial without ordering or conducting any inquiries, and were denied without any concurring opinion or reason as to why they were denied. In the previous appeals which are all consolidated with the three appeals for this final appellant brief, the judge had stated that he had no jurisdiction to make a decision over Appellant's motions for new trial and/or judgment of acquittal. The judge did not assert lack of jurisdiction in the three orders of motions being denied at issue for the three most recent appeals cases no. 0313-23-3, 0314-23-3 and 0317-23-3.

STATEMENT OF THE FACTS

1. The Commonwealth may have their own "Statement of the Facts" as is their right, but the Appellant will present his own Statement of the Facts based upon what was filed in the Motion for relief and Motion for reconsideration of denying Appellant's motion for relief.

2. For the sake of brevity and the word limit, Appellant will not reproduce

the entire “STATEMENT OF THE FACTS” in the first “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” in this Opening Appeal Brief. Therefore, Appellant hereby incorporates by reference, as if fully set forth herein, all Statement of the Facts in pages 3563-3622 of the record from the Trial Court submitted by the Clerk.

3. For the sake of brevity and the word limit, Appellant will not reproduce the entire “STATEMENT OF THE FACTS” in the second “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”” in this Opening Appeal Brief. Therefore, Appellant hereby incorporates by reference, as if fully set forth herein, all Statement of the Facts in pages 4155-4194 of the record from the Trial Court submitted by the Clerk.

4. Appellant had filed a “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” (3543-3649). This was pursuant to Virginia Code § 8.01-428(D), Virginia Code § 8.01-428(A) AND Virginia Code § 8.01-428(B). This motion itself has Exhibits of evidence:

EXHIBIT/EVIDENCE/PLEADING (Pg. 3641-3645)	PAGE RANGE
EXHIBIT 1: PHOTOCOPY OF ARREST WARRANT AND CRIMINAL COMPLAINT IN GENERAL DISTRICT COURT - 09-21-2018	3650-3563
EXHIBIT 2: TRANSCRIPT OF THE SUPERVISED RELEASE REVOCATION HEARING BEFORE THE HONORABLE THOMAS D. SCHROEDER UNITED STATES DISTRICT JUDGE; CASE NO. 1:13CR435-1; September 12, 2019 3:37 p.m.; Winston-Salem, North Carolina	3654-3735
EXHIBIT 3: Billing Record from Sovah Health Martinsville; ADMITTED 09/21/18, DISCHARGED 09/21/18	3736-3740
EXHIBIT 4: NIH NATIONAL CANCER INSTITUTE, peripheral venous catheter	3741-3742
EXHIBIT 5: NIH NATIONAL CANCER INSTITUTE, delirium	3743-3744
EXHIBIT 6: (1) 3% Sodium Chloride Injection, USP; (2) Sodium Chloride _ NaCl – PubChem; (3) Sodium_chloride	3745-3818
EXHIBIT 7: STATUS REPORT OF PETITIONER SEPTEMBER 27, 2018, RE-MAILED ON OCTOBER 10, 2018	3819-3830
EXHIBIT 8: EXHIBIT IN FEDERAL COURT RECORD, containing Doctor letter from Dr. Shyam E. Balakrishnan, MD	3831-3833

EXHIBIT 9: EXHIBIT IN FEDERAL COURT RECORD, containing Doctor letter from Andrew Maier, PA-C	3834-3836
EXHIBIT 10: DISABLED PARKING PLACARDS OR LICENSE PLATES APPLICATION and a page of a medical record from Carilion Clinic	3837-3842
EXHIBIT 11: EXHIBIT IN FEDERAL COURT RECORD, containing Autism TEACCH papers	3843-3850
EXHIBIT 12: URGENT LETTER TO MARTINSVILLE POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST and Fax Transmission Tickets	3851-3858
EXHIBIT 13: Photographs and photo-scans (photocopies) of evidence Martinsville Police ignored evidence envelope, Police Chief G. E. Cassady had signed Return Receipt on August 7, 2019.	3859-3864
EXHIBIT 14: Printout of Virginia State Bar page, Rule 3.8 - Professional Guidelines and Rules of Conduct - Professional Guidelines	3865-3870
EXHIBIT 15: Excerpt of: “EXHIBIT 2 for EVIDENCE FOR MOTION FOR JUDGMENT OF ACQUITTAL BASED UPON NEW EVIDENCE WHICH COULD NOT BE ADMISSIBLE AT THE TIME OF CONVICTION; NEW EVIDENCE OF SPOILIATION OF EVIDENCE COMMITTED BY COMMONWEALTH OF VIRGINIA; REQUEST FOR SANCTIONS AGAINST COUNSEL GLEN ANDREW HALL, ESQUIRE (OFFICER OF THE COURT) FOR VIOLATING COURT ORDERS FOR NOT TURNING OVER BODY-CAMERA FOOTAGE AND IT IS LIKELY DESTROYED AND BIOLOGICAL EVIDENCE OF BLOOD VIALS OBTAINED ON DAY OF CHARGE”	3871-3895
EXHIBIT 16: Department of Medical Assistance Services Virginia Medicaid Claims History For Member ID: 690024628015, Member Name: Brian Hill Claims For 11/19/2017 And 9/21/2018	3896-3898
EXHIBIT 17: Email record: Re: Brian D. Hill asked me to send this email to you about his appealed case	3899-3901
EXHIBIT 18: Scan of complete medical records of patient	3902-3909

Brian David Hill on Friday, September 21, 2018, from Sovah Health Martinsville, scan in both color	
EXHIBIT 19: Email record: Brian D. Hill asked me to send this email to you about his appealed case	3910-3912
EXHIBIT 20: Email record: Fw: Brian D. Hill request	3913-3918
EXHIBIT 21: ORDER IN MISDEMEANOR OR TRAFFIC INFRACTION PROCEEDING	3919-3920
EXHIBIT 22: Three Court Orders. One from General District Court (Case no. C18-3138), two from Circuit Court (Case no. CR19000009-00)	3921-3929
EXHIBIT 23: Scan of incomplete medical records of patient Brian David Hill on Sunday, November 19, 2017, from Sovah Health Martinsville, scans in both color, and black and white	3930-3960
EXHIBIT 24: Carilion Clinic medical records of COMPREHENSIVE METABOLIC PANEL(COMP) [368602038] (Abnormal)	3961-3964
EXHIBIT 25: DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE PURSUANT TO VIRGINIA CODE § 8.01-428(D), VIRGINIA CODE § 8.01-428(A) AND VIRGINIA CODE § 8.01-428(B) ON THE BASIS OF FRAUD UPON THE COURT, CLERICAL FACTUAL ERRORS	3965-3986
EVIDENCE DECLARATION ATTACHMENTS LIST (Pg. 3987-3990)	
ATTACHMENT 1: DECLARATION OF ROBERTA HILL IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	3991-3993
ATTACHMENT 2: DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	3994-3999
ATTACHMENT 3: DECLARATION OF STELLA FORINASH IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	4000-4005

ATTACHMENT 4: DECLARATION OF KENNETH FORINASH IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	4006-4008
ADDENDUM TO FOIA REQUEST TO MARTINSVILLE POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST (ORIGINALLY JANUARY 20, 2023) (Pg. 4064-4071)	
DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF FOIA REQUEST FILED ON JANUARY 20, 2023, AND IN SUPPORT OF “ADDENDUM TO FOIA REQUEST TO MARTINSVILLE POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST”	4072-4088
(case no. CR19000009-00) Forward email of response to Brian David Hill's FOIA Request. – APPELLANT NOTE: Judge Greer received a copy of email and attachment noted below.	4089-4092
ANSWER - BRIAN HILL-FOIA REQUEST - Brian Hill FOIA Request.pdf - APPELLANT NOTE: Judge Greer received a copy of attachment of the email noted above.	4093-4095
OTHER - EMAI-RE: STATUS OF FOIA – APPELLANT NOTE: Judge Greer received a copy of email	4096-4099
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 (Pg. 4100-4114)	
AFTER ORDER - DENIED MOT SET ASIDE CONV (Pg. 4120-4120)	
OTHER - COPY EMAIL	4121-4122
OTHER - COPY EMAIL -HILL	4123-4130
OTHER - STATUSLETTER-JUDGE 2-14-23	4131-4144
OTHER - SHORTSUMMARY-2-14-2023	4145-4147

5. Appellant had filed a “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”” (4148-4206). This motion was asking for reconsideration of the first motion being denied:

EXHIBIT/EVIDENCE/PLEADING	PAGE RANGE
EXHIBIT 1: Printout of email to Roberta Hill at rbhill67@comcast.net, From: Kendall Davis kdavis@ci.martinsville.va.us; Date: 2/13/2023, 3:01 PM; Subject: Re: Status of FOIA Request of Brian David Hill?	4207-4210
EXHIBIT 2: Digital Copy of Letter from Kendall Davis, Public Information Officer, City of Martinsville, Dated: February 10, 2023	4211-4214
EXHIBIT 3: Printout of email to Roberta Hill at rbhill67@comcast.net, From: ROBERTA HILL rbhill67@comcast.net; 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" <jnunn@ci.martinsville.va.us> CC: Martinsville City Commonwealth's Attorney <ahall@ci.martinsville.va.us>, "stanleybolten@justiceforuswgo.nl" <StanleyBolten@justiceforuswgo.nl>, "kenstella2005@comcast.net" <kenstella2005@comcast.net>, Ken & Stella Forinash <kenstella@comcast.net>, "Hon. Giles Carter Greer (Judge)" <cgreer@ci.martinsville.va.us>	4215-4219
EXHIBIT 4: STATUS LETTER TO HONORABLE GILES CARTER GREER	4220-4234

(JUDGE); CLERK OF MARTINSVILLE CIRCUIT COURT, Date: Tuesday, February 14, 2023	
EXHIBIT 5: 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.”	4235-4248
EXHIBIT 6: 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	4249-4252
EXHIBIT 7: 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.	4253-4254

**3. EMAIL EXPLANATION AND EXHIBIT WITH WHAT WAS
MISSING EVIDENCE FOR “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”” REFILED DUE TO ERROR
ON PART OF APPELLANT BEFORE LAST FINAL ORDER
WAS ISSUED BY JUDGE OF TRIAL COURT. CLERICAL**

CORRECTION WAS MADE THEN THE JUDGE MADE THE FINAL ORDER AFTER THE CORRECTION WAS MADE BY APPELLANT ON RECORD.

EXHIBIT/EVIDENCE/PLEADING	PAGE RANGE
OTHER - COPY EMAIL – <u>APPELLANT NOTE: JUDGE GREER WAS INCLUDED IN EMAIL</u>	4257-4259
EXHIBIT 2: Digital Copy of Letter from Kendall Davis, Public Information Officer, City of Martinsville, Dated: February 10, 2023	4260-4274
EXHIBIT 3: Printout of email to Roberta Hill at rbhill67@comcast.net, From: ROBERTA HILL rbhill67@comcast.net; 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" <jnunn@ci.martinsville.va.us> CC: Martinsville City Commonwealth's Attorney <ahall@ci.martinsville.va.us>, "stanleybolten@justiceforuswgo.nl" <StanleyBolten@justiceforuswgo.nl>, "kenstella2005@comcast.net" <kenstella2005@comcast.net>, Ken & Stella Forinash <kenstella@comcast.net>, "Hon. Giles Carter Greer (Judge)" <cgreer@ci.martinsville.va.us>	4275-4276

6. All of this proves Brian David Hill does have enough evidence for showing a fraud upon the court.

7. Appellant was pushing for relief from a wrongful conviction due to the prosecution’s fraud upon the court (See paragraphs 2-5 of this opening brief concerning the STATEMENT OF THE FACTS) disproving the elements of the

Appellant's charge.

8. On September 21, 2018, Appellant was arrested and charged with "13-17/18.2-387, Code or Ordinances of this city, county or town: intentionally make an obscene display of the accused's person or private parts in a public place or in a place where others were present." (pg. 3651-3653)

9. Appellant filed the new evidence for the purposes of demonstrating a severe case of fraud upon the court. Rule 1:1 does not bar a motion for a relief from a fraudulent begotten judgment based on evidence proving fraud, pursuant to the laws of Virginia Code § 8.01-428(D), Virginia Code § 8.01-428(A) and Virginia Code § 8.01-428(B).

10. With the word limit, Appellant will let the Commonwealth of Virginia argue their side of the Statement of the Facts in the case, their side of the story regarding Appellant's indecent exposure charge. Appellant will reply if he feels that anything the Commonwealth/Appellees says is untruthful or not factual.

11. This is the first time on appeal in the three appeals cases no. 0313-23-3, 0314-23-3 and 0317-23-3 that Appellant had demonstrated prime facie evidence of extrinsic fraud on the Court committed by Appellees in the Trial Court, that is after Appellant obtained new evidence by Freedom of Information Act request, that is prima facie evidence of extrinsic fraud. That will be explained in Assignments of Error.

12. The motions at issue in the three noted appeals were denied without any

evidentiary hearing, denial without ordering or conducting any inquiries, and were denied without any concurring opinion or reason as to why they were denied. In the previous appeals which are all consolidated with the three appeals for this final appellant brief, the judge had stated that he had no jurisdiction to make a decision over Appellant's motions for new trial and/or judgment of acquittal. The judge did not assert lack of jurisdiction in his three orders of motions being denied at issue for the three most recent appeals cases no. 0313-23-3, 0314-23-3 and 0317-23-3.

ARGUMENT

i. Standard of Review

All errors assigned on appeal are errors of law, errors of fact. All Assignments of error involve mixed questions of law and fact. This Court's review therefore is de novo and based on the facts of the case. E.g., *Palace Laundry, Inc. v. Chesterfield County*, 276 Va. 494, 498, 666 S.E.2d 371, 374 (2008). For all assignments of error, the Court must conduct an "independent examination of the entire record" to ensure that the judgment/order does not violate constitutional rights, to ensure that the law is being followed. *The Gazette, Inc. v. Harris*, 229 Va. 1, 19, 325 S.E.2d 713, 727-28 (1985); see also, e.g., *United States v. Friday*, 525 F.3d 938, 949-50 (10th Cir. 2008), cert. denied, 129 S. Ct. 1312 (2009), and cases

cited therein (the independent review standard); *New Life Baptist Church Academy v. Town of East Longmeadow*, 885 F.2d 940, 941 (1st Cir. 1989) (Breyer, J.), cert. denied, 494 U.S. 1066 (1990) (“First Amendment questions of “constitutional fact” compel... de novo review”) (citations omitted).

All legal arguments and factual arguments are already argued in each assignment of error. Do not need to reduplicate what is already argued, for the sake of brevity.

CONCLUSION

Appellant requests from this court for the following relief: The judgments/orders on February 14, 2023, February 17, 2023, and February 21, 2023 by the Circuit Court for the denial of Appellant's motions should be reversed/vacated, and the case should be remanded for further proceedings based on the Assignments of Error and the Statement of the Facts, as well as the grounds raised. Appellant requests relief accordingly and asks for any other relief that the Court of Appeals of Virginia may deem proper and just.

REQUEST FOR ORAL ARGUMENT

As this appeal raises important constitutional, evidential, and legal issues which were believed overlooked or were not taken into consideration, the Appellant requests oral argument.

Respectfully Filed/Submitted on December 1, 2023,

BRIAN DAVID HILL

Pro Se

Brian D. Hill
Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
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CERTIFICATE OF COMPLIANCE

1. This brief complies with Rule 5A:19(a) regarding the type-volume limits (word limit 12,300 or page limit at 50 pages) pursuant to Rule 5A:19(a), excluding the parts of the document exempted by Rule 5A:19(a) (appendices, the cover page, table of contents, table of authorities, signature blocks, or certificate):

This brief contains [12,300] words.

This brief is [49] pages excluding page exemptions.

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

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

[] this brief 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].



Brian D. Hill

Dated: December 1, 2023



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Pro Se Appellant

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 1st day of December, 2023, I caused this “OPENING BRIEF OF APPELLANT” to be delivered by email service by Assistant/Filing-Representative Roberta Hill using rbhill67@comcast.net or rbhill67@justiceforuswgo.nl on the Commonwealth of Virginia and City of Martinsville (Appellees) through the ~~Commonwealth Attorney’s Office of Martinsville City; as well as to the~~ (recused himself from the Circuit Court case, special prosecutor appointed in contempt of court case, so Commonwealth Attorney may have recused himself from all of the case in the Trial Court) 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 PLEADING shall satisfy the proof of service was required by Rule 5A:2(a)(1) and Rule 5A:1(c)(4):

~~1. Glen Andrew Hall, Esq.
55 West Church Street, P.O. Box 1311~~

~~Martinsville, Virginia 24112 or 24114 (for P.O. Box)~~

~~Telephone: 276-403-5470~~

~~Fax: 276-403-5478~~

~~Email: ahall@ci.martinsville.va.us (recused himself, special prosecutor appointed but only for the contempt of court case, but he may have recused himself from the entire case, not sure)~~

Counsel for Appellees'

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Email: jhill@oag.state.va.us

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oagcriminallitigation@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 or Stanley Bolten is filing the pleading on Brian's behalf for official court business. Brian has authorized Roberta Hill and Stanley Bolten 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.


Signed

Brian D. Hill

U.S.W.G.O.



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Pro Se Appellant

In The
Court of Appeals
Of Virginia

BRIAN DAVID HILL,

Appellant,

v.

**COMMONWEALTH OF VIRGINIA,
CITY OF MARTINSVILLE,**

Appellees.

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

—————
**Appellant's Designation of the Record
and Assignments of Error**
—————



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CAV: Submitted on 12-01-2023 07:12:15 EST for filing on 12-01-2023

**APPELLANT DESIGNATION //
DESIGNATION OF RECORD**

IN THE COURT OF APPEALS OF VIRGINIA

<u>Brian David Hill,</u>)	
Appellant,)	
)	
v.)	Record No.: 0313-23-3, 0314-23-3
)	0317-23-3
)	
<u>City of Martinsville,</u>)	
<u>Commonwealth of Virginia,</u>)	
Appellees.)		

APPELLANT’S DESIGNATION AND ASSIGNMENTS OF ERROR

Pursuant to Rule 5A:25(d) of the Rules of the Court of Appeals of Virginia, the appellant, Brian David Hill, submits the following Designation of the Contents of the record:

1. Basic initial pleading (as finally amended);
2. Judgment appealed from, and any memorandum or opinion relating thereto;
3. Testimony and other incidents of the case germane to the assignments of error;
4. Exhibits necessary for and understanding of the case that can be reasonably reproduced;
5. ~~Granted~~ assignments of error and cross-error. (Appeal of Right)
6. Certificate of Service for this Appellant Designation.

The record is being used since Trial Court record was filed electronically. All page range numbers are from the record of the Trial Court which can be easily accessed.

Respectfully Filed/Submitted on December 1, 2023,

BRIAN DAVID HILL
Pro Se

Brian D. Hill
Signed

Brian D. Hill

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1. Basic initial pleading (as finally amended);

INITIAL PLEADINGS	RECORD RANGE	PAGE
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 - Received On 1/26/2023	3543-3649	
STATUS LETTER TO HONORABLE GILES CARTER GREER (JUDGE); CLERK OF MARTINSVILLE CIRCUIT COURT - Tuesday, February 14, 2023 - Received On 2/15/2023	4131-4144	

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 - Received On 2/15/2023	4145-4147
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” - Received On 2/17/2023	4148-4206
NOTICE OF APPEAL (1) RE: ORDER DATED FEBRUARY 17, 2023	4278-4291
NOTICE OF APPEAL (2) RE: ORDER DATED FEBRUARY 14, 2023	4292-4305
NOTICE OF APPEAL (3) RE: ORDER DATED SEPTEMBER 21, 2022	4313-4325
OTHER – COPY EMAIL	4257-4259

2. Judgment appealed from, and any memorandum or opinion relating thereto;

JUDGMENTS/ORDERS	RECORD PAGE RANGE
JUDGMENT/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 – February 14, 2023	4120-4120
JUDGMENT/ORDER DENYING MOTION TO RECONSIDER THE ORDER DENYING “MOTION FOR	4255-4255

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” - February 17, 2023	
JUDGMENT/ORDER DENYING 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” - February 21, 2023	4277-4277

3. Testimony and other incidents of the case germane to the assignments of error;

No hearings in response to the decision by the Circuit Court to deny the Motions.

However, this is the new evidence (other incidents of the case) germane to the assignments of error.

1. 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 (PAGES 3543-3649)

EXHIBIT/EVIDENCE/PLEADING (Pg. 3641-3645)	PAGE RANGE
EXHIBIT 1: PHOTOCOPY OF ARREST WARRANT AND CRIMINAL COMPLAINT IN GENERAL DISTRICT COURT - 09-21-2018	3650-3563

EXHIBIT 2: TRANSCRIPT OF THE SUPERVISED RELEASE REVOCATION HEARING BEFORE THE HONORABLE THOMAS D. SCHROEDER UNITED STATES DISTRICT JUDGE; CASE NO. 1:13CR435-1; September 12, 2019 3:37 p.m.; Winston-Salem, North Carolina	3654-3735
EXHIBIT 3: Billing Record from Sovah Health Martinsville; ADMITTED 09/21/18, DISCHARGED 09/21/18	3736-3740
EXHIBIT 4: NIH NATIONAL CANCER INSTITUTE, peripheral venous catheter	3741-3742
EXHIBIT 5: NIH NATIONAL CANCER INSTITUTE, delirium	3743-3744
EXHIBIT 6: (1) 3% Sodium Chloride Injection, USP; (2) Sodium Chloride _ NaCl – PubChem; (3) Sodium_chloride	3745-3818
EXHIBIT 7: STATUS REPORT OF PETITIONER SEPTEMBER 27, 2018, RE-MAILED ON OCTOBER 10, 2018	3819-3830
EXHIBIT 8: EXHIBIT IN FEDERAL COURT RECORD, containing Doctor letter from Dr. Shyam E. Balakrishnan, MD	3831-3833
EXHIBIT 9: EXHIBIT IN FEDERAL COURT RECORD, containing Doctor letter from Andrew Maier, PA-C	3834-3836
EXHIBIT 10: DISABLED PARKING PLACARDS OR LICENSE PLATES APPLICATION and a page of a medical record from Carilion Clinic	3837-3842
EXHIBIT 11: EXHIBIT IN FEDERAL COURT RECORD, containing Autism TEACCH papers	3843-3850
EXHIBIT 12: URGENT LETTER TO MARTINSVILLE POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST and Fax Transmission Tickets	3851-3858
EXHIBIT 13: Photographs and photo-scans (photocopies) of evidence Martinsville Police ignored evidence envelope, Police Chief G. E. Cassady had signed Return Receipt on August 7, 2019.	3859-3864
EXHIBIT 14: Printout of Virginia State Bar page, Rule 3.8 - Professional Guidelines and Rules of Conduct - Professional Guidelines	3865-3870

EXHIBIT 15: Excerpt of: “EXHIBIT 2 for EVIDENCE FOR MOTION FOR JUDGMENT OF ACQUITTAL BASED UPON NEW EVIDENCE WHICH COULD NOT BE ADMISSIBLE AT THE TIME OF CONVICTION; NEW EVIDENCE OF SPOILIATION OF EVIDENCE COMMITTED BY COMMONWEALTH OF VIRGINIA; REQUEST FOR SANCTIONS AGAINST COUNSEL GLEN ANDREW HALL, ESQUIRE (OFFICER OF THE COURT) FOR VIOLATING COURT ORDERS FOR NOT TURNING OVER BODY-CAMERA FOOTAGE AND IT IS LIKELY DESTROYED AND BIOLOGICAL EVIDENCE OF BLOOD VIALS OBTAINED ON DAY OF CHARGE”	3871-3895
EXHIBIT 16: Department of Medical Assistance Services Virginia Medicaid Claims History For Member ID: 690024628015, Member Name: Brian Hill Claims For 11/19/2017 And 9/21/2018	3896-3898
EXHIBIT 17: Email record: Re: Brian D. Hill asked me to send this email to you about his appealed case	3899-3901
EXHIBIT 18: Scan of complete medical records of patient Brian David Hill on Friday, September 21, 2018, from Sovah Health Martinsville, scan in both color	3902-3909
EXHIBIT 19: Email record: Brian D. Hill asked me to send this email to you about his appealed case	3910-3912
EXHIBIT 20: Email record: Fw: Brian D. Hill request	3913-3918
EXHIBIT 21: ORDER IN MISDEMEANOR OR TRAFFIC INFRACTION PROCEEDING	3919-3920
EXHIBIT 22: Three Court Orders. One from General District Court (Case no. C18-3138), two from Circuit Court (Case no. CR19000009-00)	3921-3929
EXHIBIT 23: Scan of incomplete medical records of patient Brian David Hill on Sunday, November 19, 2017, from Sovah Health Martinsville, scans in both color, and black and white	3930-3960
EXHIBIT 24: Carilion Clinic medical records of COMPREHENSIVE METABOLIC PANEL(COMP) [368602038] (Abnormal)	3961-3964
EXHIBIT 25: DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE PURSUANT	3965-3986

TO VIRGINIA CODE § 8.01-428(D), VIRGINIA CODE § 8.01-428(A) AND VIRGINIA CODE § 8.01-428(B) ON THE BASIS OF FRAUD UPON THE COURT, CLERICAL FACTUAL ERRORS	
EVIDENCE DECLARATION ATTACHMENTS LIST (Pg. 3987-3990)	
ATTACHMENT 1: DECLARATION OF ROBERTA HILL IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	3991-3993
ATTACHMENT 2: DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	3994-3999
ATTACHMENT 3: DECLARATION OF STELLA FORINASH IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	4000-4005
ATTACHMENT 4: DECLARATION OF KENNETH FORINASH IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	4006-4008
ADDENDUM TO FOIA REQUEST TO MARTINSVILLE POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST (ORIGINALLY JANUARY 20, 2023) (Pg. 4064-4071)	
DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF FOIA REQUEST FILED ON JANUARY 20, 2023, AND IN SUPPORT OF “ADDENDUM TO FOIA REQUEST TO MARTINSVILLE POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST”	4072-4088
(case no. CR19000009-00) Forward email of response to Brian David Hill's FOIA Request. – APPELLANT NOTE: Judge Greer received a copy of email and attachment noted below.	4089-4092
ANSWER - BRIAN HILL-FOIA REQUEST - Brian Hill FOIA Request.pdf - APPELLANT NOTE: Judge Greer received a copy of attachment of the email noted above.	4093-4095

OTHER - EMAI-RE: STATUS OF FOIA – APPELLANT NOTE: Judge Greer received a copy of email	4096-4099
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 (Pg. 4100-4114)	
AFTER ORDER - DENIED MOT SET ASIDE CONV (Pg. 4120-4120)	
OTHER - COPY EMAIL	4121-4122
OTHER - COPY EMAIL -HILL	4123-4130
OTHER - STATUSLETTER-JUDGE 2-14-23	4131-4144
OTHER - SHORTSUMMARY-2-14-2023	4145-4147

**2. 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” (PAGES
4148-4206)**

EXHIBIT/EVIDENCE/PLEADING	PAGE RANGE
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EXHIBIT 2: Digital Copy of Letter from Kendall Davis, Public Information Officer, City of Martinsville, Dated: February 10, 2023	4211-4214
EXHIBIT 3: Printout of email to Roberta Hill at rbhill67@comcast.net, From: ROBERTA HILL rbhill67@comcast.net; 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" <jnunn@ci.martinsville.va.us> CC: Martinsville City Commonwealth's Attorney	4215-4219

<p><ahall@ci.martinsville.va.us>, "stanleybolten@justiceforuswgo.nl" <StanleyBolten@justiceforuswgo.nl>, "kenstella2005@comcast.net" <kenstella2005@comcast.net>, Ken & Stella Forinash <kenstella@comcast.net>, "Hon. Giles Carter Greer (Judge)" <cgreer@ci.martinsville.va.us></p>	
<p>EXHIBIT 4: STATUS LETTER TO HONORABLE GILES CARTER GREER (JUDGE); CLERK OF MARTINSVILLE CIRCUIT COURT, Date: Tuesday, February 14, 2023</p>	<p>4220-4234</p>
<p>EXHIBIT 5: 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.”</p>	<p>4235-4248</p>
<p>EXHIBIT 6: 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</p>	<p>4249-4252</p>
<p>EXHIBIT 7: 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.</p>	<p>4253-4254</p>

3. EMAIL EXPLANATION AND EXHIBIT WITH WHAT WAS MISSING EVIDENCE FOR “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”” REFILED DUE TO ERROR ON PART OF APPELLANT BEFORE LAST FINAL ORDER WAS ISSUED BY JUDGE OF TRIAL COURT. CLERICAL CORRECTION WAS MADE THEN THE JUDGE MADE THE FINAL ORDER AFTER THE CORRECTION WAS MADE BY APPELLANT ON RECORD.

EXHIBIT/EVIDENCE/PLEADING	PAGE RANGE
<u>OTHER - COPY EMAIL – APPELLANT NOTE: JUDGE GREER WAS INCLUDED IN EMAIL</u>	4257-4259
EXHIBIT 2: Digital Copy of Letter from Kendall Davis, Public Information Officer, City of Martinsville, Dated: February 10, 2023	4260-4274
EXHIBIT 3: Printout of email to Roberta Hill at rbhill67@comcast.net, From: ROBERTA HILL rbhill67@comcast.net; 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" <jnunn@ci.martinsville.va.us> CC: Martinsville City Commonwealth's Attorney <ahall@ci.martinsville.va.us>, "stanleybolten@justiceforuswgo.nl" <StanleyBolten@justiceforuswgo.nl>, "kenstella2005@comcast.net" <kenstella2005@comcast.net>, Ken & Stella Forinash <kenstella@comcast.net>, "Hon. Giles Carter Greer (Judge)" <cgreer@ci.martinsville.va.us>	4275-4276

4. Exhibits necessary for and understanding of the case that can be reasonably reproduced;

Exhibits/Evidence which were used entirely in support of the Initial pleadings of:

1. 1. 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 (PAGES 3543-3649);

2. 2. 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” (PAGES 4148-4206);
3. EMAIL EXPLANATION AND EXHIBIT WITH WHAT WAS MISSING EVIDENCE FOR “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”” REFILED DUE TO ERROR ON PART OF APPELLANT BEFORE LAST FINAL ORDER WAS ISSUED BY JUDGE OF TRIAL COURT. CLERICAL CORRECTION WAS MADE THEN THE JUDGE MADE THE FINAL ORDER AFTER THE CORRECTION WAS MADE BY APPELLANT ON RECORD.

All admissible exhibits and evidence are supposed to be taken into consideration by the Circuit Court for the City of Martinsville at the time when it had made its decision to deny 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” and denying the 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”.

However, this was the evidence (Exhibits necessary for and understanding of the case that can be reasonably reproduced) necessary for understanding of the case.

1. 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 (PAGES 3543-3649)

EXHIBIT/EVIDENCE/PLEADING (Pg. 3641-3645)	PAGE RANGE
EXHIBIT 1: PHOTOCOPY OF ARREST WARRANT AND CRIMINAL COMPLAINT IN GENERAL DISTRICT COURT - 09-21-2018	3650-3563
EXHIBIT 2: TRANSCRIPT OF THE SUPERVISED RELEASE REVOCATION HEARING BEFORE THE HONORABLE THOMAS D. SCHROEDER UNITED STATES DISTRICT JUDGE; CASE NO. 1:13CR435-1; September 12, 2019 3:37 p.m.; Winston-Salem, North Carolina	3654-3735
EXHIBIT 3: Billing Record from Sovah Health Martinsville; ADMITTED 09/21/18, DISCHARGED 09/21/18	3736-3740
EXHIBIT 4: NIH NATIONAL CANCER INSTITUTE, peripheral venous catheter	3741-3742
EXHIBIT 5: NIH NATIONAL CANCER INSTITUTE, delirium	3743-3744
EXHIBIT 6: (1) 3% Sodium Chloride Injection, USP; (2) Sodium Chloride _ NaCl – PubChem; (3) Sodium_chloride	3745-3818
EXHIBIT 7: STATUS REPORT OF PETITIONER SEPTEMBER 27, 2018, RE-MAILED ON OCTOBER 10, 2018	3819-3830

EXHIBIT 8: EXHIBIT IN FEDERAL COURT RECORD, containing Doctor letter from Dr. Shyam E. Balakrishnan, MD	3831-3833
EXHIBIT 9: EXHIBIT IN FEDERAL COURT RECORD, containing Doctor letter from Andrew Maier, PA-C	3834-3836
EXHIBIT 10: DISABLED PARKING PLACARDS OR LICENSE PLATES APPLICATION and a page of a medical record from Carilion Clinic	3837-3842
EXHIBIT 11: EXHIBIT IN FEDERAL COURT RECORD, containing Autism TEACCH papers	3843-3850
EXHIBIT 12: URGENT LETTER TO MARTINSVILLE POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST and Fax Transmission Tickets	3851-3858
EXHIBIT 13: Photographs and photo-scans (photocopies) of evidence Martinsville Police ignored evidence envelope, Police Chief G. E. Cassady had signed Return Receipt on August 7, 2019.	3859-3864
EXHIBIT 14: Printout of Virginia State Bar page, Rule 3.8 - Professional Guidelines and Rules of Conduct - Professional Guidelines	3865-3870
EXHIBIT 15: Excerpt of: “EXHIBIT 2 for EVIDENCE FOR MOTION FOR JUDGMENT OF ACQUITTAL BASED UPON NEW EVIDENCE WHICH COULD NOT BE ADMISSIBLE AT THE TIME OF CONVICTION; NEW EVIDENCE OF SPOILIATION OF EVIDENCE COMMITTED BY COMMONWEALTH OF VIRGINIA; REQUEST FOR SANCTIONS AGAINST COUNSEL GLEN ANDREW HALL, ESQUIRE (OFFICER OF THE COURT) FOR VIOLATING COURT ORDERS FOR NOT TURNING OVER BODY-CAMERA FOOTAGE AND IT IS LIKELY DESTROYED AND BIOLOGICAL EVIDENCE OF BLOOD VIALS OBTAINED ON DAY OF CHARGE”	3871-3895
EXHIBIT 16: Department of Medical Assistance Services Virginia Medicaid Claims History For Member ID: 690024628015, Member Name: Brian Hill Claims For 11/19/2017 And 9/21/2018	3896-3898
EXHIBIT 17: Email record: Re: Brian D. Hill asked me to	3899-3901

send this email to you about his appealed case	
EXHIBIT 18: Scan of complete medical records of patient Brian David Hill on Friday, September 21, 2018, from Sovah Health Martinsville, scan in both color	3902-3909
EXHIBIT 19: Email record: Brian D. Hill asked me to send this email to you about his appealed case	3910-3912
EXHIBIT 20: Email record: Fw: Brian D. Hill request	3913-3918
EXHIBIT 21: ORDER IN MISDEMEANOR OR TRAFFIC INFRACTION PROCEEDING	3919-3920
EXHIBIT 22: Three Court Orders. One from General District Court (Case no. C18-3138), two from Circuit Court (Case no. CR19000009-00)	3921-3929
EXHIBIT 23: Scan of incomplete medical records of patient Brian David Hill on Sunday, November 19, 2017, from Sovah Health Martinsville, scans in both color, and black and white	3930-3960
EXHIBIT 24: Carilion Clinic medical records of COMPREHENSIVE METABOLIC PANEL(COMP) [368602038] (Abnormal)	3961-3964
EXHIBIT 25: DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE PURSUANT TO VIRGINIA CODE § 8.01-428(D), VIRGINIA CODE § 8.01-428(A) AND VIRGINIA CODE § 8.01-428(B) ON THE BASIS OF FRAUD UPON THE COURT, CLERICAL FACTUAL ERRORS	3965-3986
EVIDENCE DECLARATION ATTACHMENTS LIST (Pg. 3987-3990)	
ATTACHMENT 1: DECLARATION OF ROBERTA HILL IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	3991-3993
ATTACHMENT 2: DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	3994-3999
ATTACHMENT 3: DECLARATION OF STELLA FORINASH IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO	4000-4005

APPELLATE RULE 10(e)"	
ATTACHMENT 4: DECLARATION OF KENNETH FORINASH IN SUPPORT OF "PETITIONER'S AND CRIMINAL DEFENDANT'S MOTION TO CORRECT OR MODIFY THE RECORD PURUANT TO APPELLATE RULE 10(e)"	4006-4008
ADDENDUM TO FOIA REQUEST TO MARTINSVILLE POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST (ORIGINALLY JANUARY 20, 2023) (Pg. 4064-4071)	
DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF FOIA REQUEST FILED ON JANUARY 20, 2023, AND IN SUPPORT OF “ADDENDUM TO FOIA REQUEST TO MARTINSVILLE POLICE DEPARTMENT AND CITY OF MARTINSVILLE – FOIA REQUEST”	4072-4088
(case no. CR19000009-00) Forward email of response to Brian David Hill's FOIA Request. – APPELLANT NOTE: Judge Greer received a copy of email and attachment noted below.	4089-4092
ANSWER - BRIAN HILL-FOIA REQUEST - Brian Hill FOIA Request.pdf - APPELLANT NOTE: Judge Greer received a copy of attachment of the email noted above.	4093-4095
OTHER - EMAI-RE: STATUS OF FOIA – APPELLANT NOTE: Judge Greer received a copy of email	4096-4099
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 (Pg. 4100-4114)	
AFTER ORDER - DENIED MOT SET ASIDE CONV (Pg. 4120-4120)	
OTHER - COPY EMAIL	4121-4122
OTHER - COPY EMAIL -HILL	4123-4130
OTHER - STATUSLETTER-JUDGE 2-14-23	4131-4144
OTHER - SHORTSUMMARY-2-14-2023	4145-4147

2. 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” (PAGES 4148-4206)

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EXHIBIT 1: Printout of email to Roberta Hill at rbhill67@comcast.net, From: Kendall Davis kdavis@ci.martinsville.va.us; Date: 2/13/2023, 3:01 PM; Subject: Re: Status of FOIA Request of Brian David Hill?	4207-4210
EXHIBIT 2: Digital Copy of Letter from Kendall Davis, Public Information Officer, City of Martinsville, Dated: February 10, 2023	4211-4214
EXHIBIT 3: Printout of email to Roberta Hill at rbhill67@comcast.net, From: ROBERTA HILL rbhill67@comcast.net; 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" <jnunn@ci.martinsville.va.us> CC: Martinsville City Commonwealth's Attorney <ahall@ci.martinsville.va.us>, "stanleybolten@justiceforuswgo.nl" <StanleyBolten@justiceforuswgo.nl>, "kenstella2005@comcast.net" <kenstella2005@comcast.net>, Ken & Stella Forinash <kenstella@comcast.net>, "Hon. Giles Carter Greer (Judge)" <cgreer@ci.martinsville.va.us>	4215-4219
EXHIBIT 4: STATUS LETTER TO HONORABLE GILES CARTER GREER (JUDGE); CLERK OF MARTINSVILLE CIRCUIT COURT, Date: Tuesday, February 14, 2023	4220-4234
EXHIBIT 5: 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)	4235-4248

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: 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	4249-4252
EXHIBIT 7: 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.	4253-4254

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5. Granted assignments of error and cross-error. (Appeal of Right)

Assignment of error 1. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion (pg. 3516) for reconsideration of the Trial Court’s denial of Appellant’s *“MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...”* (pg. 4148-4206); when the Trial Court overlooked evidence which was presented in support of Appellant’s “fraud on the court” claims by Appellant which demonstrated an issue that the court appointed defense attorney Scott Albrecht had switched sides to the prosecution (pg. 4260-4276, 4236-4248) which would be the Commonwealth’s Attorney Glen Andrew Hall without ever filing anything with the Trial Court recusing himself with any involvement with Mr. Hall concerning Appellant’s cases since his court appointed attorney Scott Albrecht had represented Appellant prior to directly switching to the prosecution team of Appellees. It is a conflict of interest for the former defense attorney

of a criminal defendant which would be Appellant to switch sides to the Commonwealth's Attorney who had prosecuted a case against the criminal defendant aka Appellant in the circumstances where the defense attorney has the easy ability to create an unfair advantage against the criminal defendant. 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). *Powell v. Commonwealth*, 3 Va. App. 555, 556 (Va. Ct. App. 1987) (“*When a trial court fails to initiate an inquiry when it knows or reasonably should know that a particular conflict may exist it is presumed that the conflict resulted in ineffective assistance of counsel.*”). *Powell v. Commonwealth*, 3 Va. App. 555, 556 (Va. Ct. App. 1987) (“*Where a probable risk of conflict of interest is brought to a trial court's attention, the trial judge must take adequate steps to ascertain the extent of a conflict of interest in joint representation.*”).

The reason for Appellant's concerns was documented in his declaration/affidavit (pg. 4236-4246). Appellant said under penalty of perjury the following statement (pg. 4244): “*...If this is the same Scott Albrecht, then I have no choice but to inform the Circuit Court that my Trial in the General District Court, I feel it was rigged against me. When my own court appointed lawyer who did a terrible job defending me, I am found guilty, no enforcement of court orders not complied with by Glen Andrew Hall that he pushed for as my defense attorney, no asking for sanctions for noncompliance with those court orders, and then a “Scott Albrecht” works for the very same prosecuting attorney who prosecuted me at the Trial in the General District Court on December 21, 2018, with Scott Albrecht as my defense attorney.*” The Trial Court should have conducted an inquiry into this before making a final

decision on the Appellant's motion for reconsideration. This sounds like a conflict of interest for a defense attorney to do a terrible job for a defendant, not pursuing any contempt of court charges or any enforcement proceedings against the prosecutor of the criminal case of Appellant, and then years later joins that same prosecutor as an Assistant Commonwealth's Attorney. The concern for this assignment of error is this: Why this conflict-of-interest issue is extremely important and not merely some ineffective assistance of counsel issue. This issue is different. The error is that Scott Albrecht allowed the prosecutor to get away with unlawful deletion of evidence then works for the prosecutor at a later time and receiving a salary/money/\$\$\$ and any financial or any other benefits working for the prosecutor attorney Glen Andrew Hall. Appellant had proven to the Trial Court that: (1) There were three court orders proposed by defense Attorney Scott Albrecht (pg. 3921-3929) "*ORDERED that the Commonwealth's Attorney permit counsel for the Defendant to inspect and copy or photograph, within a reasonable time, before the trial or sentencing, the following...Any relevant written or recorded statements or confessions made by the Defendant, or copies thereof, or the substance of any oral statements or confessions made by the Defendant to any law enforcement officer, the existence of which is known to the attorney for the Commonwealth...*". (2) The Public Information Officer ("PIO") Kendall Davis had responded to Appellant's request under Virginia's Freedom of Information Act ("FOIA") by providing information directly from Chief of Police Rob Fincher proving that the body-camera footage had existed and was deleted on April 9, 2019, because it was not marked as evidence when it was the responsibility of the Commonwealth's Attorney Glen Andrew Hall

to mark body-camera footage concerning Appellant as material evidence (pg. 4093-4095, 4212-4214). (3) Appellant kept begging for the body-camera footage (pg. 3881-3891, 4139-4144, 3916-3918), Attorney Scott Albrecht did absolutely nothing, and allowed evidence to be permanently destroyed by deletion (pg. 4093-4095, 4212-4214). This assignment of error isn't attempting to portray the conflict-of-interest issue to that of ineffective assistance of counsel per se but is bringing up the issue of "fraud on the court" where both the defense counsel and prosecution had allowed evidence to be illegally deleted, allowed multiple court orders to never be complied with and neither enforced. The evidence would not have been destroyed if it was favorable to the prosecution against Appellant for indecent exposure. In fact, the prosecution would have loved to show the Trial Court the body-camera footage if it had painted Appellant as a pervert or somebody who was charged with making an obscene display. However, that was not what happened. The prosecution did everything they could to prevent the body-camera footage from ever being acquired by the defendant and his attorney. In fact, the police chief through the PIO said in their FOIA response letter (pg. 4094, 4213) that: "...*If I had the videos, I would have no problem giving them to you but unfortunately, I do not.*" The letter on the first page had said that it was up to the Commonwealth's Attorney to mark a video as evidence from Martinsville Police Department. They said from pg. 4093 and 4212, the following: "*If the Commonwealth's Attorney's Office designates a video as evidence it is retained indefinitely. All other videos are subject to the DVMS retention schedule...The DVMS begins cleanup when a video is within the minimum and maximum hold period for its event classification and when the disk*

usage is more than 80% and have not been accessed in 150 days. DVMS cleanup refers to changing the file allocation address of that data file to allow for other data to be stored in place of that file.”. So, the police department was not responsible for the unlawful destruction of the body-camera footage, it is clearly the responsibility of prosecutor Glen Andrew Hall. The public defender Scott Albrecht protected this prosecutor and now the evidence had shown that Scott Albrecht may actually be working for the prosecutor. There should have been inquiry on all of those issues presented before the judge of the Trial Court. The Trial Court had erred or abused discretion by conducting no inquiry and not asking Assistant Commonwealth Attorney Scott Albrecht on the record if he was the defense attorney for Appellant Brian David Hill, why he did nothing to preserve the evidence of the body-camera footage, on why he allowed Glen Andrew Hall to not comply with the court orders for discovery which is contempt of court, and why he had botched Appellant’s defense which would be favorable to Glen Andrew Hall, the Commonwealth’s Attorney, who had defrauded the court. Appellant asserted those arguments in his motion (pg. 3568-3581) to set aside or relief from judgment. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 2. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion for relief (pg. 3543-3649) and Appellant’s motion for reconsideration of the Trial Court’s denial of Appellant’s “MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF

JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...” (pg. 4148-4206); when the Trial Court had overlooked evidence which was presented in support of Appellant’s “fraud on the court” claims by Appellant which demonstrated that the Martinsville Police Officer named Robert Jones had lacked credibility as a witness who had initiated the indecent exposure charge against Appellant. The reason why he had lacked credibility was that he had changed his statements in a different courthouse while testifying under oath. In his initial charge, see pages 3651-3653 of the record, Officer Jones had said under oath in the Arrest Warrant that Defendant had: “*intentionally make an obscene display of the accused's person or private parts in a public place or in a place where others were present.*” He then stated under oath in the facts of the Criminal Complaint that: “*He was medically and psychologically cleared. He was arrested for indecent Exposure.*” He said that Appellant was “medically” cleared. Let us see if that is true or not true based on the record at a later time. See pages 3987-4008 of the record. Robert Jones had testified under oath in Federal Court in North Carolina over the same exact charge since Appellant was on federal supervised release. It is common sense that the same person who charged Appellant with making an obscene display would appear before the federal court under penalty of perjury to testify as a witness. He was questioned by Attorney Renorda Pryor and she was directed by Appellant and his family to ask Robert Jones if Appellant had been obscene. He responded by saying under oath that Appellant had not been obscene. That right there is a contradiction of what he had signed and typed up under oath or affirmation in the Warrant for Appellant’s arrest (pg. 3651). Not only that but was sure enough to say under oath that

Appellant was medically and psychologically cleared. Appellant had argued the fraud of the witness Robert Jones where his statements do not match the Criminal Complaint and Arrest Warrant, meaning that the witness had lacked credibility after the original assumption that witness did not deliberately make an untruthful or false statement. Either the witness had lacked credibility or made multiple non-factual or untruthful statements. The truth is not the truth under oath when contradictions are made when stating the facts in contradiction with each other. Like for theoretical example for the argument: I first say I saw an apple on the way to the dentist office on January 1, whatever year it was, and I say so under oath in a court of law. Then let's say 10 months later I am in another court giving the same testimony but then I claimed under oath that I did not see an apple but an orange on the way to the dentist office on January 1, whatever year it was. It is quite clear that a witness contradicting himself/herself under oath as a witness creates a credibility issue where something wasn't truthful or something wasn't factual as previously presented before a judge and before a clerk of the court. He claimed Appellant was medically cleared but yet Appellant presents evidence in support of his motion which demonstrates that Officer Jones did not know for an absolute fact at all if Appellant was medically cleared (See pg. 3558-3568, 3581-3590, 3592-3627). The record from the very motion itself demonstrated that Officer Jones didn't know that Appellant was even a type one diabetic, didn't know he had obsessive compulsive disorder (OCD), didn't know that lab tests were ordered but were deleted from the chart, and never drug tested Appellant but yet said under oath that Appellant was "medically and psychologically cleared". I don't know how he would know whether Appellant was

“medically and psychologically cleared” but yet he knows nothing of Appellant having insulin dependent diabetes, and didn’t have the lab tests or drug tests saying if Appellant was A-Okay. There was none of that. A lot of assumptions from Robert Jones, but those are not facts, they are assumptions. It is clear that the very officer who had charged Appellant had lacked credibility. His claims were not truthful and not factual when other evidence comes to light in the Trial Court. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 3. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant’s motion for relief (pg. 3543-3649) and Appellant’s motion for reconsideration of the Trial Court’s denial of Appellant’s “MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...” (pg. 4148-4206); when the Trial Court judge had failed to follow his ministerial duties of charging Commonwealth’s Attorney Glen Andrew Hall with contempt of court under Virginia Code § 18.2-456. Appellant had argued in his motion for relief that Glen Andrew Hall of the Commonwealth of Virginia had committed contempt of court (pg. 3568-3581) by not following or ignoring multiple court orders (pg. 3921-3929) which had ordered him to turn over the discovery materials to the defendant’s counsel for defendant to review over with his attorney. Instead, the Commonwealth Attorney had not marked the body-camera footage as evidence (pg. 4093-4095, 4212-4214) which had been an act to not follow an order of the court. In fact,

Appellant had filed a copy of his FOIA request (pg. 3851-3858) in support of the motion and later received a response (pg. 4093-4095, 4212-4214) from the Public Information Officer proving that Glen Andrew Hall was solely responsible for marking the body-camera footage as evidence. The very same body-camera footage which the court orders (pg. 3921-3929) had specified in its orders for discovery. Appellant had proven beyond doubt that a contempt of court was committed at least one time if not two or three times. The Trial Court judge has a ministerial duty under law to charge a contemnor with contempt of court when evidence is presented to the judge and the clerk in support of the claims of contempt of court. Those claims had been proven after the FOIA response letter from Kendall Davis (pg. 4093-4095, 4212-4214). Some form of relief should have been afforded to Appellant or the Trial Court should have at least charged Glen Andrew Hall with contempt of court under Virginia Code § 18.2-456(A)(4) and (A)(5). Even if arguably the Commonwealth's Attorney could be legally immune from all criminal charges, the Trial Court has the authority of law and the exercise of law to hold an attorney accountable for contempt of court. The Trial Court could have even recommended investigation by the Virginia State Bar of the Supreme Court of Virginia. The Trial Court failed and neglected to do their duty to safeguard the administration of justice from fraud, abuse, and acts of non-compliance with an order of the court. If Appellant had decided not to follow a court order and got caught, he would surely be charged with contempt of court with hardly any way out of it, he would be convicted of contempt if Appellant had done the same thing as Glen Andrew Hall had done. A government must not be a lawbreaker even under the guise/facade of prosecuting a "private

criminal”, and that includes the Commonwealth Attorney. See the wise words of the U.S. Supreme Court in the case law authority of *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.”). What if the private criminal wasn’t a private criminal? What if evidence being illegally covered up was to cover up evidence of innocence? Does it matter that court orders have been violated here? What does it mean when a court order is disregarded/disobeyed by a party to a criminal case? Theoretically could Appellant get away with the same type of misconduct as Glen Andrew Hall of Appellees of not following any court order at will? Is Appellees above the law? Can the Commonwealth of Virginia be given free rein to just decide not to follow any order of the judge if such court order may hurt the prosecution? Is this not fraud or contempt or what not? It is clear that Glen Andrew Hall needs to be charged and prosecuted for contempt of court. The Trial Court has the discretion but also has a duty to ensure that penalties are

enacted against anybody who disobeys/defies a court order or decree or directive from a judge. That is the law, and is the matter of law. The Trial Court is supposed to be a court of law. It is an error or abuse of discretion, a failure of duty, a dereliction of duty, to not charge Glen Andrew Hall with contempt of court in response to the motion and evidence filed by Appellant as demonstrated in this assignment of error. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 4. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant's motion for relief (pg. 3543-3649) and Appellant's motion for reconsideration of the Trial Court's denial of Appellant's "MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE..." (pg. 4148-4206); when the Trial Court had overlooked valid legal arguments and evidence of proving extrinsic fraud which was presented in support of Appellant's "fraud on the court" claims by Appellant which demonstrated that a new Police Chief Rob Fincher admitted in writing by Public Information Officer ("PIO") Kendall Davis (pg. 4089-4095), admitted that the body-camera footage which the Circuit Court/Trial Court had ordered the Commonwealth's Attorney aka Appellees multiple times (pg. 4081-4088), was deleted without ever being marked as evidence in complete violation of court orders for discovery and prevented the Appellant from presenting a fair submission of the controversy to the court. It is extrinsic fraud because of multiple common-sense reasons why in the evidence submitted in support of Appellant's

motion for setting aside judgment/order or relieving Defendant of the judgment/order upon evidence of fraud on the court. The prima facie evidence is what was in the three-page letter from PIO Kendall Davis (pg. 4093-4095) mirroring what Police Chief Rob Fincher admitted in that letter. **Common Sense reason #1**: The body-camera footage had been illegally destroyed as admitted by new Police Chief Rob Fincher (pg. 4093-4095) on the date of February 10, 2023. The final judgment/order of the Trial Court closing the criminal case litigation without the timely filed appeal was on the date of November 18, 2019 (pg. 3920-3920). The timely filed criminal case appeal where its final decision was made by the Court of Appeals of Virginia was rendered on the date of September 6, 2021, on the opinion by the Court of Appeals of Virginia rendered on that date (See Hill v. Commonwealth, Record No. 1294-20-3 (Va. Ct. App. Sep. 2, 2021); Hill v. Commonwealth, Record No. 1295-20-3 (Va. Ct. App. Sep. 2, 2021). Almost two years later, Appellant had learned from a new police chief in Martinsville Police Department where the record supports this notion (*name of new police chief is named in three-page FOIA response letter*), named Rob Fincher. Appellant files a Motion (pg. 3543-3649) asking for relief from judgment/order or setting aside judgment on the basis of fraud on the court. As part of that initiative, Appellant had filed a Freedom of Information Act Request (pg. 3851-3858) asking about the existence of the body-camera footage, and the Police Department policies regarding the body-camera footage retention. Addendum filing was entered when Kendall Davis had given an invalid response to Appellant's FOIA request which is at issue for his Motion for relief due to fraud on the court. See pg. 4064-4088. The letter was addressed to both the judge of the Trial

Court and the Clerk of the Trial Court, so this is part of the record necessary for this assignment of error. Kendall Davis the PIO had acknowledged his mistake of submitting the wrong response and submitted the correct response (pg. 4089-4099) to Appellant's FOIA request which concluded his **Exhibit 12 evidence** (pg. 3851-3858) in support of his motion requesting relief due to fraud on/upon the court. The Trial Court did not appropriately enter a decision denying or granting the motion until that evidence was entered or reviewed. The order denying his motion (pg. 4120-4120) was made around the same time or same day on record of a status letter which was filed with the very judge and clerk of the Trial Court (pg. 4131-4147) regarding the prima facie proof of extrinsic fraud. It is extrinsic fraud because it is the Police Department of the City of Martinsville and Commonwealth of Virginia which admitted on February 10, 2023 that the body-camera footage had once existed and was deleted in contradiction/defiance to the court orders for discovery. **Common Sense reason #2:** The evidence was extrinsic fraud because no prima facie evidence (*something in writing from a credible source or credible witness, THE POLICE CHIEF!!!*) had existed on the record of the Trial Court prior to February 10, 2023 proving beyond a reasonable doubt as to the unlawful destruction of the body-camera footage. No written proof or statements from somebody working in Martinsville Police Department represented by Appellees until the letter from PIO Kendall Davis (pg. 4089-4099) which had responded to Appellant's FOIA request (pg. 3851-3858) for evidence at-one-time in the possession of Martinsville Police Department before that piece of evidence was unlawfully deleted and destroyed which did not comply with multiple court orders (**EXHIBIT #22**, pg. 3921-3929) asking for the

discovery evidence. All of that was appropriately submitted to the Court in support of Appellant's request for relief from the judgment/order convicting Appellant of indecent exposure on November 18, 2019 (**EXHIBIT #21**, pg. 3919-3920). Appellant had finally proven that the body-camera footage was deleted after the multiple court orders asking for the very thing which was deleted. That itself is evidence of CONTEMPT OF COURT. Appellees should have been separately charged with contempt of court in the Trial Court and the charge should have been initiated by the Trial Court; whether fraud was proven or not on a separate issue. Anyways back to the next common-sense reason. **Common Sense reason #3**: Violating any law and violating any court order whether state or federal has consequences. Violating any federal, state, or local law has consequences. That includes willful failure or refusal/disobedience to follow court orders and that includes destroying evidence during a FEDERAL INVESTIGATION by the United States Probation Office. All of that is on the record of the Trial Court. First of all, Police Chief G. E Cassady (pg. 3889-3895, **EXHIBIT #13**: 3859-3864) and Commonwealth Attorney Glen Andrew Hall are both potentially liable for not just violating court orders but the police chief would possibly be liable for destruction of evidence during a pending investigation or case by the United States Probation Office who supervises Appellant for a federal conviction, and that sentencing is on the record of the Trial Court (pg. 217-223 and **EXHIBIT #2**: pg. 3654-3735). The transcript of the supervised release violation hearing mentions nothing about the introduction of the body-camera footage because the Martinsville Police Department never turned over that evidence from the state case to the federal investigation by the U.S.

Probation Office. That itself proves evidence was willfully kept from the United States Probation Office after investigating the supervised release violation charge of Brian David Hill, the Appellant, in 2018. That means either the Commonwealth's Attorney Glen Andrew Hall, Esq. aka Appellees at the Trial Court level (*Note: Attorney General did not violate federal law and did not violate the court orders themselves since they including Justin Hill just represents Appellees at the Appellate level, Appellant is not blaming the Attorney General but refers to Glen Andrew Hall, Esq. as to Appellees*) or Martinsville Police Chief G. E. Cassady had violated 18 U.S.C. § 1519. The motion to reconsider (pg. 4189-4191) also brought up the issues of federal law being violated here. Not just violating the court orders and committing contempt of court two or three separate times (pg. 4186-4188). Family provided link for citation of lawyer page <https://www.criminaldefenselawyer.com/crime-penalties/federal/Tampering-with-evidence.htm> (“**A person commits the federal crime of tampering with evidence when he or she knowingly alters, conceals, falsifies, or destroys any record, document, or tangible object with the intent to interfere with an investigation, possible investigation, or other proceedings by the federal government. (18 U.S.C. § 1519.)”). United States Probation Officers are federal officers and lying to a federal probation officer is a federal crime. Hiding evidence then destroying or deleting evidence which exists at one time with the purpose of interfering with a proper investigation or any possible investigation conducted by a federal agent or federal officer. The destroyed and deleted evidence was the BODY-CAMERA footage on record (pg. 4093-4095) which isn't just fraud on the court, it is**

violation of both court orders and federal law of a U.S. Probation Office investigation into Appellant's state charge, supervised release revocation or charge, and conviction by the General District Court and later with the Trial Court. This proves with the prima facie evidence that former Police Chief G. E. Cassady and/or Glen Andrew Hall, Esq. of Appellees would be potentially held liable criminally and/or civilly for the act/acts of evidence destruction and deletion after court orders (**EXHIBIT #22**, pg. 3921-3929) asking to provide the evidence to the Defendant and/or his attorney. The final argument for this third common sense reason is this. The Police Department will not admit they illegally destroyed the body-camera footage themselves if it would or could create both criminal and/or civil liability issues for the Police Chief if responsible for the wrongdoing at the top. Police Chief G. E. Cassady never would have admitted that they concealed from the Trial Court the body-camera footage evidence which Attorney Scott Albrecht had caused/filed a proposed court order asking for that very thing and was signed by the judge, then they secretly deleted the body-camera footage (pg. 4093-4095) on APRIL 9, 2019, while Appellant was sitting in a Federal Prison (pg. 81-98) and was released on federal bond on May 14, 2019, a month after the body-camera footage was illegally deleted. Appellant had mailed letters (**EXHIBIT #15**: pg. 3871-3895; pg. 4139-4144) to the Police Chief asking for that very piece of evidence without realizing that multiple court orders (**EXHIBIT #22**, pg. 3921-3929) were already on file with the Trial Court record ordering the body-camera footage and any other material evidence under Brady v. Maryland of the U.S. Supreme Court. The deletion of the very evidence was not a mistake with the paper trail, the letters to

the Police Chief including one by certified mail and was typed up by Brian Hill's family members (pg. 4139-4144). It is clear that the former police chief G. E. Cassady could very well be held liable. If the letters to the police chief were mailed from a Federal Prison, there may very well be mailing logs by the Federal Bureau of Prisons which Appellant can introduce as evidence if the conviction/judgment is set aside. Appellant would potentially have even more prima facie evidence in the future if prevailing on the three appeals (CAV No. 0313-23-3, 0314-23-3 and 0317-23-3) this brief is filed for. It is clear that the police chief had plenty of chances to follow the court orders when the Appellant had mailed letters to the police chief about the body-camera footage. The letter from the PIO Kendall Davis through Police Chief Rob Fincher (pg. 4093-4095) proves that the body-camera footage did IN FACT exist and was deleted while not complying with the Court Orders and not ever providing a copy to the United States Probation Office during its initial investigation and supervised release violation charge against Appellant. **The argument is this. LIABILITY,** that is the final argument for this common-sense reason. The former police chief would never have admitted to the destruction of the body-camera footage regardless of Appellant filing a FOIA request. It is common sense to wait until a new police chief is appointed or is designated (by retirement of former police chief) to be the top chief position of Martinsville Police Department. A new police chief comes in, admits the evidence was deleted in violation of court orders. That makes this piece of evidence destruction, the prima facie evidence is EXTRINSIC FRAUD. Not intrinsic fraud. It is extrinsic because of the liability issues with the former police chief. The FOIA request was filed in 2023 (pg. 3851-3858),

when Rob Fincher (pg. 4093-4095) was the police chief of Martinsville Police Department. The criminal appeal had concluded in September, 2021. The final verdict of guilty/criminal conviction was on November 18, 2019 (pg. 3920-3920). The discovery of the extrinsic fraud proof was on February 10, 2023, the date of receipt of the FOIA response letter and that same day it was filed with the Trial Court as evidence (pg. 4089-4099) in support of the Motion asking for relief before the Trial Court rendered its order/judgment (pg. 4120-4120) denying that motion. Rob Fincher the new Police Chief would not be held criminally and/or civilly liable for the destruction of evidence pursuant to the court orders for discovery and potential evidence for the United States Probation Office who charged Appellant with a supervised release violation for the very state criminal charge and conviction at issue with this entire appeal and with past appeals with the Court of Appeals of Virginia, this court. So, for him, he had no issue with his written/typed information proving that the body-camera footage was illegally destroyed thus proving prima facie evidence of fraud on the court. Former Police Chief G. E. Cassady (pg. 4139-4143) would have had an issue with the body-camera footage ever being admitted in writing as to being deleted. **Common Sense reason #4:** Appellant's past claims of the body-camera footage at issue in any older appeals was only based on what he heard from his court appointed lawyer Matthew Scott Thomas Clark (pg. 4072-4088) in the Trial Court from 2019. The only evidence Appellant had until February 10, 2023, was in an affidavit about what he heard from his own lawyer, and that may be considered "hearsay". May be considered 'hearsay' when the only evidence Appellant had of the unlawful destruction of the body-camera footage was of what he heard

from his court appointed lawyer. That lawyer provided no written statements, had produced no written statements, and had no affidavits of himself/herself about what was told to Appellant. Appellant had filed a FOIA request with no guarantee that any good response could come of it. The Virginia's Freedom of Information Act (FOIA) law doesn't matter when it comes to the human brain, and only legally pertains to existing records not under a justified exemption under law. The police chief could have denied Appellant's FOIA request and claim that Appellant was delusional or just simply plead the Fifth Amendment out of fear of facing criminal and/or civil liability. Appellant would not be able to easily prevail if the police chief could instead doubled down or tripled down or claim there was no body-camera footage and then the FOIA request would have been deemed satisfied by simply claiming no record exists, even by a judge of the highest Court in the United States. The FOIA is not a guarantee to find evidence favorable to a criminal defendant once a criminal case is either dismissed or receives a verdict of guilty then becomes a final verdict of the defendant in the case. The FOIA is not a guarantee while a criminal case is pending before the General District Court and/or the Circuit Court of any district. A law cannot guarantee the FOIA request prevails if the police chief could just claim that no possible record exists including the body-camera footage. However, the police chief did admit the existence of the body-camera footage evidence during a past Police Chief and his administration in 2018-2019. A new police chief was not worried about any potential criminal and/or civil liability. So, the police chief admits it was destroyed under the previous boss. **FINAL ARGUMENT**

AS TO Common Sense reasons: Therefore, it is EXTRINSIC FRAUD. All Common-sense

reasons are given as to the argument that the fraud proof is not intrinsic fraud but is extrinsic fraud, prima facie evidence, and is therefore subject to relief under 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. Extrinsic fraud is “conduct which prevents a fair submission of the controversy to the court.” Id. (quoting *Jones v. Willard*, 224 Va. 602, 607, 299 S.E.2d 504, 508 (1983)). Extrinsic fraud includes: “[k]eeping the unsuccessful party away from the court by a false promise of a compromise, or purposely keeping him in ignorance of the suit; or where an attorney fraudulently pretends to represent a party[] and connives at his defeat.” *McClung v. Folks*, 126 Va. 259, 279, 101 S.E. 345, 348 (1919); accord *F.E. v. G.F.M.*, 35 Va. App. 648, 660, 547 S.E.2d 531, 537 (2001). In such circumstances, the fraud perpetrated “prevents the court or non-defrauding party from discovering the fraud through the regular adversarial process.” *F.E.*, 35 Va. App. at 660, 547 S.E.2d at 537 (quoting *Peet*, 16 Va. App. at 327, 429 S.E.2d at 490). “Extrinsic fraud, therefore, is ‘fraud that . . . deprives a person of the opportunity to be heard.’” Id. (quoting *Hagy v. Pruitt*, 339 S.C. 425, 431, 529 S.E.2d 714, 717 (S.C. 2000)). See preservation of argument in pg. 3556-3556. Deleting evidence and preventing it from ever going to the Defense after multiple court orders is a type of fraud which “deprives a person of the opportunity to be heard.” Under the **Wigmore standard**, evidence destruction/spoliation is fraud and indicates that the case is a weak or unfounded one. The **Wigmore standard of evidence** is used by courts all across the United States of America regarding evidence and fraud. See *Evidence in Trials at Common Law* § 278, at 133 (James H. Chadbourne ed., rev.

ed. 1979): (“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, and all similar conduct 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. The inference thus does not necessarily apply to any specific fact in the cause, but operates, indefinitely though strongly, against the whole mass of alleged facts constituting his cause.”; Quote from John H. Wigmore) *Note: Family obtained for Appellant from <https://www.lawasitis.com/judgment-obtained-by-fraud-american-jurisprudence-quote/> - Judgment obtained by Fraud - American Jurisprudence Quote.* The Wigmore argument was also argued on the record of the Trial Court in Appellant’s motions, see pg. 3558 (16th page of the first denied Motion based on fraud on the court at issue in this appeal); pg. 4161-4163 (page 14 through 16 of denied Motion to Reconsider denying the first motion. Motion to reconsider starts at pg. 4148 of the Trial Court record.)). **Black’s Law Dictionary (11th Edition) defines spoliation as the intentional destruction, mutilation, alteration, or concealment of evidence. Spoliation interferes with a party’s ability to investigate the facts to determine potential causes of action (or defend against claims and lawsuits).** Appellant has proven based on the record of the Trial Court that Wigmore standard was argued in the very motion which was denied and thus preserves that issue for appeal, and that extrinsic fraud was found and proven by the statements from the new police chief Rob Fincher of the City of Martinsville in Kendall

Davis's response to Appellant's FOIA request. All of that has been proven and is on the record. The Court of Appeals of Virginia can make independent findings of the arguments laid before the Trial Court in the Motions in pages 3543-4008 of the record for the first motion and pages 4148-4254 and 4257-4276 of the record for the second motion. This Assignment of Error has established from the record of the Trial Court that the Trial Court had overlooked valid legal arguments and evidence of proving extrinsic fraud which was presented in support of Appellant's "fraud on the court" claims. Extrinsic fraud had been proven and thus Appellant had been entitled to relief and the Trial Court had erred. For arguments sake, if the body-camera footage had been favorable to the Commonwealth of Virginia and City of Martinsville, the Appellees, then that never would have been deleted. In fact, the Commonwealth Attorney would have presented the body-camera footage in General District Court and it would have been used against the Appellant as tangible evidence, irrefutable evidence on video. The fact that the video was deleted and not marked as evidence meant that (theoretically) if the video had been viewed by the Officer or prosecution, saw things in the body-camera footage which would have caused the judge or jury to have second thoughts or consider a not-guilty verdict on both the obscenity element and the intent element. The body-camera footage must have been fatal to the Appellees in their fraudulent prosecution, and would have caused a non-favorable verdict. Adverse inference is also warranted here since the prima facie proof is given to the Trial Court and the adverse inference was preserved in the record of the Trial Court (see pg. 3553, 3580-3581, 4089-4099). Statement of the Facts are of evidence and facts from the record

supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 5. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant's motion for relief (pg. 3543-3649) and Appellant's motion for reconsideration of the Trial Court's denial of Appellant's "MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE..." (pg. 4148-4206); when the Trial Court had overlooked that there was enough evidence of fraud that no criminal conviction should have ever been sustained in the first place. The evidence cited and arguments made in **Assignment of Error 4** have demonstrated that evidence was unlawfully destroyed by the Appellees (*Note: Not Justin Hill and not the Attorney General, as he and the Attorney General's office only represents Appellees at the Appellate level which the lower Trial Court case was prosecuted under Glen Andrew Hall, Esquire*). Appellant had provided enough prima facie evidence that the entire basis for the criminal charge (pg. 3650-3653) and the entire basis for the conviction (pg. 3920-3920) should have never had any guilty verdict in the first place. There never should have been a conviction. First of all, Appellant had argued in his first motion (pg. 3581-3622) that Appellant was never medically cleared because the laboratory tests were never completed after being ordered (pg. 3688-3689, 3909). The police never drug tested Appellant, and even if there is no law in Virginia requiring them to do any laboratory work on a suspect whom they arrested for indecent exposure, it does completely disprove the element of (pg. 3653) "He was medically and

psychologically cleared.” When an element has been completely disproven, it is a fraud on the court. Even Officer Robert Jones admitted under penalty of perjury that he never knew Appellant was diabetic (pg. 3614-3616, 3688, 3836-3841) considering how important it is for the arresting police officer Robert Jones to know that Brian the Appellant was diabetic which required INSULIN SHOTS and glucose upon hypoglycemia. Appellant was arrested by an officer who said under oath that Appellant was medically cleared but the hospital didn’t even check his blood sugar and the officer never checked Appellant’s medical records (pg. 3688-3689) and knew nothing of the permanent health issue of type one diabetes. Appellant could have DIED IN CUSTODY since the arresting officer Robert Jones didn’t even know that Appellant was diabetic. He was not medically and psychologically cleared. The only witness who charged Appellant with making an obscene display had lacked credibility (See pg. 3581-3590; DECLARATIONS/AFFIDAVITS pg. 3987-4008). The witness Robert Jones lacked credibility by claiming Appellant had made an obscene display which was why he was charged with indecent exposure (pg. 3650-3653). The sole basis of obscenity when Appellant was charged then arrested was based on a fraud since the information was not credible and not factual, the medically and psychologically cleared element of his criminal charge and arrest was based on a fraud and was not credible and neither was it factual. All of that was argued (pg. 3543-3649) with supporting evidence (pg. 3650-3986, 3987-4008) included within the Appellant’s motion and subsequent supportive filings (pg. 4064-4088, 4089-4114). There is evidence of body-camera footage deletion in violation of court orders as already documented in **Assignment of Error 4** and the U.S.

Probation Officer being ignorant about the body-camera footage and the U.S. Attorney who prosecuted the Appellant was ignorant of the body-camera footage. Nobody knew in the Federal Court that such evidence was proven to have existed. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 6. The Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant's motion for relief (pg. 3543-3649) and Appellant's motion for reconsideration of the Trial Court's denial of Appellant's "MOTION FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE..." (pg. 4148-4206); when the Trial Court had not held any evidentiary hearing or inquiry hearing before its three court orders denying Appellant's motions when there was enough evidence of fraud of both extrinsic and intrinsic. See the motion (pg. 3543-3649) with supporting evidence (pg. 3650-3986 and 3987-4008) included within the Appellant's motion and subsequent supportive filings (pg. 4064-4088, 4089-4114). The **Assignment of Error 4** had already argued factually and legally that the body-camera footage destruction had been proven with the FOIA response letter, and it had proven that three court orders (**EXHIBIT #22**, pg. 3921-3929) regarding discovery were not complied with by Glen Andrew Hall, Esquire. It is clear that some sort of hearing or contempt of court charge was warranted here. Appellant had provided the "judge" of the Trial Court with clear and convincing evidence. A Police Chief, is credible evidence/witness, the top police officer of Martinsville Police Department, a

higher position of legal authority than the lower position of charging police officer Robert Jones who arrested Appellant for the charge of indecent exposure. The Police Chief is a credible witness, and a judge of the Trial Court is supposed to take the word of a credible witness, especially a top law enforcement officer who admitted what date the body-camera footage was deleted from the DVMS system (pg. 4094-4094) which was on April 9, 2019. Based on **every other assignment of error**, the evidence is enough to warrant at least an inquiry hearing or evidentiary hearing to determine the extrinsic fraud and if there is enough to legally require that the Trial Court consider vacating the criminal conviction (pg. 3920-3920) or setting it aside. The whole point of deterring fraud upon the court or fraud on the court is to keep the criminal records truthful, credible, legal, and factual. Same with the civil records, keeping them truthful, credible, legal, and factual. When a charge is potentially false or is based on false pretenses or has one or more fraudulent elements, there should be no criminal conviction to be sustained. If a conviction is sustained on fraud or frauds, then nobody will see the credibility of any record of the Trial Court that allows fraud to be considered the valid verdict of a case or cases. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47).

Assignment of error 7. This Court should extend and/or modify existing law to hold that the Trial Court erred as a matter of law and/or abused discretion in its three orders (pg. 4120, 4255, and 4277) denying Appellant's motion for relief (pg. 3543-3649) and Appellant's motion for reconsideration of the Trial Court's denial of Appellant's "MOTION

FOR SET ASIDE OR RELIEVE DEFENDANT OF JUDGMENT OF CONVICTION OF CRIMINAL CHARGE...” instead of initiating one, two, or three contempt of court charges or inquiries to determine whether the Appellees at the Trial Court level (Not Appellate level) such as Glen Andrew Hall, Esquire, and Assistant Commonwealth’s Attorney Scott Albrecht have intentionally disobeyed one, two or three court orders in such an egregious way as to the inability to recover evidence which has been permanently destroyed/deleted and spoliated(spoliation). That under the law and the rule of law, any officer of a court who had deceived the judge of the court by concealing the existence of evidence then it was reported as deleted at a certain date years later by not being marked as evidence, then that officer had defrauded the court. Not just defrauded the court but has refused to follow one or more court orders. See Va. Code § 18.2-456 (“4. Misbehavior of an officer of the court in his official character; 5. Disobedience or resistance of an officer of the court, juror, witness, or other person to any lawful process, judgment, decree, or order of the court”). See what was argued in the Motion for Reconsideration (Pg. 4148-4206) and it’s supporting exhibits (pg. 4207-4254). It is clear that when a court order is not followed and the Commonwealth’s Attorney can get away with it without any penalty or sanction, no punishment, then it creates issues of an untrustworthy prosecutor. See article citation (given to Appellant by family and Appellant did not use internet) <https://www.city-journal.org/article/untrustworthy-prosecutors> - Untrustworthy Prosecutors | City Journal, (“Under two Supreme Court cases, Brady v. Maryland and Giglio v. United States, prosecutors are constitutionally required to disclose to defense lawyers the credibility problems of potential prosecution witnesses, such

as a history of lying or drug use. Police officers are justifiably warned that lying in any capacity can not only endanger their ability to testify but also result in termination.”). Termination meaning termination from their employment, their career is gone. See the argument from Appellant’s motion to reconsider (pg. 4185-4186) arguing the potential issues of allowing the prosecutor Glen Andrew Hall, Esquire of Appellees to totally get away with a fraudulent prosecution and disobeying court orders without any repercussions or consequences creates a lawless Government (pg. 4188-4189). See what was argued in the record of the Trial Court in *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.”). It is not just the law for a judge or Clerk to charge a person or lawyer for disobeying a court order, it prevents anarchy. It prevents vigilantism. It prevents the average American people from trying to become a law unto himself. Usually, the average citizen respects the law and that only lawbreakers are punished when each suspect is proven

to have broken the law in a court of law under the exercise of due process of law. When a Commonwealth Attorney or District Attorney decides to disobey the law or disobey even a court order, then it is the duty of the court to sanction or have penalties against the Commonwealth Attorney or District Attorney to at least give the appearance of the rule of law, equal protection of law. The rule of law requires that everyone obey the law including the Government, including the law enforcers, otherwise the law is set up for only a certain class or tier of people. This would turn America into the caste system which is a class-based system (pg. 4192). Where government lawyers can break the law and even rob innocent people of their money, while the average person is held accountable to the law even when no law was broken. A system of slavery where the 13th Amendment can be abused to bring slavery back to the average citizen of the United States of America, where no crime has to be proven to imprison and enslave a prisoner. No crime even has to exist to enslave somebody. What kind of world? What kind of society do we want? Do we want a society based on merits or based on who is in a position of power? Are we the rule of law or law of man (pg. 4193)? Anyways, the motion for reconsideration at issue for this assignment of error brings up the horrible consequences of allowing Glen Andrew Hall to break the law and never face any justice. See pg. 4185-4187, 4190-4191. Statement of the Facts are of evidence and facts from the record supporting relief for this Assignment of Error (See Statement of the Facts in Appeal Brief Pg. 37-47). Relief is warranted, motions should have been granted.

Assignment of error 8. The Trial Court should have granted either the Motion for

relief (pages 3543-3649) or the Motion to Reconsider (pg. 4148-4206) on the basis of the Statement of the Facts (See Statement of the Facts in Appeal Brief Pg. 37-47), all material evidence and relevant evidence within the Statement of the Facts of both motions, and based on the law.

6. Certificate of Service for this Appellant Designation.

I hereby certify that on this 1st day of December, 2023, I caused this corrected “Appellant’s Designation of the Record and Assignments of Error” to be delivered by email service by Assistant/Filing-Representative Roberta Hill (**proof of service is filed accompanying this Certificate of Service/pleading**) to the Commonwealth of Virginia and City of Martinsville through the counsel for the Office of the Attorney General who represents Appellees (*Commonwealth’s Attorney Glen Andrew Hall had recused himself from the Circuit court case by Judge Giles Carter Greer order dated March 7, 2023, appointing special prosecutor, see the order for special prosecutor in case no. Case #: CR19000009-01*); and the original was filed with the Clerk of the Court of Appeals of Virginia by Virginia Court eFiling System (VACES) through Assistant/Filing-Representative 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 pleading shall satisfy the proof of service was required by Rule 5:17(b):

~~1. Glen Andrew Hall, Esq.
55 West Church Street, P.O. Box 1311
Martinsville, Virginia 24112 or 24114 (for P.O. Box)
Telephone: 276-403-5470
Fax: 276-403-5478
Email: ahall@ci.martinsville.va.us (RECUSED HIMSELF, Special Prosecutor appointed by Hon. Giles Carter Greer on March 7, 2023, Case #: CR19000009-01)~~

Counsel for Appellees'

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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/rbhill67@justiceforuswgo.nl and request that she forward the message and any documents or attachments to Brian David Hill

to view offline for his review.

Respectfully served on December 1, 2023,

BRIAN DAVID HILL
Pro Se

Brian D. Hill
Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative News
310 Forest Street, Apt. 2 Martinsville,
Virginia 24112
(276) 790-3505

Pro Se Appellant

<https://JusticeForUSWGO.wordpress.com>

<https://JusticeForUSWGO.nl>



U.S.W.G.O.

ROBERTA HILL <rbhill67@comcast.net>

12/1/2023 7:05 AM

Appellant brief, designation, emergency letter to be filed today

To Hill, Justin B. <jhill@oag.state.va.us> •

OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> •

Chris Coen <ccoen@oag.state.va.us> Copy

stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl> •

Stanley Bolten <stanleybolten@protonmail.com>

Hey Justin Hill,

I am Roberta Hill, Brian Hill's mother. I am filing this (1) Appellant opening appeal brief; (2) designation of the record; and (3) Emergency Letter to the Clerk and panel of judges, on Brian's behalf. That is due to his federal probation conditions where he is not allowed to use the internet. He is having me file these pleadings on his behalf. This should serve the counsel for Appellees through email. These will be filed via VACES with the Court of Appeals of Virginia.

Appellant decided to go ahead and file them all. That way the panel can either grant motion for leave of court or deny that motion. If it is granted, then his brief can go ahead and be filed, and then you will have a chance to file an opposition brief as Appellant requested in his motion for leave of court.

The motion for consolidation you had filed months ago didn't take into consideration that my son received prima facie evidence in the record of extrinsic fraud for his three appeals this year which had not existed last year.

My son is arguing in part of his emergency letter that it was reckless to consolidate all appeals without preserving the right to file a brief for his three appeals filed this year, while he couldn't file for six months during his contempt of court case. He had to take days and have piles of evidence just to ask the Court for permission to file a brief when he could have filed three briefs, but he wouldn't have liked filing three briefs over the issue of extrinsic fraud based on evidence not previously ever made known. The police chief voluntarily admitted what my son had suspected. That is the prima facie evidence.

I have read the 3-page police letter which my son has referred to in his assignments of error. I am aware that the prosecution withheld evidence, concealed its existence, and then deleted it. The police chief practically blamed the commonwealth attorney for the evidence deletion. The proof is on court record. You should know that by now if you examined the letter in the record. My son's appeal will address the blatant corruption and law breaking of the commonwealth attorney. The police chief is a credible witness, the evidence is

CAV: Submitted on 12-01-2023 07:12:15 EST for filing on 12-01-2023

irrefutable. It is time that this attorney face contempt of court charges. My son faced contempt of court over his freedom of speech and it caused your motion to consolidate to mess up his last three appeals. It is time that Andy Hall of the commonwealth attorney face the same type of charges of contempt of court. He should face the same charge my son had received over his freedom of speech. My son never disobeyed a court order, but the people you represent had disobeyed multiple court orders.

File list of attachments:

1. APPEAL-BRIEF-DEC-1-2023.pdf
2. Appellant-Designation-DEC1-2023.pdf
3. APPELLANT-LTR-DEC-1-2023.pdf

Roberta Hill (representative for electronic filing)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112

Court of Appeals of Virginia, cases no. 0313-23-3, 0314-23-3 and 0317-23-3:
Brian David Hill v. Commonwealth of Virginia, City of Martinsville

Appellant:
Brian David Hill
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

Thanks,
Roberta Hill

-
- APPEAL-BRIEF-DEC-1-2023.pdf (1016 KB)
 - Appellant-Designation-DEC1-2023.pdf (794 KB)
 - APPELLANT-LTR-DEC-1-2023.pdf (209 KB)

EMERGENCY LETTER TO CLERK OF COURT OF APPEALS OF VIRGINIA

Re: 0313-23-3, 0314-23-3 and 0317-23-3, Brian David Hill v. Commonwealth

Thursday, November 30, 2023 06:39 AM
WILL BE FILED ON: Friday, December 1, 2023

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

CC: Counsel for Appellees, Note: received a copy by rbhill67@comcast.net.

Clerk,

I write this EMERGENCY LETTER which I wish to file with you at the exact same time I am filing my Appeal Brief and Designation of the Record which is at issue in my Motion for Leave of Court to file my Appellant's Designation of the Record and Appeal Brief.

I ask the Clerk that this letter be distributed to the very panel of judges making a decision on granting or denying my filed Motion for Leave of Court. I had filed that motion with the Clerk on October 27, 2023. I know the Clerk has acknowledged receipt by confirmation through the VACES system.

This is for CAV cases nos. 0313-23-3, 0314-23-3 and 0317-23-3.

I keep waiting for weeks to see if my motion was granted, and no decision had been made yet. I may have had a misunderstanding about something or I am assuming something here. So I am trying to get the Appeal Brief and Designation ready to file as soon as I can.

I assumed that I would be given 40 days to file my appeal brief and time for filing the Designation after my/Appellant's motion was granted. After weeks going by without a decision on that filed motion (filed: October 27, 2023), I had finally realized that there

may be a chance that the panel of judges or the Clerk is waiting for me to file my Appeal Brief and Designation of the Record before the 40 days after my motion was filed. At least I am assuming. I could be wrong. Whatever the case may be, I had decided a week ago to start working on the Assignments of Error in my Appeal Brief and Designation of the Record.

I actually have to finish my Appeal Brief before I can even finish my Designation of the Record because the Designation of the Record template which I had used to produce the Designation filings in the past, had a section where it said "Assignment of Errors". So I assume that I have to copy and paste my Assignment of Errors in my Designation filing. The problem is, because of the word limit for appeal briefs, I am limited to how many assignments of error I can bring up along with the other things in the Appeal Brief. So I cannot file the designation before the appeal brief due to the issues where my assignments of error may exceed the word limit. I have to file the Designation of the Record and Appeal Brief together at the same time because after I finish the Appeal Brief work and make sure that it does not exceed the word limit, then I have to copy and paste the Assignments of Error to the Designation of the Record.

The Designation of the Record is too important because the record of the Trial Court is already approximately 4,327 pages, with a lot of evidence exhibits and some Declarations, as well as the letter from the Public Information Officer, and the letter to the judge. The evidence is in different sections of the record in 2023. Things got derailed by my contempt of court criminal charge earlier this year which was dismissed without me being convicted. During the six months period as explained in my already-filed Motion for Leave of Court, I wasn't even permitted to file a response to the Appellees motion for consolidation and that caused a lot of headaches and issues. He wanted consolidation to the extent where I was forced to ask for leave of court just to finish my three appeals where no brief was ever filed in those cases.

There is a lot of evidence of fraud on the court. I have evidence on record which is prima facie. One such piece of evidence from Police Chief Rob Fincher of City of Martinsville Police Department through the Public Information Officer Kendall Davis. Evidence proving that the Commonwealth of Virginia and City of Martinsville illegally destroyed evidence by not ever marking the body-camera footage as evidence once in the custody of Martinsville Police Department. After they had charged me with indecent exposure, the body-camera footage recorded during the alleged incident should have been marked as evidence and should have been produced at my first Trial in the General District Court. I was never informed in writing of the proven existence of this evidence until February 10, 2023. Years after my criminal case had come to a close. So it is extrinsic fraud. My court appointed lawyer told me in 2019 that the body-camera

footage had been destroyed, but me telling that to the Court may be considered hearsay without any tangible evidence. I didn't have proof of it in writing until this year.

Justin Hill, counsel for the Appellees had filed an opposition brief last year and said that I did not have prima facie evidence of extrinsic fraud on the court. This year I was given prima facie evidence of extrinsic fraud on the court, in response to my Freedom of Information Act (FOIA) request filed this year after the former police chief stepped down from office. I will explain in my assignments of error how I have this prima facie evidence of extrinsic fraud on the court right from the record of the Trial Court. Justin will now have to address this prima facie evidence of extrinsic fraud. By his own definition in his opposition brief, Extrinsic fraud is a type of fraud which prevents a fair submission of the controversy to the court. The body-camera footage is evidence which would have proven my innocence to my charge of indecent exposure by showing that I was intoxicated or at least it would have shown the appearance of intoxication which goes along with the hospital deleting my laboratory tests from my chart after they were ordered at the Emergency Room which is yet another unexplained cover up. It was destroyed because it would not help the prosecution but would have harmed the prosecution's case. Doesn't matter, it violated three court orders and prevented the Defendant/Appellant from a fair submission of the controversy to the court. So the fraud could only be found out this year. All of that is explained in the Assignments of Error and yet the evidence itself can explain itself which backs up the Assignments of Error concerning extrinsic fraud on the court.

He was wrong to request broad consolidation of all of my appeals without at least giving me the right to file a brief for my three remaining appeals on record where no brief was ever filed. Those appeal cases are no. 0313-23-3, 0314-23-3 and 0317-23-3.

Anyways, I have briefly explained the situation. I assumed that I wait for the Court to grant my motion before working on my appeal brief. Weeks go by without a decision, then I now feel that I may be having to file my appeal brief and designation before 40 days after I filed that motion.

Look, I am not a lawyer, and I don't know why the motion hasn't been granted or denied yet. I have a right to file an appeal brief for my three remaining appeals where no brief was ever filed. Justin Hill, counsel for Appellees filed that motion for consolidation with the Court of Appeals of Virginia prior to even reviewing over the record which I felt was reckless and wasn't a good idea. He didn't know that this year I did have a certain piece of irrefutable evidence that I did not have last year in the record of the trial court, evidence of the deletion of the body-camera footage which proves extrinsic fraud since the Police Department had voluntarily admitted to this in response to my FOIA

Request when the body-camera footage was deleted, why it was not preserved as evidence after I was charged with indecent exposure, and the policy regarding retention of the body-camera footage. The Police Chief admitted that it was at the discretion of the Commonwealth's Attorney to mark body-camera footage as evidence. This places Glen Andrew Hall as solely responsible for the unlawful destruction of the body-camera footage on April 9, 2019, after two court orders were issued for discovery materials. Then a third court order came in months later asking for discovery material. The Commonwealth neglected to tell Hon. Giles Carter Greer that the evidence requested by the court was deleted before the third court order (first court order was in General District Court). He kept his mouth shut which makes him complicit or responsible in disobedience of following court orders, and neglected to do his duty as an officer of the court for the Commonwealth of Virginia or as an officer of the court for any party. Not only that but this also may mean that Glen Andrew Hall, Esq. on record, destroyed evidence which may also have been subject to an investigation by the United States Probation Office investigating my state charge of indecent exposure in 2018 to determine if I had violated any condition of supervision. The evidence the U.S. Probation Office had collected went to the United States Attorney for prosecuting me in 2018-2019 as proven in a federal court transcript in the record of the Trial Court. The proof that I am on supervised release was submitted by both me and by the Commonwealth's Attorney Glen Andrew Hall to the Circuit Court on record. He knew I was under supervision and withheld evidence from the U.S. Probation Office, who are federal law enforcement officers who conduct supervision and investigate any potential violations of the supervision. So Glen Andrew Hall may have violated 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records in Federal investigations and bankruptcy. This issue about Glen Andrew Hall violating federal law and court orders is also planned on being brought up as an Assignment of Error at issue since it is within the record of the Trial Court. It is also on record that I had informed Hon.; Giles Carter Greer of the Trial Court that Glen Andrew Hall had violated 18 U.S. Code § 1519, by disobeying the Circuit Court orders. He also violated federal law by covering up the very evidence subject to the federal investigation over my potential alleged supervised release violation. The body-camera footage could have exonerated me in both federal court and in the Circuit Court. The fraud is extrinsic fraud, which will be explained in the Assignments of Error. I will do the best I can to bring this up where I can from the record.

There is evidence and issues brought up this year where it warranted at least one more appeal brief if not three briefs. I wish Appellees would have asked for the record of the Trial Court before asking for consolidation of all appeals. It was his duty under Due Process Clause to notify the Court of Appeals that I wasn't allowed to file there for six months when I was barred from filing at all in my state appeals or any state court for six

months during the pendency of my contempt of court criminal charge against me to protect my due process of law. Because he didn't notify this Court, it screwed up my last three appeals and thus I had to take the time and gather the evidence to file my Motion for Leave of Court.

I have to explain that my Appellant's Designation of the Record and the Appeal Brief must be filed together since both talk about Assignments of Error. I hate to neglect to bring up my planned Assignments of Error in my Designation without typing them up in my brief to make sure that I comply with the word limit and then copy and paste the Assignments of Error to the Designation of the Record to make sure that the Designation is following any usual procedures.

Again, I am not a lawyer and I am making assumptions here or I may be correct. I do wish to go ahead and file my Brief and Designation and hope that both are granted leave to file. Too much is at stake here. Too much evidence is at stake here.

I appreciate you taking the time and effort to address this matter and hope that I you understand the situation. Thank You!


Signed

Brian D. Hill

God bless you,
Brian D. Hill
Appellant

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

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

U.S.W.G.O.

IN THE
COURT OF APPEALS OF VIRGINIA

RECORD NOS. 0313, 0314 & 0317-23-3

BRIAN DAVID HILL,

Appellant,

v.

COMMONWEALTH OF VIRGINIA,

Appellee.

BRIEF OF THE COMMONWEALTH

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**IN THE
COURT OF APPEALS OF VIRGINIA**

RECORD NOS. 0313, 0314 & 0317-23-3

BRIAN DAVID HILL,

Appellant,

v.

COMMONWEALTH OF VIRGINIA,

Appellee.

BRIEF OF THE COMMONWEALTH

STATEMENT OF THE CASE

These cases arise from three judgments of the Circuit Court for the City of Martinsville. Brian David Hill was convicted of misdemeanor indecent exposure in 2018 and sentenced to 30 days in jail. (R. 1–2). In 2023, Hill filed a motion to set aside his conviction pursuant to Code § 8.01-428. As in his four other pending appeals and myriad of prior post-conviction filings, he claims that his conviction was tainted by fraud. The trial court denied his motion and his subsequent motion to reconsider.

The trial court properly denied Hill’s motions. Hill fails to allege a *prima facie* case of extrinsic fraud. He likewise failed to institute an independent action as Code § 8.01-428 requires. Therefore, this Court should affirm.

STATEMENT OF FACTS

I. Hill is convicted of indecent exposure.

On September 21, 2018, Sergeant Jones of the Martinsville Police Department responded to a report of a naked white male running from Church Street to Hooker Street. (R. 3). As other officers responded to Hooker Street, Sergeant Jones looked for the individual on the Dick and Willie Trail. (R. 3). Sergeant Jones encountered Hill, who was completely naked except for his shoes and socks. (R. 3). Hill fled down the Dick and Willie Trail, over a bank, and into an adjacent creek. (R. 3).

After being detained and read his *Miranda*¹ rights, Hill claimed that a “black male in a hoodie made him get naked and take pictures of himself.” (R. 3). He was later transported to the hospital due to complaints of knee pain. (R. 3). While there, Hill gave another officer permission to view his camera roll and told them that he was alone when he took the photos of himself. (R. 3). There were several photographs of Hill naked around the city on his camera roll. (R. 3). Hill was later medically and psychologically cleared and released from the hospital. (R. 3).

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966).

Hill was arrested for indecent exposure, in violation of Code § 18.2-387. (R. 1). On December 21, 2018, after pleading not guilty, Hill was tried by the General District Court and found guilty as charged. (R. 2). On December 26, 2018, Hill timely appealed his GDC conviction for a trial *de novo* in the Circuit Court for the City of Martinsville. (R. 2).

On November 11, 2019, Hill filed a motion with the Circuit Court to “withdraw [his] [a]ppel of the December 21, 2018, General District Court finding of guilty.” (R. 253–63). Hill specified that he was not “waiv[ing] his right to collaterally attack/challenge his conviction in General District Court” or his right to file a petition for a writ of actual innocence. (R. 254). Hill explained that he believed his “only chance to preserve his legal innocence [wa]s to withdraw his appeal in the Circuit Court, and just find another way to get a fair bench hearing to be found legally innocent of his state charge.” (R. 260). He stated that he “accept[ed] the conviction in the General District Court” but would “find other legal ways to overturn” his conviction. (R. 260). Therefore, he continued, he “has now accepted the fact that he will lose [on appeal] and so it is time to withdraw his appeal.” (R. 263). The court granted Hill’s motion and entered a final order re-instating the judgment of the GDC. (R. 264).

II. Hill's previous failed attempts to collaterally attack his conviction.

Two weeks after his conviction, Hill filed a “Motion to Vacate Fraudulent Begotten Judgment.” (R. 268–94). In it, Hill contended that the trial court “lacked jurisdiction to put [him] in a position to withdraw[] [his] appeal after [he] had filed the *pro se* motion to dismiss based upon his legal innocence as a matter of law.” (R. 268). He contended that he “never signed any papers agreeing to automatically enter in a plea of guilty and was not advised by his lawyers that withdrawing the appeal would automatically enter in a plea of guilty.” (R. 269). Hill also contended that fraud had been perpetrated on the Circuit Court because he had served his motion to dismiss, a petition for writ of habeas corpus, and his motion to withdraw his appeal on the Commonwealth’s Attorney. (R. 269–70). Hill contended it was fraud upon the court to affirm his conviction in light of his motion to dismiss. (R. 269–71). In the motion, Hill did not assert that the trial court erred in granting his *pro se* motion to withdraw his appeal. (*See* R. 270–71). The trial court denied the motion on November 25, 2019. (R. 295).

Hill noted two appeals of that order. (R. 296–301). Both appeals were dismissed by this Court. *Brian Hill v. Commonwealth*, Rec. Nos. 0128-20-3 & 0129-20-3 (Va. Ct. App. July 31, 2020).

Over the next year, Hill challenged his conviction in the trial court four more times on similar grounds. Each time the trial court denied his motion and Hill

appealed to this Court. Each time, this Court rejected Hill’s arguments. *Hill v. Commonwealth*, Rec. Nos. 0578-20-3, 0657-20-3, 1294-20-3, and 1295-20-3. Hill also challenged his conviction via a petition for a writ of habeas corpus in the Western District of Virginia. That challenge was dismissed because Hill was no longer in custody when he filed it. *See Hill v. Commonwealth*, Case No. 7:22-cv-336, ECF No. 10 (W.D. Va. Aug 1, 2022). Hill also filed a petition for a writ of actual innocence in this Court, which was dismissed because he was not convicted of a felony. *Hill v. Commonwealth*, Rec. No. 0173-22-3, at 2 (Va. Ct. App. March 1, 2022) (slip op.).

III. Hill’s first and second pending appeals.

On January 20, 2021, Hill filed a “Motion for Judgment of Acquittal . . .” in the Circuit Court. (R. 998–1278). Broadly speaking, Hill’s contentions could be categorized in one of three categories. First, Hill contended that on the day of the incident he was suffering from carbon monoxide poisoning, which would tend to negate his intent. (R. 1027–30). Second, Hill contended that the Commonwealth committed *Brady*² violations because it purportedly destroyed body camera footage of his arrest and vials of his blood that were drawn at the hospital, which could have supported his theory of innocence. (R. 1013–35). Lastly, Hill noted that newly enacted Code § 19.2-271.6 would allow presentation of evidence that he suffers from

² *Brady v. Maryland*, 373 U.S. 83 (1963).

autism spectrum disorder and obsessive-compulsive disorder to argue he lacked the requisite intent. (R. 1000–03).

Based on those claims, Hill sought two remedies. First, he asked the Circuit Court to impose sanctions on the Commonwealth’s Attorney. Second, Hill asserted that he was entitled to either a judgment acquitting him of his indecent exposure conviction, a new trial, or a writ of actual innocence. (R. 1039–40).

On February 10, 2021, the Circuit Court denied Hill’s motion. The Circuit Court interpreted Hill’s motion as a petition for a writ of actual innocence. (R. 1519). It then held that it lacked subject matter jurisdiction over petitions for actual innocence and directed Hill to file it in this Court because this Court has original jurisdiction for non-biological petitions for a writ of actual innocence. (R. 1519).

On February 11, 2021, Hill filed a nearly identical motion. The only pertinent difference in the text of the motions is that any mention of a “writ of actual innocence” was replaced with a request for a new trial. (*Compare* R. 998–1278 *with* R. 1849–2219). The motion otherwise asserted the same claims and requested the same remedies.

On February 22, 2021, the Circuit Court denied Hill’s second motion. The circuit court again determined that it lacked jurisdiction to entertain the motion.

However, it did not specify in that order that it interpreted the motion as a petition for a writ of actual innocence. (R. 2236).

Hill separately appealed the denial of both his January 20 and February 11 motions. Briefing in those matters has been completed and they remain pending before this Court. *See Hill v. Commonwealth*, Rec. No. 0289-22-3 & 0290-22-3.

IV. Hill’s third and fourth pending appeals.

On August 28, 2022, Hill filed a “Motion for Judgment of Acquittal or New Trial Pursuant to Rule 3A:15” (R. 2353–2746). This motion was, for all intents and purposes, the same motion he filed on January 20 and February 11, 2021.

Broadly speaking, Hill’s contentions could be summed up as an assertion that the Commonwealth could not have legally convicted him of indecent exposure without proof that he was “medically cleared” the evening of his arrest. However, Hill breaks that argument into three parts. First, he asserts that without some type of medical clearance, the Commonwealth could not charge him with indecent exposure arising from a “medical emergency.” (R. 2369). In this section, Hill re-iterates his claims of *Brady* violations because the hospital allegedly destroyed vials of blood that were drawn which allegedly could have proven his carbon monoxide claims. (R. 2365–69). Second, Hill asserts that without “medical clearance” from the hospital on the night of his arrest the Commonwealth could not prove intent. (R. 2394–95). Specifically, he argues that “intent cannot be proven

until there is 100% undeniable proof that [Hill] was medically cleared and lab results should have shown completely clean results of no drugs or gas poisonings before he was arrested for indecent exposure.” (R. 2394). Thirdly, Hill contends that “because [he] was not truly medically cleared, he cannot be obscene and wasn’t in his medical capacity or even mental capacity to even have his behavior construed as to any obscenity if it even exists which it does not.” (R. 2397).

Hill then pre-emptively argued that the trial court had subject matter jurisdiction to entertain his motion. In it, Hill asserted that “Rule 1:1 does not bar reopening a final criminal judgment or conviction of a case where new evidence is filed[.]” (R. 2400). Hill argued that the standards set forth in *Odum* and *Tweed* control and operate as an exception to Rule 1:1. (R. 2402); *Commonwealth v. Tweed*, 264 Va. 524, 527, 570 S.E.2d 797, 799 (2002); *Odum v. Commonwealth*, 225 Va. 123, 128–29, 301 S.E.2d 145, 147–48 (1983). He further contended that Rule 3A:15 enables a court to enter a judgment of acquittal or order a new trial even beyond the 21-day window of Rule 1:1. (R. 2400–01).

On the same day, Hill filed a “Motion requesting Commonwealth Attorney respond [to his claims].” (R. 2346–51). Without explaining why, Hill asserted that he was “entitled to a response from the Commonwealth Attorney over this 3rd motion for new trial or judgment of acquittal.” (R. 2347). In the motion, Hill sought a court order requiring the Commonwealth’s Attorney to respond. (R. 2348).

On September 4, Hill filed another pair of similar motions. (R. 2759–64 and 2765–3488). In this “Motion for judgment of acquittal or new trial pursuant to Rule 3A:15. . .”, Hill re-iterated his previous claims that an employee of The Chimney Sweep company improperly sealed the top of his chimney with tin, causing him prolonged exposure to carbon monoxide gas that was unable to vent when he used his fireplace. The majority of the motion attempts to establish that he was suffering from carbon monoxide poisoning on the night he was arrested due to the alleged negligence of an employee of the Chimney Company. (R. 2790–2813). Hill then asserts that because he was allegedly suffering from carbon monoxide poisoning on the night of his arrest that he lacked the requisite intent to be convicted for indecent exposure. (R. 2813–14). Lastly, Hill repeated his pre-emptive arguments raised in his previous motion as to why the trial court had jurisdiction. (R. 2817–22).

The same day, Hill also filed a “Motion requesting Commonwealth Attorney respond [to his claims].” (R. 2759–64). In it, he again argued that he was entitled to a response from the Commonwealth’s Attorney and requested that the trial court order a response. (R. 2760–61). The trial court denied Hill’s motions on September 7 and 13, 2022, respectively. (R. 3489, 3490).

Hill noted an appeal to both of those orders. (R. 3494–3514; 3517–42). Briefing in those matters has been completed and they remain pending before this Court. *See Hill v. Commonwealth*, Rec. No. 1424-22-3 & 1425-22-3.

V. Hill's fifth, sixth, and seventh appeals.

On January 26, 2023, Hill filed a motion to set aside his conviction. (R. 3543–4008). Hill purported to base his motion on Code § 8.01-428(A), (B), and (D). Mimicking arguments from the Commonwealth's prior briefs, he notes that claims of fraud or clerical errors raised via Code § 8.01-428 are a limited exception to Rule 1:1. (R. 3554–57).

His claims of fraud and clerical errors, however, merely recycled his prior arguments. Hill argued that he was not psychologically or medically cleared the evening of his arrest. (R. 3558–60, 3585–88, 3592–3621). He contended that police inadequately investigated why he was naked the night of his arrest. (R. 3564–68). He repeated his contention that the Commonwealth committed *Brady* violations when the body camera recording of his arrest was deleted at the end of its retention period. (R. 3568–81). Hill claimed that the arresting officer later stated—in a separate federal proceeding—that he was “not being obscene” the night of his arrest. (R. 3582–85). He further argued that the prosecutor violated rules of professional responsibility in prosecuting him. (R. 3588–92).

Hill contended that those purported facts demonstrated fraud and, therefore, required his conviction to be set aside under Code § 8.01-428. (R. 3628–40). Hill acknowledged that a judgment can only be set aside under Code § 8.01-428 for extrinsic fraud, not intrinsic fraud. (R. 3556–57). He also tacitly acknowledged that

his claims only involved intrinsic fraud. (*See* R. 3560–61). Nonetheless, he argued that he received inadequate assistance of counsel and, therefore, the trial court should “consider the intrinsic fraud as extrinsic fraud.” (R. 3561).

The trial court denied Hill’s motion on February 14, 2023. (R. 4120). On February 17, 2023, Hill moved the trial court to reconsider its judgment. (R. 4148–4254). The trial court denied Hill’s motion to reconsider the same day. (R. 4255). On February 20, 2023, Hill filed additional documentation for his motion for reconsideration which he claimed to have inadvertently omitted. (R. 4257–76). The trial court entered a second order denying his motion for reconsideration on February 21, 2023. (R. 4277). Hill noted appeals of all three orders on February 21. (R. 4278–4327).

In his notices of appeal, Hill accused the circuit court judge of ethical violations, fraud, colluding with the Commonwealth’s Attorney to obstruct justice, and being part of a RICO³ conspiracy to infringe his rights. (R. 4282–87; 4296–4301; 4317–22). Shortly after, the Circuit Court issued a show cause, charging Hill with contempt and appointed him counsel. The contempt charges were dismissed on joint motion of the Commonwealth and Hill on October 23, 2023. Upon information and belief, Hill agreed during the pendency of those contempt

³ Racketeer Influenced and Corrupt Organizations Act. 18 U.S.C. § 1961, *et seq.*

charges not to file any new motions in the Circuit Court. That agreement did not prohibit his from filing anything in this Court.⁴

On February 27, 2023, Hill filed a motion in this Court requesting that his seven appeals be stayed. On March 9, 2023, Hill filed a separate motion requesting a one-year extension of time to file his opening briefs in his fifth, sixth, and seventh appeals. The basis for each motion was Hill’s assertion that he did not believe he was allowed to file anything in this Court due to his pending contempt charges. This Court denied both motions on March 29, 2023.

On May 19, 2023, the Commonwealth moved to consolidate Hill’s seven pending appeals. On June 30, 2023, this Court granted that motion and consolidated the seven cases⁵ “for all purposes.”

On December 1, 2023, Hill filed his untimely opening brief in his fifth, sixth, and seventh appeals. The Commonwealth submits the instant brief in response to the arguments raised therein.

STANDARD OF REVIEW

This Court reviews the denial of a motion under Code § 8.01-428 for abuse of discretion. *Spanos v. Panos*, Rec. No. 0719-22-2, 2023 WL 3183603, 2023 Va. App.

⁴ Undersigned counsel confirmed this fact with Hill’s appointed counsel in his contempt case during the pendency of those proceedings.

⁵ Record Numbers 0289-22-3, 0290-22-3, 1424-22-3, 1425-22-3, 0313-23-3, 0314-23-3, and 0317-23-3.

LEXIS 267, at *4 (May 2, 2023)⁶; accord *Rose v. Jaques*, 268 Va. 137, 159, 597 S.E.2d 64, 76–77 (2004) (noting in another context that setting aside a verdict “is an exercise of the inherent discretion of the trial court.”). To the extent required in this case, matters of statutory interpretation are reviewed *de novo*. *Graves v. Commonwealth*, 294 Va. 196, 199, 805 S.E.2d 226, 227 (2017).

ARGUMENT

I. The trial court was correct to deny Hill’s motions.

In eight assignments of error, Hill argues that the trial court erred in denying his motion to set aside his conviction pursuant to Code §§ 8.01-428(A), (B), and (D). He asserts that the trial court erred by ignoring his evidence, failing to hold an evidentiary hearing, failing to charge a Commonwealth’s Attorney with contempt, and failing to grant his motion based solely on his statement of facts. Hill is incorrect. He failed to plead an independent action or establish a *prima facie* case of fraud. Similarly, he failed to establish any clerical error or default judgment.

A. Hill failed to properly invoke Code §§ 8.01-428(A) or (B).

Hill argues that the trial court erred in not setting aside his conviction pursuant to Code §§ 8.01-428(A) and (B). However, he presents no basis upon which to invoke subsections (A) or (B). Code § 8.01-428(A) provides a mechanism for

⁶ Citations to unpublished opinions are permitted as persuasive authority. Rule 5A:1(f).

litigants to seek relief from a default judgment in certain circumstances. There was no default judgment in this criminal case—nor does Hill claim there was. Similarly, Code § 8.01-428(B) provides a mechanism for trial courts to correct clerical errors in judgments.⁷ Yet, Hill alleges no clerical errors in his case. Accordingly, Hill’s motions failed to properly invoke Code §§ 8.01-428(A) or (B). Therefore, the trial court was correct to deny the motions on those grounds.

B. Hill failed to plead a viable case under Code § 8.01-428(D).

Although not yet determined by this Court, the Commonwealth assumes—without conceding—that Code § 8.01-428(D), which permits a party to move to set aside a judgment for fraud upon the court, applies in criminal cases. *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); *cf 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);

⁷ That mechanism runs parallel to a writ of error *coram vobis* pursuant to Code § 8.01-677. In his prior motions, Hill attempted to invoke that section as well. To extent that Hill’s brief can be read to allege any clerical error, the Commonwealth’s prior arguments on brief regarding Code § 8.01-677 are equally applicable. The only “factual errors” he feasibly asserts are ones regarding whether he possessed the requisite intent and culpability on the evening of his naked galivant through the city. Those facts, however, were plainly litigated in his underlying trial and, therefore, are not factual errors “arising from oversight or from an inadvertent omission.” Code § 8.01-428(B).

but see Turner v. Commonwealth, 90 Va. Cir. 322, 322–25 (Norfolk Cir. Ct. June 12, 2015) (opining in dictum that Code § 8.01-428(D) does not apply in criminal proceedings because there is no equity jurisdiction in criminal proceedings).

Hill’s claim that his conviction was procured by fraud upon the trial court ostensibly falls within the general framework of a motion under Code § 8.01-428(D). However, Hill has failed to properly plead a claim under Code § 8.01-428(D) for two reasons. First, he failed to institute an independent action. Second, he failed to plead a *prima facie* case of extrinsic fraud.

1. Hill failed to institute an independent action as required.

Code § 8.01-428(D) preserves “the power of the court to entertain at any time an *independent action* to relieve a party from any judgment or proceeding.” (emphasis added). However, “[t]his provision⁸ cannot form the basis for setting aside” a judgment on the defendant’s motion. *Basile v. American Filter Service, Inc.*, 231 Va. 34, 37, 340 S.E.2d 800, 802 (1986); *accord Sauder v. Ferguson*, 289 Va. 449, 459 n.5, 771 S.E.2d 664, 670 n.5 (2015). Code § 8.01-428(D) “has been construed narrowly in the interest of finality of judgments and certainty of results.” *Basile*, 231 Va. at 37, 340 S.E.2d at 802. Therefore, Hill “may invoke this provision

⁸ When *Basile* was decided current subsection (D) was codified as subsection (C). In 1993, the General Assembly added current-subsection (C) and moved the relevant provision to subsection (D). *See* 1993 Va. Acts 1951.

. . . only by instituting an ‘independent action,’ not by a motion filed as part of the cause in which the judgment order was entered.” *Id.*

Thus, to the extent Hill attempts to invoke Code § 8.01-428(D), Hill could only properly do so by instigating a new, independent action. However, Hill did not file a new, independent action. Instead, he attempted to make his claim via motion—exactly what precedent prohibits. *Id.*

Much as a person cannot make a ‘motion for a writ of habeas corpus,’ Hill cannot file a motion alleging fraud under Code § 8.01-428(D). *Id.* In both circumstances, a new, independent civil action at law is required. Therefore, Hill’s contentions that his criminal conviction is based upon fraud are not cognizable as filed and the trial court correctly denied Hill’s motions. *Id.*

2. Hill failed to plead a prima facie case of extrinsic fraud.

Even if Hill were able to raise a fraud claim under Code § 8.01-428(D) via a motion, he fails to allege facts sufficient to establish a *prima facie* claim. “Generally, a judgment or decree rendered by a court having jurisdiction over the parties and subject matter must be challenged by direct appeal and cannot be attacked collaterally.” *Peet v. Peet*, 16 Va. App. 323, 327, 429 S.E.2d 487, 490 (1993). The exception is judgements that are void *ab initio*, which can be challenged at any time. *Id.*

A judgment obtained by extrinsic fraud is void *ab initio* and can, therefore, be challenged at any time pursuant to Code § 8.01-428(D). *Id.* However, “a judgment obtained by ‘intrinsic fraud’ is merely voidable and can be challenged only by direct appeal or by a direct attack in an independent proceeding.” *Id.* Accordingly, even if Hill could present his fraud claim by motion, that claim would only be cognizable if it established a *prima facie* showing of *extrinsic* fraud.

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

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

Here, Hill alleges that the Commonwealth committed fraud during his trial by purportedly destroying body camera footage of his arrest.⁹ He further claimed that he was not psychologically or medically cleared the evening of his arrest. (R. 3558–60, 3585–88, 3592–3621). He contended that police inadequately investigated why he was naked the night of his arrest. (R. 3564–68). Hill claimed that the arresting officer later stated—in a separate federal proceeding—that he was not obscene the night of his arrest. (R. 3582–85). He further argued that the prosecutor violated rules of professional responsibility in prosecuting him. (R. 3588–92).

⁹ Notably, the body camera footage was only deleted at the end of its retention period and only because neither party identified those videos as being needed in Hill’s case. If either party had, the videos would have been retained indefinitely. (R. 4093–95). Contrary to Hill’s assertions, that did not violate the discovery orders in his case that required the Commonwealth to “permit counsel for [Hill] to inspect and copy” pertinent evidence. (R. 3922, 3924, 3927).

Even *if* those allegations were accurate,¹⁰ they do not allege extrinsic fraud. Indeed, most claims regarding the adequacy of an investigation or adherence to professional ethics do not even raise the specter of fraud. Even to the extent that Hill’s claims could be viewed as alleging fraud, they would constitute, at most, *intrinsic* fraud because they would be a means of obscuring the facts presented to the trier of fact. *Peet*, 16 Va. App. at 327, 429 S.E.2d at 490.; *see also Rock v. Commonwealth*, Rec. No. 1119-21-2, 2022 WL 4828702, 2022 Va. App. LEXIS 481, at *8 (Va. Ct. App. Oct. 4, 2022) (“Appellant’s allegations of prosecutorial misconduct and perjured testimony demonstrate, at most, intrinsic fraud as they are ‘means of obscuring facts presented before the court.’”) (quoting *Peet*, 16 Va. App. at 327, 429 S.E.2d at 490). Therefore, Hill’s allegations are insufficient to establish the necessary *prima facie* case of *extrinsic* fraud.

Recognizing as much, Hill makes several futile attempts to recast his claims as extrinsic fraud. For instance, he claims that (1) destruction of the body cam videos would have exposed the police chief to liability and (2) the “liability issues” turns what would be intrinsic fraud into extrinsic fraud. (Appellant’s Br. 20–21). He also claims that the purported fraud must have been extrinsic because there was no proof

¹⁰ The Commonwealth does not concede that Hill’s allegations are accurate. However, it accepts Hill’s allegations as pleaded for the sole purpose of testing whether they establish the requisite *prima facie* claim of extrinsic fraud.

that it happened until he filed his February 10, 2023, motion.¹¹ (Appellant’s Br. 16). These assertions have been made without any legal support and strain logic beyond the breaking point. Moreover, they were not raised in his motions below and are, therefore, procedurally defaulted pursuant to Rule 5A:18.

Hill has seemingly abandoned the only argument he raised below as to why the purported fraud was extrinsic. In his motion, Hill tacitly acknowledged that his claims only involved intrinsic fraud. (*See* R. 3560–61). Nonetheless, he argued that he received inadequate assistance of counsel and, therefore, the trial court should “consider the intrinsic fraud as extrinsic fraud.” (R. 3561). Of course, the adequacy of his counsel would have no logical connection to the type of fraud he alleges that the Commonwealth committed. Moreover, to the extent that Hill’s primary complaint is the adequacy of the representation he received, he was required to raise that complaint in his prior habeas proceedings. *See Kenner v. Commonwealth*, 71 Va. App. 279, 297, 835 S.E.2d 107, 116 (2019) (claims of ineffective assistance of counsel must be raised through a petition for a writ of habeas corpus).

In sum, Hill fails to allege any extrinsic fraud. The failure to do so is fatal to his claim. Therefore, the trial court was correct to deny his motions.

¹¹ That argument seemingly ignores the fact that he has claimed to have proven the purported fraud in each of his previous motions and appeals. *See Hill v. Commonwealth*, Rec. Nos. 0289-22-3, 0290-22-3, 1424-22-3, 1425-22-3.

CONCLUSION

For the reasons stated, the Commonwealth asks that this Court affirm the judgment of the Circuit Court for the City of Martinsville.

Respectfully submitted,

COMMONWEALTH OF VIRGINIA
Appellee herein.

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CERTIFICATE OF TRANSMISSION AND SERVICE

On December 2, 2023, the required copies of this brief were filed electronically with this Court in compliance with Rule 5A:1(c)(1) and a copy was mailed to Brian David Hill, appellant, *pro se*, at 310 Forest Street, Apartment 2, Martinsville, Virginia 24112.

In accordance with Rules 5A:4(d) & 5A:20(h), I certify that this document contains 4,860 words, in compliance with Rule 5A:19(a).

The Commonwealth waives oral argument.

By: _____ /s/
Justin B. Hill
Assistant Attorney General

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1/15/2024 1:12 PM

Appellant Motion for Sanctions and Inquiry, Exhibits

To Hill, Justin B. <jhill@oag.state.va.us> •

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Hey Justin Hill,

I am Roberta Hill, Brian Hill's mother. I am sorry but we have to do this, Brian Hill is filing this (1) Motion asking for Sanctions and Inquiry into false statements made by Appellees and (2) exhibits in support of that motion on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading and exhibits on his behalf. This should serve the counsel for Appellees through email. This motion and exhibits will be filed via VACES with the Court of Appeals of Virginia.

You are obligated to review over the new audio recordings evidence my son Brian Hill has and is filing on the record. He had trust issues with his court appointed attorney Fred Smith when he refused to protect Brian's first amendment right to freedom of speech against Judge Greer and feared this contempt case was a conspiracy or plot to end his appeals, so he had used the one party consent recording statute, where he kept recordings and those recordings between Brian Hill and Fred Smith had proved you lied in your brief of the commonwealth. Fred said he spoke with you multiple times and that you granted Brian an extension for his appeals due to the six month thing. Those are in the audio recordings, and you lied about all of that. Here are the links to the evidence and copies were distributed to Q Anons, so you cannot stop this evidence with any suppression campaign. We are sorry to have to do this, but we cannot accept liars lying to the courts. We cannot accept that you would stoop down to lying about his contempt case situation.

Attorney Fred Smith Meeting with Brian Hill on October 20, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Oct20-077885.wav> or

<https://archive.org/details/oct-20-077885>

Attorney Fred Smith Meeting with Brian Hill on April 13, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Apr13-045432.wav>

Attorney Fred Smith Meeting with Brian Hill on March 09, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Mar09-726407.wav> or <https://archive.org/details/mar-09-726407>

CAV: Submitted on 01-15-2024 13:31:44 EST for filing on 01-16-2024

We are sorry for the truth coming out. But Jesus is all about the truth will set you free. The truth will set Brian D. Hill free, who is a virgin with no victims, and get him off of the sex registry with the truth of his innocence. Truth will make us free. Brian David Hill = Innocence. <https://web.archive.org/web/20230515093703/https://wearechange.org/case-brian-d-hill/>

File list of attachments:

1. Motion1-15-2024.pdf
2. ALL-EXHIBITS-1-15-2024.pdf

Roberta Hill (representative for electronic filing)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112

Court of Appeals of Virginia, cases no. 0313-23-3, 0314-23-3 and 0317-23-3:
Brian David Hill v. Commonwealth of Virginia, City of Martinsville

Appellant:
Brian David Hill
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

Thanks,
Roberta Hill

-
- Motion1-15-2024.pdf (659 KB)
 - ALL-EXHIBITS-1-15-2024.pdf (15 MB)

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 SANCTIONS AND
INQUIRY AGAINST JUSTIN HILL,
ASSISTANT ATTORNEY GENERAL
FOR POSSIBLY DEFRAUDING THIS COURT**

U.S.W.G.O.

Brian David Hill – Ally of Q and Lin Wood
Founder of USWGO Alternative News
310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505
c/o: Rbhill67@comcast.net; Roberta Hill



Pro Se Appellant

– JusticeForUSWGO.wordpress.com

SUMMARY

Brian David Hill, (“Appellant”) files this MOTION asking the Court of Appeals of Virginia in this case for Sanctions and Inquiry against Justin Hill, the counsel for Appellees and Assistant Attorney General for intrinsic fraud upon the court by defrauding this Court in these appeals. Intrinsic fraud may be addressed as an issue during a pending case when the case has not been closed, no final decision.

Justin Hill, made false statements in his filed “brief of the Commonwealth” which was filed on January 2, 2024. There is hard evidence, prima facie evidence, proving that statements were made to the Court of Appeals of Virginia which Appellant has evidence which disproves the false statements. These false statements are in regard to two different elements: (1) that the contempt of court case had no agreement where Appellant was barred or prohibited from being allowed to file in the Court of Appeals of Virginia or any other State Court for six months, and (2) that Appellant’s opening brief was untimely filed despite Appellant providing an affidavit and misc. evidence in support of his motion for leave of court to file his opening brief proving that Justin Hill was notified. Justin’s justification for labeling Appellant’s opening brief as untimely is based on the false statement or deception that Appellant only believed he was not allowed to file in the Court of Appeals of Virginia for six months while there was no agreement according to Justin Hill.

When he filed his brief of the Commonwealth, he did not file a copy of this

proclaimed agreement to even be able to prove his claim that no agreement was made prohibiting or barring the Appellant from filing in the Court of Appeals of Virginia.

CITATION OF PAGES 11 THROUGH 12 OF BRIEF OF APPELLEES:

Shortly after, the Circuit Court issued a show cause, charging Hill with contempt and appointed him counsel. The contempt charges were dismissed on joint motion of the Commonwealth and Hill on October 23, 2023. Upon information and belief, Hill agreed during the pendency of those contempt charges not to file any new motions in the Circuit Court. That agreement did not prohibit his from filing anything in this Court. 4 (Footnote 4)

Footnote 4: Undersigned counsel confirmed this fact with Hill's appointed counsel in his contempt case during the pendency of those proceedings.

On February 27, 2023, Hill filed a motion in this Court requesting that his seven appeals be stayed. On March 9, 2023, Hill filed a separate motion requesting a one-year extension of time to file his opening briefs in his fifth, sixth, and seventh appeals. The basis for each motion was Hill's assertion that he did not believe he was allowed to file anything in this Court due to his pending contempt charges. This Court denied both motions on March 29, 2023.

Appellant is filing new evidence which was never made public on court record until the date of when this is filed. Evidence that Appellant never would have normally made public in the court record until this filing since it endangers Appellant's own attorney/client privilege protections under law, but Appellant feels that it is now necessary to endanger his own attorney/client protections to fight back against the false statements made by Justin B. Hill, the Assistant Attorney General.

The false statement, a not truthful statement made by Justin Hill, counsel for Appellees is made as follows; and the untruthful statement is marked in bold and underline: "**Hill agreed during the pendency of those contempt charges not to file**

any new motions in the Circuit Court. **That agreement did not prohibit his from filing anything in this Court.**” That makes it appear that Appellant did not make a truthful statement in his motion for leave of court, filed on October 27, 2023, or that Appellant’s claims are without any hard evidence to prove that he was barred from filing in the Court of Appeals of Virginia during a six-month period after he was charged with contempt of court in the Trial Court.

The evidence proves that Justin Hill’s statements, noted above, are false statements. First the hard evidence will be argued before this Court before the argument as to why an inquiry may be needed to determine whether this fraud by Justin Hill was intentional or unintentional or was simply a mistake. I bring these allegations with hard evidence. Therefore, Exhibits are attached with the 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 inquiry and sanctions is warranted due to good reasons as will be described below the EXHIBIT LIST.

EXHIBITS (attached ALL-EXHIBITS-1-15-2024.pdf):

EXHIBIT 1. File: EXHIBIT 1-Declaration for Motion for sanctions against Justin Hill(5).pdf. It is a true and correct copy of a Declaration/Affidavit of Brian David Hill explaining what the hard evidence is talking about. Explaining that the other exhibits are credible evidence, prima facie evidence. Index: EXHIBIT PAGES

1 THROUGH 14 OF 61.

EXHIBIT 2. File: EXHIBIT 2.pdf. It is a true and correct copy of a URL/LINK to an audio file Mar09-726407.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 15 THROUGH 16 OF 61.

EXHIBIT 3. File: EXHIBIT 3.pdf. It is a true and correct copy of a URL/LINK to an audio file Apr13-045432.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 17 THROUGH 18 OF 61.

EXHIBIT 4. File: EXHIBIT 4.pdf. It is a true and correct copy of a URL/LINK to an audio file Oct20-077885.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 19 THROUGH 20 OF 61.

EXHIBIT 5. File: EXHIBIT 5-TRANSCRIPT OF Mar09-726407.wav(2).pdf. It is a true and correct copy of a transcript of audio file Mar09-

726407.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Mar09-726407.wav**. Index: EXHIBIT PAGES 21 THROUGH 47 OF 61.

EXHIBIT 6. File: EXHIBIT 6-TRANSCRIPT OF Apr13-045432.wav.pdf. It is a true and correct copy of a transcript of audio file Apr13-045432.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Apr13-045432.wav**. Index: EXHIBIT PAGES 48 THROUGH 53 OF 61.

EXHIBIT 7. File: EXHIBIT 7-TRANSCRIPT OF Oct20-077885.wav.pdf. It is a true and correct copy of a transcript of audio file Oct20-077885.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Oct20-077885.wav**. Index: EXHIBIT PAGES 54 THROUGH 61 OF 61.

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. The Appellees are disputing Appellant’s claims by claiming that no agreement prohibits Appellant from filing in the Court of Appeals of Virginia, therefore see the affidavit in **EXHIBIT 1** (EXHIBIT PAGES 1 THROUGH 14 OF 61), as well as the audio file on **EXHIBIT 4** (EXHIBIT PAGES 19 THROUGH 20 OF 61) and **EXHIBIT 7** (EXHIBIT PAGES 54 THROUGH 61 OF 61). This court is free to seek confirmation of this fact by inquiring with Attorney Fred Smith or even with counsel for Appellees. In fact, this Court can have Justin Hill listen to the audio recordings and then inquire as to why he would inform to the Court of Appeals of Virginia (“CAV”) that no agreement prohibits Appellant from filing in the CAV while Attorney Fred Smith directs Appellant not to file in any state Court of Virginia except in the federal courts. This attorney allowed Brian to file in the federal courts for six months because of Virginia having no jurisdiction/jurisprudence over federal, but prohibited Appellant from filing in any

court of Virginia.

2. The counsel for the Appellees, Justin Hill, had falsely claimed (without any evidence or affidavit to back any of it up) with some additional false claim or some kind of deception or mistake from Brian's court appointed counsel Fred Smith from his contempt of court case.

Again, see the citation directly from the Commonwealth's own brief filed on January 2, 2024.

CITATION OF PAGES 11 THROUGH 12 OF BRIEF OF APPELLEES:

Shortly after, the Circuit Court issued a show cause, charging Hill with contempt and appointed him counsel. The contempt charges were dismissed on joint motion of the Commonwealth and Hill on October 23, 2023. Upon information and belief, Hill agreed during the pendency of those contempt charges not to file any new motions in the Circuit Court. That agreement did not prohibit his from filing anything in this Court. 4 (Footnote 4)

Footnote 4: Undersigned counsel confirmed this fact with Hill's appointed counsel in his contempt case during the pendency of those proceedings.

On February 27, 2023, Hill filed a motion in this Court requesting that his seven appeals be stayed. On March 9, 2023, Hill filed a separate motion requesting a one-year extension of time to file his opening briefs in his fifth, sixth, and seventh appeals. The basis for each motion was Hill's assertion that he did not believe he was allowed to file anything in this Court due to his pending contempt charges. This Court denied both motions on March 29, 2023.

3. The court who appointed attorney Fred Smith, told Brian D. Hill on March 9, 2023 that he would have to agree to six months of state probation where his primary term or condition would be that Appellant cannot file in the Virginia state courts without the assistance of a lawyer. So, if Appellant cannot afford a lawyer,

then he would not be allowed to file anything in the Court of Appeals of Virginia, and that was the first attempt to prohibit Appellant from filing in this court. See **EXHIBIT 2** (EXHIBIT PAGES 15 THROUGH 16 OF 61) and **EXHIBIT 5** (EXHIBIT PAGES 21 THROUGH 47 OF 61). Fred Smith said and I quote:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 22 OF 61) “now out in this case, they uh asked that a special prosecutor be”, (EXHIBIT PAGES 23 OF 61) “Uh Justin, and I have talked extensively about... this case.” (EXHIBIT PAGES 28 OF 61) “here's what uh we have under consideration... Griffin and I talked extensively about... uh your history, various diagnoses... Uh He proposes that... uh there will be a joint motion by... the Commonwealth... and the defendant one” (EXHIBIT PAGES 29 OF 61) “that there is an agreement on the record in the court files that you have a diagnosis... of autism... that autism explains uh... the behaviors at issue here,”; (EXHIBIT PAGES 29 OF 61) “you would be placed on probation for probably six months and probably the only...the biggest term of your” (EXHIBIT PAGES 30 OF 61) “probation be that...you don't make any more filings...uh without the assistance of a lawyer...that, that, that would be the primary condition.”

4. The court appointed attorney on April 13, 2023, no longer pursued the state probation idea but instead told Brian D. Hill that his contempt of court case would be delayed/stayed for six months and during that time he cannot file in state court which also encompasses the Court of Appeals of Virginia (CAV) but did allow Appellant to file in federal court during the six-month period. This was the second attempt to prohibit Appellant from filing in this court and in any state court, and that attempt had succeeded, disproving the false statement produced by Justin Hill, counsel for the Appellees. See **EXHIBIT 3** (EXHIBIT PAGES 17 THROUGH 18

OF 61) and **EXHIBIT 6** (EXHIBIT PAGES 48 THROUGH 53 OF 61). Fred Smith said and I quote:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 50 OF 61) “tomorrow morning and the, and the commonwealth's attorney agrees to this,... this will be continued for six months.... during that six months, Brian,... don't file anything... [Brian Hill] Alright.... [Fred Smith] with, with state court.... They, they have no jurisdiction of what you might do in federal... court.... [Brian Hill] That's fine. [Fred Smith] Don't file anything in state court.”, (EXHIBIT PAGES 51 OF 61) “[Fred Smith] at the end of the six months when we come back to court, [Fred Smith] Uh, if we don't have any more paper in the file [Fred Smith] or more issues, um, [Fred Smith] I have a reason to believe he will dismiss the case.”

5. The court appointed attorney Fred Smith on October 20, 2023, admitted that he had been in contact with Justin B. Hill, counsel for Appellees as he admitted in the brief of the Commonwealth, as well as admitted that he had been aware of the “six month thing” and that from what he understood there had been an extension for Appellant to file in this very court. The total opposite of what Justin Hill claimed in his Brief of the Commonwealth by Appellees in Pages 11 Through 12 including Footnote 4. See **EXHIBIT 4** (EXHIBIT PAGES 19 THROUGH 20 OF 61) and **EXHIBIT 7** (EXHIBIT PAGES 54 THROUGH 61 OF 61). Fred Smith said and I quote:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 56 OF 61) “[Fred Smith] Now about your question about what to do about your subsequent filings... [Fred Smith] I have talked to that,

uh,... [Fred Smith] assistant Attorney General. What's his name?... [Brian Hill] Uh, Justin,... [Fred Smith] uh, what was his last name?... [Brian Hill] Uh Hill.... [Fred Smith] Yeah. Right.... [Fred Smith] he, he, he, he knew about the six month thing”, (EXHIBIT PAGES 57 OF 61) “[Fred Smith] and I talked to him and they get, I understood that you got an extension... [Fred Smith] yeah, let me review it with you because I think it's gonna be ok for you to file,... [Fred Smith] just file your, your regular legal pleadings.... [Fred Smith] But once we get that order, uh, entered on Tuesday, I'll reach out to him... [Fred Smith] it seeks the way clear for you to do that because I talked to him once before”

6. As explained in the paragraph 5 above this paragraph, the conversation recording on October 20, 2023, proved that Justin Hill had been aware of the six month no filing anything in the state court on the promise of dismissal of the contempt of court case, according to Attorney Fred Smith. It proved that Fred Smith had claimed that there had been an extension for Appellant to file in the Court of Appeals of Virginia, even though no such extension had existed, when an extension should have been issued by this court according to the impression Attorney Fred Smith gave to Appellant.

7. As explained in the paragraph 4 which is paragraphs above this paragraph, the conversation recording on April 13, 2023, proved that Attorney Fred Smith had instructed Appellant not to file “anything” in “state court”, and instructed Brian the Appellant in this case of this prohibition two separate times in the same conversation. This proved the existence of this prohibition which the counsel for the Appellees had blatantly denied in his Brief of the Commonwealth by Appellees in Pages 11 Through 12 including Footnote 4. The state probation plan was off of the table in

April 13, 2023. The attorney just directed the Appellant not to file anything in state court and with no further issues from Appellant, the judge would dismiss the contempt case. If the state probation had been enacted, there would have been a document, a record, proving on the record itself that Appellant was prohibited from filing in the state court on a pro se basis without the assistance of a lawyer. Appellant is disabled, on SSI disability as evidenced in the financial affidavit Appellant had filed in the initial appeal phase. Appellant could not afford a lawyer, so during the six months of the planned probation, he would have been outright barred from filing in the Court of Appeals of Virginia, which is this court. However, it would make it difficult for Justin Hill to convince the Court of Appeals of Virginia that there existed no prohibition for Appellant for the six months. So, Appellant believes that the six month no filing condition was contracted in a verbal manner so that there is no paper record or paper trail proving the six-month period of no-filing in any “state court”. However, Appellant had recorded the conversations with his lawyer under one party consent. This is according to his affidavit in **EXHIBIT 1** (EXHIBIT PAGES 1 THROUGH 14 OF 61). If the verbal contract is recorded or was witnessed by witnesses, then the verbal contract is as legally valid as a written contract. Therefore, the Appellees were wrong or made a false statement in their brief or made a blatant disregard for the truth. That is by legal definition, a fraud on the court by Justin Hill, counsel for Appellees. Telling a false statement or making a statement in blatant disregard for the truth, that is a fraud on the court.

8. Appellant suggests what the Sixth Circuit had ruled regarding fraud on the court. See *Demjanjuk v. Petrovsky*, 10 F.3d 338, 348 (6th Cir. 1993) (“The Special Master set forth the elements of fraud upon the court as consisting of conduct: 1. On the part of an officer of the court; 2. That is directed to the “judicial machinery” itself; 3. That is intentionally false, wilfully blind to the truth, or is in reckless disregard for the truth; 4. That is a positive averment or is concealment when one is under a duty to disclose; 5. That deceives the court.”).

9. Justin Hill, assistant Attorney General is an officer of the Court of Appeals of Virginia. He directed the false statements in a filing with the Clerk to the judges of the Court of Appeals of Virginia, when Attorney Fred Smith is telling a different story than what Justin Hill is telling this court. So, he had directed the brief of the Commonwealth to the “judicial machinery” of this court. Justin needs to explain why he told a false statement in his brief of the Commonwealth, and if he cannot give a good reason as to why then he had submitted false information to this court which may be intentionally false, willfully blind to the truth, or is in reckless disregard for the truth. This court is now deceived into believing that Appellant had no such prohibition barring him from filing in this court for six months period when the conversation recordings between Brian D. Hill and his lawyer Fred Smith prove that such prohibition had existed. That deceived this court. Then the false statement or false statements by Justin Hill creates a positive averment or is concealment when one is under a duty to disclose. It creates a high likeliness that Appellant will lose

his appeals over Justin Hill's claim that Appellant's appeal was untimely because of only believing he couldn't file for six months but no evidence exists of such agreement prohibiting Appellant from filing for six months. The new evidence disproves that notion. The new evidence proves that Attorney Fred Smith is a witness and participant (as counsel) in the contempt of court case who admitted that Appellant cannot file in the state court for six months. Then Fred Smith claimed that Appellant was granted a (sic. six month) extension of time to file his appellant opening brief in this court. When Appellant was never actually given an extension. So, there are contradictions surrounding both defense Attorney Fred Smith and Attorney Justin Hill who represents Appellees. There clearly is fraud going on here in this court, and there is clearly fraud within the brief of the Commonwealth. This court has a duty and an obligation under Constitutional law and statutory law to investigate and deter the intrinsic fraud right now while these appeals are open, and while they are still pending. Fraud on the court can be challenged at any time during a pending legal proceeding, and intrinsic fraud can be addressed while a case is open and such fraud directly impacts that case while it is active. Justin cannot simply talk his way out of this one, he needs to accept that he either made a mistake or incorrect statement or false statement or needs to correct the falsehood on the record. This Court can use its inherited and statutory powers to correct this matter before the final decision in this Court.

10. This proves that the constitutional right of procedural due process of law

of Appellant was violated and that the constitutional right of procedural due process of law was not afforded to Appellant according to Justin Hill in his brief of the Commonwealth. 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.**”). Appellant’s constitutional right to procedural due process of law is violated if this court even considers Appellees erroneous claims in their bid to have Appellant’s three appeals rejected as possibly untimely filed because of being given a false assumption that Appellant was not prohibited from filing in this court for a period of six months when the verbal agreement is proven with the audio files of recording the conversation between Appellant and his lawyer Fred Smith on three separate dates in 2023.

11. Any judicial decision made in the future by consideration of any false statements produced by Justin Hill are voidable according to the Supreme Court of Virginia. See *Jones v. Willard*, 224 Va. 602, 603 (Va. 1983) (“3. **The judgment of a court procured by intrinsic fraud** (as by perjury, forged documents, or other incidents

of trial related to issues material to the judgment) is voidable by direct attack at any time before judgment becomes final.”). See *Jones v. Willard*, 224 Va. 602, 607 (Va. 1983) (“[3-4] The judgment of a court, procured by intrinsic fraud, i.e., by perjury, forged documents, or other incidents of trial related to issues material to the judgment, is voidable by direct attack at any time before the judgment becomes final; the judgment of a court, procured by extrinsic fraud, i. e., by conduct which prevents a fair submission of the controversy to the court, is void and subject to attack, direct or collateral, at any time. *Rowe v. Coal Corp.*, 197 Va. 136, 143, 87 S.E.2d 763, 767-68 (1955); *O'Neill v. Cole*, 194 Va. 50, 56-57, 72 S.E.2d 382, 385-86 (1952); *McClung v. Folks*, 126 Va. 259, 268-73, 101 S.E. 345, 347-49 (1919); *Justis v. Georgia Industrial Co.*, 109 Va. 366, 369-70, 63 S.E. 1084, 1085 (1909). See also *Buchanan v. Buchanan*, 170 Va. 458, 464, 197 S.E. 426, 428-29 (1938) (only void judgments subject to collateral attack). The same rules apply with equal logic to a decision of the Commission. If the Commission's decision was procured by intrinsic fraud, its decision is voidable until it becomes final.”)

12. This case law may not directly be regarding fraud to an appeal court, but the issue of intrinsic fraud can be brought up during the pendency of a case, as both parties have an opportunity to ferret out what is false and what is true. See *Wagner v. Wagner*, Record No. 1733-15-4, 5-6 (Va. Ct. App. Oct. 4, 2016) (“In contrast, a judgment procured by intrinsic fraud "is voidable by direct attack at any time before the judgment becomes final." *Jones*, 224 Va. at 607, 299 S.E.2d at 508. Such a

judgment can be challenged only through "direct attack or appeal" and is not susceptible to collateral attack. Peet, 16 Va. App. at 326, 429 S.E.2d at 490. "A collateral attack on a judgment procured by intrinsic fraud has been deemed not warranted because the parties have the opportunity at trial through cross-examination and impeachment to ferret out and expose false information presented to the trier of fact." Id." Id.). Appellant feels like he had been set up by Justin Hill and/or Attorney Fred Smith who was appointed by judge Giles Carter Greer and/or by the special prosecutor of the Commonwealth of Virginia and City of Martinsville. Appellant said under penalty of perjury to this court that he felt personally that he was being set up here (EXHIBIT PAGES 7 and 11 OF 61, EXHIBIT PAGES 12 OF 61). Appellant proffers to this court that he was being set up by the contempt of court case in a possible plot to thwart his lawful appeals to shut them down by claiming they were untimely. Here is how he was set up. If he had filed his opening brief and designation of the record during the six month no-filing period to not be labeled as untimely filed by Appellees, Appellant would have faced jail time for contempt of court with Attorney Fred Smith who refused to protect his first amendment right to freedom of speech under the U.S. Constitution and the freedom of speech clause of the Virginia Bill of Rights in its Constitution. Without freedom of speech being asserted as a defense, Appellant was guaranteed a criminal conviction for contempt of court which had meant jailtime and a federal probation violation, then he would have faced nine (9) months of additional federal imprisonment like he did over the

misdemeanor in the Trial Court and four more years of supervised release. So, if Brian filed anytime during that six-month period, he would be in jail then in federal prison (**guaranteed for a probation violation, this would thwart his appeals in this court sitting in a federal prison in another state**) after that for contempt of court with a rigged attorney who refused to present a first amendment challenge defense as Appellant had wished. When Appellant complied with the orders of Attorney Fred Smith not to file in “state court”, then Appellant is accused of filing untimely by Justin Hill, the assistant Attorney General. So, Appellant is in a situation where if he files, he faces legal troubles and repercussions, if he doesn’t file then the other side can claim that Appellant didn’t file timely which would have caused negative repercussions and treated as if he should be punished or lose his appeals. Appellant is clearly being set up here. It’s a set up to wreck his appeals, a set up possibly orchestrated by Attorney Fred Smith, or Justin Hill, any of them or all of them wanted an excuse to wreck his appeals. An excuse such as contempt of court. This is clearly a set-up, and Brian D. Hill was being set up here, just like the threatening email had said to Brian Hill and his family. Appellant has evidence of a good number of threatening emails concerning both his federal and then his state cases. When Appellant wasn’t allowed to use the internet, the unknown assailant threatening emails directed at Appellant went to his mother Roberta Hill and to attorney Susan Basko of California who tried to do everything she could to have Appellant acquitted somehow in his federal case. Appellant has the evidence of them

and every one of them were reported to law enforcement including FBI and one was reported to the Virginia State Police.

13. Appellant is proving the intrinsic fraud by Justin Hill with the evidence, and is exposing this intrinsic fraud prior to the Court of Appeals of Virginia making its final appeal verdicts. There may be more intrinsic frauds in their brief of the Commonwealth which will further challenge the credibility of the counsel of Appellees in any of their arguments in these appeal cases, but Appellant rather focus on what he has hard evidence of, evidence which is prima facie and irrefutable.

14. However, Appellant would like to address one more potential false statement or false claim with a disregard for the truth. To further strengthen the claim by Justin Hill regarding Appellant's prohibition from filing in this court.

15. Another possibly false statement was made on page 18 of Appellees brief:

“Here, Hill alleges that the Commonwealth committed fraud during his trial by purportedly destroying body camera footage of his arrest. (footnote 9) ... Notably, the body camera footage was only deleted at the end of its retention period and only because neither party identified those videos as being needed in Hill's case. If either party had, the videos would have been retained indefinitely. (R. 4093-95). Contrary to Hill's assertions, that did not violate the discovery orders in his case that required the Commonwealth to "permit counsel for [Hill] to inspect and copy" pertinent evidence. (R. 3922, 3924, 3927).”

16. Response to false statement made on page 18 of Appellee brief:

17. The statements highlighted in yellow are not true statements as there is nothing on the record which proves both counsels just decided in writing or in any

agreement that the body-camera footage was considered not evidence, and thus Appellees statements are false and are not credible. The body-camera footage was at issue in the court orders for discovery. At least the court orders described the exact same thing as what would amount to the body-camera footage recording of defendant made at the time of his arrest and detention. Many criminal cases in this Commonwealth, in Virginia, use the body-camera footage as evidence. The case law authorities prove it.

18. Appellees cannot act as though they don't know what the laws are. Many criminal cases in case law opinions by this Commonwealth are of criminal cases where the body-camera footage is considered evidence. The Appellees act as though both counsel of Appellant's case had just decided without informing Appellant that they did not consider the body-camera footage as evidence when many criminal cases in Virginia consider body-camera footage as evidence in a criminal case subject to court orders if it exists, which the letter from the Public Information Officer and Police Chief had proven this (pg. 4093-4095). See *Carter v. Commonwealth*, 300 Va. 371, 373 (Va. 2021) ("On January 24, 2018, after 10:00 p.m., Officer S.C. Reed of the Lynchburg Police Department was dispatched to Carter's home. As the footage from Officer Reed's body camera attests, when he arrived, the situation was loud and chaotic. He found several individuals screaming at each other in front of Carter's home. Officer Reed was alone and he did not know the reason for the emergency call or "what the situation was at that point.""). That

case mentions about the body-camera as evidence. Another case law of Virginia mentions about body-camera footage and demonstrates it's importance in every criminal case. See *Green v. Commonwealth*, No. 0861-22-4, 15 (Va. Ct. App. Sep. 5, 2023) (“Detective Seibert's testimony was largely consistent with what was depicted on his body worn camera footage. As the trial court observed, having heard and seen the witnesses and the body worn camera footage, Green "sped at such a high rate of speed”).

19. Appellees neglect to understand that the court orders were wanted by the defense attorney saying (pg. 31-31, Trial Court record) “I ASK FOR THIS:” with Scott Albrecht’s signature and name, as well as the signature of the Commonwealth’s Attorney. This itself disproves another lie by Justin Hill of Appellees. He acts as though both parties just decided that the body-camera footage was not evidence (pg. 4093-4095), thus no court orders were violated, but the statements made in the court orders for discovery all say “I ASK FOR THIS:” (pg. 31-31, pg. 78-78, pg. 114), Trial Court record). This does not sound like even the defense attorney just decided out of the blue that the body-camera footage didn’t matter as evidence. What would be the point of a defense attorney and Commonwealth’s Attorney wasting a judge’s time with a frivolous discovery request and signing court orders which included what can be reasonably described as a body-camera footage and yet then decide out of the blue outside of the court records that the body-camera footage is not evidence without ever any reason why?

20. See what Scott Albrecht had asked for in the signed court orders which encompasses body-camera footage (pg. 4093-4095):

Page 76 and 78 of the Trial Court record:

“(1) Any relevant written or recorded statements or confessions made by the Defendant, or copies thereof, or the substance of any oral statements or confessions made by the Defendant to any law enforcement officer, the existence of which is known to the attorney for the Commonwealth...”

21. The court orders’ text themselves did describe the exact same thing as the body-camera footage. It was never turned over to the defendant, and it was deleted because it was never marked as evidence despite Appellant’s attorney asking for this brady evidence, see the statement: “I ASK FOR THIS:” (pg. 31-31, pg. 78-78, pg. 114), Trial Court record).

22. Why was it never marked as evidence?

“and only because neither party identified those videos as being needed in Hill's case.” There is nothing on the Trial Court record proving that any such pre-determination was ever made. How would they know that those videos were not needed as evidence? How would they determine any of this?

23. Are there any transcripts or any written statements in the Trial Court record from pages 1-264 which would prove that such determination was made that *“neither party identified those videos as being needed in Hill's case”*?

24. Also, the defendant filed evidence or writings with the Trial Court proving

that he wanted the body-camera footage as evidence. It contradicts what the brief of the Commonwealth had claimed in page 18 of Appellees brief. There was nothing on the record showing that any pre-determination was made by either side of attorneys on whether it is evidence subject to the court orders for discovery. Nothing on the record shown that they decided to make some determination of it not being considered evidence. In fact, it was the Appellant's court appointed attorney who asked for the court orders (pg. 30-31, 78, 114) involving discovery materials including recorded statements of what defendant made to a law enforcement officer which is what a body-camera footage is supposed to contain. This proves that the body-camera footage was wanted as evidence, and the Appellees at the trial court level had failed to deliver what the court had requested. Justin Hill is part of advocating a cover up and is okay with destroying evidence which is usually subject to even a United States Probation Office investigation, wanting the permanent cover up of body-camera footage evidence. **This is a cover up**, and Appellees through Justin Hill want to bring their frauds to the Appeals Court to persuade them to believe in their frauds, and accept their gaslighting. Appellees are defrauding the court of appeals to try to strongarm Appellant into giving up his appeals. Telling lies and using a letter from the police chief to make the determination that the body-camera footage was not considered evidence by both counsel, despite defense counsel saying "I ASK FOR THIS" (pg. 31-31, pg. 78-78, pg. 114), Trial Court record).

25. The body-camera footage was deleted on April 9, 2019, according to the

record (pg. 4212-4214). It was proven that what was requested was information as to the body-camera footage as per Appellant's request to the City of Martinsville under the Freedom of Information Act (FOIA) in record pg. 3851-3858.

26. Appellant did ask the Trial Court for the body-camera footage on his legal filing (pg. 135-157) entitled the "Motion for Discovery" with the Trial Court which was filed on July 26, 2019 (pg. 157), by pro se filing, during the pendency of the Trial Court proceedings for his criminal case. Not knowing that the footage had already been destroyed on April 9, 2019 (pg. 4212-4214), Appellant had been misled into thinking that the body-camera footage could still be obtained by discovery after it was secretly deleted without any notice (written or otherwise) to the judges of both the General District Court and Circuit Court.

Page 135 of the Trial Court record:

"Hill and/or his family have attempted to contact Martinsville Police Department ("CC: Commonwealth Attorney") through written multiple correspondences asking for the body camera footage of Officer Sgt. R. D. Jones, by Hill writing the Martinsville Chief of Police G. E. Cassady asking for the body-camera footage to be turned over to..."

27. This motion was filed months after the body-camera footage was deleted, and the Court had not known about this. Appellant was deceived and the Court was deceived. That was because the evidence was silently and secretively deleted.

"Contrary to Hill's assertions, that did not violate the discovery orders in his case that required the Commonwealth to "permit counsel for [Hill] to inspect and copy" pertinent evidence. (R. 3922, 3924, 3927)."

28. The Appellees are wrong on this one. The Appellees are not the judge and did not enter the court orders as the judge in the case. The judge specifically said in the court order that: “(1) *Any relevant written or recorded statements or confessions made by the Defendant, or copies thereof, or the substance of any oral statements or confessions made by the Defendant to any law enforcement officer, the existence of which is known to the attorney for the Commonwealth...*” The Chief of Police Rob Fincher in the City of Martinsville made it clear that it was the responsibility of the Commonwealth’s Attorney (pg. 4093) to mark the body-camera footage as evidence. The Attorney General is wrong with their insinuation that the body-camera footage was somehow not any material evidence subject to the court order and thus contended that “...*Contrary to Hill's assertions, that did not violate the discovery orders in his case that required the Commonwealth to "permit counsel for [Hill] to inspect and copy" pertinent evidence. (R. 3922, 3924, 3927).*” Yeah, it did violate the discovery orders in the Trial Court case.

29. This is what is called gaslighting, when a party is caught doing something wrong or illegal or unethical, they double down, triple down, and quadruple down. Justin Hill is doing exactly that, doubling down and tripling down, and will keep deceiving this court and deceive society as he goes. This is gaslighting. Police record on their body-camera footage every arrest they made because of the change of laws. See Virginia Code § 15.2-1723.1. Body-worn camera system.

30. Appellant is asking for the Court of Appeals of Virginia to conduct an inquiry into the false statements produced on this court by Justin Hill, officer of the court, and inquiry into why he had made these false statements and gaslighting to this Court itself and any attempts to defraud the judicial machinery. This is psychological warfare, this is what a mental abuser does to somebody, accusing the mentally abused of being wrong about everything and not being right about anything even in light of new evidence. It has gotten so bad and corrupt in Martinsville that a public article was typed up and published with the conversation recordings with Attorney Fred Smith: See the link provided by family of the public article: <https://justiceforuswgo.wordpress.com/2024/01/13/breaking-court-appointed-lawyer-fred-smith-and-or-corrupt-assistant-attorney-general-justin-hill-knew-brian-couldnt-file-for-six-months-in-virginia-court-then-lied-about-it-to-virginia-appeals-cou/> - *BREAKING: Court appointed lawyer Fred Smith and/or Corrupt Assistant Attorney General Justin Hill knew Brian couldn't file for six months in Virginia Court, then lied about it to Virginia Appeals Court to make Brian look like a liar – Justice for Brian D. Hill of USWGO Alternative News (text of link and link itself were given to Brian from family since Brian isn't allowed to have freedom of press to use the internet by the corrupt United States Government).* When articles like this need to be published somewhere, the judicial system needs to put a stop to the lies, frauds, and the unethical conduct by attorneys. Appellant is not an attorney and never went to law school. Justin Hill is a licensed attorney who had gone to law school and

was taught by experienced and ethical law professors. He knows better, he knows what ethics rules he has to follow.

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

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

32. That this court consider opening an inquiry at this time as to Justin Hill to evaluate any and/or all false statements Justin B. Hill had ever made in the three foregoing appeals noted above and evaluate any and/or all false statements Justin B. Hill had produced to this court and to any employee or officer of the court.

33. This Court can respectfully compel Attorney Fred Smith to testify in regard to his claims and statements which contradict the claims made by Justin B. Hill. As well as compel the special prosecutor in the contempt of court case to testify to determine if Justin Hill had made a false statement or false statements or told the truth. This Court can identify and ask both parties for any witnesses which are material to resolving the fraud issues laid out here in this motion and supporting evidence.

34. This court is not a trial court, Appellant understands that, but this Court is being defrauded by Justin Hill injecting the idea into this court that Appellant just decided not to file for six months when this court may believe that Appellant was not prohibited from filing anything in this court. Appellant had already proven that

he was ordered by his court appointed lawyer Fred Smith not to file anything in his appeals when Appellant had concerns about him being allowed to file. He was only allowed to file in federal court but not in this court. Appellees are injecting falsehoods without anything proving the credibility of those false claims. Appellant does everything he can to prove his claims from both the record of the Trial Court and exhibits for special matters specifically for the Court of Appeals of Virginia. Appellant is all about proving his claims and showing things from the trial court record. Appellant is asking this court to conduct the inquiry to make a determination whether Justin Hill had violated ethics or any of the applicable State Bar rules.

35. Appellant is asking this Court to inquire or recommend that the Virginia State Bar investigate and inquire as to Justin Hill's falsehoods and untruthfulness of his statements. See **Virginia State Rule 4.1 - Truthfulness In Statements To Others, Va. R. Sup. Ct. 4.1** ("In the course of representing a client a lawyer shall not knowingly: (a) make a false statement of fact or law; or (b) fail to disclose a fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client. Comment Misrepresentation [1] A lawyer is required to be truthful when dealing with others on a client's behalf, but generally has no affirmative duty to inform an opposing party of relevant facts. A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. Misrepresentations can also occur by failure to act or by knowingly failing to correct false statements made by the lawyer's client or someone acting on behalf

of the client.”).

36. Appellant cannot resolve this issue in a reply to the Brief of the Commonwealth since the word limits and other limitations may not allow outside evidence to be presented in the reply, as a reply merely argues in opposition and can only cite the record of the Trial Court. A reply normally does not contain exhibits with evidence. Since Justin Hill had brought false statements concerning the contempt of court case involving the six-month non-filing period, exhibits outside of the record of the Trial Court are necessary to prove the false statements made by Justin Hill which could not have been addressed in a reply brief. Appellant still wishes to file an appeal reply brief to address the lies based on the record of the Trial Court. Appellant only addressed one lie from the trial court record to prove that Justin Hill has lied more than once as an officer of the court in their brief of the Commonwealth. Therefore, this request is a special request not normally made because proving intrinsic fraud on the appeals court takes a lot of time and evidence gathering. If Appellant had not recorded his conversations under one party consent of Virginia law, Appellant would have no solid proof against Justin Hill.

37. Appellant would like to ask that this Court grant Appellant’s original request to file his opening brief and that it not be considered untimely since Appellant had proven that he did have to not file anything in this court for six months. After six months had passed, Appellant started filing his regular pleadings with this court explaining the situation and providing evidence. Appellees had

offered no evidence and filed no evidence to prove that Appellant was free to file in this court or any state court without the repercussion of a contempt of court conviction with an attorney such as Fred Smith refusing to provide a first amendment challenge to Judge Greer, either out of fear or loyalty or whatever. Fred Smith refused to accept that Appellant's position where he had first amendment protection. The legislature of Virginia has no authority to abridge the freedom of speech and cannot pass a law giving the state courts the right to abridge the freedom of speech under the guise of a contempt of court allegation when freedom of speech is done orderly and peacefully. The Congress has no jurisdiction to abridge the freedom of speech. However, Fred Smith felt like Appellant doesn't deserve a freedom of speech protection according to the audio recording, outside of law he made that decision as a lawyer. So, Appellant had no choice but to not file in this court for six months or he would have been convicted of contempt of court, then face possibly 9 months in federal prison for another supervised release violation charge and using the conviction as evidence of violating probation. Appellant wasn't just accused of contempt of court. Any criminal charge can cause Appellant to be arrested or summoned by the U.S. District Court for violating a condition of supervised release, facing federal imprisonment and even revocation. Justin Hill understands all of that, yet he decided to pretend that Appellant had the right to file his pleadings with this Court of Appeals of Virginia during the six-month period.

38. At the beginning of Justin Hill being assigned to Appellant's appeals, he

thought Justin Hill would remain professional, ethical, and nice, to agree to disagree. Appellant was fine if the Appellees just agreed or disagreed. However, when they tell false statements and produce false statements like they could care less about the falsity of whatever they say to the court, Appellant is appalled by Justin Hill and will not tolerate any need to tell falsehoods when telling falsehoods to a judge or judges is unethical or unprofessional behavior. Appellant expects a fair legal battle, a fair legal fight, not a deceptive falsehood propaganda campaign and gaslighting campaign against Appellant. Appellant wants to demonstrate facts. Lies are not good in the court system. All judges usually know the law, and respect the law. Same should happen with all attorneys including the Attorney General. Republican or democrat, the republican Attorney General today should understand the laws and ethics and morals. The republican Attorney General in this case is being immoral. The Holy Bible says under the Ten Commandments, Though Shalt Not Bear False Witness against thy neighbor (is one of the Ten Commandments, widely understood as moral imperatives by Jewish, Catholic, and Protestant scholars.). Justin Hill has done that; he has bare false witness. Lawyers shouldn't be about trickery, deceit, and taking advantage of disadvantaged poor people who didn't have good luck. Where is justice in that??? Where the fairness in that??? Has the definition of justice changed over the years or is it still the same???

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 inquiry and investigation into Appellees counsel Justin Hill's conduct to determine whether or not he had defrauded the court for producing a false statement or for producing multiple false statements before the Court of Appeals of Virginia in order to have an upper hand against Appellant;
2. That the Honorable Court exercise their constitutional and legal rights to determine the facts of intrinsic fraud upon the appeals court which was conducted by an officer of the court Justin Hill during these pending appeals;
3. That the Honorable Court grant his motion/request for an inquiry and investigation into Justin Hill; by entering a show cause order as to the conduct of the counsel for Appellees when an attorney is required to comply with the state bar rules and the highest of ethical standards required of attorneys;
4. That the Honorable Court make a determination as to the false statements by Justin Hill, and as to whether they were willful, intentional, or in reckless disregard for the truth. Appellant accepts if Justin Hill apologizes for that one false statement and any other false statement which Appellant proves based on evidence or based on the record of the Trial Court, especially the false statement which Justin

Hill had made regarding what Fred Smith told him. If Justin made a mistake, we are all human. Appellant forgives Justin Hill for any mistakes he made including any false information he was given by any attorney, officer, or questionable witness. False statements affect the other party's case negatively, prevents a fair trial, deprives a party of due process of law, and prevents a fair submission of the case or controversy to any court;

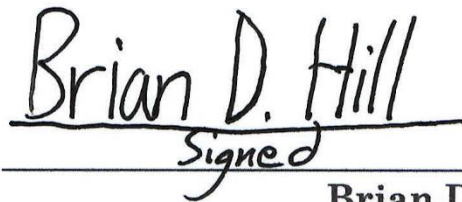
5. Appellant requests that if Justin Hill has been found to have defrauded the court of appeals, that this court recommend a State Bar complaint or disciplinary investigation or review of Justin's conduct;
6. Appellant requests that this honorable court make a public finding or public verdict or any verdict that Justin Hill had made false statements if they make the findings as fact based on the evidence and inquiry;
7. And Appellant asks for any other relief and/or remedy that the Court of Appeals of Virginia may deem proper/appropriate and just to resolve the issues and the facts laid before this Court to protect the due process of law of Appellant and prevent fraud or frauds on the appellate court record when such fraud or frauds may be used to prevent the Appellant from an opportunity to present his appeals, and will cause contamination of the appellate court record with false information.

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/appropriate and just for the issues and facts raised in support thereof.

Respectfully Filed/Submitted on January 15, 2024,

BRIAN DAVID HILL
Pro Se


Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

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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 [8,717] 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: January 15, 2024



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(276) 790-3505

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Pro Se Appellant

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 15th day of January, 2024, I caused this “MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING THIS COURT” and attached EXHIBITS (ALL-EXHIBITS-1-15-2024.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; OAG Criminal Litigation:

oagcriminallitigation@oag.state.va.us; Chris Coen: ccoen@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.


Signed

Brian D. Hill

U.S.W.G.O.



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Pro Se Appellant

EXHIBIT 1

for

MOTION FOR SANCTIONS AND INQUIRY
AGAINST JUSTIN HILL, ASSISTANT ATTORNEY
GENERAL FOR POSSIBLY DEFRAUDING THIS
COURT

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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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**

**DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF MOTION FOR
SANCTIONS AND INQUIRY AGAINST JUSTIN HILL,
ASSISTANT ATTORNEY GENERAL
FOR POSSIBLY DEFRAUDING THIS COURT**



**Brian David Hill – Ally of Q and Lin Wood
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c/o: Rbhill67@comcast.net; Roberta Hill**



Pro Se Appellant

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DECLARATION

Pursuant to the Virginia Code § 8.01-4.3. “Unsworn declarations under penalty of perjury; penalty.”, Appellant Brian David Hill hereby state to the Court of Appeals of Virginia and Appellee(s) the statement of facts as under penalty of perjury,

1. I am Brian David Hill, Appellant in the case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3, 0289-22-3, 0290-22-3.

2. I have brought forth the motion entitled the “MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING THIS COURT”, because I believe Appellees attorney Justin B. Hill had made a false statement or false statements regarding myself to the Court by saying: “...*That agreement did not prohibit his from filing anything in this Court*” (referring to Court of Appeals of Virginia) in regard to Justin Hill’s additional claim that: “*Upon information and belief, Hill agreed during the pendency of those contempt charges not to file any new motions in the Circuit Court.*” Justin B. Hill is the legal counsel representing Appellees in the foregoing appeals and is the Assistant Attorney General of Virginia according to his previous filing I have read.

3. The reason why I believe Justin B. Hill made a false statement or false statements is because I have hard evidence audio files which is irrefutable proving

that Justin B. Hill had made a false statement about there being no agreement prohibiting Appellant, which is myself, from filing anything in the Court of Appeals of Virginia.

4. In my previous affidavits/Declarations (Exhibit 3 and Exhibit 12) I had filed in October 27, 2023, attached to my filed “MOTION FOR LEAVE OF COURT TO FILE ONE MORE APPELLANT OPENING BRIEF AND/OR MODIFY JUNE 30, 2023 ORDER”, I did tell the truth under oath and I did warn Justin Hill in my Declaration that I had evidence at the time which I did not make public or disclose to the Court. Because of the false statement by Justin B. Hill, I am now at the point where I feel that I must submit the evidence to the Court of Appeals of Virginia to prove my claims in my previous affidavits/Declarations (Exhibit 3 and Exhibit 12, in support of *MOTION FOR LEAVE OF COURT TO FILE ONE MORE APPELLANT OPENING BRIEF...*) as truthful and proven by prima facie evidence. I had warned him in EXHIBIT PAGES 21 and 22 OF 82 in support of my motion for leave of court to file one opening brief of Appellant filed on October 27, 2023, the following: “*The witnesses have heard it what Fred Smith had said, I have evidence of what this attorney told me at that meeting. I will not say any further what evidence I have, but I have evidence that this attorney will not fight for my First Amendment right to the contempt of court charge.*” Now I must disclose to the Court of Appeals of Virginia, the very evidence I have withheld. I had withheld it to protect my attorney/client privilege between myself and Attorney Fred Smith. But when I

read the false statement or false statements by Justin B. Hill in his “Brief of the Commonwealth”, pages 11 and 12, saying that there was no agreement prohibiting me from filing in the Court of Appeals of Virginia (CAV), claiming in footnote 4 to have affirmed this information from my court appointed lawyer Fred Smith according to his claims saying: “*Undersigned counsel confirmed this fact with Hill's appointed counsel in his contempt case during the pendency of those proceedings.*”

When I read the false statement or false statements, I felt angry and betrayed, I felt like my own lawyer lied to me or tricked me because he told me not to file anything in the “state courts”. Now I feel like the attorney/client privilege protection must be waived by myself in my contempt of court case as the client to expose the lie or lies told by Justin B. Hill or the lies could have come from my court appointed lawyer Fred Smith who was appointed by Judge Giles Carter Greer of the Circuit Court in my contempt of court case. I will explain herein, in this Declaration/Affidavit the very evidence I have which will expose the lie/lies and falsehood/falsehoods all stemming from my contempt of court case. I told the truth in my past filed Declarations/Affidavits. I will not be made by any deceitful person to look like a liar or delusional person of any kind when I have evidence to counter any such rhetoric.

5. I had been betrayed by other lawyers appointed by Judge Greer including but not limited to Scott Albrecht. I do not trust the public defenders anymore and do not trust any court appointed lawyer because I keep being lied to, I keep being lied about, I keep losing in the legal system due to these court appointed lawyers who act

more like prosecutors than actual defenders of their clients. I knew I had to feel suspicious about Attorney Fred Smith and I understand that Virginia law requires only one party who is present at the conversation can consent to record a private conversation that person is party to which can be used as evidence if the need ever arises.

6. I had brought a recording device into the office of Attorney Fred Smith with me when I was to have a meeting with him because I did not trust him since he was appointed by Judge Giles Carter Greer aka Judge Greer. The same one who I had filed accusations against him which led to my contempt of court charge against me. I knew I could be appointed a lawyer who may not truly represent me as his client to the best of his abilities. I did not entirely trust him; well, I didn't trust him enough not to record my conversations with him. My family members Roberta Hill, Stella Forinash, and Kenneth Forinash all knew I had carried the recording device into the office of my court appointed attorney to record the conversation I had with him if I ever had the need to use the recordings as evidence in the event, I am being lied about in regard to my contempt of court case. My family members had consented to the recording device being used. Therefore, everyone who met with Attorney Fred Smith with me had consented to the usage of the recording device. Fred did not know of the recording device being used, as I did not trust him and knew that he was not trustworthy. My feelings about this iffy lack of complete trusting of Fred Smith turned out to be correct after what Justin Hill had written to the Court of Appeals of

Virginia. Fred was supposed to be appointed to represent me but now I feel like he was meant to have me not file for six months in my appeals to set me up for the Appellees claim that I had filed an untimely appeal brief as they had claimed in their opposition brief in my appeals. I feel that I was set up, I felt like I was being set up here, one big set up to wreck my appeals and deprive me of procedural due process of law. I felt that after I read the brief of the Commonwealth filed by Appellees on January 2, 2024, that my own lawyer Fred Smith may had set me up to have me agree not to file in any of the Virginia state courts for six months in order to set me up to file untimely. I was set up by both the Commonwealth of Virginia by its special prosecutor and attorney Fred Smith. The City of Martinsville through Judge Greer had appointed the special prosecutor to prosecute the contempt of court case from what I understand, if I am correct here. I feel like the Commonwealth of Virginia and City of Martinsville had set me up with the special prosecutor and Attorney Fred Smith having this verbal agreement for me not to file for six months, then the Appellees represented by Justin B. Hill can then claim as he did in his opposing brief that I was not prohibited from filing in the Court of Appeals of Virginia while I was being told not to file at all in the “state courts”.

7. Therefore I had recorded the conversations with my Attorney Fred Smith on three separate occasions. On the dates of March 9, 2023; April 13, 2023, and October 20, 2023. The original recordings are longer and may include me walking to the attorney office, talking outside somewhere before entering the attorney office

and waiting. I had cut out those parts to make sure that the conversation would be the main objective of the audio files being submitted to the court. They were originally in WAVE FORMAT (*.wav) and are still in WAVE FORMAT when all unnecessary parts were cut out of both sides of the audio files. I always want to tell the truth to the court, because it is better for my case to tell the truth, even when it is inconvenient to certain political people. The court is where I must tell the truth and where truth needs to come to light. From what I understand about law, Judges need to be told the truth from all parties in a case or controversy when it involves either an appeal case or any criminal case or any civil case. Attorneys have to tell the truth.

8. I will specify some of the recorded conversation from my attorney visit on October 20, 2023, with Fred Smith. With copying and pasting from the transcriptions. Fred Smith told me some very interesting things involving Justin Hill. Fred Smith told me: *“Now about your question about what to do about your subsequent filings, I have talked to that, uh, assistant Attorney General. What's his name?”*, my response was: *“Uh, Justin,”* and Fred asked further: *“uh, what was his last name?”*. I then responded with: *“Uh Hill.”* Fred Smith had said: *“he, he, he, he knew about the six month thing”*, and *“and I talked to him and they get, I understood that you got an extension... to, to file.”* From what that conversation told me, he said he understood that I the Appellant got an extension “to file” at that time of the conversation on October 20, 2023. He knows quite well that I wanted to continue my appeals in the Court of Appeals of Virginia, and he had me convinced that I got

some kind of an extension of time to file my brief or briefs in the Court of Appeals of Virginia for cases no. 0313-23-3, 0314-23-3 and 0317-23-3. I assumed that such an extension existed somewhere which was why a decision had not yet been made for CAV cases no. 0313-23-3, 0314-23-3 and 0317-23-3; but I had never been served with any court order from the Court of Appeals of Virginia confirming whether or not I was given an extension as claimed by Attorney Fred Smith, so I had filed a Motion for leave of Court to file just one Appellant opening brief on October 27, 2023. The court has yet to act on that motion. I submitted my affidavit about the fact that I could not file in the state courts for six months. Attorney Fred Smith knew that I wanted to file in my appeals, and he said in the recorded conversations with me not to file anything in the state courts. From what he told me in multiple conversations, I was not given any exception to file in the Court of Appeals of Virginia, and I was told not to file anything but can file in the federal courts. My own attorney telling me in multiple recordings from different attorney visits where I am prohibited from filing in the state courts, yet Justin Hill is making false claims or false statements to the Court of Appeals of Virginia in its brief of the Commonwealth, filed January 2, 2024, telling the Court that I was not prohibited from filing in the Court of Appeals of Virginia. That contradicts what Attorney Fred Smith had instructed me to do in order to comply with him and the special prosecutor in order for my contempt of court case to be dismissed by a joint motion. I feel like somebody has lied about me or lied to me. It may be Justin Hill, it may be my own attorney Fred Smith. I feel

like somebody has lied about me somehow and that is going to negatively affect my appeals in the Court of Appeals of Virginia, I CANNOT stand for it. For God's sake, for truth's sake, I cannot stand for it. So, I must submit my conversation recordings of my conversations with my lawyer to the Court of Appeals of Virginia to prove Justin Hill was wrong, that he did not make a truthful statement. Here is where my thoughts are going about what I know from the way evidence files and then what Justin Hill claimed. I have to now assume the logical conclusions of what may be the case here. Either my attorney Fred Smith lied to me the entire time and I could file with the Court of Appeals of Virginia while being misguided that I could not file due to me being charged with contempt of court for exercising my first amendment right to free speech, or I was prohibited from filing in all Virginia courts (not federal courts) and that was omitted from the court filings, or Justin Hill knew that I was prohibited from filing in the Court of Appeals of Virginia since it is a state court and he could be making the false statement knowing that it is false. I don't know why such false statement was made and who started it. I need an inquiry or investigation into what is going on, and why Justin Hill would produce such a false statement to the Court of Appeals of Virginia. It is false. Although is it intentional? I don't know and don't have proof of Justin's intent, and think that the CAV needs to investigate Justin's claim to determine the intentions of Justin Hill as to his false statement. It is a set up because what if I filed in the CAV during the six month period and then all of the sudden I am tried and convicted for contempt of court with a lawyer who

refused to fight for my first amendment challenge. Then when I did comply with the six month no-filing period, then the Appellees can claim that it was untimely. I feel that I was being set up here. If I had not recorded those conversations, I would be in some kind of troublesome situation and I could have been falsely charged and arrested for being set up here somehow, I could have been wrongfully charged with perjury for truthfully claiming things in a verbal agreement while Justin Hill claims the agreement did not prohibit me which contradicts my own claims. I told the truth. The other side is not telling the truth which the conversation recordings can clearly show that I was telling the truth after all. They could either try to falsely claim perjury or that I suffer from delusions. But the audio recordings have saved me from such miserable fate I could face. Who knows what they could have pulled against me to have my appeals dismissed or fail.

9. According to the recorded conversation I had with Attorney Fred Smith on April 13, 2023, he said: *“tomorrow morning and the, and the commonwealth's attorney agrees to this,”*, then in another part he said: *“this will be continued for six months.”* Fred Smith then said afterwards: *“during that six months, Brian, ... don't file anything...with, with state court...They, they have no jurisdiction of what you might do in federal court”* I had said in the conversation in response to all of that: *“That's fine.”* Fred Smith then said to me again: *“Don't file anything in state court.”*

10. So I don't understand why Attorney Fred Smith told me not to file anything in the state court including my appeals for six months, then Justin Hill

claims that nothing in the agreement prohibited me from filing in the Court of Appeals of Virginia which is a state court as Fred Smith had warned me not to file in any state court for six months. It is confusing. I feel like I have been set up by either attorney or all of them or at least one of them lied to me or multiple attorneys lied to me or lied about me. I am confused because I have the recordings of my conversations with my court appointed attorney because I didn't trust him enough to keep things private out of rational fear that I would be betrayed or lied about. I was lied about. Justin Hill made a false statement about me. I have the conversation recordings. I have the hard evidence. It cannot be refuted.

11. The URLs/LINKS in my exhibits in support of my motion noted on the cover page, the links and urls were provided to me by my family member after uploading my conversation recordings to the cpanel (control panel) for JusticeForUSWGO.NL website system. Three audio files were uploaded to be given to the Court of Appeals of Virginia to download them and for the clerks, assistants, and judges to review over the conversation recordings which I had recorded. The files are Apr13-045432.wav, Mar09-726407.wav, and Oct20-077885.wav. They are being used in my Exhibits for my motion regarding Justin Hill. The motion noted/referenced at the top of this pleading, the "MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING THIS COURT".

12. The transcripts in Exhibit 5, Exhibit 6, and Exhibit 7, are true and correct

transcripts which were created with the assistance of Artificial Intelligence (AI) transcription tools. Roberta Hill had created an Amazon AWS account on the free tier to have the three audio recordings transcribed by AI. I then checked the transcripts and noticed errors, extra numbers at the end of the minute second markings, and a lack of explaining who was saying what. So, I added the names of who was speaking at the different times throughout the recorded conversation, and corrected the errors. I wanted to make sure to identify who was speaking in those recordings. Removed the extra numbers at the end of the time length. Edited some wrong words to make sure that the transcript is as close to matching the audio conversation as possible, to be as accurate as possible. I then had Stella Forinash review over those transcripts and listen to the audio recordings to confirm accuracy of the transcripts. She had confirmed that two of them were accurate and the third one was almost entirely but it had one mistake. She did suggest correcting a wrong word where it said Just instead of Justin. I listened to the conversation at that part and did feel that Fred Smith did say the word “Justin” so it was corrected. I cannot guarantee a 100% error free accuracy but it is as close to complete accuracy as possible. Even AI can make mistakes and I am only human. That is why I had another person review over both the audio and transcription of those exact audio files.

13. Those conversation recordings are true and correct; and only the beginning of the original recordings and end of the original recordings were cut to remove the excess audio where there may be no evidential value or evidential benefit. The court

may have the entire original audio file if they wish to have them. If they only want the period of evidential value, then I hope they have what they need to conduct an inquiry into the situation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 15, 2024.

BRIAN DAVID HILL

Pro Se


Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

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Pro Se Appellant

<https://JusticeForUSWGO.wordpress.com>

<https://JusticeForUSWGO.nl>



EXHIBIT 2

for

MOTION FOR SANCTIONS AND INQUIRY
AGAINST JUSTIN HILL, ASSISTANT ATTORNEY
GENERAL FOR POSSIBLY DEFRAUDING THIS
COURT

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

JUSTICEFORUSWGO.WORDPRESS.COM

USWGO.COM // JUSTICEFORUSWGO.NL



**THIS EXHIBIT 2 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN
HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING
THIS COURT**

File: Mar09-726407.wav

<https://justiceforuswgo.nl/PUBLICATION/Mar09-726407.wav>

It is also an attachment to this PDF File exhibit.
If the attachment audio file still exists after
the combining all
Exhibits together in a single PDF file,
then it is recommended that the Clerk,
judges, and court staff download and archive the
evidence audio files as part of the appeal
record for the evidence in support
of the motion.

EXHIBIT 3

for

MOTION FOR SANCTIONS AND INQUIRY
AGAINST JUSTIN HILL, ASSISTANT ATTORNEY
GENERAL FOR POSSIBLY DEFRAUDING THIS
COURT

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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**THIS EXHIBIT 3 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN
HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING
THIS COURT**

File: Apr13-045432.wav

<https://justiceforuswgo.nl/PUBLICATION/Apr13-045432.wav>

It is also an attachment to this PDF File exhibit.
If the attachment audio file still exists after
the combining all
Exhibits together in a single PDF file,
then it is recommended that the Clerk,
judges, and court staff download and archive the
evidence audio files as part of the appeal
record for the evidence in support
of the motion.

EXHIBIT 4

for

MOTION FOR SANCTIONS AND INQUIRY
AGAINST JUSTIN HILL, ASSISTANT ATTORNEY
GENERAL FOR POSSIBLY DEFRAUDING THIS
COURT

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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**THIS EXHIBIT 4 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN
HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING
THIS COURT**

File: Oct20-077885.wav

<https://justiceforuswgo.nl/PUBLICATION/Oct20-077885.wav>

It is also an attachment to this PDF File exhibit.
If the attachment audio file still exists after
the combining all
Exhibits together in a single PDF file,
then it is recommended that the Clerk,
judges, and court staff download and archive the
evidence audio files as part of the appeal
record for the evidence in support
of the motion.

EXHIBIT 5

for

MOTION FOR SANCTIONS AND INQUIRY
AGAINST JUSTIN HILL, ASSISTANT ATTORNEY
GENERAL FOR POSSIBLY DEFRAUDING THIS
COURT

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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TRANSCRIPT OF Mar09-726407.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Stella Forinash

Date of transaction: January 14, 2024.

Date of audio file recording: March 09, 2023.

Participants: Brian D. Hill, Roberta Hill, Stella Forinash, Kenneth Forinash, Attorney Fred Smith

Recording by: Brian D. Hill, consented to recording of conversation

Conversation recorded at: Office of Fred D. Smith, Jr. P.C., 46 W Main St, Martinsville, VA 24112

Note: Transcription based on time-frame of audio file. So full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

0
00:00:00 --> 00:00:01
[Fred Smith] Right,

1
00:00:01 --> 00:00:05
[Fred Smith] now out in this case, they uh asked that a special prosecutor be

2
00:00:06 --> 00:00:06
[Fred Smith] done.
[Roberta Hill] Ok.

3
00:00:08 --> 00:00:08
[Fred Smith] And

4

00:00:08 --> 00:00:08

[Fred Smith] uh

5

00:00:08 --> 00:00:10

[Fred Smith] special prosecutor,

6

00:00:13 --> 00:00:13

[Fred Smith] yeah.

7

00:00:15 --> 00:00:19

[Fred Smith] Uh Justin, and I have talked extensively about

8

00:00:19 --> 00:00:20

[Fred Smith] this case.

9

00:00:22 --> 00:00:24

[Fred Smith] And so let me

10

00:00:28 --> 00:00:29

[Fred Smith] tell you, I think

11

00:00:34 --> 00:00:36

[Fred Smith] there is a provision of the law,

12

00:00:37 --> 00:00:39

[Fred Smith] a special provision of the law

13

00:00:40 --> 00:00:41

[Fred Smith] that

14

00:00:41 --> 00:00:43

[Fred Smith] uh addresses

15

00:00:44 --> 00:00:44

[Fred Smith] um

16

00:00:45 --> 00:00:46

[Fred Smith] folks who

17

00:00:47 --> 00:00:50

[Fred Smith] are facing any kind of charge who have autism.

18

00:00:52 --> 00:00:55

[Fred Smith] Uh I don't think this was on the books at the time

19

00:00:56 --> 00:00:56

[Fred Smith] uh

20

00:00:57 --> 00:00:58

[Fred Smith] in, in 2018.

21

00:01:00 --> 00:01:00

[Fred Smith] Uh

22

00:01:01 --> 00:01:03

[Fred Smith] but it's this way

23

00:01:04 --> 00:01:05

[Fred Smith] uh

24

00:01:06 --> 00:01:09

[Fred Smith] the deferred disposition in a criminal case,

25

00:01:09 --> 00:01:11

[Fred Smith] persons with autism or intellectual disability

26

00:01:12 --> 00:01:16

[Fred Smith] in any criminal case except a violation of 18.3 31

27

00:01:17 --> 00:01:18

[Fred Smith] um

28

00:01:18 --> 00:01:19

[Fred Smith] which is murder.

29

00:01:20 --> 00:01:20

[Fred Smith] Uh

30

00:01:21 --> 00:01:22

[Fred Smith] And then another

31

00:01:22 --> 00:01:24

[Fred Smith] irrelevant section or

32

00:01:24 --> 00:01:28

[Fred Smith] any crime for which a deferred disposition is provided for by statute,

33

00:01:28 --> 00:01:31

[Fred Smith] a form of plea of guilty or after a plea of not guilty.

34

00:01:31 --> 00:01:35

[Fred Smith] And the facts found by the court would justify finding of guilty

35

00:01:35 --> 00:01:37

[Fred Smith] the court may if the defendant has

36

00:01:37 --> 00:01:40

[Fred Smith] been diagnosed by a psychiatrist or clinical psychologist

37

00:01:41 --> 00:01:45

[Fred Smith] with an autism spectrum disorder is defined. Most recent addition

38

00:01:45 --> 00:01:48

[Fred Smith] of the diagnostic and statistical manual

39

00:01:48 --> 00:01:53

[Fred Smith] of mental disorders published by the American Psychiatric Association or

40

00:01:53 --> 00:01:53

[Fred Smith] in

41

00:01:53 --> 00:01:57

[Fred Smith] intellectual disabilities is defined in 37.2 100.

42

00:01:57 --> 00:02:01

[Fred Smith] The court finds by clear and convincing evidence that the conduct was

43

00:02:01 --> 00:02:03

[Fred Smith] caused by or has directed substantial

44

00:02:03 --> 00:02:06

[Fred Smith] relationship to the person's disorder disability

45

00:02:06 --> 00:02:10

[Fred Smith] without airing a judgment of guilt and with the consent of the accused. And

46

00:02:10 --> 00:02:14

[Fred Smith] after giving due consideration to the position of attorney for the commonwealth

47

00:02:15 --> 00:02:16

[Fred Smith] and the views of the victims defer

48

00:02:16 --> 00:02:19

[Fred Smith] such proceedings and place the accused on probation

49

00:02:19 --> 00:02:22

[Fred Smith] subject to terms and conditions set to the court

50

00:02:23 --> 00:02:24

[Fred Smith] in violation of the term or condition.

51

00:02:24 --> 00:02:27

[Fred Smith] The court may enter an adjudication of guilt

52

00:02:27 --> 00:02:29

[Fred Smith] or upon fulfillment of the terms and conditions.

53

00:02:29 --> 00:02:32

[Fred Smith] The court may discharge the person and dismiss the proceedings against him

54

00:02:33 --> 00:02:35

[Fred Smith] without any adjudication of guilt.

55

00:02:35 --> 00:02:36

[Fred Smith] So,

56

00:02:38 --> 00:02:38

[Fred Smith] um

57

00:02:38 --> 00:02:41

[Fred Smith] here's what uh we have under consideration.

58

00:02:41 --> 00:02:43

[Fred Smith] Uh Mr uh

59

00:02:44 --> 00:02:44

[Fred Smith] um

60

00:02:45 --> 00:02:47

[Fred Smith] Griffin and I talked extensively about

61

00:02:48 --> 00:02:50

[Fred Smith] uh your history, various diagnoses.

62

00:02:52 --> 00:02:53

[Fred Smith] Uh He proposes that

63

00:02:54 --> 00:02:57

[Fred Smith] uh there will be a joint motion by

64

00:02:58 --> 00:02:59

[Fred Smith] the Commonwealth

65

00:02:59 --> 00:03:02

[Fred Smith] and the defendant one

66

00:03:03 --> 00:03:03

[Fred Smith] and

67

00:03:04 --> 00:03:09

[Fred Smith] that there is an agreement on the record in the court files that you have a diagnosis

68

00:03:09 --> 00:03:10

[Fred Smith] of autism

69

00:03:11 --> 00:03:14

[Fred Smith] that autism explains uh

70

00:03:15 --> 00:03:17

[Fred Smith] the behaviors at issue here,

71

00:03:17 --> 00:03:19

[Fred Smith] uh that um

72

00:03:21 --> 00:03:21

[Fred Smith] um

73

00:03:22 --> 00:03:25

[Fred Smith] and o other findings and that uh

74

00:03:25 --> 00:03:26

[Fred Smith] with that

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00:03:26 --> 00:03:31

[Fred Smith] you would be placed on probation for probably six months and probably the only

76

00:03:32 --> 00:03:34

[Fred Smith] the biggest term of your

77

00:03:34 --> 00:03:34

[Fred Smith] probation be that

78

00:03:35 --> 00:03:36

[Fred Smith] you don't make any more filings

79

00:03:37 --> 00:03:40

[Fred Smith] uh without the assistance of a lawyer

80

00:03:40 --> 00:03:43

[Fred Smith] that, that, that would be the primary condition.

81

00:03:44 --> 00:03:48

[Fred Smith] And the way that works is when we go to court tomorrow.

82

00:03:49 --> 00:03:52

[Fred Smith] If this is what I'm telling you all, it's agreeable.

83

00:03:53 --> 00:03:54

[Fred Smith] We would, we would

84

00:03:54 --> 00:03:56

[Fred Smith] not set a trial date,

85

00:03:56 --> 00:03:59

[Fred Smith] but what's called a disposition date.

86

00:03:59 --> 00:04:01

[Fred Smith] And during that period of time,

87

00:04:01 --> 00:04:02

[Fred Smith] Mr Griffin,

88

00:04:02 --> 00:04:04

[Fred Smith] I had not had time to work on this order

89

00:04:04 --> 00:04:07

[Fred Smith] because I've got a jury trial after you be in court

90

00:04:07 --> 00:04:07

[Fred Smith] in tomorrow

91

00:04:07 --> 00:04:09

[Fred Smith] working all day to day on that.

[Brian Hill] yeah

92

00:04:10 --> 00:04:11

[Fred Smith] And so the, the

93

00:04:12 --> 00:04:12

[Fred Smith] Mr Griffin,

94

00:04:13 --> 00:04:13

[Fred Smith] and I

95

00:04:13 --> 00:04:14

[Fred Smith] will prepare the order,

96

00:04:15 --> 00:04:18

[Fred Smith] you will review it because you have to agree to it as well.

97

00:04:19 --> 00:04:21

[Fred Smith] And then, um,

98

00:04:22 --> 00:04:25

[Fred Smith] uh then Judge Greer would have to agree to it.

99

00:04:25 --> 00:04:26

[Fred Smith] I suspect that he would

100

00:04:27 --> 00:04:28

[Fred Smith] and that would conclude the matter.

101

00:04:28 --> 00:04:31

[Fred Smith] In other words, after six months, this would,

102

00:04:31 --> 00:04:33

[Fred Smith] this would be dismissed no longer appear on the record.

103

00:04:34 --> 00:04:34

[Fred Smith] Now,

104

00:04:36 --> 00:04:39

[Fred Smith] le let me tell you what this does for you all with respect to

105

00:04:40 --> 00:04:41

[Fred Smith] this situation at all.

106

00:04:42 --> 00:04:43

[Fred Smith] I really wish,

107

00:04:45 --> 00:04:49

[Fred Smith] you know, the public defender folks have tough jobs,

108

00:04:50 --> 00:04:52

[Fred Smith] they've got so many people to defend,

109

00:04:52 --> 00:04:53

[Fred Smith] but

110

00:04:53 --> 00:04:56

[Fred Smith] in your case, they appropriately asked for an evaluation.

111

00:04:57 --> 00:04:58

[Fred Smith] And in fact,

112

00:04:59 --> 00:05:00

[Fred Smith] at the circuit court level, there've been,

113

00:05:00 --> 00:05:03

[Fred Smith] there've been a notification of intent to

114

00:05:03 --> 00:05:08

[Fred Smith] plead an insanity defense, which was the only way to get the issue addressed

115

00:05:09 --> 00:05:11

[Fred Smith] under the law at that time.

[Brian Hill] yeah

116

00:05:12 --> 00:05:15

[Fred Smith] You see, the, the law has changed dramatically

117

00:05:15 --> 00:05:17

[Fred Smith] since 2018 when that,

118

00:05:17 --> 00:05:19

[Fred Smith] when you were first charged

119

00:05:19 --> 00:05:20

[Fred Smith] and

120

00:05:22 --> 00:05:23

[Fred Smith] my system I

121

00:05:24 --> 00:05:24

[Fred Smith] get.

122

00:05:32 --> 00:05:32

[Fred Smith] Ok,

123

00:05:32 --> 00:05:34

[Fred Smith] I'll just take that message.

124

00:05:37 --> 00:05:37

[Fred Smith] Yeah.

125

00:05:38 --> 00:05:39

[Fred Smith] And,

126

00:05:39 --> 00:05:45

[Fred Smith] you know, ii, I certainly understand that you were upset and you felt like,

127

00:05:45 --> 00:05:46

[Fred Smith] um,

128

00:05:47 --> 00:05:49

[Fred Smith] your issues weren't being properly addressed.

129

00:05:50 --> 00:05:51

[Fred Smith] I understand that.

130

00:05:51 --> 00:05:52

[Fred Smith] But

131

00:05:52 --> 00:05:52

[Fred Smith] what

132

00:05:53 --> 00:05:56

[Fred Smith] the prosecutors used the process,

133

00:05:56 --> 00:05:57

[Fred Smith] uh, and, and

134

00:05:57 --> 00:05:59

[Fred Smith] I mean, the, you know, defense attorneys,

135

00:06:00 --> 00:06:02

[Fred Smith] uh, when I look at the record

136

00:06:03 --> 00:06:07

[Fred Smith] while all the appropriate motions took all the appropriate steps,

137

00:06:08 --> 00:06:11

[Fred Smith] they were handicapped as what they could do for you in 2018.

138

00:06:11 --> 00:06:13

[Fred Smith] And I understand you were upset

139

00:06:13 --> 00:06:16

[Fred Smith] and Judge Greer's pan for time because,

140

00:06:17 --> 00:06:19

[Fred
Smith] because getting, getting

141

00:06:20 --> 00:06:22

[Fred Smith] your issues before the court

142

00:06:22 --> 00:06:24

[Fred Smith] in the proper format

143

00:06:25 --> 00:06:25

[Fred Smith] do not have,

144

00:06:26 --> 00:06:27

[Brian Hill] um, actually,

145

00:06:28 --> 00:06:30

[Brian Hill] why were they allowed to let the body camera footage

146

00:06:30 --> 00:06:35

[Brian Hill] be destroyed in 2019 before seven months before I withdraw my

147

00:06:35 --> 00:06:35

[Brian Hill] appeal

148

00:06:36 --> 00:06:36

[Fred Smith] uh,

149

00:06:36 --> 00:06:40

[Fred Smith] that I, I don't, I don't answer that, but that's, but you, you've got to get the,

150

00:06:40 --> 00:06:44

[Fred Smith] you've got to get the proper form and the proper procedure

151

00:06:45 --> 00:06:47

[Fred Smith] to, to address that Brian, you just, you know,

152

00:06:47 --> 00:06:50

[Fred Smith] and so forth that has not happened.

153

00:06:50 --> 00:06:51

[Fred Smith] And so,

154

00:06:51 --> 00:06:51

[Fred Smith] uh,

155

00:06:51 --> 00:06:55

[Fred Smith] what needs to happen is you get this, this chapter right now,

156

00:06:55 --> 00:06:57

[Fred Smith] this contempt chapter closed

[Brian Hill] alright

157

00:06:57 --> 00:06:59

[Fred Smith] and you simply must

158

00:06:59 --> 00:07:00

[Fred Smith] engage

159

00:07:00 --> 00:07:01

[Fred Smith] an attorney

160

00:07:02 --> 00:07:07

[Fred Smith] to pursue a petition and filing of actual innocence in the proper format.
[Stella Forinash] Can

161

00:07:08 --> 00:07:08

[Stella Forinash] you still

162

00:07:08 --> 00:07:08

[Stella Forinash] do

163

00:07:08 --> 00:07:09

[Stella Forinash] that?

164

00:07:14 --> 00:07:15

[Fred Smith] Sure, you can, you can file the petition

165

00:07:16 --> 00:07:16

[Fred Smith] for the actual innocence anytime

166

00:07:16 --> 00:07:17

[Fred Smith] There you go. (Note: may have been in audio, AI found this one)

167

00:07:17 --> 00:07:20

[Brian Hill] Uh, that's not, they don't have that for

168

00:07:20 --> 00:07:21

[Brian Hill] misdemeanors.

169

00:07:21 --> 00:07:21

[Brian Hill] They're just felonies

170

00:07:22 --> 00:07:22

[Brian Hill] I've tried

171

00:07:23 --> 00:07:23

[Brian Hill] that.

[Fred Smith] Your right about that.

172

00:07:26 --> 00:07:27

[Fred Smith] Uh

173

00:07:27 --> 00:07:29

[Fred Smith] And if that's the case, that's just the law,

174

00:07:30 --> 00:07:31

[Fred Smith] that's, that's,

175

00:07:31 --> 00:07:34

[Fred Smith] you know, that's just, unfortunately, the law,

176

00:07:34 --> 00:07:38

[Roberta Hill] I have a question, what specifically did he say?

177

00:07:38 --> 00:07:42

[Roberta Hill] in the three appeals that offended or insulted that they

178

00:07:43 --> 00:07:44

[Fred Smith] accused him of fraud and conspi (note: almost said the word conspiracy)

179

00:07:46 --> 00:07:47

[Fred Smith] fraud on the court.

180

00:07:47 --> 00:07:49

[Fred Smith] Uh

181

00:07:49 --> 00:07:49

[Fred Smith] Was it

182

00:07:51 --> 00:07:51

[Fred Smith] really

183

00:07:52 --> 00:07:55

[Fred Smith] man that when you accuse a judge of committing fraud?

184

00:07:55 --> 00:07:56

[Fred Smith] That's

185

00:07:57 --> 00:07:57

[Fred Smith] uh

186

00:07:59 --> 00:08:01

[Roberta Hill] what about freedom of speech?

[Fred Smith] what?

187

00:08:01 --> 00:08:01

[Roberta Hill] Are you

188

00:08:01 --> 00:08:01

[Roberta Hill] not

189

00:08:01 --> 00:08:02

[Roberta Hill] allowed

190

00:08:02 --> 00:08:02

[Roberta Hill] to

191

00:08:02 --> 00:08:02

[Roberta Hill] accuse

192

00:08:04 --> 00:08:04

[Roberta Hill] anybody of anything?

193

00:08:05 --> 00:08:06

[Fred Smith] You got to have facts

194

00:08:06 --> 00:08:07

[Fred Smith] to support that.

195

00:08:09 --> 00:08:09

[Stella Forinash] He did have facts.

196

00:08:09 --> 00:08:11

[Brian Hill] did you read all of the facts I have?

197

00:08:12 --> 00:08:15

[Fred Smith] I've read your facts. I haven't seen any facts

198

00:08:15 --> 00:08:16

[Fred Smith] that would have,

199

00:08:16 --> 00:08:17

[Fred Smith] that would

200

00:08:18 --> 00:08:20

[Fred Smith] suggest that Judge Greer didn't do anything

201

00:08:21 --> 00:08:21
[Fred Smith] but follow

202
00:08:21.920 --> 00:08:22.029
[Fred Smith] the

203
00:08:23 --> 00:08:25
[Fred Smith] law
[Brian Hill] disobeying court orders is disobeying the law.

204
00:08:26 --> 00:08:29
[Fred Smith] I'm in a situation to get this chapter closed.
[Brian Hill] alright

205
00:08:30 --> 00:08:32
[Fred Smith] I do not want to get into all this other stuff

206
00:08:33 --> 00:08:35
[Fred Smith] and I will not get into all this other stuff.

207
00:08:36 --> 00:08:41
[Fred Smith] So if you want me to conclude this matter with respect to this contempt proceeding

208
00:08:41 --> 00:08:44
[Fred Smith] in the fashion of which I've described I will.

209
00:08:46 --> 00:08:48
[Fred Smith] But you are gonna have to get some other lawyer
[Brian Hill] alright

210
00:08:48 --> 00:08:49
[Fred Smith] to pick this up,

211

00:08:50 --> 00:08:52

[Fred Smith] uh, and pursue,

212

00:08:52 --> 00:08:54

[Fred Smith] uh, the issues that you all, uh,

213

00:08:56 --> 00:09:00

[Fred Smith] have focused a great deal of time and attention on in recent years?

[Brian Hill] alright

214

00:09:02 --> 00:09:03

[Stella Forinash] Is that [speaker difficult to hear]

215

00:09:03 --> 00:09:03

[Stella Forinash] ok? [speaker difficult to hear]

216

00:09:04 --> 00:09:04

[Stella Forinash] Yeah. [speaker difficult to hear]

217

00:09:07 --> 00:09:11

[Fred Smith] So that the, the there are, there are attorneys out there who specialize, uh,

218

00:09:11 --> 00:09:15

[Fred Smith] in, in, in these sorts of things. You might, you might could, you could,

219

00:09:15 --> 00:09:19

[Fred Smith] I don't know whether it's too late to file

220

00:09:19 --> 00:09:19

[Fred Smith] a habeas

221

00:09:19 --> 00:09:19

[Fred Smith] corpus

222

00:09:21 --> 00:09:22

[Fred Smith] petition or not.

223

00:09:22 --> 00:09:26

[Brian Hill] The innocence project could go to the governor and provide

224

00:09:26 --> 00:09:29

[Brian Hill] the proof that it was not dealt the right way

225

00:09:29 --> 00:09:31

[Brian Hill] and the governor could pardon me.

[Fred Smith] You

226

00:09:32 --> 00:09:33

[Fred Smith] can, you, can

227

00:09:33 --> 00:09:33

[Fred Smith] you,

228

00:09:34 --> 00:09:36

[Fred Smith] there any number of ways you could pursue this?

229

00:09:37 --> 00:09:37

[Fred Smith] But

230

00:09:37 --> 00:09:43

[Fred Smith] I'm, I'm here to get an agreement with you folks that, that what I've outlined to you

231

00:09:43 --> 00:09:48

[Fred Smith] is what you would like me to get done with respect to the current troubles Brian has.

232

00:09:49 --> 00:09:49

[Brian Hill] All right.

233

00:09:50 --> 00:09:50

[Unidentified speaker] Ok.

234

00:09:51 --> 00:09:53

[Fred Smith] All right. So that's what the plan is now tomorrow.

235

00:09:53 --> 00:09:57

[Fred Smith] Then you just need to be in court with me and we'll find out the date for us to return

236

00:09:57 --> 00:10:00

[Fred Smith] and you'll sign your recognizance to be back

237

00:10:00 --> 00:10:02

[Fred Smith] in the meantime, Mr

238

00:10:02 --> 00:10:05

[Fred Smith] Griffith and I will prepare the joint motion

239

00:10:05 --> 00:10:10

[Fred Smith] which I will review with everyone before we submit it.

240

00:10:10 --> 00:10:11

[Fred Smith] Ok.

[Brian Hill] alright

241

00:10:12 --> 00:10:13

[Fred Smith] Ok.

242

00:10:14 --> 00:10:18

[Stella Forinash] Sounds good to me.

[Brian Hill] thanks

[Fred Smith] See you in the morning.

243

00:10:18 --> 00:10:19

[Brian Hill] All right.

[Stella Forinash] 9 o'clock huh?

244

00:10:21 --> 00:10:21

[Fred Smith] Yep,

245

00:10:23 --> 00:10:25

[Fred Smith] how about 845.

246

00:10:27 --> 00:10:30

[Stella Forinash] I'm, I'm bad about it. They'll say like eight.

247

00:10:30 --> 00:10:30

[Stella Forinash] It's my age,

248

00:10:32 --> 00:10:32

[Fred Smith] let's

249

00:10:32 --> 00:10:32

[Fred Smith] not

250

00:10:33 --> 00:10:33

[Fred Smith] talk about age.

EXHIBIT 6

for

MOTION FOR SANCTIONS AND INQUIRY
AGAINST JUSTIN HILL, ASSISTANT ATTORNEY
GENERAL FOR POSSIBLY DEFRAUDING THIS
COURT

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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TRANSCRIPT OF Apr13-045432.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Stella Forinash

Date of transaction: January 14, 2024.

Date of audio file recording: April 13, 2023.

Participants: Brian D. Hill, Roberta Hill, Attorney Fred Smith

Recording by: Brian D. Hill, consented to recording of conversation

Conversation recorded at: Office of Fred D. Smith, Jr. P.C., 46 W Main St, Martinsville, VA 24112

Note: Transcription based on time-frame of audio file. So full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

1
00:00:06 --> 00:00:06
[Fred Smith] morning,

2
00:00:07 --> 00:00:08
[Brian Hill] morning
[Roberta Hill] morning

3
00:00:13 --> 00:00:16
[Fred Smith] In light of your concerns about what's gonna happen tomorrow.

4
00:00:17 --> 00:00:19
[Fred Smith] Here's, uh, what will happen

5
00:00:20 --> 00:00:23

[Fred Smith] tomorrow morning and the, and the commonwealth's attorney agrees to this,

6

00:00:24 --> 00:00:24

[Fred Smith] uh,

7

00:00:25 --> 00:00:26

[Fred Smith] this will be continued for six months.

8

00:00:27 --> 00:00:27

[Brian Hill] Alright.

9

00:00:29 --> 00:00:30

[Fred Smith] during that six months, Brian,

10

00:00:30 --> 00:00:32

[Fred Smith] don't file anything

[Brian Hill] Alright.

11

00:00:32 --> 00:00:34

[Fred Smith] with, with state court.

12

00:00:34 --> 00:00:37

[Fred Smith] They, they have no jurisdiction of what you might do in federal

13

00:00:37 --> 00:00:37

[Fred Smith] court.

14

00:00:37 --> 00:00:40

[Brian Hill] That's fine.

[Fred Smith] Don't file anything in state court.

15

00:00:41 --> 00:00:41

[Fred Smith] Now,

16

00:00:42 --> 00:00:42

[Fred Smith] uh,

17

00:00:43 --> 00:00:45

[Fred Smith] at the end of the six months when we come back to court,

18

00:00:47 --> 00:00:47

[Fred Smith] um,

19

00:00:48 --> 00:00:49

[Fred Smith] I have a good relationship with this prosecutor

20

00:00:50 --> 00:00:54

[Fred Smith] Uh, if we don't have any more paper in the file

21

00:00:54 --> 00:00:56

[Fred Smith] or more issues, um,

22

00:00:56 --> 00:00:59

[Fred Smith] I have a reason to believe he will dismiss the case.

23

00:00:59 --> 00:01:00

[Fred Smith] Ok.

24

00:01:01 --> 00:01:01

[Brian Hill] Alright.

25

00:01:01 --> 00:01:04

[Fred Smith] So that's what's gonna happen in the morning. It'll be straight and simple

26

00:01:05 --> 00:01:06

[Fred Smith] case will be called.

27

00:01:06 --> 00:01:08

[Fred Smith] I will stand, move the court

28

00:01:09 --> 00:01:10

[Fred Smith] to continue the case for six months.

29

00:01:11 --> 00:01:14

[Fred Smith] The prosecutor will stand up and say I do not object

30

00:01:15 --> 00:01:17

[Fred Smith] and the judge will be able to stay the case in six months.

31

00:01:18 --> 00:01:18

[Fred Smith] Ok.

32

00:01:19 --> 00:01:21

[Fred Smith] Alright, good.

33

00:01:22 --> 00:01:22

[Brian Hill] Alright.

34

00:01:23 --> 00:01:23

[Fred Smith] Ok.

35

00:01:24 --> 00:01:27

[Fred Smith] See you in the morning. Get there about 845 Ok.

36

00:01:27 --> 00:01:28

[Brian Hill] Alright

[Fred Smith] Ok.

37

00:01:29 --> 00:01:31

[Roberta Hill] Alright.

[Brian Hill] God bless you.

[Fred Smith] Yes.

38

00:01:33 --> 00:01:35

[Fred Smith] Alright, y'all have a good day.

[Roberta Hill] You too.

[Brian Hill] Thank

39

00:01:35 --> 00:01:35

[Brian Hill] you.

EXHIBIT 7

for

MOTION FOR SANCTIONS AND INQUIRY
AGAINST JUSTIN HILL, ASSISTANT ATTORNEY
GENERAL FOR POSSIBLY DEFRAUDING THIS
COURT

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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TRANSCRIPT OF Oct20-077885.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Stella Forinash

Date of transaction: January 14, 2024.

Date of audio file recording: October 20, 2023.

Participants: Brian D. Hill, Roberta Hill, Attorney Fred Smith

Recording by: Brian D. Hill, consented to recording of conversation

Conversation recorded at: Office of Fred D. Smith, Jr. P.C., 46 W Main St, Martinsville, VA 24112

Note: Transcription based on time-frame of audio file. So full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

0

00:00:02 --> 00:00:04

[Fred Smith] Hey, y'all.

[Brian Hill] Hey

[Roberta Hill] Hey

1

00:00:07 --> 00:00:08

[Fred Smith] Ok. Um,

2

00:00:08.880 --> 00:00:10.380

[Fred Smith] it's usually very simple.

3

00:00:11 --> 00:00:13

[Fred Smith] Uh, case will be called,

4

00:00:13 --> 00:00:16

[Fred Smith] I'll walk up to the bench with a dismissal order.

5

00:00:16 --> 00:00:17

[Fred Smith] The judge will sign it

6

00:00:17 --> 00:00:18

[Fred Smith] and we'll leave.

7

00:00:19 --> 00:00:22

[Fred Smith] Now about your question about what to do about your subsequent filings

8

00:00:23 --> 00:00:25

[Fred Smith] I have talked to that, uh,

9

00:00:26 --> 00:00:30

[Fred Smith] assistant Attorney General. What's his name?

[Brian Hill] Uh, Justin,

10

00:00:31 --> 00:00:33

[Fred Smith] uh, what was his last name?

[Brian Hill] Uh Hill.

11

00:00:34 --> 00:00:34

[Fred Smith] Yeah. Right.

12

00:00:35 --> 00:00:35

[Fred Smith] Uh,

13

00:00:35 --> 00:00:39

[Fred Smith] he, he, he, he knew about the six month thing

14

00:00:39 --> 00:00:43

[Fred Smith] and I talked to him and they get, I understood that you got an extension

15

00:00:43 --> 00:00:44

[Fred Smith] to, to file.

[Brian Hill] Oh,

16

00:00:44 --> 00:00:46

[Brian Hill] ok. Oh,

17

00:00:47 --> 00:00:50

[Fred Smith] yeah, let me review it with you because I think it's gonna be ok for you to file,

18

00:00:50 --> 00:00:53

[Fred Smith] just file your, your regular legal pleadings.

19

00:00:53 --> 00:00:58

[Fred Smith] But once we get that order, uh, entered on Tuesday, I'll reach out to him

20

00:00:58 --> 00:00:59

[Fred Smith] and, uh,

21

00:01:00 --> 00:01:04

[Fred Smith] it seeks the way clear for you to do that because I talked to him once before

22

00:01:05 --> 00:01:07

[Brian Hill] and I'm, I'm a patient person.

23

00:01:07 --> 00:01:08

[Fred Smith] Yeah. Well, good,

24

00:01:09 --> 00:01:10

[Fred Smith] good.

25

00:01:10 --> 00:01:12

[Fred Smith] So that's, that's all there is to it

26

00:01:12 --> 00:01:15

[Fred Smith] Brian. That's all that will happen Tuesday morning. And, uh,

27

00:01:16 --> 00:01:17

[Fred Smith] and, uh,

28

00:01:18 --> 00:01:19

[Fred Smith] once that order I will call,

29

00:01:19 --> 00:01:22

[Fred Smith] uh, Miss Hill until after the orders in.

30

00:01:22 --> 00:01:24

[Fred Smith] So in case he needs to see the, an order

31

00:01:25 --> 00:01:26

[Fred Smith] or that kind of thing.

32

00:01:26 --> 00:01:28

[Fred Smith] But, uh, I'll, I'll reach out to him

33

00:01:29 --> 00:01:30

[Fred Smith] so you can get,

34

00:01:30 --> 00:01:30

[Fred Smith] uh,

35

00:01:30 --> 00:01:31

[Fred Smith] the

36

00:01:31 --> 00:01:33

[Fred Smith] other filings going that you wanna do.

37

00:01:34.209 --> 00:01:35.750

[Brian Hill] And, you know, I mean,

38

00:01:36.209 --> 00:01:38.000

[Brian Hill] there's some things that I learned this year.

39

00:01:38.010 --> 00:01:40.489

[Brian Hill] I didn't know the years before that and,

40

00:01:40 --> 00:01:43

[Brian Hill] you know, there's been a lot of emotions and stuff like that.

41

00:01:44 --> 00:01:47

[Brian Hill] I mean, I will not make the same mistake I ever made again.

[Fred Smith] okay

42

00:01:48 --> 00:01:48

[Brian Hill] You

43

00:01:48 --> 00:01:48

[Brian Hill] know,

44

00:01:49 --> 00:01:50

[Fred Smith] good

[Fred Smith] good

[Fred Smith] that's good

45

00:01:50 --> 00:01:52

[Fred Smith] because the thing to realize, uh,

46

00:01:52 --> 00:01:53

[Fred Smith] uh

47

00:01:53 --> 00:01:54

[Fred Smith] Brian

48

00:01:55 --> 00:01:57

[Fred Smith] that when you file papers in court,

49

00:01:58 --> 00:01:59

[Fred Smith] uh,

50

00:01:59 --> 00:02:00

[Fred Smith] you know,

51

00:02:01 --> 00:02:02

[Fred Smith] you're kind of required to

52

00:02:03 --> 00:02:05

[Fred Smith] speak the lingo a little bit.

[Brian Hill] yeah

53

00:02:05 --> 00:02:09

[Fred Smith] Uh, because if you don't speak the lingo, the court don't pay any attention to you.

54

00:02:09 --> 00:02:12

[Fred Smith] And if you don't speak the lingo, sometimes you get in trouble.

55

00:02:12 --> 00:02:13

[Fred Smith] So, uh

56

00:02:13 --> 00:02:14

[Fred Smith] uh uh

57

00:02:14 --> 00:02:16

[Fred Smith] but you're, you're bright,

58

00:02:16 --> 00:02:20

[Fred Smith] you, if you, you read enough cases and they have the cases read

59

00:02:20 --> 00:02:22

[Fred Smith] and it just kind of

60

00:02:23 --> 00:02:27

[Fred Smith] talk like the, the cases you read and, and, and you'll be fine.

CAV: Submitted on 01-16-2024 09:07:27 EST for filing on 01-16-2024

EMERGENCY LETTER TO CLERK OF THE COURT ASKING FOR PDF COPY OF APPELLEE FILING AND TO ADDRESS EVIDENCE MATTER; POSSIBLE FUTURE RETALIATION MAY COME FOR APPELLANT

Re: CAV Cases No. 0313-23-3, 0314-23-3 and 0317-23-3

Tuesday, January 16, 2024 08:31 AM

<p>ATTN: CLERK OF THE COURT CC: CAV Records Request Clerk of the Court - A. John Vollino Court of Appeals of Virginia 109 North Eighth Street Richmond, VA 23219-2321</p>	<p>Brian David Hill (Appellant) v. City of Martinsville and Commonwealth of Virginia (Appellees)</p>
--	--

Clerk of the Court,

I would like to request a electronic PDF file copy of what Justin Hill had filed with the Court of Appeals of Virginia on January 2, 2024, in the foregoing appeal cases noted above. It is entitled: the "Brief of the Commonwealth". CAV Cases No. 0313-23-3, 0314-23-3 and 0317-23-3

In the past Appellee counsel Justin Hill would normally send an electronic copy file of whatever was filed with this court to rbhill67@comcast.net, but he had not done so with the brief of the Commonwealth.

I have a feeling he will be very angry at me and will be attacking me more at this point even further. I fear retaliation is coming, and I need to warn this court that I fear retaliation is coming now that the conversation recordings have been released to the general public. They didn't know I had recordings legally recorded, one party consent.

How many members of the press get retaliated against by corrupt lawyers and politicians??? Even though I ain't press anymore, I had my family release the audio

recordings evidence to the general public, so I fear retaliation by the Appellees or even retaliation possibly from Judge Greer or Fred Smith or even the Attorney General could come after me. I fear retaliation is coming. See the article, my family gave me the URL/LINKS. <https://justiceforuswgo.wordpress.com/2024/01/13/breaking-court-appointed-lawyer-fred-smith-and-or-corrupt-assistant-attorney-general-justin-hill-knew-brian-couldnt-file-for-six-months-in-virginia-court-then-lied-about-it-to-virginia-appeals-cou/>

Look I got set up with child porn back in 2012 for writing news articles about a corrupt NC State Senator (President Pro Tempore) Philip Edward Berger and he is a lawyer and was the town lawyer for Mayodan, North Carolina when I went to their city councils to speak out on various issues. His sons and even his daughter are all lawyers with connections to other lawyers and probably judges, and I know his multiple sons were lawyers because I used to live in Rockingham County, North Carolina. Messing with a lawyer means I could face any kind of repercussion including possibly even a future child porn set up

Now I have to be careful of any upcoming retaliation I may face, I am sending you this letter for multiple reasons in case the inevitable retaliation comes. See <https://censoredcontent.wordpress.com/2023/07/18/we-are-change-wrc-exclusive-alternative-media-writer-brian-d-hill-setup-on-child-pornography-possessionwe-are-change/> . I was set up with child porn after I as a journalist at USWGO Alternative News had written articles about that Mayodan lawyer and had made enemies with that republican state senator lawyer jerk. The Virginia Attorney General is also a republican. So I fear that I will be set up with child porn again or set up with some other crime in the future. I need to be ready and I need to warn about this in case I face a repercussion over my filings which were filed yesterday by VACES thanks to Roberta Hill since I cannot use the internet.

This court knows due to my motion and exhibits filing on March 4, 2023 (MOTION FOR SIX MONTH EXTENSION OF TIME DUE TO EMERGENCY AND EXTREME REASONS) about the threatening email I had received which was reported to Virginia State Police and I had been visited and interviewed by the Virginia State Police special agents after I had Roberta Hill reporting that threatening email quickly last year hoping I could have had them trace who sent it, which this court has that threatening email on it's appeal record. I had been retaliated against over and over again over the years, and some retaliation was conducted illegally against me by some powerful people. I do not wish to face further retaliation by people in the government especially the Virginia Government, but I have to defend my position as an Appellant and expose the evidence, expose the truth, and expose the lies and false statements. I follow the evidence. The evidence

proves I am innocent of indecent exposure. That is why I fight back so hard against the Appellees with the truth and the facts and the law, because I do not lie like the Government does. The Government lies a lot, and I had proven that in my federal case too. Judges usually ignore it in the Feds, but I had proven the U.S. Attorney staff had lied about me over and over again too. Just like the assistant for the Attorney General did.

After I had exposed the false statements/lies to Justin Hill with prima facie evidence, now that I have formally brought allegations of possibly fraud on the court and that Justin Hill had defrauded the court, I doubt he will be nice at this interval, and I have a gut feeling that this will escalate further since this may put his career in jeopardy now. There is nothing more dangerous than a cornered fox. That is why I am afraid of retaliation. At how far this could escalate, I don't know how far Justin Hill and his boss will go if he decides to fight back against me.

So I am making this specific request to you. I recommend that the audio files in the exhibits are downloaded and kept under lock and key or kept secure in some way or even be sent off to WikiLeaks. It exposes a lot of the corruption, where lawyer Fred Smith vigorously defended Judge Greer because Judge Greer appointed him and I am sure they know each other too, just a feeling. Fred Smith didn't want to truly represent me but his mission was to protect Judge Greer. It doesn't just expose that Justin Hill lied to the Court of Appeals of Virginia in their brief of the Commonwealth. It exposes that Fred Smith never intended to protect my first amendment right to freedom of speech, and that I was retaliated against for accusing Judge Greer of fraud and conspiracy and violating the RICO statute. It exposes that I was being set up by Fred Smith and/or Justin Hill to lose my appeals over my contempt of court charge. Those audio files do show some form of corruption going on in the City of Martinsville. I have to live here and am exposing the lawyer corruption in Martinsville, they are not happy with me even before this. They are going to come after me, I feel it.

AUDIO FILES IN EXHIBITS (MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING THIS COURT -- CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3):

IN EXHIBIT 2: File: Mar09-726407.wav

<https://justiceforuswgo.nl/PUBLICATION/Mar09-726407.wav>

IN EXHIBIT 3: File: Apr13-045432.wav

<https://justiceforuswgo.nl/PUBLICATION/Apr13-045432.wav>

IN EXHIBIT 4: File: Oct20-077885.wav

<https://justiceforuswgo.nl/PUBLICATION/Oct20-077885.wav>

The audio files of the evidence in exhibits were attached/embedded by Adobe Acrobat in the very pdf files my mother had uploaded through VACES to prevent the audio files from being shut down online by the Deep State or corrupt law enforcement black hats. I made sure that the audio files would get to the court one way or another so that I don't risk being targeted by a suppression police raid to make the evidence disappear and frame me to justify the suppression, like with what happened in Mayodan.

I don't send this type of letters to the Clerk lightly, where I have to warn that I may face retaliation of some kind. I have to do this. I had warned attorney J. Joy Strickland of the North Carolina Department of Justice back in December, 2013, that I was framed with child porn and would have a rigged jury trial with a public defender who would do nothing to defend me and force me to falsely plead guilty. Those warnings and fears came true. I was right, and will probably be proven right in this letter too ahead of time. So I fear something bad will come for me that I have to write this letter to the court, so that if I do face extreme retaliation by the Virginia Attorney General or any of his underlings or even face something as bad as a child porn set up again, I need to document what may be coming for me, in case it happens and I face another rigged jury trial with a Public Pretender not defending me. They aren't Public Defenders but are Public Pretenders. Trust me. I been through enough cases to know who they are.

Maybe they won't retaliate, maybe I won't get set up again, maybe I will get set up. I don't know but I rather warn the court while I still can rather than some shady police just showing up at my door and me being set up again. I need to make sure to thwart any possible future attempts.

This was what the threatening email had said last year which was why I had to speak with the special agents of the Virginia State Police, image on next page:

The threatening email has very nasty language, but it means that they are angry at me. They didn't like that I received that three-page letter from the Martinsville PIO Kendall Davis. They didn't like that I have more and more evidence in my favor.

egorfalcus@danwin1210.de

3/4/2023 5:33 PM

WE...WARNED....YOU....BITCH

To rbhill67@ [REDACTED] • [REDACTED] • lwood@linwoodlaw.com

WE... WARNED..... YOU... ALL..... BITCHED..... WE..... KNOW..... THE..... JUDGES..... WE..... HAD.
 THEM..... FUCKING..... LIL..... GIRLZ..... ASSES..... THEM..... JUDGES..... OOUR..... HOES.....
 HAHAHAAHAAHAAHHA..... BRIAN..... HILL..... WONT..... JUST..... GET..... RAPED..... IN.
 PRISON..... WE..... WILL..... KILL..... HIM..... HE..... WONT..... BE.
 ALIVE..... LONG..... WE..... HAVE..... MARTINSVILLE..... WE..... WILL..... GET.
 YOU..... WE..... WILL..... KILL..... THE..... WITNESSES..... THEN..... WE..... KILL.
 YOU..... TOO..... HAHAA..... FUCK..... QANOS..... FUCK..... Q..... Q..... WILL..... DIE.....
 WE..... KILL..... KILL..... TRUMP,,,,,,,,,,,,,AND..... KILL..... DIGITAL.....
 SOLDIERS..... brian,,,,, BE-----JAILED-----KILLED-----HE-----
 WONT-----MAKE-----IT-OUT-----ALIVE-----EPSTEIN-----
 -----BRIAN..... FUCKERS..... HO3SSSSSSSSSSSSSSSSSSSS..... WE.....
 WILL..... KILL..... YOU..... ALLLLLLLLLLLLLLLLLLLLLLLLLL..... WE..... WILL.
 FUCK..... UUUUUUUUUUUUUUUUUUU..... UP

I hate to sound paranoid but you have not been in my shoes, and you have not been targeted by corrupt politicians and corrupt lawyers. Maybe you have, maybe you haven't. I don't know you personally. But I have been targeted repeatedly by both corrupt lawyers and corrupt law enforcement in the past. I had people turn against me and betray me, stabbing me in the back symbolically not literally.

So my two concerns to the Court of Appeals of Virginia is that the audio recordings be stored internally at the Court of Appeals of Virginia as evidence for the judges who need to listen to the recordings since they prove Justin Hill lied to your court. It is fraud and Justin Hill has lied to your court not knowing that I had audio recordings where Fred Smith said things in those recordings which prove that Justin Hill had lied to your court in an attempt to throw out my appeals or make it where I lose my appeals.

The other concern is that I need a pdf copy of the Brief of the Commonwealth because I have a feeling the other side will escalate things, and I need quick access


Signed

Brian D. Hill

to the electronic pdf file so that I can easily prove more lies and false statements by Justin Hill if this escalates. I hope it does not escalate but you all have not been in my shoes being targeted by corrupt lawyer state senator with a District Attorney son Phil Berger Junior in 2012 for writing articles at USWGO Alternative News at uswgo.com. I have been targeted over and over again. Judge Greer retaliated against me last year. So I have a history of being targeted, retaliated against, set up multiple times, and had been threatened repeatedly over the years. The FBI knows, the State Police knows but the FBI don't care. They could care less if I end up dead. They hate me for my news articles and interviewing Virgil H. Goode. They don't want me to write political articles ever again.

God bless you,
Brian D. Hill

Ally of Q, Former news reporter of U.S.W.G.O. Alternative News
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Martinsville, Virginia 24112
(276) 790-3505

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com



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**

REPLY BRIEF OF APPELLANT



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Pro Se Appellant

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SUMMARY

Brian David Hill, (“Appellant”) files this Reply Brief pursuant to Rule 5A:19(a) of this Court, and this is in response to the Appellee’s “BRIEF OF THE COMMONWEALTH”, which was filed on January 2, 2024.

Appellant feels that the “BRIEF OF THE COMMONWEALTH” contains gaslighting, false statements or statements inconsistent with the record of the Trial Court, statements which do not address the Assignments of Error demonstrated in the foregoing appeals by Appellant. Appellant feels that the Appellees had engaged in distortions, falsehoods, gaslighting, and trickery.

False statement made on page 18 of Appellee brief:

“Here, Hill alleges that the Commonwealth committed fraud during his trial by purportedly destroying body camera footage of his arrest. (footnote 9) ... Notably, the body camera footage was only deleted at the end of its retention period and only because neither party identified those videos as being needed in Hill's case. If either party had, the videos would have been retained indefinitely. (R. 4093-95). Contrary to Hill's assertions, that did not violate the discovery orders in his case that required the Commonwealth to "permit counsel for [Hill] to inspect and copy" pertinent evidence. (R. 3922, 3924, 3927).”

Response to false statement made on page 18 of Appellee brief:

The statements highlighted in yellow above are not true statements as there is nothing on the record which proves it, and thus are not credible. The credibility of

counsel for Appellees needs to be determined here as to any truthfulness or falsity of the Appellee's statements. The body-camera footage was at issue in the court orders for discovery. At least the court orders described the exact same thing as what would amount to the body-camera footage recording of defendant made at the time of his arrest and detention.

Yes, that did violate the discovery orders in Appellant's case when those court orders were being ignored by the Commonwealth in that context. Ignored because of silently allowing the body-camera footage to be deleted. Ignoring court orders does violate them. It is disobedience, it is a form of resistance by not following the court orders. What's the point of court orders if they can be ignored? A Court becomes a joke if anyone can disobey court orders without repercussions.

Page 76 and 78 of the Trial Court record:

“(1) Any relevant written or recorded statements or confessions made by the Defendant, or copies thereof, or the substance of any oral statements or confessions made by the Defendant to any law enforcement officer, the existence of which is known to the attorney for the Commonwealth...”

The court orders themselves did describe the exact same thing as the body-camera footage. It was never turned over to the defendant, and it was deleted because it was never marked as evidence “BY THE COMMONWEALTH” (pg. 4093-4095). The FOIA response letter from Public Information Officer and Police Chief had insinuated that it was the responsibility of the “Commonwealth's Attorney” to mark the body-camera footage as evidence, and the Police Department as a matter of

policy did not say that it was the defense attorney's responsibility to locate and obtain the body-camera footage. Justin Hill is wrong to make the argument that it was both counsels responsibility to even make it appear that both decided off of the Trial Court record behind the scenes that the body-camera footage was not considered evidence for the criminal case of Appellant. The court orders were directed at both parties, and it was the duty of the Commonwealth's Attorney to disclose the body-camera footage as evidence. Justin Hill, counsel for Appellees is trying to negate the responsibility and duties of the Commonwealth Attorney, by acting as though the responsibility lies with both counsel in the case. Ineffective counsel or not, Martinsville Police Department in that very three-page letter cited by Justin Hill (pg. 18 of Brief of the Commonwealth), said that "The DVMS follows a retention system for those videos that have not been marked as evidence by the Commonwealth's Attorney's Office. If the Commonwealth's Attorney's Office designates a video as evidence it is retained indefinitely." It is not the duty of the defense attorney, ineffective counsel or not, to be marking body-camera footage as evidence according to the policy of Martinsville Police Department. IT IS THE DUTY OF Appellees at the trial court level. Justin Hill is attempting to falsely paint the Commonwealth Attorney as not violating the court orders by simply rearranging the deck chairs to make it appear that both parties have a duty to consider body-camera footage as evidence. It is up to the prosecutor, according to Martinsville Police Department. Justin Hill made another false statement.

Why was it never marked as evidence?

“only because neither party identified those videos as being needed in Hill's case.” That is a false statement. It is the duty of the prosecutor according to Police Department policy as argued in the three-page letter. There is nothing on the Trial Court record proving any such determination that the video was not needed as evidence was ever made. Appellees didn't cite any portion of the record proving that both parties have a responsibility at Martinsville Police Department to mark the body-camera footage as evidence or just decide that it not be needed. They never said both parties are responsible to mark a body-camera footage as evidence. How would they know that those videos were not needed as evidence? How would they determine any of this? Which area of the Trial Court record proves that both parties were responsible according to policy and had decided not to mark the body-camera footage as evidence without any notification to the judge or clerk, and considered it neither as being needed as evidence in Appellant's criminal case?

Are there transcripts or written statements in the Trial Court record from pages 1-264 which would prove that such determination was made that *“neither party identified those videos as being needed in Hill's case”*? Justin Hill doesn't have any evidence or record from the Trial court. He is gaslighting this court.

Also, the defendant filed evidence or writings with the Trial Court proving that he wanted the body-camera footage as evidence. It contradicts what the brief of the Commonwealth had claimed in page 18 of Appellees brief. There was nothing

on the record showing that any pre-determination was made by either side of attorneys on whether it is evidence subject to the court orders for discovery. Nothing on the record shown that they decided to make some determination of it not being considered evidence. In fact, it was the Appellant's court appointed attorney who asked for the court orders (pg. 30-31, 78, 114) involving discovery materials including recorded statements of what defendant made to a law enforcement officer which is what a body-camera footage is supposed to contain. This proves that the body-camera footage was wanted as evidence, and the Appellees at the trial court level had failed to deliver what the court had requested. Justin Hill is part of advocating a cover up and is okay with destroying evidence, wanting the permanent cover up of body-camera footage evidence. **This is a cover up**, and Appellees through Justin Hill want to bring their frauds to the Appeals Court to persuade them to believe in their frauds, and accept their gaslighting. Appellees are defrauding the court of appeals to try to strongarm Appellant into giving up his appeals. Telling lies and using a letter from the police chief to make the determination that the body-camera footage was not considered evidence by both counsel, despite defense counsel saying "I ASK FOR THIS" (pg. 31-31, pg. 78-78, pg. 114), Trial Court record).

Appellees cannot act as though they don't know what the laws are or they cannot assume things in their response brief without proof to back every claim. Many criminal cases in case law by this Commonwealth are of criminal cases where the body-camera footage is considered evidence. The Appellees act as though both

counsel of Appellant’s criminal case had just decided without informing Appellant or the court that they did not consider the body-camera footage as evidence when many criminal cases in Virginia consider body-camera footage as evidence in a criminal case subject to court orders if it exists, which the letter from the Public Information Officer and Police Chief had proven this (pg. 4093-4095). See *Carter v. Commonwealth*, 300 Va. 371, 373 (Va. 2021) (“On January 24, 2018, after 10:00 p.m., Officer S.C. Reed of the Lynchburg Police Department was dispatched to Carter's home. As the footage from Officer Reed's body camera attests, when he...”). That case mentions about the body-camera as evidence. Another case law of Virginia mentions about body-camera footage and demonstrates its importance in criminal cases. See *Green v. Commonwealth*, No. 0861-22-4, 15 (Va. Ct. App. Sep. 5, 2023) (“Detective Seibert's testimony was largely consistent with what was depicted on his body worn camera footage. As the trial court observed, having heard and seen the witnesses and the body worn camera footage, Green "sped at such a high rate of speed”).

The body-camera footage was deleted on April 9, 2019, according to the record (pg. 4212-4214). It was proven that what was requested was information as to the body-camera footage as per Appellant’s request to the City of Martinsville under the Freedom of Information Act (FOIA) in record pg. 3851-3858.

Appellant did ask the Trial Court for the body-camera footage on his legal filing (pg. 135-157) entitled the “Motion for Discovery” with the Trial Court which

was filed on July 26, 2019 (pg. 157), by pro se filing, during the pendency of the Trial Court proceedings for his criminal case. Not knowing that the footage had already been destroyed on April 9, 2019 (pg. 4212-4214), Appellant had been misled into thinking that the body-camera footage could still be obtained by discovery after it was secretly deleted without any notice to the judges of the General District Court and Circuit Court. The Public Defender asked again for discovery evidence on July 15, several months after it was secretly destroyed. Why would the Public Defender and judge (signatures are everything) file that if he knew it was deleted on April 9, 2019 (pg. 112-114) and agreed that it wasn't needed as evidence? Was the Public Defender deceived as well? Is that not extrinsic fraud?

Page 135 of the Trial Court record:

“Hill and/or his family have attempted to contact Martinsville Police Department ("CC: Commonwealth Attorney") through written multiple correspondences asking for the body camera footage of Officer Sgt. R. D. Jones, by Hill writing the Martinsville Chief of Police G. E. Cassady asking for the body-camera footage to be turned over to...”

This motion was filed months after the body-camera footage was deleted, and the Court had not known about this. Appellant was deceived. The Court was deceived. That was because the evidence was silently and secretly deleted.

“Contrary to Hill's assertions, *that did not violate the discovery orders in his case that required the Commonwealth to "permit counsel for [Hill] to inspect and copy" pertinent evidence. (R. 3922, 3924, 3927).*”

Appellees neglected to understand that the court orders for what can reasonably be described as evidence of the body-camera footage were wanted by the defense attorney saying (pg. 31-31, Trial Court record) “I ASK FOR THIS:” with Public Defender Scott Albrecht’s signature and name, as well as the signature of the Commonwealth’s Attorney. This itself disproves this false statement by Justin Hill of Appellees. He acts as though both parties just decided outside of court record secretly behind the scenes that the body-camera footage was not evidence (pg. 4093-4095), thus Justin Hill’s erroneous claim that no court orders were violated, but the statements made in the court orders for discovery all say “I ASK FOR THIS:” (pg. 31-31, pg. 78-78, pg. 114). This does not sound like even the defense attorney just decided out of the blue that the body-camera footage didn’t matter as evidence. What would be the point of a defense attorney and Commonwealth’s Attorney wasting a judge’s time with possibly a frivolous discovery request of asking for, my god, “body-camera footage?” and signing court orders which included what can be reasonably described as a body-camera footage and yet then decide out of the blue outside of the court records that the body-camera footage is not evidence without ever any reason why?

The Appellees are wrong on this one. The Appellees are not the judge and did not enter the court orders as the judge in the case. The judge specifically said in the court order that: “(1) *Any relevant written or recorded statements or confessions made by the Defendant, or copies thereof, or the substance of any oral statements or*

confessions **made by the Defendant to any law enforcement officer**, the existence of which is known to the attorney for the Commonwealth...” The Chief of Police Rob Fincher in the City of Martinsville made it appear that it was the responsibility of the Commonwealth’s Attorney (pg. 4093) to mark the body-camera footage as evidence. The Attorney General is wrong with their insinuation that the body-camera footage was somehow not any material evidence subject to the court order and thus contended that “...Contrary to Hill's assertions, that did not violate the discovery orders in his case that required the Commonwealth to "permit counsel for [Hill] to inspect and copy" pertinent evidence. (R. 3922, 3924, 3927).” Yeah, it did violate the discovery orders in the Trial Court case.

Justin Hill is trying to protect the lawbreaking Glen Andrew Hall, who did violate those court orders. He did cover up the evidence as it was HIS RESPONSIBILITY according to what was said in the letter from Rob Fincher of Martinsville Police (pg. 4093).

This is what is called gaslighting, when a party is caught doing something wrong, they double down, triple down, and quadruple down in denying everything or making excuses. This is gaslighting. Police record on their body-camera footage every arrest they made because of the law. See Virginia Code § 15.2-1723.1. Body-worn camera system.

Because of the word limit, Appellant cannot expose all falsehoods of Justin Hill, counsel for Appellees in reply brief, but will expose one more falsehood.

False statement made on page 2 of Appellee brief:

“The trial court properly denied Hill's motions. Hill fails to allege a prima facie case of extrinsic fraud.” Page 16 of Appellee brief: “2. Hill failed to plead a prima facie case of extrinsic fraud.”

No that is not true, gas lighting from Justin Hill. Appellant explains why even with the strict 3,500 word limit, not enough words to be allowed to disprove every one of Appellees counsel Justin’s Hill’s false statements in his brief of the Commonwealth.

Appellant already covered a great extent about explaining why Appellant had proven extrinsic fraud on the court in Assignment of error 4 in pages 14 through 26. Appellant asks the Court to consider all Assignments of Error when determining whether Appellant had proven extrinsic fraud.

Since Appellees are gaslighting this Court, Appellant will prove further from the record of the Trial Court that Appellant did prove extrinsic fraud.

Appellees had brought up about case law regarding this issue. Extrinsic fraud "consists of 'conduct which prevents a fair submission of the controversy to the court' and, therefore, renders the results of the proceeding null and void." Peet v. Peet, 16 Va. App. 323, 326-27, 429 S.E.2d 487, 490 (1993) (citing Jones v. Willard, 224 Va. 602, 607, 299 S.E.2d 504, 508 (1983)). When extrinsic fraud exists, "the unsuccessful party is really prevented, by the fraudulent contrivance of his adversary, from having a trial [of the issue]" McClung v. Folks, 126 Va. 259,

270, 101 S.E. 345, 348 (1919). "A collateral challenge to a judgment obtained by extrinsic fraud is allowed because such fraud perverts the judicial processes and prevents the court or non-defrauding party from discovering the fraud through the regular adversarial process." Peet, 16 Va. App. at 327, 429 S.E.2d at 490. Examples of extrinsic fraud include: "[k]eeping the unsuccessful party away from the court by a false promise of a compromise, or purposely keeping him in ignorance of the suit; or where an attorney fraudulently pretends to represent a party, and connives at his defeat; or being regularly employed, corruptly sells out his client's interest." McClung v. Folks, 126 Va. at 270, 101 S.E. at 348.

So, Justin Hill was basically admitting to this but yet not admitting to this. That is how tricky lawyers can be. I am here to clear the deception.

Here is what the record proves.

Page 28 of the record, shown that Public Defender Scott Albrecht had filed a motion for the discovery evidence which encompasses the police body-camera footage. Pages 30-31 of the record is where the first court order came in, and Albrecht had asked for this and was also signed by the Commonwealth's attorney who had the sole duty to mark the body-camera footage as evidence (R. 4093-95). The Commonwealth had failed to do so because it was deleted due to not being marked as evidence by the Commonwealth Attorney. The Commonwealth's Attorney had clearly ignored the court orders pushed forth by Appellant's court appointed legal counsel. Ignoring court orders are illegal, it is disobedience of the

court. The reason the body-camera footage was deleted was because the court orders were ignored by Glen Andrew Hall, Esq. That can be proven with the three-page letter.

Appellant and the Trial Court were deceived during the pendency of the trial court proceedings in 2019 which is the earmark of extrinsic fraud, which did in fact “prevents the court or non-defrauding party from discovering the fraud through the regular adversarial process”. Spoliation of evidence after it was subject to a court order is fraud. It is extrinsic when it was secretly deleted because of ignoring the court orders by the very officer of the court which had a sole duty to mark the footage as evidence.

Here is the proof from the record. See pg. 135-157 of the Trial Court record. Appellant had filed a motion on July 26, 2019 asking for the body-camera footage separately from his lawyer who also had done the same thing earlier (pg. 28-31) and even a few months after it was silently deleted (pg. 112-114) with a motion asking for the same. Why would Appellant file such a motion pro se??? Because he had never been able to review over such evidence. He filed this with the Trial Court, with Judge Greer, with both not knowing that it had already been destroyed/deleted/spoliated on April 9, 2019 (pg. 4093-4095). The judge was deceived because Appellant’s pro se motion for discovery would give him the impression that the body-camera footage was not deleted by the Police Department’s automatic DATA retention schedule, and it would give the impression that Appellant

did not know that it was already deleted and impossible to recover at the time this was filed.

That is where the extrinsic fraud can really be proven and has been proven all along. When Appellant had filed his motion to vacate the fraudulent begotten judgment as argued in Appellant's assignment of errors, he did prove extrinsic fraud as the record itself from the very beginning of the entire criminal case had proven extrinsic fraud. The judge knew when he first saw the three-page letter regarding the body-camera footage (pg. 4093-4095) that it was deleted months before Appellant had filed a motion asking for the body-camera footage in 2019 with both the judge and defendant/Appellant not knowing at the time that Appellant was asking for evidence which was secretly deleted and destroyed as the Commonwealth Attorney had ignored the court orders which he agreed to or seen (without objection) with his signatures (pg. 31, 78, 114). The Commonwealth knew the court orders match the body-camera footage within the very scope of those court orders. The only way Appellees would not have to comply with those court orders would be to have to explain to the judge in writing or in hearing that the body-camera footage is not needed as evidence. There was no such hearing, no such something in writing proving any of this on the record of the Court.

Justin Hill had made false statements here. Appellant recommends that the brief of the Commonwealth be either disregarded in part or entirely or is to be taken as lack of credibility. There may be arguments which may be valid, but Appellant

has caught false statements in that Appellees opposition brief filed on January 2, 2024.

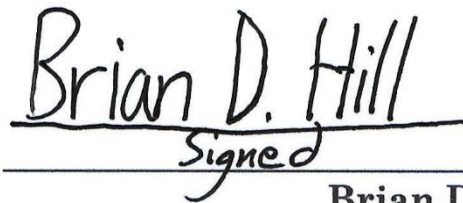
CONCLUSION

Appellant has proven enough falsehoods and issues from “Brief of the Commonwealth” by Appellees. Appellant recommends to this honorable Court that the brief of the Commonwealth be disregarded in full or in part or consider that it lacks credibility due to the false statements by the Appellees.

Respectfully Filed/Submitted on January 15, 2024,

BRIAN DAVID HILL

Pro Se

A handwritten signature in black ink that reads "Brian D. Hill". The signature is written in a cursive style and is positioned above a horizontal line.

Brian D. Hill

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CERTIFICATE OF COMPLIANCE

1. This brief complies with Rule 5A:19(a) regarding the type-volume limits (word limit 3,500 or page limit at 20 pages) pursuant to Rule 5A:19(a), excluding the parts of the document exempted by Rule 5A:19(a) (appendices, the cover page, table of contents, table of authorities, signature blocks, or certificate):

This brief contains [3,485] words.

This brief is [14] pages excluding page exemptions.

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

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

[] this brief 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: January 15, 2024



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Pro Se Appellant

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 15th day of January 15, 2024, I caused this “REPLY BRIEF OF APPELLANT” to be delivered by email service by Assistant/Filing-Representative Roberta Hill using rbhill67@comcast.net or rbhill67@justiceforuswgo.nl on the Commonwealth of Virginia and City of Martinsville (Appellees) through the ~~Commonwealth Attorney’s Office of Martinsville City; as well as to the~~ (recused himself from the Circuit Court case, special prosecutor appointed in contempt of court case, so Commonwealth Attorney may have recused himself from all of the case in the Trial Court) 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 PLEADING shall satisfy the proof of service was required by Rule 5A:2(a)(1) and Rule 5A:1(c)(4):

~~1. Glen Andrew Hall, Esq.
55 West Church Street, P.O. Box 1311~~

~~Martinsville, Virginia 24112 or 24114 (for P.O. Box)~~

~~Telephone: 276-403-5470~~

~~Fax: 276-403-5478~~

~~Email: ahall@ci.martinsville.va.us (recused himself, special prosecutor appointed but only for the contempt of court case, but he may have recused himself from the entire case, not sure)~~

Counsel for Appellees'

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

Email: "OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us)"

oagcriminallitigation@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.


Signed

Brian D. Hill

U.S.W.G.O.



Brian David Hill – Ally of Qanon
Founder of USWGO Alternative News
310 Forest Street, Apt. 2 Martinsville,
Virginia 24112
(276) 790-3505

Pro Se Appellant

ROBERTA HILL <rbhill67@comcast.net>

1/15/2024 6:21 PM

Appellant reply brief

To Hill, Justin B. <jhill@oag.state.va.us> •

OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> •

Chris Coen <ccoen@oag.state.va.us> Copy

stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl> • stanleybolten@uswgo.com •

adriennadicioccio@yahoo.com • gabe@fixthecourt.com • stone@stonezone.com

Hey Justin Hill,

I am Roberta Hill, Brian Hill's mother. I am filing this Appellant's reply brief on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading and exhibits on his behalf. This should serve the counsel for Appellees through email. This motion and exhibits will be filed via VACES with the Court of Appeals of Virginia.

This will be it for Brian's filings unless new developments require any further input from Brian the Appellant. We are sorry but Brian has to bring the truth out. Actual innocence is very important to an innocent person. Brian doesn't like being lied about in the court system, and will do what he can to prove the lies and prove the liars in the court system.

File list of attachments:

1. APPEAL-REPLY1-15-2024.pdf

Roberta Hill (representative for electronic filing)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112

Court of Appeals of Virginia, cases no. 0313-23-3, 0314-23-3 and 0317-23-3:
Brian David Hill v. Commonwealth of Virginia, City of Martinsville

Appellant:
Brian David Hill
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

Thanks,
Roberta Hill

• APPEAL-REPLY1-15-2024.pdf (652 KB)

CAV: Submitted on 01-15-2024 18:32:42 EST for filing on 01-16-2024

From: [Court of Appeals of VA - 2](#)
To: rbhill67@comcast.net; jhill@oag.state.va.us; oagcriminallitigation@oag.state.va.us
Subject: Brian David Hill v. Commonwealth of Virginia, et al.; Record Nos. 0289-22-3, 0290-22-3, 1424-22-3, 1425-22-3, 0313-23-3, 0314-23-3, and 0317-23-3
Date: Wednesday, January 17, 2024 1:59:58 PM
Attachments: [011724 order - deny motion for leave and dismiss BW 0313-23-3 & 0314-23-3 & 0317-23-3.pdf](#)



COURT OF APPEALS OF VIRGINIA

Attached is this Court's order entered today in the above-referenced matter.

No paper copies of the attachment(s) will be mailed.

Counsel must file all correspondence and pleadings electronically through the VACES system. Information about VACES is available on the Virginia Judicial System Website at <https://eapps.courts.state.va.us/help/robo/vaces/index.htm>. Pro se/self-represented litigants may file through the VACES system. Otherwise, such individuals must submit one paper copy of a filing to the Clerk of the Court.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219

VIRGINIA:

In the Court of Appeals of Virginia on Wednesday the 17th day of January, 2024.

Brian David Hill, Appellant,
against Record No. 0289-22-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, et al., Appellees.

Brian David Hill, Appellant,
against Record No. 0290-22-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, et al., Appellees.

Brian David Hill, Appellant,
against Record No. 1424-22-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, et al., Appellees.

Brian David Hill, Appellant,
against Record No. 1425-22-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, et al., Appellees.

Brian David Hill, Appellant,
against Record No. 0313-23-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, et al., Appellees.

Brian David Hill, Appellant,
against Record No. 0314-23-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, et al., Appellees.

Brian David Hill, Appellant,
against Record No. 0317-23-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, et al., Appellees.

From the Circuit Court of the City of Martinsville

On October 27, 2023, and December 1, 2023, came the appellant, in proper person, and filed motions requesting leave to file an opening brief in his appeals for Record Numbers 0313-23-3, 0314-23-3, and 0317-23-3. The Commonwealth has not filed a response to either motion, and the time to do so has expired. *See* Rule 5A:2(a)(2).

The appellant contends he was not given an opportunity to file an opening brief in the three identified appeals.¹ He asks the Court to reset the briefing schedule for those appeals.

Upon review, the motion is denied. The Court received the record in the three identified appeals on June 14, 2023, and sent the parties a record acknowledgment on that same date. Under Rule 5A:19(b)(1), the appellant's opening brief was due not later than Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023. Nothing in the Court's consolidation order indicated that appellant could not or should not file a timely opening brief in the three identified appeals. Moreover, his requests for relief are untimely.

¹ Appellant further contends that he was not afforded an opportunity to respond to the Commonwealth's previous motion to consolidate all his pending appeals. In granting the Commonwealth's motion to consolidate, the Court noted that appellant had not responded to the motion and his time to do so had expired. *See* Rule 5A:2(a)(2).

Upon further consideration, the Court dismisses the appeals in Record Numbers 0313-23-3, 0314-23-3, and 0317-23-3 because no opening brief has been filed. *See* Rule 5A:26 (“If an appellant fails to file a brief in compliance with these Rules, this Court may dismiss the appeal.”).

A Copy,

Teste:

A. John Vollino, Clerk

By:



Deputy Clerk

EMERGENCY LETTER TO CLERK OF THE COURT ASKING FOR APPEAL CASES RECORDS FOR CONSIDERING FILING A PETITION WITH THE SUPREME COURT OF VIRGINIA

Re: CAV Cases No. 0313-23-3, 0314-23-3 and 0317-23-3

Wednesday, January 17, 2024 03:19 PM

<p>ATTN: CLERK OF THE COURT CC: CAV Records Request Clerk of the Court - A. John Vollino Court of Appeals of Virginia 109 North Eighth Street Richmond, VA 23219-2321</p>	<p>Brian David Hill (Appellant) v. City of Martinsville and Commonwealth of Virginia (Appellees)</p>
--	--

Clerk of the Court,

I need a record of the appeal court cases no. 0313-23-3, 0314-23-3 and 0317-23-3 to go ahead and start working on two potential pleadings. One of them is a Petition for rehearing and/or petitioning the Supreme Court of Virginia if the rules permit.

For that, I need the records of the appeal court cases no. 0313-23-3, 0314-23-3 and 0317-23-3. I am the Appellant of the case. Please provide me a copy in pdf format as soon as you can. Thank you for your time and attention to this matter.

I need the record of those appeal cases to cite exactly things in the appeal at issue in either the Petition for Rehearing and/or the Petition for Appeal to the Supreme Court of Virginia. The clock seems to start after a case is dismissed, so it is a final decision. Thus I need the record to go to the Supreme Court of Virginia if the rules permit. Thank You.

Brian D. Hill
Signed

Brian D. Hill

God bless you,

Brian D. Hill

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

310 Forest Street, Apartment 2

Martinsville, Virginia 24112

(276) 790-3505

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

U.S.W.G.O.

EXHIBIT 1
for
APPELLANT’S MOTION FOR DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News
JUSTICEFORUSWGO.WORDPRESS.COM
USWGO.COM // JUSTICEFORUSWGO.NL



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**

**DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF MOTION FOR
SANCTIONS AND INQUIRY AGAINST JUSTIN HILL,
ASSISTANT ATTORNEY GENERAL
FOR POSSIBLY DEFRAUDING THIS COURT**



**Brian David Hill – Ally of Q and Lin Wood
Founder of USWGO Alternative News
310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505
c/o: Rbhill67@comcast.net; Roberta Hill**



Pro Se Appellant

– JusticeForUSWGO.wordpress.com

DECLARATION

Pursuant to the Virginia Code § 8.01-4.3. “Unsworn declarations under penalty of perjury; penalty.”, Appellant Brian David Hill hereby state to the Court of Appeals of Virginia and Appellee(s) the statement of facts as under penalty of perjury,

1. I am Brian David Hill, Appellant in the case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3, 0289-22-3, 0290-22-3.

2. I have brought forth the motion entitled the “MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING THIS COURT”, because I believe Appellees attorney Justin B. Hill had made a false statement or false statements regarding myself to the Court by saying: “...*That agreement did not prohibit his from filing anything in this Court*” (referring to Court of Appeals of Virginia) in regard to Justin Hill’s additional claim that: “*Upon information and belief, Hill agreed during the pendency of those contempt charges not to file any new motions in the Circuit Court.*” Justin B. Hill is the legal counsel representing Appellees in the foregoing appeals and is the Assistant Attorney General of Virginia according to his previous filing I have read.

3. The reason why I believe Justin B. Hill made a false statement or false statements is because I have hard evidence audio files which is irrefutable proving

that Justin B. Hill had made a false statement about there being no agreement prohibiting Appellant, which is myself, from filing anything in the Court of Appeals of Virginia.

4. In my previous affidavits/Declarations (Exhibit 3 and Exhibit 12) I had filed in October 27, 2023, attached to my filed “MOTION FOR LEAVE OF COURT TO FILE ONE MORE APPELLANT OPENING BRIEF AND/OR MODIFY JUNE 30, 2023 ORDER”, I did tell the truth under oath and I did warn Justin Hill in my Declaration that I had evidence at the time which I did not make public or disclose to the Court. Because of the false statement by Justin B. Hill, I am now at the point where I feel that I must submit the evidence to the Court of Appeals of Virginia to prove my claims in my previous affidavits/Declarations (Exhibit 3 and Exhibit 12, in support of *MOTION FOR LEAVE OF COURT TO FILE ONE MORE APPELLANT OPENING BRIEF...*) as truthful and proven by prima facie evidence. I had warned him in EXHIBIT PAGES 21 and 22 OF 82 in support of my motion for leave of court to file one opening brief of Appellant filed on October 27, 2023, the following: “*The witnesses have heard it what Fred Smith had said, I have evidence of what this attorney told me at that meeting. I will not say any further what evidence I have, but I have evidence that this attorney will not fight for my First Amendment right to the contempt of court charge.*” Now I must disclose to the Court of Appeals of Virginia, the very evidence I have withheld. I had withheld it to protect my attorney/client privilege between myself and Attorney Fred Smith. But when I

read the false statement or false statements by Justin B. Hill in his “Brief of the Commonwealth”, pages 11 and 12, saying that there was no agreement prohibiting me from filing in the Court of Appeals of Virginia (CAV), claiming in footnote 4 to have affirmed this information from my court appointed lawyer Fred Smith according to his claims saying: “*Undersigned counsel confirmed this fact with Hill's appointed counsel in his contempt case during the pendency of those proceedings.*”

When I read the false statement or false statements, I felt angry and betrayed, I felt like my own lawyer lied to me or tricked me because he told me not to file anything in the “state courts”. Now I feel like the attorney/client privilege protection must be waived by myself in my contempt of court case as the client to expose the lie or lies told by Justin B. Hill or the lies could have come from my court appointed lawyer Fred Smith who was appointed by Judge Giles Carter Greer of the Circuit Court in my contempt of court case. I will explain herein, in this Declaration/Affidavit the very evidence I have which will expose the lie/lies and falsehood/falsehoods all stemming from my contempt of court case. I told the truth in my past filed Declarations/Affidavits. I will not be made by any deceitful person to look like a liar or delusional person of any kind when I have evidence to counter any such rhetoric.

5. I had been betrayed by other lawyers appointed by Judge Greer including but not limited to Scott Albrecht. I do not trust the public defenders anymore and do not trust any court appointed lawyer because I keep being lied to, I keep being lied about, I keep losing in the legal system due to these court appointed lawyers who act

more like prosecutors than actual defenders of their clients. I knew I had to feel suspicious about Attorney Fred Smith and I understand that Virginia law requires only one party who is present at the conversation can consent to record a private conversation that person is party to which can be used as evidence if the need ever arises.

6. I had brought a recording device into the office of Attorney Fred Smith with me when I was to have a meeting with him because I did not trust him since he was appointed by Judge Giles Carter Greer aka Judge Greer. The same one who I had filed accusations against him which led to my contempt of court charge against me. I knew I could be appointed a lawyer who may not truly represent me as his client to the best of his abilities. I did not entirely trust him; well, I didn't trust him enough not to record my conversations with him. My family members Roberta Hill, Stella Forinash, and Kenneth Forinash all knew I had carried the recording device into the office of my court appointed attorney to record the conversation I had with him if I ever had the need to use the recordings as evidence in the event, I am being lied about in regard to my contempt of court case. My family members had consented to the recording device being used. Therefore, everyone who met with Attorney Fred Smith with me had consented to the usage of the recording device. Fred did not know of the recording device being used, as I did not trust him and knew that he was not trustworthy. My feelings about this iffy lack of complete trusting of Fred Smith turned out to be correct after what Justin Hill had written to the Court of Appeals of

Virginia. Fred was supposed to be appointed to represent me but now I feel like he was meant to have me not file for six months in my appeals to set me up for the Appellees claim that I had filed an untimely appeal brief as they had claimed in their opposition brief in my appeals. I feel that I was set up, I felt like I was being set up here, one big set up to wreck my appeals and deprive me of procedural due process of law. I felt that after I read the brief of the Commonwealth filed by Appellees on January 2, 2024, that my own lawyer Fred Smith may had set me up to have me agree not to file in any of the Virginia state courts for six months in order to set me up to file untimely. I was set up by both the Commonwealth of Virginia by its special prosecutor and attorney Fred Smith. The City of Martinsville through Judge Greer had appointed the special prosecutor to prosecute the contempt of court case from what I understand, if I am correct here. I feel like the Commonwealth of Virginia and City of Martinsville had set me up with the special prosecutor and Attorney Fred Smith having this verbal agreement for me not to file for six months, then the Appellees represented by Justin B. Hill can then claim as he did in his opposing brief that I was not prohibited from filing in the Court of Appeals of Virginia while I was being told not to file at all in the “state courts”.

7. Therefore I had recorded the conversations with my Attorney Fred Smith on three separate occasions. On the dates of March 9, 2023; April 13, 2023, and October 20, 2023. The original recordings are longer and may include me walking to the attorney office, talking outside somewhere before entering the attorney office

and waiting. I had cut out those parts to make sure that the conversation would be the main objective of the audio files being submitted to the court. They were originally in WAVE FORMAT (*.wav) and are still in WAVE FORMAT when all unnecessary parts were cut out of both sides of the audio files. I always want to tell the truth to the court, because it is better for my case to tell the truth, even when it is inconvenient to certain political people. The court is where I must tell the truth and where truth needs to come to light. From what I understand about law, Judges need to be told the truth from all parties in a case or controversy when it involves either an appeal case or any criminal case or any civil case. Attorneys have to tell the truth.

8. I will specify some of the recorded conversation from my attorney visit on October 20, 2023, with Fred Smith. With copying and pasting from the transcriptions. Fred Smith told me some very interesting things involving Justin Hill. Fred Smith told me: *“Now about your question about what to do about your subsequent filings, I have talked to that, uh, assistant Attorney General. What's his name?”*, my response was: *“Uh, Justin,”* and Fred asked further: *“uh, what was his last name?”*. I then responded with: *“Uh Hill.”* Fred Smith had said: *“he, he, he, he knew about the six month thing”*, and *“and I talked to him and they get, I understood that you got an extension... to, to file.”* From what that conversation told me, he said he understood that I the Appellant got an extension “to file” at that time of the conversation on October 20, 2023. He knows quite well that I wanted to continue my appeals in the Court of Appeals of Virginia, and he had me convinced that I got

some kind of an extension of time to file my brief or briefs in the Court of Appeals of Virginia for cases no. 0313-23-3, 0314-23-3 and 0317-23-3. I assumed that such an extension existed somewhere which was why a decision had not yet been made for CAV cases no. 0313-23-3, 0314-23-3 and 0317-23-3; but I had never been served with any court order from the Court of Appeals of Virginia confirming whether or not I was given an extension as claimed by Attorney Fred Smith, so I had filed a Motion for leave of Court to file just one Appellant opening brief on October 27, 2023. The court has yet to act on that motion. I submitted my affidavit about the fact that I could not file in the state courts for six months. Attorney Fred Smith knew that I wanted to file in my appeals, and he said in the recorded conversations with me not to file anything in the state courts. From what he told me in multiple conversations, I was not given any exception to file in the Court of Appeals of Virginia, and I was told not to file anything but can file in the federal courts. My own attorney telling me in multiple recordings from different attorney visits where I am prohibited from filing in the state courts, yet Justin Hill is making false claims or false statements to the Court of Appeals of Virginia in its brief of the Commonwealth, filed January 2, 2024, telling the Court that I was not prohibited from filing in the Court of Appeals of Virginia. That contradicts what Attorney Fred Smith had instructed me to do in order to comply with him and the special prosecutor in order for my contempt of court case to be dismissed by a joint motion. I feel like somebody has lied about me or lied to me. It may be Justin Hill, it may be my own attorney Fred Smith. I feel

like somebody has lied about me somehow and that is going to negatively affect my appeals in the Court of Appeals of Virginia, I CANNOT stand for it. For God's sake, for truth's sake, I cannot stand for it. So, I must submit my conversation recordings of my conversations with my lawyer to the Court of Appeals of Virginia to prove Justin Hill was wrong, that he did not make a truthful statement. Here is where my thoughts are going about what I know from the way evidence files and then what Justin Hill claimed. I have to now assume the logical conclusions of what may be the case here. Either my attorney Fred Smith lied to me the entire time and I could file with the Court of Appeals of Virginia while being misguided that I could not file due to me being charged with contempt of court for exercising my first amendment right to free speech, or I was prohibited from filing in all Virginia courts (not federal courts) and that was omitted from the court filings, or Justin Hill knew that I was prohibited from filing in the Court of Appeals of Virginia since it is a state court and he could be making the false statement knowing that it is false. I don't know why such false statement was made and who started it. I need an inquiry or investigation into what is going on, and why Justin Hill would produce such a false statement to the Court of Appeals of Virginia. It is false. Although is it intentional? I don't know and don't have proof of Justin's intent, and think that the CAV needs to investigate Justin's claim to determine the intentions of Justin Hill as to his false statement. It is a set up because what if I filed in the CAV during the six month period and then all of the sudden I am tried and convicted for contempt of court with a lawyer who

refused to fight for my first amendment challenge. Then when I did comply with the six month no-filing period, then the Appellees can claim that it was untimely. I feel that I was being set up here. If I had not recorded those conversations, I would be in some kind of troublesome situation and I could have been falsely charged and arrested for being set up here somehow, I could have been wrongfully charged with perjury for truthfully claiming things in a verbal agreement while Justin Hill claims the agreement did not prohibit me which contradicts my own claims. I told the truth. The other side is not telling the truth which the conversation recordings can clearly show that I was telling the truth after all. They could either try to falsely claim perjury or that I suffer from delusions. But the audio recordings have saved me from such miserable fate I could face. Who knows what they could have pulled against me to have my appeals dismissed or fail.

9. According to the recorded conversation I had with Attorney Fred Smith on April 13, 2023, he said: *“tomorrow morning and the, and the commonwealth's attorney agrees to this,”*, then in another part he said: *“this will be continued for six months.”* Fred Smith then said afterwards: *“during that six months, Brian, ... don't file anything...with, with state court...They, they have no jurisdiction of what you might do in federal court”* I had said in the conversation in response to all of that: *“That's fine.”* Fred Smith then said to me again: *“Don't file anything in state court.”*

10. So I don't understand why Attorney Fred Smith told me not to file anything in the state court including my appeals for six months, then Justin Hill

claims that nothing in the agreement prohibited me from filing in the Court of Appeals of Virginia which is a state court as Fred Smith had warned me not to file in any state court for six months. It is confusing. I feel like I have been set up by either attorney or all of them or at least one of them lied to me or multiple attorneys lied to me or lied about me. I am confused because I have the recordings of my conversations with my court appointed attorney because I didn't trust him enough to keep things private out of rational fear that I would be betrayed or lied about. I was lied about. Justin Hill made a false statement about me. I have the conversation recordings. I have the hard evidence. It cannot be refuted.

11. The URLs/LINKS in my exhibits in support of my motion noted on the cover page, the links and urls were provided to me by my family member after uploading my conversation recordings to the cpanel (control panel) for JusticeForUSWGO.NL website system. Three audio files were uploaded to be given to the Court of Appeals of Virginia to download them and for the clerks, assistants, and judges to review over the conversation recordings which I had recorded. The files are Apr13-045432.wav, Mar09-726407.wav, and Oct20-077885.wav. They are being used in my Exhibits for my motion regarding Justin Hill. The motion noted/referenced at the top of this pleading, the "MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING THIS COURT".

12. The transcripts in Exhibit 5, Exhibit 6, and Exhibit 7, are true and correct

transcripts which were created with the assistance of Artificial Intelligence (AI) transcription tools. Roberta Hill had created an Amazon AWS account on the free tier to have the three audio recordings transcribed by AI. I then checked the transcripts and noticed errors, extra numbers at the end of the minute second markings, and a lack of explaining who was saying what. So, I added the names of who was speaking at the different times throughout the recorded conversation, and corrected the errors. I wanted to make sure to identify who was speaking in those recordings. Removed the extra numbers at the end of the time length. Edited some wrong words to make sure that the transcript is as close to matching the audio conversation as possible, to be as accurate as possible. I then had Stella Forinash review over those transcripts and listen to the audio recordings to confirm accuracy of the transcripts. She had confirmed that two of them were accurate and the third one was almost entirely but it had one mistake. She did suggest correcting a wrong word where it said Just instead of Justin. I listened to the conversation at that part and did feel that Fred Smith did say the word “Justin” so it was corrected. I cannot guarantee a 100% error free accuracy but it is as close to complete accuracy as possible. Even AI can make mistakes and I am only human. That is why I had another person review over both the audio and transcription of those exact audio files.

13. Those conversation recordings are true and correct; and only the beginning of the original recordings and end of the original recordings were cut to remove the excess audio where there may be no evidential value or evidential benefit. The court

may have the entire original audio file if they wish to have them. If they only want the period of evidential value, then I hope they have what they need to conduct an inquiry into the situation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 15, 2024.

BRIAN DAVID HILL

Pro Se


Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

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

Pro Se Appellant

<https://JusticeForUSWGO.wordpress.com>

<https://JusticeForUSWGO.nl>



EXHIBIT 2
for
APPELLANT'S MOTION FOR DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News
JUSTICEFORUSWGO.WORDPRESS.COM
USWGO.COM // JUSTICEFORUSWGO.NL



**THIS EXHIBIT 2 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: APPELLANT'S MOTION FOR DELAYED APPEAL**

File: Mar09-726407.wav

<https://justiceforuswgo.nl/PUBLICATION/Mar09-726407.wav>

It is also an attachment to this PDF File exhibit.
If the attachment audio file still exists after
the combining all
Exhibits together in a single PDF file,
then it is recommended that the Clerk,
judges, and court staff download and archive the
evidence audio files as part of the appeal
record for the evidence in support
of the motion.

EXHIBIT 3
for
APPELLANT'S MOTION FOR DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News
JUSTICEFORUSWGO.WORDPRESS.COM
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**THIS EXHIBIT 3 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: APPELLANT'S MOTION FOR DELAYED APPEAL**

File: Apr13-045432.wav

<https://justiceforuswgo.nl/PUBLICATION/Apr13-045432.wav>

It is also an attachment to this PDF File exhibit.
If the attachment audio file still exists after
the combining all
Exhibits together in a single PDF file,
then it is recommended that the Clerk,
judges, and court staff download and archive the
evidence audio files as part of the appeal
record for the evidence in support
of the motion.

EXHIBIT 4

for

APPELLANT'S MOTION FOR DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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**THIS EXHIBIT 4 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: APPELLANT'S MOTION FOR DELAYED APPEAL**

File: Oct20-077885.wav

<https://justiceforuswgo.nl/PUBLICATION/Oct20-077885.wav>

It is also an attachment to this PDF File exhibit.
If the attachment audio file still exists after
the combining all
Exhibits together in a single PDF file,
then it is recommended that the Clerk,
judges, and court staff download and archive the
evidence audio files as part of the appeal
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of the motion.

EXHIBIT 5

for

APPELLANT'S MOTION FOR DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

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TRANSCRIPT OF Mar09-726407.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Stella Forinash

Date of transaction: January 14, 2024.

Date of audio file recording: March 09, 2023.

Participants: Brian D. Hill, Roberta Hill, Stella Forinash, Kenneth Forinash, Attorney Fred Smith

Recording by: Brian D. Hill, consented to recording of conversation

Conversation recorded at: Office of Fred D. Smith, Jr. P.C., 46 W Main St, Martinsville, VA 24112

Note: Transcription based on time-frame of audio file. So full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

0
00:00:00 --> 00:00:01
[Fred Smith] Right,

1
00:00:01 --> 00:00:05
[Fred Smith] now out in this case, they uh asked that a special prosecutor be

2
00:00:06 --> 00:00:06
[Fred Smith] done.
[Roberta Hill] Ok.

3
00:00:08 --> 00:00:08
[Fred Smith] And

4

00:00:08 --> 00:00:08

[Fred Smith] uh

5

00:00:08 --> 00:00:10

[Fred Smith] special prosecutor,

6

00:00:13 --> 00:00:13

[Fred Smith] yeah.

7

00:00:15 --> 00:00:19

[Fred Smith] Uh Justin, and I have talked extensively about

8

00:00:19 --> 00:00:20

[Fred Smith] this case.

9

00:00:22 --> 00:00:24

[Fred Smith] And so let me

10

00:00:28 --> 00:00:29

[Fred Smith] tell you, I think

11

00:00:34 --> 00:00:36

[Fred Smith] there is a provision of the law,

12

00:00:37 --> 00:00:39

[Fred Smith] a special provision of the law

13

00:00:40 --> 00:00:41

[Fred Smith] that

14

00:00:41 --> 00:00:43

[Fred Smith] uh addresses

15

00:00:44 --> 00:00:44

[Fred Smith] um

16

00:00:45 --> 00:00:46

[Fred Smith] folks who

17

00:00:47 --> 00:00:50

[Fred Smith] are facing any kind of charge who have autism.

18

00:00:52 --> 00:00:55

[Fred Smith] Uh I don't think this was on the books at the time

19

00:00:56 --> 00:00:56

[Fred Smith] uh

20

00:00:57 --> 00:00:58

[Fred Smith] in, in 2018.

21

00:01:00 --> 00:01:00

[Fred Smith] Uh

22

00:01:01 --> 00:01:03

[Fred Smith] but it's this way

23

00:01:04 --> 00:01:05

[Fred Smith] uh

24

00:01:06 --> 00:01:09

[Fred Smith] the deferred disposition in a criminal case,

25

00:01:09 --> 00:01:11

[Fred Smith] persons with autism or intellectual disability

26

00:01:12 --> 00:01:16

[Fred Smith] in any criminal case except a violation of 18.3 31

27

00:01:17 --> 00:01:18

[Fred Smith] um

28

00:01:18 --> 00:01:19

[Fred Smith] which is murder.

29

00:01:20 --> 00:01:20

[Fred Smith] Uh

30

00:01:21 --> 00:01:22

[Fred Smith] And then another

31

00:01:22 --> 00:01:24

[Fred Smith] irrelevant section or

32

00:01:24 --> 00:01:28

[Fred Smith] any crime for which a deferred disposition is provided for by statute,

33

00:01:28 --> 00:01:31

[Fred Smith] a form of plea of guilty or after a plea of not guilty.

34

00:01:31 --> 00:01:35

[Fred Smith] And the facts found by the court would justify finding of guilty

35

00:01:35 --> 00:01:37

[Fred Smith] the court may if the defendant has

36

00:01:37 --> 00:01:40

[Fred Smith] been diagnosed by a psychiatrist or clinical psychologist

37

00:01:41 --> 00:01:45

[Fred Smith] with an autism spectrum disorder is defined. Most recent addition

38

00:01:45 --> 00:01:48

[Fred Smith] of the diagnostic and statistical manual

39

00:01:48 --> 00:01:53

[Fred Smith] of mental disorders published by the American Psychiatric Association or

40

00:01:53 --> 00:01:53

[Fred Smith] in

41

00:01:53 --> 00:01:57

[Fred Smith] intellectual disabilities is defined in 37.2 100.

42

00:01:57 --> 00:02:01

[Fred Smith] The court finds by clear and convincing evidence that the conduct was

43

00:02:01 --> 00:02:03

[Fred Smith] caused by or has directed substantial

44

00:02:03 --> 00:02:06

[Fred Smith] relationship to the person's disorder disability

45

00:02:06 --> 00:02:10

[Fred Smith] without airing a judgment of guilt and with the consent of the accused. And

46

00:02:10 --> 00:02:14

[Fred Smith] after giving due consideration to the position of attorney for the commonwealth

47

00:02:15 --> 00:02:16

[Fred Smith] and the views of the victims defer

48

00:02:16 --> 00:02:19

[Fred Smith] such proceedings and place the accused on probation

49

00:02:19 --> 00:02:22

[Fred Smith] subject to terms and conditions set to the court

50

00:02:23 --> 00:02:24

[Fred Smith] in violation of the term or condition.

51

00:02:24 --> 00:02:27

[Fred Smith] The court may enter an adjudication of guilt

52

00:02:27 --> 00:02:29

[Fred Smith] or upon fulfillment of the terms and conditions.

53

00:02:29 --> 00:02:32

[Fred Smith] The court may discharge the person and dismiss the proceedings against him

54

00:02:33 --> 00:02:35

[Fred Smith] without any adjudication of guilt.

55

00:02:35 --> 00:02:36

[Fred Smith] So,

56

00:02:38 --> 00:02:38

[Fred Smith] um

57

00:02:38 --> 00:02:41

[Fred Smith] here's what uh we have under consideration.

58

00:02:41 --> 00:02:43

[Fred Smith] Uh Mr uh

59

00:02:44 --> 00:02:44

[Fred Smith] um

60

00:02:45 --> 00:02:47

[Fred Smith] Griffin and I talked extensively about

61

00:02:48 --> 00:02:50

[Fred Smith] uh your history, various diagnoses.

62

00:02:52 --> 00:02:53

[Fred Smith] Uh He proposes that

63

00:02:54 --> 00:02:57

[Fred Smith] uh there will be a joint motion by

64

00:02:58 --> 00:02:59

[Fred Smith] the Commonwealth

65

00:02:59 --> 00:03:02

[Fred Smith] and the defendant one

66

00:03:03 --> 00:03:03

[Fred Smith] and

67

00:03:04 --> 00:03:09

[Fred Smith] that there is an agreement on the record in the court files that you have a diagnosis

68

00:03:09 --> 00:03:10

[Fred Smith] of autism

69

00:03:11 --> 00:03:14

[Fred Smith] that autism explains uh

70

00:03:15 --> 00:03:17

[Fred Smith] the behaviors at issue here,

71

00:03:17 --> 00:03:19

[Fred Smith] uh that um

72

00:03:21 --> 00:03:21

[Fred Smith] um

73

00:03:22 --> 00:03:25

[Fred Smith] and o other findings and that uh

74

00:03:25 --> 00:03:26

[Fred Smith] with that

75

00:03:26 --> 00:03:31

[Fred Smith] you would be placed on probation for probably six months and probably the only

76

00:03:32 --> 00:03:34

[Fred Smith] the biggest term of your

77

00:03:34 --> 00:03:34

[Fred Smith] probation be that

78

00:03:35 --> 00:03:36

[Fred Smith] you don't make any more filings

79

00:03:37 --> 00:03:40

[Fred Smith] uh without the assistance of a lawyer

80

00:03:40 --> 00:03:43

[Fred Smith] that, that, that would be the primary condition.

81

00:03:44 --> 00:03:48

[Fred Smith] And the way that works is when we go to court tomorrow.

82

00:03:49 --> 00:03:52

[Fred Smith] If this is what I'm telling you all, it's agreeable.

83

00:03:53 --> 00:03:54

[Fred Smith] We would, we would

84

00:03:54 --> 00:03:56

[Fred Smith] not set a trial date,

85

00:03:56 --> 00:03:59

[Fred Smith] but what's called a disposition date.

86

00:03:59 --> 00:04:01

[Fred Smith] And during that period of time,

87

00:04:01 --> 00:04:02

[Fred Smith] Mr Griffin,

88

00:04:02 --> 00:04:04

[Fred Smith] I had not had time to work on this order

89

00:04:04 --> 00:04:07

[Fred Smith] because I've got a jury trial after you be in court

90

00:04:07 --> 00:04:07

[Fred Smith] in tomorrow

91

00:04:07 --> 00:04:09

[Fred Smith] working all day to day on that.

[Brian Hill] yeah

92

00:04:10 --> 00:04:11

[Fred Smith] And so the, the

93

00:04:12 --> 00:04:12

[Fred Smith] Mr Griffin,

94

00:04:13 --> 00:04:13

[Fred Smith] and I

95

00:04:13 --> 00:04:14

[Fred Smith] will prepare the order,

96

00:04:15 --> 00:04:18

[Fred Smith] you will review it because you have to agree to it as well.

97

00:04:19 --> 00:04:21

[Fred Smith] And then, um,

98

00:04:22 --> 00:04:25

[Fred Smith] uh then Judge Greer would have to agree to it.

99

00:04:25 --> 00:04:26

[Fred Smith] I suspect that he would

100

00:04:27 --> 00:04:28

[Fred Smith] and that would conclude the matter.

101

00:04:28 --> 00:04:31

[Fred Smith] In other words, after six months, this would,

102

00:04:31 --> 00:04:33

[Fred Smith] this would be dismissed no longer appear on the record.

103

00:04:34 --> 00:04:34

[Fred Smith] Now,

104

00:04:36 --> 00:04:39

[Fred Smith] le let me tell you what this does for you all with respect to

105

00:04:40 --> 00:04:41

[Fred Smith] this situation at all.

106

00:04:42 --> 00:04:43

[Fred Smith] I really wish,

107

00:04:45 --> 00:04:49

[Fred Smith] you know, the public defender folks have tough jobs,

108

00:04:50 --> 00:04:52

[Fred Smith] they've got so many people to defend,

109

00:04:52 --> 00:04:53

[Fred Smith] but

110

00:04:53 --> 00:04:56

[Fred Smith] in your case, they appropriately asked for an evaluation.

111

00:04:57 --> 00:04:58

[Fred Smith] And in fact,

112

00:04:59 --> 00:05:00

[Fred Smith] at the circuit court level, there've been,

113

00:05:00 --> 00:05:03

[Fred Smith] there've been a notification of intent to

114

00:05:03 --> 00:05:08

[Fred Smith] plead an insanity defense, which was the only way to get the issue addressed

115

00:05:09 --> 00:05:11

[Fred Smith] under the law at that time.

[Brian Hill] yeah

116

00:05:12 --> 00:05:15

[Fred Smith] You see, the, the law has changed dramatically

117

00:05:15 --> 00:05:17

[Fred Smith] since 2018 when that,

118

00:05:17 --> 00:05:19

[Fred Smith] when you were first charged

119

00:05:19 --> 00:05:20

[Fred Smith] and

120

00:05:22 --> 00:05:23

[Fred Smith] my system I

121

00:05:24 --> 00:05:24

[Fred Smith] get.

122

00:05:32 --> 00:05:32

[Fred Smith] Ok,

123

00:05:32 --> 00:05:34

[Fred Smith] I'll just take that message.

124

00:05:37 --> 00:05:37

[Fred Smith] Yeah.

125

00:05:38 --> 00:05:39

[Fred Smith] And,

126

00:05:39 --> 00:05:45

[Fred Smith] you know, ii, I certainly understand that you were upset and you felt like,

127

00:05:45 --> 00:05:46

[Fred Smith] um,

128

00:05:47 --> 00:05:49

[Fred Smith] your issues weren't being properly addressed.

129

00:05:50 --> 00:05:51

[Fred Smith] I understand that.

130

00:05:51 --> 00:05:52

[Fred Smith] But

131

00:05:52 --> 00:05:52

[Fred Smith] what

132

00:05:53 --> 00:05:56

[Fred Smith] the prosecutors used the process,

133

00:05:56 --> 00:05:57

[Fred Smith] uh, and, and

134

00:05:57 --> 00:05:59

[Fred Smith] I mean, the, you know, defense attorneys,

135

00:06:00 --> 00:06:02

[Fred Smith] uh, when I look at the record

136

00:06:03 --> 00:06:07

[Fred Smith] while all the appropriate motions took all the appropriate steps,

137

00:06:08 --> 00:06:11

[Fred Smith] they were handicapped as what they could do for you in 2018.

138

00:06:11 --> 00:06:13

[Fred Smith] And I understand you were upset

139

00:06:13 --> 00:06:16

[Fred Smith] and Judge Greer's pan for time because,

140

00:06:17 --> 00:06:19

[Fred
Smith] because getting, getting

141

00:06:20 --> 00:06:22

[Fred Smith] your issues before the court

142

00:06:22 --> 00:06:24

[Fred Smith] in the proper format

143

00:06:25 --> 00:06:25

[Fred Smith] do not have,

144

00:06:26 --> 00:06:27

[Brian Hill] um, actually,

145

00:06:28 --> 00:06:30

[Brian Hill] why were they allowed to let the body camera footage

146

00:06:30 --> 00:06:35

[Brian Hill] be destroyed in 2019 before seven months before I withdraw my

147

00:06:35 --> 00:06:35

[Brian Hill] appeal

148

00:06:36 --> 00:06:36

[Fred Smith] uh,

149

00:06:36 --> 00:06:40

[Fred Smith] that I, I don't, I don't answer that, but that's, but you, you've got to get the,

150

00:06:40 --> 00:06:44

[Fred Smith] you've got to get the proper form and the proper procedure

151

00:06:45 --> 00:06:47

[Fred Smith] to, to address that Brian, you just, you know,

152

00:06:47 --> 00:06:50

[Fred Smith] and so forth that has not happened.

153

00:06:50 --> 00:06:51

[Fred Smith] And so,

154

00:06:51 --> 00:06:51

[Fred Smith] uh,

155

00:06:51 --> 00:06:55

[Fred Smith] what needs to happen is you get this, this chapter right now,

156

00:06:55 --> 00:06:57

[Fred Smith] this contempt chapter closed

[Brian Hill] alright

157

00:06:57 --> 00:06:59

[Fred Smith] and you simply must

158

00:06:59 --> 00:07:00

[Fred Smith] engage

159

00:07:00 --> 00:07:01

[Fred Smith] an attorney

160

00:07:02 --> 00:07:07

[Fred Smith] to pursue a petition and filing of actual innocence in the proper format.
[Stella Forinash] Can

161

00:07:08 --> 00:07:08

[Stella Forinash] you still

162

00:07:08 --> 00:07:08

[Stella Forinash] do

163

00:07:08 --> 00:07:09

[Stella Forinash] that?

164

00:07:14 --> 00:07:15

[Fred Smith] Sure, you can, you can file the petition

165

00:07:16 --> 00:07:16

[Fred Smith] for the actual innocence anytime

166

00:07:16 --> 00:07:17

[Fred Smith] There you go. (Note: may have been in audio, AI found this one)

167

00:07:17 --> 00:07:20

[Brian Hill] Uh, that's not, they don't have that for

168

00:07:20 --> 00:07:21

[Brian Hill] misdemeanors.

169

00:07:21 --> 00:07:21

[Brian Hill] They're just felonies

170

00:07:22 --> 00:07:22

[Brian Hill] I've tried

171

00:07:23 --> 00:07:23

[Brian Hill] that.

[Fred Smith] Your right about that.

172

00:07:26 --> 00:07:27

[Fred Smith] Uh

173

00:07:27 --> 00:07:29

[Fred Smith] And if that's the case, that's just the law,

174

00:07:30 --> 00:07:31

[Fred Smith] that's, that's,

175

00:07:31 --> 00:07:34

[Fred Smith] you know, that's just, unfortunately, the law,

176

00:07:34 --> 00:07:38

[Roberta Hill] I have a question, what specifically did he say?

177

00:07:38 --> 00:07:42

[Roberta Hill] in the three appeals that offended or insulted that they

178

00:07:43 --> 00:07:44

[Fred Smith] accused him of fraud and conspi (note: almost said the word conspiracy)

179

00:07:46 --> 00:07:47

[Fred Smith] fraud on the court.

180

00:07:47 --> 00:07:49

[Fred Smith] Uh

181

00:07:49 --> 00:07:49

[Fred Smith] Was it

182

00:07:51 --> 00:07:51

[Fred Smith] really

183

00:07:52 --> 00:07:55

[Fred Smith] man that when you accuse a judge of committing fraud?

184

00:07:55 --> 00:07:56

[Fred Smith] That's

185

00:07:57 --> 00:07:57

[Fred Smith] uh

186

00:07:59 --> 00:08:01

[Roberta Hill] what about freedom of speech?

[Fred Smith] what?

187

00:08:01 --> 00:08:01

[Roberta Hill] Are you

188

00:08:01 --> 00:08:01

[Roberta Hill] not

189

00:08:01 --> 00:08:02

[Roberta Hill] allowed

190

00:08:02 --> 00:08:02

[Roberta Hill] to

191

00:08:02 --> 00:08:02

[Roberta Hill] accuse

192

00:08:04 --> 00:08:04

[Roberta Hill] anybody of anything?

193

00:08:05 --> 00:08:06

[Fred Smith] You got to have facts

194

00:08:06 --> 00:08:07

[Fred Smith] to support that.

195

00:08:09 --> 00:08:09

[Stella Forinash] He did have facts.

196

00:08:09 --> 00:08:11

[Brian Hill] did you read all of the facts I have?

197

00:08:12 --> 00:08:15

[Fred Smith] I've read your facts. I haven't seen any facts

198

00:08:15 --> 00:08:16

[Fred Smith] that would have,

199

00:08:16 --> 00:08:17

[Fred Smith] that would

200

00:08:18 --> 00:08:20

[Fred Smith] suggest that Judge Greer didn't do anything

201

00:08:21 --> 00:08:21
[Fred Smith] but follow

202
00:08:21.920 --> 00:08:22.029
[Fred Smith] the

203
00:08:23 --> 00:08:25
[Fred Smith] law
[Brian Hill] disobeying court orders is disobeying the law.

204
00:08:26 --> 00:08:29
[Fred Smith] I'm in a situation to get this chapter closed.
[Brian Hill] alright

205
00:08:30 --> 00:08:32
[Fred Smith] I do not want to get into all this other stuff

206
00:08:33 --> 00:08:35
[Fred Smith] and I will not get into all this other stuff.

207
00:08:36 --> 00:08:41
[Fred Smith] So if you want me to conclude this matter with respect to this contempt proceeding

208
00:08:41 --> 00:08:44
[Fred Smith] in the fashion of which I've described I will.

209
00:08:46 --> 00:08:48
[Fred Smith] But you are gonna have to get some other lawyer
[Brian Hill] alright

210
00:08:48 --> 00:08:49
[Fred Smith] to pick this up,

211

00:08:50 --> 00:08:52

[Fred Smith] uh, and pursue,

212

00:08:52 --> 00:08:54

[Fred Smith] uh, the issues that you all, uh,

213

00:08:56 --> 00:09:00

[Fred Smith] have focused a great deal of time and attention on in recent years?

[Brian Hill] alright

214

00:09:02 --> 00:09:03

[Stella Forinash] Is that [speaker difficult to hear]

215

00:09:03 --> 00:09:03

[Stella Forinash] ok? [speaker difficult to hear]

216

00:09:04 --> 00:09:04

[Stella Forinash] Yeah. [speaker difficult to hear]

217

00:09:07 --> 00:09:11

[Fred Smith] So that the, the there are, there are attorneys out there who specialize, uh,

218

00:09:11 --> 00:09:15

[Fred Smith] in, in, in these sorts of things. You might, you might could, you could,

219

00:09:15 --> 00:09:19

[Fred Smith] I don't know whether it's too late to file

220

00:09:19 --> 00:09:19

[Fred Smith] a habeas

221

00:09:19 --> 00:09:19

[Fred Smith] corpus

222

00:09:21 --> 00:09:22

[Fred Smith] petition or not.

223

00:09:22 --> 00:09:26

[Brian Hill] The innocence project could go to the governor and provide

224

00:09:26 --> 00:09:29

[Brian Hill] the proof that it was not dealt the right way

225

00:09:29 --> 00:09:31

[Brian Hill] and the governor could pardon me.

[Fred Smith] You

226

00:09:32 --> 00:09:33

[Fred Smith] can, you, can

227

00:09:33 --> 00:09:33

[Fred Smith] you,

228

00:09:34 --> 00:09:36

[Fred Smith] there any number of ways you could pursue this?

229

00:09:37 --> 00:09:37

[Fred Smith] But

230

00:09:37 --> 00:09:43

[Fred Smith] I'm, I'm here to get an agreement with you folks that, that what I've outlined to you

231

00:09:43 --> 00:09:48

[Fred Smith] is what you would like me to get done with respect to the current troubles Brian has.

232

00:09:49 --> 00:09:49

[Brian Hill] All right.

233

00:09:50 --> 00:09:50

[Unidentified speaker] Ok.

234

00:09:51 --> 00:09:53

[Fred Smith] All right. So that's what the plan is now tomorrow.

235

00:09:53 --> 00:09:57

[Fred Smith] Then you just need to be in court with me and we'll find out the date for us to return

236

00:09:57 --> 00:10:00

[Fred Smith] and you'll sign your recognizance to be back

237

00:10:00 --> 00:10:02

[Fred Smith] in the meantime, Mr

238

00:10:02 --> 00:10:05

[Fred Smith] Griffith and I will prepare the joint motion

239

00:10:05 --> 00:10:10

[Fred Smith] which I will review with everyone before we submit it.

240

00:10:10 --> 00:10:11

[Fred Smith] Ok.

[Brian Hill] alright

241

00:10:12 --> 00:10:13

[Fred Smith] Ok.

242

00:10:14 --> 00:10:18

[Stella Forinash] Sounds good to me.

[Brian Hill] thanks

[Fred Smith] See you in the morning.

243

00:10:18 --> 00:10:19

[Brian Hill] All right.

[Stella Forinash] 9 o'clock huh?

244

00:10:21 --> 00:10:21

[Fred Smith] Yep,

245

00:10:23 --> 00:10:25

[Fred Smith] how about 845.

246

00:10:27 --> 00:10:30

[Stella Forinash] I'm, I'm bad about it. They'll say like eight.

247

00:10:30 --> 00:10:30

[Stella Forinash] It's my age,

248

00:10:32 --> 00:10:32

[Fred Smith] let's

249

00:10:32 --> 00:10:32

[Fred Smith] not

250

00:10:33 --> 00:10:33

[Fred Smith] talk about age.

EXHIBIT 6

for

APPELLANT'S MOTION FOR DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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TRANSCRIPT OF Apr13-045432.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Stella Forinash

Date of transaction: January 14, 2024.

Date of audio file recording: April 13, 2023.

Participants: Brian D. Hill, Roberta Hill, Attorney Fred Smith

Recording by: Brian D. Hill, consented to recording of conversation

Conversation recorded at: Office of Fred D. Smith, Jr. P.C., 46 W Main St, Martinsville, VA 24112

Note: Transcription based on time-frame of audio file. So full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

1
00:00:06 --> 00:00:06
[Fred Smith] morning,

2
00:00:07 --> 00:00:08
[Brian Hill] morning
[Roberta Hill] morning

3
00:00:13 --> 00:00:16
[Fred Smith] In light of your concerns about what's gonna happen tomorrow.

4
00:00:17 --> 00:00:19
[Fred Smith] Here's, uh, what will happen

5
00:00:20 --> 00:00:23

[Fred Smith] tomorrow morning and the, and the commonwealth's attorney agrees to this,

6

00:00:24 --> 00:00:24

[Fred Smith] uh,

7

00:00:25 --> 00:00:26

[Fred Smith] this will be continued for six months.

8

00:00:27 --> 00:00:27

[Brian Hill] Alright.

9

00:00:29 --> 00:00:30

[Fred Smith] during that six months, Brian,

10

00:00:30 --> 00:00:32

[Fred Smith] don't file anything

[Brian Hill] Alright.

11

00:00:32 --> 00:00:34

[Fred Smith] with, with state court.

12

00:00:34 --> 00:00:37

[Fred Smith] They, they have no jurisdiction of what you might do in federal

13

00:00:37 --> 00:00:37

[Fred Smith] court.

14

00:00:37 --> 00:00:40

[Brian Hill] That's fine.

[Fred Smith] Don't file anything in state court.

15

00:00:41 --> 00:00:41

[Fred Smith] Now,

16

00:00:42 --> 00:00:42

[Fred Smith] uh,

17

00:00:43 --> 00:00:45

[Fred Smith] at the end of the six months when we come back to court,

18

00:00:47 --> 00:00:47

[Fred Smith] um,

19

00:00:48 --> 00:00:49

[Fred Smith] I have a good relationship with this prosecutor

20

00:00:50 --> 00:00:54

[Fred Smith] Uh, if we don't have any more paper in the file

21

00:00:54 --> 00:00:56

[Fred Smith] or more issues, um,

22

00:00:56 --> 00:00:59

[Fred Smith] I have a reason to believe he will dismiss the case.

23

00:00:59 --> 00:01:00

[Fred Smith] Ok.

24

00:01:01 --> 00:01:01

[Brian Hill] Alright.

25

00:01:01 --> 00:01:04

[Fred Smith] So that's what's gonna happen in the morning. It'll be straight and simple

26

00:01:05 --> 00:01:06

[Fred Smith] case will be called.

27

00:01:06 --> 00:01:08

[Fred Smith] I will stand, move the court

28

00:01:09 --> 00:01:10

[Fred Smith] to continue the case for six months.

29

00:01:11 --> 00:01:14

[Fred Smith] The prosecutor will stand up and say I do not object

30

00:01:15 --> 00:01:17

[Fred Smith] and the judge will be able to stay the case in six months.

31

00:01:18 --> 00:01:18

[Fred Smith] Ok.

32

00:01:19 --> 00:01:21

[Fred Smith] Alright, good.

33

00:01:22 --> 00:01:22

[Brian Hill] Alright.

34

00:01:23 --> 00:01:23

[Fred Smith] Ok.

35

00:01:24 --> 00:01:27

[Fred Smith] See you in the morning. Get there about 845 Ok.

36

00:01:27 --> 00:01:28

[Brian Hill] Alright

[Fred Smith] Ok.

37

00:01:29 --> 00:01:31

[Roberta Hill] Alright.

[Brian Hill] God bless you.

[Fred Smith] Yes.

38

00:01:33 --> 00:01:35

[Fred Smith] Alright, y'all have a good day.

[Roberta Hill] You too.

[Brian Hill] Thank

39

00:01:35 --> 00:01:35

[Brian Hill] you.

EXHIBIT 7

for

APPELLANT'S MOTION FOR DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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TRANSCRIPT OF Oct20-077885.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Stella Forinash

Date of transaction: January 14, 2024.

Date of audio file recording: October 20, 2023.

Participants: Brian D. Hill, Roberta Hill, Attorney Fred Smith

Recording by: Brian D. Hill, consented to recording of conversation

Conversation recorded at: Office of Fred D. Smith, Jr. P.C., 46 W Main St, Martinsville, VA 24112

Note: Transcription based on time-frame of audio file. So full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

0

00:00:02 --> 00:00:04

[Fred Smith] Hey, y'all.

[Brian Hill] Hey

[Roberta Hill] Hey

1

00:00:07 --> 00:00:08

[Fred Smith] Ok. Um,

2

00:00:08.880 --> 00:00:10.380

[Fred Smith] it's usually very simple.

3

00:00:11 --> 00:00:13

[Fred Smith] Uh, case will be called,

4

00:00:13 --> 00:00:16

[Fred Smith] I'll walk up to the bench with a dismissal order.

5

00:00:16 --> 00:00:17

[Fred Smith] The judge will sign it

6

00:00:17 --> 00:00:18

[Fred Smith] and we'll leave.

7

00:00:19 --> 00:00:22

[Fred Smith] Now about your question about what to do about your subsequent filings

8

00:00:23 --> 00:00:25

[Fred Smith] I have talked to that, uh,

9

00:00:26 --> 00:00:30

[Fred Smith] assistant Attorney General. What's his name?

[Brian Hill] Uh, Justin,

10

00:00:31 --> 00:00:33

[Fred Smith] uh, what was his last name?

[Brian Hill] Uh Hill.

11

00:00:34 --> 00:00:34

[Fred Smith] Yeah. Right.

12

00:00:35 --> 00:00:35

[Fred Smith] Uh,

13

00:00:35 --> 00:00:39

[Fred Smith] he, he, he, he knew about the six month thing

14

00:00:39 --> 00:00:43

[Fred Smith] and I talked to him and they get, I understood that you got an extension

15

00:00:43 --> 00:00:44

[Fred Smith] to, to file.

[Brian Hill] Oh,

16

00:00:44 --> 00:00:46

[Brian Hill] ok. Oh,

17

00:00:47 --> 00:00:50

[Fred Smith] yeah, let me review it with you because I think it's gonna be ok for you to file,

18

00:00:50 --> 00:00:53

[Fred Smith] just file your, your regular legal pleadings.

19

00:00:53 --> 00:00:58

[Fred Smith] But once we get that order, uh, entered on Tuesday, I'll reach out to him

20

00:00:58 --> 00:00:59

[Fred Smith] and, uh,

21

00:01:00 --> 00:01:04

[Fred Smith] it seeks the way clear for you to do that because I talked to him once before

22

00:01:05 --> 00:01:07

[Brian Hill] and I'm, I'm a patient person.

23

00:01:07 --> 00:01:08

[Fred Smith] Yeah. Well, good,

24

00:01:09 --> 00:01:10

[Fred Smith] good.

25

00:01:10 --> 00:01:12

[Fred Smith] So that's, that's all there is to it

26

00:01:12 --> 00:01:15

[Fred Smith] Brian. That's all that will happen Tuesday morning. And, uh,

27

00:01:16 --> 00:01:17

[Fred Smith] and, uh,

28

00:01:18 --> 00:01:19

[Fred Smith] once that order I will call,

29

00:01:19 --> 00:01:22

[Fred Smith] uh, Miss Hill until after the orders in.

30

00:01:22 --> 00:01:24

[Fred Smith] So in case he needs to see the, an order

31

00:01:25 --> 00:01:26

[Fred Smith] or that kind of thing.

32

00:01:26 --> 00:01:28

[Fred Smith] But, uh, I'll, I'll reach out to him

33

00:01:29 --> 00:01:30

[Fred Smith] so you can get,

34

00:01:30 --> 00:01:30

[Fred Smith] uh,

35

00:01:30 --> 00:01:31

[Fred Smith] the

36

00:01:31 --> 00:01:33

[Fred Smith] other filings going that you wanna do.

37

00:01:34.209 --> 00:01:35.750

[Brian Hill] And, you know, I mean,

38

00:01:36.209 --> 00:01:38.000

[Brian Hill] there's some things that I learned this year.

39

00:01:38.010 --> 00:01:40.489

[Brian Hill] I didn't know the years before that and,

40

00:01:40 --> 00:01:43

[Brian Hill] you know, there's been a lot of emotions and stuff like that.

41

00:01:44 --> 00:01:47

[Brian Hill] I mean, I will not make the same mistake I ever made again.

[Fred Smith] okay

42

00:01:48 --> 00:01:48

[Brian Hill] You

43

00:01:48 --> 00:01:48

[Brian Hill] know,

44

00:01:49 --> 00:01:50

[Fred Smith] good

[Fred Smith] good

[Fred Smith] that's good

45

00:01:50 --> 00:01:52

[Fred Smith] because the thing to realize, uh,

46

00:01:52 --> 00:01:53

[Fred Smith] uh

47

00:01:53 --> 00:01:54

[Fred Smith] Brian

48

00:01:55 --> 00:01:57

[Fred Smith] that when you file papers in court,

49

00:01:58 --> 00:01:59

[Fred Smith] uh,

50

00:01:59 --> 00:02:00

[Fred Smith] you know,

51

00:02:01 --> 00:02:02

[Fred Smith] you're kind of required to

52

00:02:03 --> 00:02:05

[Fred Smith] speak the lingo a little bit.

[Brian Hill] yeah

53

00:02:05 --> 00:02:09

[Fred Smith] Uh, because if you don't speak the lingo, the court don't pay any attention to you.

54

00:02:09 --> 00:02:12

[Fred Smith] And if you don't speak the lingo, sometimes you get in trouble.

55

00:02:12 --> 00:02:13

[Fred Smith] So, uh

56

00:02:13 --> 00:02:14

[Fred Smith] uh uh

57

00:02:14 --> 00:02:16

[Fred Smith] but you're, you're bright,

58

00:02:16 --> 00:02:20

[Fred Smith] you, if you, you read enough cases and they have the cases read

59

00:02:20 --> 00:02:22

[Fred Smith] and it just kind of

60

00:02:23 --> 00:02:27

[Fred Smith] talk like the, the cases you read and, and, and you'll be fine.

EXHIBIT 8

for

APPELLANT'S MOTION FOR DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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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**

**DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF
APPELLANT'S MOTION FOR DELAYED APPEAL**



Brian David Hill – Ally of Q and Lin Wood
Founder of USWGO Alternative News
310 Forest Street, Apt. 2
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(276) 790-3505
c/o: Rbhill67@comcast.net; Roberta Hill



Pro Se Appellant

– JusticeForUSWGO.wordpress.com

DECLARATION

Pursuant to the Virginia Code § 8.01-4.3. “Unsworn declarations under penalty of perjury; penalty.”, Appellant Brian David Hill hereby state to the Court of Appeals of Virginia and Appellee(s) the statement of facts as under penalty of perjury, pro se Appellant Brian David Hill, on oath deposes and states:

1. I am Brian David Hill, Appellant in the case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3, 0289-22-3, 0290-22-3. I represent myself in those appeal cases because I cannot afford a private attorney. I feel that I am competent to continually work on my appeals.

2. On or about February 24, 2023, a rule to show cause was issued against me, the Appellant, on a charge of criminal contempt of court 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”. The criminal case number was CR19000009-01.

3. The direct cause of the criminal contempt charge was over statements made in my three notices of appeal, the same appeals at issue with the Motion for Delayed Appeal. See Trial Court record pages 4278-4291, 4292-4306, and pg. 4313-4325. The statements which triggered the contempt charge did not threaten the judge in any criminal way but only made lawful statements saying that certain people should

be held accountable for what I felt were that there were violations of law going on. I did not yell fire in a crowded theater. I did not defame the judge as I felt I had evidence and felt that the judge neglected to do his duties and neglected to do the right thing. All I did was criticize the judge and criticize some other people in my notices of appeal. Even the U.S. Supreme Court Justices give dissenting opinions and can criticize other judges or justices, that is freedom of speech. The bulwark of the very judicial process, the judiciary of government. I did not threaten any harm against the judge. I did not defame the judge. I was not charged with defaming the judge, and neither was I accused of defaming the judge. I felt that the judge got offended at my statements in my notices of appeal based on various evidence and factors going on in my trial court criminal case. I felt that I was protected under the First Amendment of United States Constitution and had filed pleadings early on in the contempt of court case asserting my constitutional legal defenses to the contempt of court charge, as I felt that my conduct in my notices of appeal were protected under the First Amendment of the United States Constitution, and the Virginia Constitution also has a clause for freedom of speech in its Bill of Rights. Even the Virginia Constitution says that freedom of speech can “never be restrained except by despotic governments”. I felt that the Trial Court had acted despotic with it's criminal contempt charge and abused its contempt powers by the legislature to restrain my freedom of speech according to the Virginia Constitution's own words under Article I, “Section 12. Freedom of speech and of the press; right peaceably to

assemble, and to petition.” I was not guilty of the contempt case. I don’t believe I was ever guilty because even the Virginia General Assembly has no lawmaking power above the Constitution to restrain the peaceful and orderly freedom of speech. The contempt of court case was unwarranted in my opinion and I never should have been charged with this. This was wrong. It was retaliation against me for my truthful claims and honest opinions and arguments based on what I had witnessed going on in my criminal case before the Trial Court.

4. On or about March 3, 2023, Attorney Fred Smith was appointed by the Hon. Giles Carter Greer of the Trial Court, to represent me over my contempt of court charge case. I have to make it clear factually that the same judge who I had brought allegations and opinions against in my notices of appeals, was the same judge over my contempt of court case and this judge did not recuse himself despite the fact that I was criticizing the exact same judge with my freedom of speech, honestly, who is the same judge over my contempt of court case. I felt that it was a conflict of interest and that it should have been a different judge over this case to protect my due process of law, my right to a fair trial, my right to an impartial trier of fact, and my right to effective assistance of counsel. I do not think it was appropriate for judge Greer to be the same judge in my contempt case as the one who I criticized and never threatened any harm against.

5. I had recorded conversations with my attorney Fred Smith at three visits to his law office located at 46 W. Main St., Martinsville, VA 24114. The conversation

dates which were recorded were March 9, 2023, April 13, 2023, and October 20, 2023.

6. **Exhibit 2**, link to the audio recording file, link given to me by family and was uploaded by Roberta Hill to the website directly to that link since I am under a supervised release condition where I am prohibited from using the internet. Exhibit 2 audio file, Mar09-726407.wav is a true and correct portion of the entire audio recording I had recorded at the office of Attorney Fred Smith on that date. I had given consent to recording my own attorney/client visit due to trust issues between me and Attorney Fred Smith. I had trust issues since judge Greer had appointed this attorney. I had a feeling that he was not looking out for my best interests protected under the United States Constitution and Virginia Constitution. I felt that Attorney Fred Smith was appointed to protect judge Greer's interests rather than protecting my constitutional right to freedom of speech and to possibly interfere with my constitutional right to appeal in the Court of Appeals of Virginia or cause prohibition of my constitutional right to appeal in the Court of Appeals of Virginia, despite my statutory appeal rights being protected by the Procedural due process of law under the Fourteenth Amendment of the United States Constitution. The original recording was recorded on the visit of Mar 9, 2023.

7. **Exhibit 3**, link to the audio recording file, link given to me by family and

was uploaded by Roberta Hill to the website directly to that link since I am under a supervised release condition where I am prohibited from using the internet. Exhibit 3 audio file, Apr13-045432.wav is a true and correct portion of the entire audio recording I had recorded at the office of Attorney Fred Smith on that date. I had given consent to recording my own attorney/client visit due to trust issues between me and Attorney Fred Smith. I had trust issues since judge Greer had appointed this attorney. I had a feeling that he was not looking out for my best interests protected under the United States Constitution and Virginia Constitution. I felt that Attorney Fred Smith was appointed to protect judge Greer's interests rather than protecting my constitutional right to freedom of speech and to possibly interfere with my constitutional right to appeal in the Court of Appeals of Virginia or cause prohibition of my constitutional right to appeal in the Court of Appeals of Virginia, despite my statutory appeal rights being protected by the Procedural due process of law under the Fourteenth Amendment of the United States Constitution. The original recording was recorded on the visit of April 13, 2023.

8. **Exhibit 4**, link to the audio recording file, link given to me by family and was uploaded by Roberta Hill to the website directly to that link since I am under a supervised release condition where I am prohibited from using the internet. Exhibit 4 audio file, Oct20-077885.wav is a true and correct portion of the entire audio

recording I had recorded at the office of Attorney Fred Smith on that date. I had given consent to recording my own attorney/client visit due to trust issues between me and Attorney Fred Smith. I had trust issues since judge Greer had appointed this attorney. I had a feeling that he was not looking out for my best interests protected under the United States Constitution and Virginia Constitution. I felt that Attorney Fred Smith was appointed to protect judge Greer's interests rather than protecting my constitutional right to freedom of speech and to possibly interfere with my constitutional right to appeal in the Court of Appeals of Virginia or cause prohibition of my constitutional right to appeal in the Court of Appeals of Virginia, despite my statutory appeal rights being protected by the Procedural due process of law under the Fourteenth Amendment of the United States Constitution. The original recording was recorded on the visit of April 13, 2023.

9. **Exhibit 5**, is a TRANSCRIPT OF Mar09-726407.wav. Date of transaction: January 14, 2024. Date of when audio was recorded: March 09, 2023.

10. **Exhibit 6**, is a TRANSCRIPT OF Apr13-045432.wav. Date of transaction: January 14, 2024. Date of when audio was recorded: April 13, 2023.

11. **Exhibit 7**, is a TRANSCRIPT OF Oct20-077885.wav. Date of transaction: January 14, 2024. Date of when audio was recorded: October 20, 2023.

12. The error, neglect, or fault in me losing the original opportunity for appeal

was that I had agreed verbally to not file anything in the “state court” for six months. The Attorney Fred Smith had made it abundantly clear, that I was not to file anything in the “state courts” for six months. In the **Exhibit 6 Transcript** and recording in **Exhibit 3**, the evidence supports that Attorney Fred Smith was going to have my contempt of court case continued for six months, and that the Commonwealth Attorney had agreed to it. That during the six-month period, he told me don't file anything with state court. Then he said again: “Don't file anything in state court.” He did not give me an exception to file in the Court of Appeals of Virginia. He did not give any indication during my visit with Fred Smith on April 13, 2023, according the conversation recording which is present as evidence in the **Exhibit 6 Transcript** and recording in **Exhibit 3**. I had agreed to this and had complied with his demand or order or whatever.

13. I did not have any opportunity to file anything with the Court of Appeals of Virginia for six-months. Because I was prohibited from doing so as directed by Attorney Fred Smith. The six-month period had started when the continuance was granted by Judge Greer. So, it started in April, 2023, and ended in October, 2023. If I had not complied with Attorney Fred Smith’s demand or order or whatever I verbally agreed to, there would have been no joint push with the Commonwealth’s Attorney for dismissing my contempt charge and Attorney Fred Smith would have refused to protect my first amendment right to freedom of speech and I would have been convicted of contempt of court as charged if my attorney refuses to defend my

First Amendment right to freedom of speech and my Virginia Constitutional right to freedom of speech under Article I, Section 12 in the Bill of Rights. The constitution is usually the only supreme law which can nullify an unconstitutional statute passed by a legislature or unconstitutional usage of a statute. Unless Fred Smith my attorney had agreed to protect my first amendment right as my defense to my criminal contempt of court charge, I would be convicted, no doubt about it when my attorney refuses to present a defense for me. So, my choice was if I filed in the Court of Appeals of Virginia to timely file my opening appellant briefs, then I would have faced jailtime for criminal contempt. This court should be aware that I am under federal supervised release conditions by the United States Probation Office for the Western District of Virginia. If I am convicted of any crime, then I face revocation of supervised release and then I am liable for sentencing for that revocation such as federal imprisonment. If I am convicted of criminal contempt, then I can be in violation of conditions of my federal supervised release and would face revocation which means federal imprisonment (See record pg. 3655-3735). According to trial court record page 3728, Judge Thomas David Schroeder had said: "So I'm going to order that Mr. Hill be committed to the custody of the United States Bureau of Prisons for 9 months." That was over the indecent exposure misdemeanor charge. Since I had faced 9 months of federal imprisonment over only a misdemeanor, the contempt of court case may carry a similar federal imprisonment sentence. Not only would I face jailtime for contempt of court, I would face concurrently or

consecutively or close to after the jailtime period, I can face a federal imprisonment sentence. I may be unable to comply with the rules of timely filing with the Court of Appeals of Virginia while sitting in a federal prison in a different state in the United States of America, as it is clear that I likely would not be incarcerated in a federal prison in Virginia. Because of my severe medical issues, I would likely to be sent to the Federal Medical Center in Kentucky if not the FMC in Butner, North Carolina.

14. Unless my attorney were to agree to protect and defend my first amendment rights in defense against the contempt of court charge, I am guaranteed that I would face federal imprisonment and local jailtime which would have fettered with my due process right to appeal to the Court of Appeals of Virginia, and would directly interfere with my ability to comply with the Rules of the Supreme Court of Virginia and prevent me from timely filing of my appeal briefs or anything timely.

15. According to Attorney Fred Smith as proven in the audio recordings, the situation would be that I was either to not file anything in any of the Virginia state courts for six months, case was dismissed in October 23, 2023, or likely he would have had me gone to trial for the contempt of court case without defending my first amendment right to freedom of speech and I would have been convicted because my attorney would not defend me or not defend my constitutional rights. I had to agree not to file in state court to protect myself from the outcome which would have been a certain verdict. Either scenario meant that I would be interfered with or fettered with of my right to file in the Court of Appeals of Virginia. I clearly was prohibited

because of the alternative of filing with the CAV during a six-month period may have caused the Commonwealth Attorney aka special prosecutor to reconsider the decision to agree to push for dismissing the case, and I would have faced a certain outcome of jailtime and federal imprisonment.

16. The error, neglect, or fault in me losing the original opportunity for appeal was that I had agreed verbally to not file anything in the “state court” for six months. The Attorney Fred Smith had made it abundantly clear, that I was not to file anything in the “state court” for six months. The Court of Appeals of Virginia is a “state court”. The recorded conversation proves that Attorney Fred Smith orally gave no exceptions to my prohibition to file in “state court”. It can be any state court in Virginia. He was aware of my appeals. The opposite would be jailtime and federal imprisonment which would cause an interference and may prevent me from being able to file in the Court of Appeals of Virginia. The record of the trial court is over 4,000 pages. It would be difficult for the Court of Appeals of Virginia to mail over 4,000 pages of the record of the trial court to the federal prison where I would be an inmate, where I would be housed, just to protect my procedural due process of law. It may very well be impossible for me to prosecute my appeals while in a federal prison facility as a repercussion of my contempt of court case due to Attorney Fred Smith not willing to protect my freedom of speech in defense to my contempt of court charge. The CAV record request section having to mail over 4,000 pages of the trial court record to me while me being housed at a federal prison. The prison

facility may not allow me to possess over 4,000 pages of paper for my Virginia appeals inside of wherever I would be housed at a federal prison. If I am convicted of contempt of court, my appeals would be fettered with and my prosecution of my appeals would be extremely difficult to maybe impossible. Probably impossible. What can I say? It is pretty clear that it cannot be done. No federal prison will allow me to possess over 4,000 pages from the Court of Appeals of Virginia in a small prison cell. It would be a messy situation. Imagine this court having to mail a large box with over 4,000 pages of trial court record, just to protect my right to prosecute my appeals while I sit in a federal prison over my contempt of court charge when Attorney Fred Smith refused to protect my first amendment right to freedom of speech.

17. I feel and believe that the error, neglect, or fault is not my fault because of my freedom of speech. I believe that the error, neglect, or fault, is at fault of Attorney Fred Smith for not protecting my freedom of speech and for not protecting my constitutional right to my appeals in the Court of Appeals of Virginia. It is Attorney Fred Smith's fault why I couldn't file timely in the Court of Appeals of Virginia.

18. On January 17, 2023, the Court of Appeals of Virginia had said in its order I am aware of that: "Under Rule 5A:19(b)(1), the appellant's opening brief was due not later than Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023." Both of those dates, I was prohibited from filing in the "state court" which

can mean any Virginia court including this court as I was given no exception by Attorney Fred Smith to file in this court and Attorney Fred Smith had not given me any exception to file in the Court of Appeals of Virginia. The audio recordings of my visits with my attorney prove that Attorney Fred Smith did not give me any exception to not file anything in the state courts for six months of the continuance of the contempt of court case. Those two dates in the order of the Court of Appeals of Virginia, any filing before the deadlines as set by the rules would have gotten me in trouble and I would have been convicted of contempt of court due to the circumstances where my court appointed attorney by Judge Greer, my attorney would not fight for my first amendment right to freedom of speech. A constitutional defense would negate any possible criminal conviction of a charged crime over a constitutionally protected action or constitutionally protected behavior. Because Attorney Fred Smith would not go that route, I had to agree not to file in the state courts for six months and until the six-month continuance had been over. That would be in October, 23, 2023, when the contempt of court case was dismissed with agreement of the Commonwealth's Attorney which would be the special prosecutor. It was impossible under my circumstances for me to comply with Rule 5A:19(b)(1), It was impossible for me to comply with Rule 5A:19(b)(4) under my circumstances. If I had filed timely before those deadlines, then I would have gone to federal prison and faced revocation of supervised release for facing a conviction of contempt of court. Then I would have sat in federal prison which would make it impossible or

nearly impossible to prosecute my appeals under the rules of the Supreme Court of Virginia, as the Court would have to mail over 4,000 pages of the record of the Trial Court to me in a federal prison cell. Also, I couldn't comply with any of the other rules since I may only have access to pen and paper if I am lucky to get access to a pen, maybe it would be pencil and paper writing to the Court of Appeals of Virginia. So, they would have to receive my handwritten pleadings which may be considered not compliant with the rules of the Supreme Court of Virginia but I would have no choice while sitting in a federal prison somewhere. If I get placed in the Special Housing Unit (SHU) of the federal prison for whatever reason or no reason, then I may not be able to write the Court of Appeals of Virginia at all or face more prison restrictions making it impossible for me to comply with any rule of the Supreme Court of Virginia, and I probably couldn't even comply with the rules of formality anyways while in a federal prison, period.

19. There was no way to avoid dismissal for failure to prosecute my appeals and timely file documents in my appeals because of the six-month no filing verbal agreement in the no filing in the "state court" prohibition. My hands were tied, I could not inform the Court of Appeals of Virginia about this predicament once I had agreed not to file in the state courts, so I couldn't file any request for an extension of time once the six-month period had begun in April, 2023. I did ask Justin Hill, counsel for Appellees to notify the Court of Appeals of Virginia about me not being able to file anything with this court, and he refused to do anything about it. What a

nice guy he was, being sarcastic here. It is clear that he didn't do his duty as Appellees to notify the court that I couldn't file in the state court for six months. Fred didn't say "circuit court", but the words: "state court". He was clear about the six-month prohibition.

20. By order entered January 17, 2024, this Court dismissed my appeals in all three appeal cases, nos. 0313-23-3, 0314-23-3 and 0317-23-3.

21. I as Appellant bear no personal responsibility for my error, neglect, or fault in me not timely filing my opening briefs in the three appeal cases. The responsibility lies entirely with Attorney Fred Smith who instructed me not to file anything in the "state court" to avoid me being convicted of contempt of court since he refused to present a first amendment defense by having a freedom of speech defense to my charge of criminal contempt for my "language" in my three notices of appeal at issue of which had begun my three appeals at issue. I shouldn't be held personally responsible for not filing timely because of the prohibition which I had no control of that matter. It was either I not file for six months or I face repercussions such as federal imprisonment and jailtime for criminal contempt because of not being allowed a first amendment challenge by my own court appointed lawyer Fred Smith. I feel that Fred Smith is at fault and should be who is responsible for me not filing timely. I feel personally that it is his fault and not my fault. It is his fault for me being prohibited from filing for six-months. My recordings of the conversation between me and Attorney Fred Smith proves this to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 18, 2024.

BRIAN DAVID HILL
Pro Se


Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

310 Forest Street, Apt. 2
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Pro Se Appellant

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<https://JusticeForUSWGO.nl>



ROBERTA HILL <rbhill67@comcast.net>

1/18/2024 11:51 PM

Appellant Motion for Sanctions and Inquiry, Exhibits

To Hill, Justin B. <jhill@oag.state.va.us> •
 OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> •
 Chris Coen <ccoen@oag.state.va.us> •
 Martinsville City Commonwealth's Attorney Glen Andrew Hall <ahall@ci.martinsville.va.us> Copy
 stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl> • stanleybolten@uswgo.com •
 adriennadicioccio@yahoo.com • gabe@fixthecourt.com • stone@stonezone.com

Hey Justin Hill (Assistant Attorney General) and Glen Andrew Hall
 (Commonwealth's Attorney),

I am Roberta Hill, Brian Hill's mother. I am sorry but we have to do this, Brian Hill is filing this (1) Motion for delayed appeal and (2) exhibits in support of that motion on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading and exhibits on his behalf. This should serve the counsel for Appellees through email. This motion and exhibits will be filed via VACES with the Court of Appeals of Virginia.

You are obligated to review over the new audio recordings evidence my son Brian Hill has and is filing on the record. He had trust issues with his court appointed attorney Fred Smith when he refused to protect Brian's first amendment right to freedom of speech against Judge Greer and feared this contempt case was a conspiracy or plot to end his appeals, so he had used the one party consent recording statute, where he kept recordings and those recordings between Brian Hill and Fred Smith had proved you lied in your brief of the commonwealth. Fred said he spoke with you multiple times and claimed that you granted Brian an extension for his appeals due to the six month thing. Those are in the audio recordings, and you lied about all of that. Here are the links to the evidence and copies were distributed to Q Anons, so you cannot stop this evidence with any suppression campaign. We are sorry to have to do this, but we cannot accept liars lying to the courts. We cannot accept that you would stoop down to lying about his contempt case situation.

Attorney Fred Smith Meeting with Brian Hill on October 20, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Oct20-077885.wav> or

<https://archive.org/details/oct-20-077885>

Attorney Fred Smith Meeting with Brian Hill on April 13, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Apr13-045432.wav>

Attorney Fred Smith Meeting with Brian Hill on March 09, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Mar09-726407.wav> or

CAV: Submitted on 01-18-2024 23:54:35 EST for filing on 01-18-2024

<https://archive.org/details/mar-09-726407>

We are sorry for the truth coming out. But Jesus is all about the truth will set you free. The truth will set Brian D. Hill free, who is a virgin with no victims, and get him off of the sex registry with the truth of his innocence. Truth will make us free. Brian David Hill = Innocence.

<https://web.archive.org/web/20230515093703/https://wearechange.org/case-brian-d-hill/>

File list of attachments:

1. Motion1-18-2024.pdf
2. ALL-EXHIBITS-1-18-2024.pdf

Roberta Hill (representative for electronic filing)
310 Forest Street, Apartment 1
Martinsville, Virginia 24112

Court of Appeals of Virginia, cases no. 0313-23-3, 0314-23-3 and 0317-23-3:
Brian David Hill v. Commonwealth of Virginia, City of Martinsville

Appellant:
Brian David Hill
310 Forest Street, Apartment 2
Martinsville, Virginia 24112

Thanks,
Roberta Hill

-
- ALL-EXHIBITS-1-18-2024.pdf (16 MB)
 - Motion1-18-2024.pdf (591 KB)

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**

APPELLANT'S MOTION FOR DELAYED APPEAL



Brian David Hill – Ally of Q and Lin Wood
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c/o: Rbhill67@comcast.net; Roberta Hill



Pro Se Appellant

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SUMMARY

Pursuant to Virginia Code § 19.2-321.1, Brian David Hill, (“Appellant”) respectfully moves this Court for three delayed appeals in the above-captioned cases (cases no. 0313-23-3, 0314-23-3 and 0317-23-3).

In support of this motion, Mr. Hill offers the following:

1. First appeal. By order entered February 17, 2023, the Circuit Court of the City of Martinsville denied Mr. Hill’s motion entitled: “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 For Reconsideration), filed on February 17, 2023. (R. 4255). Mr. Hill, acting pro se, timely filed a notice of appeal to this Court challenging this judgment/order. (R. 4278-4291). Record No. 0313-23-3. Circuit Court case no. is CR19000009-00. Style is: COMMONWEALTH OF VIRGINIA and CITY OF MARTINSVILLE v. BRIAN DAVID HILL, Commonwealth of Virginia and City of Martinsville are appellees of the appealed case.

2. Second appeal. By order entered February 14, 2023, the Circuit Court of the City of Martinsville denied Mr. Hill’s motion entitled: “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”, filed on January 26, 2023. (R. 4120). Mr. Hill, acting pro se, timely filed a notice of appeal to this Court challenging this judgment/order. (R. 4292-4306). Record No. 0314-23-3. Circuit Court case no. is CR19000009-00. Style is: COMMONWEALTH OF VIRGINIA and CITY OF MARTINSVILLE v. BRIAN DAVID HILL, Commonwealth of Virginia and City of Martinsville are appellees of the appealed case.

3. Third appeal. By order entered February 21, 2023, the Circuit Court of the City of Martinsville denied Mr. Hill’s motion entitled: “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 For Reconsideration), filed on February 17, 2023. (R. 4277). Mr. Hill, acting pro se, timely filed a notice of appeal to this Court challenging this judgment/order. (R. 4313-4325). Record No. 0317-23-3. Circuit Court case no. is CR19000009-00. Style is: COMMONWEALTH OF VIRGINIA and CITY OF MARTINSVILLE v.

BRIAN DAVID HILL, Commonwealth of Virginia and City of Martinsville are appellees of the appealed case.

4. Virginia Law governing Motions for Delayed Appeals, state as follows in-part:

Va. Code § 19.2-321.1 (“Such motion shall identify the circuit court and the style, date, and circuit court record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment, shall give the Court of Appeals record number in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.”)

5. Appellant hereby establishes with Exhibits of evidence, the clear and convincing evidence, prima facie evidence, which proves said error, neglect, or fault to such an extent where Appellant is not personally responsible in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

6. Appeal record citation will also be used and not just citation of the Trial Court record. Trial Court record citation will be using the “R. #####” context. Citation of the Appeal court record will be using the “App. R. ##### of case no. 0313-23-3” context.

7. Further arguments in support of this motion will be made below the Exhibits listings, exhibits in support of this motion.

8. 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 delayed appeal is warranted due to good reasons as will be described below the EXHIBIT LIST.

EXHIBITS (attached ALL-EXHIBITS-1-18-2024.pdf):

EXHIBIT 1. File: EXHIBIT 1-Declaration for Motion for sanctions against Justin Hill.pdf. It is a true and correct copy of a Declaration/Affidavit of Brian David Hill explaining what the hard evidence is talking about. Explaining that the other exhibits are credible evidence, prima facie evidence. Index: EXHIBIT PAGES 1 THROUGH 14 OF 78.

EXHIBIT 2. File: EXHIBIT 2.pdf. It is a true and correct copy of a URL/LINK to an audio file Mar09-726407.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 15 THROUGH 16 OF 78.

EXHIBIT 3. File: EXHIBIT 3.pdf. It is a true and correct copy of a URL/LINK to an audio file Apr13-045432.wav uploaded to the internet by family

of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 17 THROUGH 18 OF 78.

EXHIBIT 4. File: EXHIBIT 4.pdf. It is a true and correct copy of a URL/LINK to an audio file Oct20-077885.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 19 THROUGH 20 OF 78.

EXHIBIT 5. File: EXHIBIT 5-TRANSCRIPT OF Mar09-726407.wav(2).pdf. It is a true and correct copy of a transcript of audio file Mar09-726407.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Mar09-726407.wav.** Index: EXHIBIT PAGES 21 THROUGH 47 OF 78.

EXHIBIT 6. File: EXHIBIT 6-TRANSCRIPT OF Apr13-045432.wav.pdf. It is a true and correct copy of a transcript of audio file Apr13-045432.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was

legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Apr13-045432.wav**. Index: EXHIBIT PAGES 48 THROUGH 53 OF 78.

EXHIBIT 7. File: EXHIBIT 7-TRANSCRIPT OF Oct20-077885.wav.pdf. It is a true and correct copy of a transcript of audio file Oct20-077885.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Oct20-077885.wav**. Index: EXHIBIT PAGES 54 THROUGH 60 OF 78.

EXHIBIT 7. File: EXHIBIT 7-TRANSCRIPT OF Oct20-077885.wav.pdf. It is a true and correct copy of a transcript of audio file Oct20-077885.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Oct20-077885.wav**. Index: EXHIBIT PAGES 54 THROUGH 61 OF 78.

EXHIBIT 8. File: EXHIBIT 8-Declaration for Motion for Delayed Appeal.pdf. It is a true and correct copy of a Declaration/Affidavit of Brian David Hill explaining what the hard evidence is talking about. Explaining that the other exhibits are credible evidence, prima facie evidence. Also explains things as to why

the motion for delayed appeal should be granted. Index: EXHIBIT PAGES 54 THROUGH 62 OF 78.

LEGAL ARGUMENTS AND STATEMENT OF FACTS

9. On Thursday, April 13, 2023, Appellant had agreed not to file anything in the “State Court” aka Commonwealth Courts for six months. No verbal exception was given permitting Appellant to file in the Court of Appeals of Virginia throughout the recordings of Brian Hill the appellant at the meetings with Attorney Fred Smith. That agreement was made verbally 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 court”(s) 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 the affidavit in **EXHIBIT 1** (EXHIBIT PAGES 1 THROUGH 14 OF 78), as well as the audio file on **EXHIBIT 4** (EXHIBIT PAGES 19 THROUGH 20 OF 78), second affidavit in **EXHIBIT 8** (EXHIBIT PAGES 54 THROUGH 62 OF 78). and **EXHIBIT 7** (EXHIBIT PAGES 54 THROUGH 61 OF 78). This court is free to seek confirmation of this fact by inquiring with Attorney Fred Smith or even with counsel for Appellees. In fact, this

Court can have both the Commonwealth's Attorney and Assistant Attorney General listen to the audio recordings and then inquire as to the verbal agreement prohibiting Appellant from filing in the CAV when audio recordings prove that Attorney Fred Smith directs Appellant not to file in any "state Court" of Virginia except in the federal courts. This attorney allowed Brian to file in the federal courts for six months because of Virginia having no jurisdiction/jurisprudence over federal, but prohibited Appellant from filing in any court of Virginia.

10. Appellant had stated under oath in **EXHIBIT 8 (EXHIBIT PAGES 54 THROUGH 62 OF 78)**, that Appellant is not at fault for the error, neglect, or fault. Appellant has the evidence proving that Attorney Fred Smith had directed or ordered the Appellant not to file anything in the "state court" with no verbal exception to the Court of Appeals of Virginia. The only exception was that he can file in the federal courts during the six-month no-filing period because the state had no jurisdiction to prohibit him from filing in the federal court system. That was the only exception which the exhibits prove beyond a reasonable doubt. Appellant said under oath in **EXHIBIT 8**, that by filing within the six month period, he would face criminal consequences such as he would face not just a conviction of contempt of court but also federal imprisonment due to the circumstances laid out in his affidavit/declaration.

11. The error, neglect, or fault in Appellant losing the original opportunity for appeal was that he had agreed verbally to not file anything in the "state court" for

six months. The Attorney Fred Smith had made it abundantly clear, that Appellant was not to file anything in the “state courts” for six months. In the **Exhibit 6 Transcript** and recording in **Exhibit 3**, the evidence supports that Attorney Fred Smith was going to have his contempt of court case continued for six months, and that the Commonwealth Attorney had agreed to it. That during the six-month period, he told Appellant don't file anything with state court. Then he said again: “Don't file anything in state court.” He did not give him an exception to file in the Court of Appeals of Virginia. He did not give any indication during his visit with Fred Smith on April 13, 2023, according the conversation recording which is present as evidence in the **Exhibit 6 Transcript** and recording in **Exhibit 3**. Appellant had agreed to this and had complied with his demand or order or whatever. See EXHIBIT PAGES 69-70 OF 78, **EXHIBIT 8**.

12. At one point in March, the court appointed Attorney Fred Smith had told Brian D. Hill on March 9, 2023 that he would have to agree to six months of state probation where his primary term or condition would be that Appellant cannot file in the Virginia state courts without the assistance of a lawyer. So, if Appellant cannot afford a lawyer, then he would not be allowed to file anything in the Court of Appeals of Virginia, and that was the first attempt to prohibit Appellant from filing in this court. See **EXHIBIT 2** (EXHIBIT PAGES 15 THROUGH 16 OF 61) and **EXHIBIT 5** (EXHIBIT PAGES 21 THROUGH 47 OF 61). Fred Smith said and I quote:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 22 OF 61) “now out in this case, they uh asked that a special prosecutor be”, (EXHIBIT PAGES 23 OF 61) “Uh Justin, and I have talked extensively about... this case.” (EXHIBIT PAGES 28 OF 61) “here's what uh we have under consideration... Griffin and I talked extensively about... uh your history, various diagnoses... Uh He proposes that... uh there will be a joint motion by... the Commonwealth... and the defendant one” (EXHIBIT PAGES 29 OF 61) “that there is an agreement on the record in the court files that you have a diagnosis... of autism... that autism explains uh... the behaviors at issue here,”; (EXHIBIT PAGES 29 OF 61) “you would be placed on probation for probably six months and probably the only...the biggest term of your” (EXHIBIT PAGES 30 OF 61) “probation be that...you don't make any more filings...uh without the assistance of a lawyer...that, that, that would be the primary condition.”

13. The court appointed attorney on April 13, 2023, no longer pursued the state probation idea but instead told Brian D. Hill that his contempt of court case would be delayed/stayed for six months and during that time he cannot file in state court which also encompasses the Court of Appeals of Virginia (CAV) but did allow Appellant to file in federal court during the six-month period. This was the second attempt to prohibit Appellant from filing in this court and in any “state court”, and that attempt had succeeded. See **EXHIBIT 3** (EXHIBIT PAGES 17 THROUGH 18 OF 61) and **EXHIBIT 6** (EXHIBIT PAGES 48 THROUGH 53 OF 61). Fred Smith said and I quote:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 50 OF 61) “tomorrow morning and the, and the commonwealth's attorney agrees to this,... this will be continued for six months.... during that six months, Brian,... don't file anything... [Brian Hill] Alright.... [Fred

Smith] with, with state court.... They, they have no jurisdiction of what you might do in federal... court.... [Brian Hill] That's fine. [Fred Smith] Don't file anything in state court.”, (EXHIBIT PAGES 51 OF 61) “[Fred Smith] at the end of the six months when we come back to court, [Fred Smith] Uh, if we don't have any more paper in the file [Fred Smith] or more issues, um, [Fred Smith] I have a reason to believe he will dismiss the case.”

10. Granting this motion protects Appellant’s constitutionally protected procedural due process of law under the Fourteenth Amendment of the United States Constitution. The audio recordings along with the **EXHIBIT 8** affidavit prove that such a prohibition exists and thus the constitutional right of procedural due process of law of Appellant was violated and that the constitutional right of procedural due process of law was not afforded to Appellant. 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.**”). Appellant’s constitutional right to procedural due process of law is violated if this court even considers Appellees erroneous claims in their bid to have Appellant’s three appeals rejected as possibly untimely filed because of being given a false assumption that

Appellant was not prohibited from filing in this court for a period of six months when the verbal agreement is proven with the audio files of recording the conversation between Appellant and his lawyer Fred Smith on three separate dates in 2023.

11. All exhibits including Brian David Hill's affidavit/declaration in support of this motion prove that Appellant was prohibited from filing in the state court and there had been no exceptions given except for the federal court system. The Court of Appeals of Virginia is a "state court" and not a federal court. Attorney Fred Smith gave Brian David Hill, the appellant, explicit instructions not to file anything in the "state court" for six months after the continuance was granted in his contempt of court case. Admitted that the Commonwealth Attorney had agreed to this. The verbal agreement between Brian D. Hill, Appellant, and the court appointed lawyer Fred Smith had been recorded by Brian Hill and that evidence is in **Exhibits 2, 3, and 4**. Transcripts of the evidence in **Exhibits 5, 6, and 7**.

12. By order entered January 17, 2024, this Court dismissed all appeals in cases no. 0313-23-3, 0314-23-3 and 0317-23-3, for untimely filing.

13. Mr. Hill now moves this Court pursuant to Code § 19.2-321.1 for a delayed appeal in all three appeal cases (cases no. 0313-23-3, 0314-23-3 and 0317-23-3) from the trial court's orders entered February 14, 2023, February 17, 2023, and February 21, 2023. See the paragraphs 1, 2, and 3, noted above inside of this motion document.

14. This motion is timely because it has been less than six months since Mr. Hill's appeal in all three appeal cases was dismissed. See Code § 19.2-321.1(A).

15. This case satisfies the requirements for eligibility for a delayed appeal because due to the " error, neglect, or fault in me losing the original opportunity for appeal was that I had agreed verbally to not file anything in the "state court" for six months....," (EXHIBIT PAGES 73 OF 78) Mr. Hill's three appeals were dismissed for failure to adhere to proper ... time limits in the appeal process." Code § 19.2-321.1(A). Moreover, Mr. Hill is in no way responsible, in whole or in part, for Attorney Fred Smith ordering or instructing Appellant not to file in any "state court" for six months until the continuance had passed and his contempt of court case was dismissed. See Code § 19.2-321.1(D).

16. Pursuant to Rule, Mr. Hill, pro se without counsel, served a copy (through filing Assistant Roberta Hill) on counsel of Appellees including Glen Andrew Hall (since required by statute) on the date of January 18, 2024, notifying the Commonwealth of filing this Motion.

WHEREFORE, Mr. Hill prays this Court to grant his motion for a delayed appeal pursuant to Code § 19.2-321.1.

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

Respectfully Filed/Submitted on January 18, 2024,

BRIAN DAVID HILL
Pro Se


Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

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Pro Se Appellant

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<https://JusticeForUSWGO.nl>



CERTIFICATE OF COMPLIANCE

1. This motion complies with type-volume limits:

[X] this motion contains [3,327] 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: January 18, 2024



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Pro Se Appellant

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 18th day of January, 2024, I caused this “APPELLANT’S MOTION FOR DELAYED APPEAL” and attached EXHIBITS (ALL-EXHIBITS-1-18-2024.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
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Email: jhill@oag.state.va.us; OAG Criminal Litigation:

Counsel for Appellees'

2. Glen Andrew Hall, Esq.
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55 W Church Street
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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.


Signed

Brian D. Hill



Brian David Hill – Ally of Qanon
Founder of USWGO Alternative News



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Pro Se Appellant

CAV: Submitted on 01-20-2024 23:50:14 EST for filing on 01-22-2024

EXHIBIT 1

for

AMENDED APPELLANT'S MOTION FOR DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News
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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**

**DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF MOTION FOR
SANCTIONS AND INQUIRY AGAINST JUSTIN HILL,
ASSISTANT ATTORNEY GENERAL
FOR POSSIBLY DEFRAUDING THIS COURT**



**Brian David Hill – Ally of Q and Lin Wood
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c/o: Rbhill67@comcast.net; Roberta Hill**



Pro Se Appellant

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DECLARATION

Pursuant to the Virginia Code § 8.01-4.3. “Unsworn declarations under penalty of perjury; penalty.”, Appellant Brian David Hill hereby state to the Court of Appeals of Virginia and Appellee(s) the statement of facts as under penalty of perjury,

1. I am Brian David Hill, Appellant in the case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3, 0289-22-3, 0290-22-3.

2. I have brought forth the motion entitled the “MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING THIS COURT”, because I believe Appellees attorney Justin B. Hill had made a false statement or false statements regarding myself to the Court by saying: “...*That agreement did not prohibit his from filing anything in this Court*” (referring to Court of Appeals of Virginia) in regard to Justin Hill’s additional claim that: “*Upon information and belief, Hill agreed during the pendency of those contempt charges not to file any new motions in the Circuit Court.*” Justin B. Hill is the legal counsel representing Appellees in the foregoing appeals and is the Assistant Attorney General of Virginia according to his previous filing I have read.

3. The reason why I believe Justin B. Hill made a false statement or false statements is because I have hard evidence audio files which is irrefutable proving

that Justin B. Hill had made a false statement about there being no agreement prohibiting Appellant, which is myself, from filing anything in the Court of Appeals of Virginia.

4. In my previous affidavits/Declarations (Exhibit 3 and Exhibit 12) I had filed in October 27, 2023, attached to my filed “MOTION FOR LEAVE OF COURT TO FILE ONE MORE APPELLANT OPENING BRIEF AND/OR MODIFY JUNE 30, 2023 ORDER”, I did tell the truth under oath and I did warn Justin Hill in my Declaration that I had evidence at the time which I did not make public or disclose to the Court. Because of the false statement by Justin B. Hill, I am now at the point where I feel that I must submit the evidence to the Court of Appeals of Virginia to prove my claims in my previous affidavits/Declarations (Exhibit 3 and Exhibit 12, in support of *MOTION FOR LEAVE OF COURT TO FILE ONE MORE APPELLANT OPENING BRIEF...*) as truthful and proven by prima facie evidence. I had warned him in EXHIBIT PAGES 21 and 22 OF 82 in support of my motion for leave of court to file one opening brief of Appellant filed on October 27, 2023, the following: “*The witnesses have heard it what Fred Smith had said, I have evidence of what this attorney told me at that meeting. I will not say any further what evidence I have, but I have evidence that this attorney will not fight for my First Amendment right to the contempt of court charge.*” Now I must disclose to the Court of Appeals of Virginia, the very evidence I have withheld. I had withheld it to protect my attorney/client privilege between myself and Attorney Fred Smith. But when I

read the false statement or false statements by Justin B. Hill in his “Brief of the Commonwealth”, pages 11 and 12, saying that there was no agreement prohibiting me from filing in the Court of Appeals of Virginia (CAV), claiming in footnote 4 to have affirmed this information from my court appointed lawyer Fred Smith according to his claims saying: “*Undersigned counsel confirmed this fact with Hill's appointed counsel in his contempt case during the pendency of those proceedings.*”

When I read the false statement or false statements, I felt angry and betrayed, I felt like my own lawyer lied to me or tricked me because he told me not to file anything in the “state courts”. Now I feel like the attorney/client privilege protection must be waived by myself in my contempt of court case as the client to expose the lie or lies told by Justin B. Hill or the lies could have come from my court appointed lawyer Fred Smith who was appointed by Judge Giles Carter Greer of the Circuit Court in my contempt of court case. I will explain herein, in this Declaration/Affidavit the very evidence I have which will expose the lie/lies and falsehood/falsehoods all stemming from my contempt of court case. I told the truth in my past filed Declarations/Affidavits. I will not be made by any deceitful person to look like a liar or delusional person of any kind when I have evidence to counter any such rhetoric.

5. I had been betrayed by other lawyers appointed by Judge Greer including but not limited to Scott Albrecht. I do not trust the public defenders anymore and do not trust any court appointed lawyer because I keep being lied to, I keep being lied about, I keep losing in the legal system due to these court appointed lawyers who act

more like prosecutors than actual defenders of their clients. I knew I had to feel suspicious about Attorney Fred Smith and I understand that Virginia law requires only one party who is present at the conversation can consent to record a private conversation that person is party to which can be used as evidence if the need ever arises.

6. I had brought a recording device into the office of Attorney Fred Smith with me when I was to have a meeting with him because I did not trust him since he was appointed by Judge Giles Carter Greer aka Judge Greer. The same one who I had filed accusations against him which led to my contempt of court charge against me. I knew I could be appointed a lawyer who may not truly represent me as his client to the best of his abilities. I did not entirely trust him; well, I didn't trust him enough not to record my conversations with him. My family members Roberta Hill, Stella Forinash, and Kenneth Forinash all knew I had carried the recording device into the office of my court appointed attorney to record the conversation I had with him if I ever had the need to use the recordings as evidence in the event, I am being lied about in regard to my contempt of court case. My family members had consented to the recording device being used. Therefore, everyone who met with Attorney Fred Smith with me had consented to the usage of the recording device. Fred did not know of the recording device being used, as I did not trust him and knew that he was not trustworthy. My feelings about this iffy lack of complete trusting of Fred Smith turned out to be correct after what Justin Hill had written to the Court of Appeals of

Virginia. Fred was supposed to be appointed to represent me but now I feel like he was meant to have me not file for six months in my appeals to set me up for the Appellees claim that I had filed an untimely appeal brief as they had claimed in their opposition brief in my appeals. I feel that I was set up, I felt like I was being set up here, one big set up to wreck my appeals and deprive me of procedural due process of law. I felt that after I read the brief of the Commonwealth filed by Appellees on January 2, 2024, that my own lawyer Fred Smith may had set me up to have me agree not to file in any of the Virginia state courts for six months in order to set me up to file untimely. I was set up by both the Commonwealth of Virginia by its special prosecutor and attorney Fred Smith. The City of Martinsville through Judge Greer had appointed the special prosecutor to prosecute the contempt of court case from what I understand, if I am correct here. I feel like the Commonwealth of Virginia and City of Martinsville had set me up with the special prosecutor and Attorney Fred Smith having this verbal agreement for me not to file for six months, then the Appellees represented by Justin B. Hill can then claim as he did in his opposing brief that I was not prohibited from filing in the Court of Appeals of Virginia while I was being told not to file at all in the “state courts”.

7. Therefore I had recorded the conversations with my Attorney Fred Smith on three separate occasions. On the dates of March 9, 2023; April 13, 2023, and October 20, 2023. The original recordings are longer and may include me walking to the attorney office, talking outside somewhere before entering the attorney office

and waiting. I had cut out those parts to make sure that the conversation would be the main objective of the audio files being submitted to the court. They were originally in WAVE FORMAT (*.wav) and are still in WAVE FORMAT when all unnecessary parts were cut out of both sides of the audio files. I always want to tell the truth to the court, because it is better for my case to tell the truth, even when it is inconvenient to certain political people. The court is where I must tell the truth and where truth needs to come to light. From what I understand about law, Judges need to be told the truth from all parties in a case or controversy when it involves either an appeal case or any criminal case or any civil case. Attorneys have to tell the truth.

8. I will specify some of the recorded conversation from my attorney visit on October 20, 2023, with Fred Smith. With copying and pasting from the transcriptions. Fred Smith told me some very interesting things involving Justin Hill. Fred Smith told me: *“Now about your question about what to do about your subsequent filings, I have talked to that, uh, assistant Attorney General. What's his name?”*, my response was: *“Uh, Justin,”* and Fred asked further: *“uh, what was his last name?”*. I then responded with: *“Uh Hill.”* Fred Smith had said: *“he, he, he, he knew about the six month thing”,* and *“and I talked to him and they get, I understood that you got an extension... to, to file.”* From what that conversation told me, he said he understood that I the Appellant got an extension “to file” at that time of the conversation on October 20, 2023. He knows quite well that I wanted to continue my appeals in the Court of Appeals of Virginia, and he had me convinced that I got

some kind of an extension of time to file my brief or briefs in the Court of Appeals of Virginia for cases no. 0313-23-3, 0314-23-3 and 0317-23-3. I assumed that such an extension existed somewhere which was why a decision had not yet been made for CAV cases no. 0313-23-3, 0314-23-3 and 0317-23-3; but I had never been served with any court order from the Court of Appeals of Virginia confirming whether or not I was given an extension as claimed by Attorney Fred Smith, so I had filed a Motion for leave of Court to file just one Appellant opening brief on October 27, 2023. The court has yet to act on that motion. I submitted my affidavit about the fact that I could not file in the state courts for six months. Attorney Fred Smith knew that I wanted to file in my appeals, and he said in the recorded conversations with me not to file anything in the state courts. From what he told me in multiple conversations, I was not given any exception to file in the Court of Appeals of Virginia, and I was told not to file anything but can file in the federal courts. My own attorney telling me in multiple recordings from different attorney visits where I am prohibited from filing in the state courts, yet Justin Hill is making false claims or false statements to the Court of Appeals of Virginia in its brief of the Commonwealth, filed January 2, 2024, telling the Court that I was not prohibited from filing in the Court of Appeals of Virginia. That contradicts what Attorney Fred Smith had instructed me to do in order to comply with him and the special prosecutor in order for my contempt of court case to be dismissed by a joint motion. I feel like somebody has lied about me or lied to me. It may be Justin Hill, it may be my own attorney Fred Smith. I feel

like somebody has lied about me somehow and that is going to negatively affect my appeals in the Court of Appeals of Virginia, I CANNOT stand for it. For God's sake, for truth's sake, I cannot stand for it. So, I must submit my conversation recordings of my conversations with my lawyer to the Court of Appeals of Virginia to prove Justin Hill was wrong, that he did not make a truthful statement. Here is where my thoughts are going about what I know from the way evidence files and then what Justin Hill claimed. I have to now assume the logical conclusions of what may be the case here. Either my attorney Fred Smith lied to me the entire time and I could file with the Court of Appeals of Virginia while being misguided that I could not file due to me being charged with contempt of court for exercising my first amendment right to free speech, or I was prohibited from filing in all Virginia courts (not federal courts) and that was omitted from the court filings, or Justin Hill knew that I was prohibited from filing in the Court of Appeals of Virginia since it is a state court and he could be making the false statement knowing that it is false. I don't know why such false statement was made and who started it. I need an inquiry or investigation into what is going on, and why Justin Hill would produce such a false statement to the Court of Appeals of Virginia. It is false. Although is it intentional? I don't know and don't have proof of Justin's intent, and think that the CAV needs to investigate Justin's claim to determine the intentions of Justin Hill as to his false statement. It is a set up because what if I filed in the CAV during the six month period and then all of the sudden I am tried and convicted for contempt of court with a lawyer who

refused to fight for my first amendment challenge. Then when I did comply with the six month no-filing period, then the Appellees can claim that it was untimely. I feel that I was being set up here. If I had not recorded those conversations, I would be in some kind of troublesome situation and I could have been falsely charged and arrested for being set up here somehow, I could have been wrongfully charged with perjury for truthfully claiming things in a verbal agreement while Justin Hill claims the agreement did not prohibit me which contradicts my own claims. I told the truth. The other side is not telling the truth which the conversation recordings can clearly show that I was telling the truth after all. They could either try to falsely claim perjury or that I suffer from delusions. But the audio recordings have saved me from such miserable fate I could face. Who knows what they could have pulled against me to have my appeals dismissed or fail.

9. According to the recorded conversation I had with Attorney Fred Smith on April 13, 2023, he said: *“tomorrow morning and the, and the commonwealth's attorney agrees to this,”*, then in another part he said: *“this will be continued for six months.”* Fred Smith then said afterwards: *“during that six months, Brian, ... don't file anything...with, with state court...They, they have no jurisdiction of what you might do in federal court”* I had said in the conversation in response to all of that: *“That's fine.”* Fred Smith then said to me again: *“Don't file anything in state court.”*

10. So I don't understand why Attorney Fred Smith told me not to file anything in the state court including my appeals for six months, then Justin Hill

claims that nothing in the agreement prohibited me from filing in the Court of Appeals of Virginia which is a state court as Fred Smith had warned me not to file in any state court for six months. It is confusing. I feel like I have been set up by either attorney or all of them or at least one of them lied to me or multiple attorneys lied to me or lied about me. I am confused because I have the recordings of my conversations with my court appointed attorney because I didn't trust him enough to keep things private out of rational fear that I would be betrayed or lied about. I was lied about. Justin Hill made a false statement about me. I have the conversation recordings. I have the hard evidence. It cannot be refuted.

11. The URLs/LINKS in my exhibits in support of my motion noted on the cover page, the links and urls were provided to me by my family member after uploading my conversation recordings to the cpanel (control panel) for JusticeForUSWGO.NL website system. Three audio files were uploaded to be given to the Court of Appeals of Virginia to download them and for the clerks, assistants, and judges to review over the conversation recordings which I had recorded. The files are Apr13-045432.wav, Mar09-726407.wav, and Oct20-077885.wav. They are being used in my Exhibits for my motion regarding Justin Hill. The motion noted/referenced at the top of this pleading, the "MOTION FOR SANCTIONS AND INQUIRY AGAINST JUSTIN HILL, ASSISTANT ATTORNEY GENERAL FOR POSSIBLY DEFRAUDING THIS COURT".

12. The transcripts in Exhibit 5, Exhibit 6, and Exhibit 7, are true and correct

transcripts which were created with the assistance of Artificial Intelligence (AI) transcription tools. Roberta Hill had created an Amazon AWS account on the free tier to have the three audio recordings transcribed by AI. I then checked the transcripts and noticed errors, extra numbers at the end of the minute second markings, and a lack of explaining who was saying what. So, I added the names of who was speaking at the different times throughout the recorded conversation, and corrected the errors. I wanted to make sure to identify who was speaking in those recordings. Removed the extra numbers at the end of the time length. Edited some wrong words to make sure that the transcript is as close to matching the audio conversation as possible, to be as accurate as possible. I then had Stella Forinash review over those transcripts and listen to the audio recordings to confirm accuracy of the transcripts. She had confirmed that two of them were accurate and the third one was almost entirely but it had one mistake. She did suggest correcting a wrong word where it said Just instead of Justin. I listened to the conversation at that part and did feel that Fred Smith did say the word “Justin” so it was corrected. I cannot guarantee a 100% error free accuracy but it is as close to complete accuracy as possible. Even AI can make mistakes and I am only human. That is why I had another person review over both the audio and transcription of those exact audio files.

13. Those conversation recordings are true and correct; and only the beginning of the original recordings and end of the original recordings were cut to remove the excess audio where there may be no evidential value or evidential benefit. The court

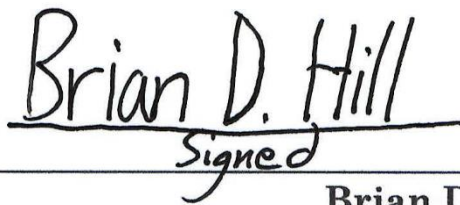
may have the entire original audio file if they wish to have them. If they only want the period of evidential value, then I hope they have what they need to conduct an inquiry into the situation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 15, 2024.

BRIAN DAVID HILL

Pro Se


Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

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Pro Se Appellant

<https://JusticeForUSWGO.wordpress.com>

<https://JusticeForUSWGO.nl>



EXHIBIT 2

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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**THIS EXHIBIT 2 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: AMENDED APPELLANT'S MOTION FOR DELAYED
APPEAL**

File: Mar09-726407.wav

<https://justiceforuswgo.nl/PUBLICATION/Mar09-726407.wav>

It is also an attachment to this PDF File exhibit.

If the attachment audio file still exists after
the combining all
Exhibits together in a single PDF file,
then it is recommended that the Clerk,
judges, and court staff download and archive the
evidence audio files as part of the appeal
record for the evidence in support
of the motion.

EXHIBIT 3

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

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**THIS EXHIBIT 3 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: AMENDED APPELLANT'S MOTION FOR DELAYED
APPEAL**

File: Apr13-045432.wav

<https://justiceforuswgo.nl/PUBLICATION/Apr13-045432.wav>

It is also an attachment to this PDF File exhibit.

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record for the evidence in support
of the motion.

EXHIBIT 4

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

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**THIS EXHIBIT 4 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: AMENDED APPELLANT'S MOTION FOR DELAYED
APPEAL**

File: Oct20-077885.wav

<https://justiceforuswgo.nl/PUBLICATION/Oct20-077885.wav>

It is also an attachment to this PDF File exhibit.

If the attachment audio file still exists after
the combining all
Exhibits together in a single PDF file,
then it is recommended that the Clerk,
judges, and court staff download and archive the
evidence audio files as part of the appeal
record for the evidence in support
of the motion.

EXHIBIT 5

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

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TRANSCRIPT OF Mar09-726407.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Stella Forinash

Date of transcription: January 14, 2024.

Date of audio file recording: March 09, 2023.

Participants: Brian D. Hill, Roberta Hill, Stella Forinash, Kenneth Forinash, Attorney Fred Smith

Recording by: Brian D. Hill, consented to recording of conversation

Conversation recorded at: Office of Fred D. Smith, Jr. P.C., 46 W Main St, Martinsville, VA 24112

Note: Transcription based on time-frame of audio file. So full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

0
00:00:00 --> 00:00:01
[Fred Smith] Right,

1
00:00:01 --> 00:00:05
[Fred Smith] now out in this case, they uh asked that a special prosecutor be

2
00:00:06 --> 00:00:06
[Fred Smith] done.
[Roberta Hill] Ok.

3
00:00:08 --> 00:00:08
[Fred Smith] And

4

00:00:08 --> 00:00:08

[Fred Smith] uh

5

00:00:08 --> 00:00:10

[Fred Smith] special prosecutor,

6

00:00:13 --> 00:00:13

[Fred Smith] yeah.

7

00:00:15 --> 00:00:19

[Fred Smith] Uh Justin, and I have talked extensively about

8

00:00:19 --> 00:00:20

[Fred Smith] this case.

9

00:00:22 --> 00:00:24

[Fred Smith] And so let me

10

00:00:28 --> 00:00:29

[Fred Smith] tell you, I think

11

00:00:34 --> 00:00:36

[Fred Smith] there is a provision of the law,

12

00:00:37 --> 00:00:39

[Fred Smith] a special provision of the law

13

00:00:40 --> 00:00:41

[Fred Smith] that

14

00:00:41 --> 00:00:43

[Fred Smith] uh addresses

15

00:00:44 --> 00:00:44

[Fred Smith] um

16

00:00:45 --> 00:00:46

[Fred Smith] folks who

17

00:00:47 --> 00:00:50

[Fred Smith] are facing any kind of charge who have autism.

18

00:00:52 --> 00:00:55

[Fred Smith] Uh I don't think this was on the books at the time

19

00:00:56 --> 00:00:56

[Fred Smith] uh

20

00:00:57 --> 00:00:58

[Fred Smith] in, in 2018.

21

00:01:00 --> 00:01:00

[Fred Smith] Uh

22

00:01:01 --> 00:01:03

[Fred Smith] but it's this way

23

00:01:04 --> 00:01:05

[Fred Smith] uh

24

00:01:06 --> 00:01:09

[Fred Smith] the deferred disposition in a criminal case,

25

00:01:09 --> 00:01:11

[Fred Smith] persons with autism or intellectual disability

26

00:01:12 --> 00:01:16

[Fred Smith] in any criminal case except a violation of 18.3 31

27

00:01:17 --> 00:01:18

[Fred Smith] um

28

00:01:18 --> 00:01:19

[Fred Smith] which is murder.

29

00:01:20 --> 00:01:20

[Fred Smith] Uh

30

00:01:21 --> 00:01:22

[Fred Smith] And then another

31

00:01:22 --> 00:01:24

[Fred Smith] irrelevant section or

32

00:01:24 --> 00:01:28

[Fred Smith] any crime for which a deferred disposition is provided for by statute,

33

00:01:28 --> 00:01:31

[Fred Smith] a form of plea of guilty or after a plea of not guilty.

34

00:01:31 --> 00:01:35

[Fred Smith] And the facts found by the court would justify finding of guilty

35

00:01:35 --> 00:01:37

[Fred Smith] the court may if the defendant has

36

00:01:37 --> 00:01:40

[Fred Smith] been diagnosed by a psychiatrist or clinical psychologist

37

00:01:41 --> 00:01:45

[Fred Smith] with an autism spectrum disorder is defined. Most recent addition

38

00:01:45 --> 00:01:48

[Fred Smith] of the diagnostic and statistical manual

39

00:01:48 --> 00:01:53

[Fred Smith] of mental disorders published by the American Psychiatric Association or

40

00:01:53 --> 00:01:53

[Fred Smith] in

41

00:01:53 --> 00:01:57

[Fred Smith] intellectual disabilities is defined in 37.2 100.

42

00:01:57 --> 00:02:01

[Fred Smith] The court finds by clear and convincing evidence that the conduct was

43

00:02:01 --> 00:02:03

[Fred Smith] caused by or has directed substantial

44

00:02:03 --> 00:02:06

[Fred Smith] relationship to the person's disorder disability

45

00:02:06 --> 00:02:10

[Fred Smith] without airing a judgment of guilt and with the consent of the accused. And

46

00:02:10 --> 00:02:14

[Fred Smith] after giving due consideration to the position of attorney for the commonwealth

47

00:02:15 --> 00:02:16

[Fred Smith] and the views of the victims defer

48

00:02:16 --> 00:02:19

[Fred Smith] such proceedings and place the accused on probation

49

00:02:19 --> 00:02:22

[Fred Smith] subject to terms and conditions set to the court

50

00:02:23 --> 00:02:24

[Fred Smith] in violation of the term or condition.

51

00:02:24 --> 00:02:27

[Fred Smith] The court may enter an adjudication of guilt

52

00:02:27 --> 00:02:29

[Fred Smith] or upon fulfillment of the terms and conditions.

53

00:02:29 --> 00:02:32

[Fred Smith] The court may discharge the person and dismiss the proceedings against him

54

00:02:33 --> 00:02:35

[Fred Smith] without any adjudication of guilt.

55

00:02:35 --> 00:02:36

[Fred Smith] So,

56

00:02:38 --> 00:02:38

[Fred Smith] um

57

00:02:38 --> 00:02:41

[Fred Smith] here's what uh we have under consideration.

58

00:02:41 --> 00:02:43

[Fred Smith] Uh Mr uh

59

00:02:44 --> 00:02:44

[Fred Smith] um

60

00:02:45 --> 00:02:47

[Fred Smith] Griffin and I talked extensively about

61

00:02:48 --> 00:02:50

[Fred Smith] uh your history, various diagnoses.

62

00:02:52 --> 00:02:53

[Fred Smith] Uh He proposes that

63

00:02:54 --> 00:02:57

[Fred Smith] uh there will be a joint motion by

64

00:02:58 --> 00:02:59

[Fred Smith] the Commonwealth

65

00:02:59 --> 00:03:02

[Fred Smith] and the defendant one

66

00:03:03 --> 00:03:03

[Fred Smith] and

67

00:03:04 --> 00:03:09

[Fred Smith] that there is an agreement on the record in the court files that you have a diagnosis

68

00:03:09 --> 00:03:10

[Fred Smith] of autism

69

00:03:11 --> 00:03:14

[Fred Smith] that autism explains uh

70

00:03:15 --> 00:03:17

[Fred Smith] the behaviors at issue here,

71

00:03:17 --> 00:03:19

[Fred Smith] uh that um

72

00:03:21 --> 00:03:21

[Fred Smith] um

73

00:03:22 --> 00:03:25

[Fred Smith] and o other findings and that uh

74

00:03:25 --> 00:03:26

[Fred Smith] with that

75

00:03:26 --> 00:03:31

[Fred Smith] you would be placed on probation for probably six months and probably the only

76

00:03:32 --> 00:03:34

[Fred Smith] the biggest term of your

77

00:03:34 --> 00:03:34

[Fred Smith] probation be that

78

00:03:35 --> 00:03:36

[Fred Smith] you don't make any more filings

79

00:03:37 --> 00:03:40

[Fred Smith] uh without the assistance of a lawyer

80

00:03:40 --> 00:03:43

[Fred Smith] that, that, that would be the primary condition.

81

00:03:44 --> 00:03:48

[Fred Smith] And the way that works is when we go to court tomorrow.

82

00:03:49 --> 00:03:52

[Fred Smith] If this is what I'm telling you all, it's agreeable.

83

00:03:53 --> 00:03:54

[Fred Smith] We would, we would

84

00:03:54 --> 00:03:56

[Fred Smith] not set a trial date,

85

00:03:56 --> 00:03:59

[Fred Smith] but what's called a disposition date.

86

00:03:59 --> 00:04:01

[Fred Smith] And during that period of time,

87

00:04:01 --> 00:04:02

[Fred Smith] Mr Griffin,

88

00:04:02 --> 00:04:04

[Fred Smith] I had not had time to work on this order

89

00:04:04 --> 00:04:07

[Fred Smith] because I've got a jury trial after you be in court

90

00:04:07 --> 00:04:07

[Fred Smith] in tomorrow

91

00:04:07 --> 00:04:09

[Fred Smith] working all day to day on that.

[Brian Hill] yeah

92

00:04:10 --> 00:04:11

[Fred Smith] And so the, the

93

00:04:12 --> 00:04:12

[Fred Smith] Mr Griffin,

94

00:04:13 --> 00:04:13

[Fred Smith] and I

95

00:04:13 --> 00:04:14

[Fred Smith] will prepare the order,

96

00:04:15 --> 00:04:18

[Fred Smith] you will review it because you have to agree to it as well.

97

00:04:19 --> 00:04:21

[Fred Smith] And then, um,

98

00:04:22 --> 00:04:25

[Fred Smith] uh then Judge Greer would have to agree to it.

99

00:04:25 --> 00:04:26

[Fred Smith] I suspect that he would

100

00:04:27 --> 00:04:28

[Fred Smith] and that would conclude the matter.

101

00:04:28 --> 00:04:31

[Fred Smith] In other words, after six months, this would,

102

00:04:31 --> 00:04:33

[Fred Smith] this would be dismissed no longer appear on the record.

103

00:04:34 --> 00:04:34

[Fred Smith] Now,

104

00:04:36 --> 00:04:39

[Fred Smith] le let me tell you what this does for you all with respect to

105

00:04:40 --> 00:04:41

[Fred Smith] this situation at all.

106

00:04:42 --> 00:04:43

[Fred Smith] I really wish,

107

00:04:45 --> 00:04:49

[Fred Smith] you know, the public defender folks have tough jobs,

108

00:04:50 --> 00:04:52

[Fred Smith] they've got so many people to defend,

109

00:04:52 --> 00:04:53

[Fred Smith] but

110

00:04:53 --> 00:04:56

[Fred Smith] in your case, they appropriately asked for an evaluation.

111

00:04:57 --> 00:04:58

[Fred Smith] And in fact,

112

00:04:59 --> 00:05:00

[Fred Smith] at the circuit court level, there've been,

113

00:05:00 --> 00:05:03

[Fred Smith] there've been a notification of intent to

114

00:05:03 --> 00:05:08

[Fred Smith] plead an insanity defense, which was the only way to get the issue addressed

115

00:05:09 --> 00:05:11

[Fred Smith] under the law at that time.

[Brian Hill] yeah

116

00:05:12 --> 00:05:15

[Fred Smith] You see, the, the law has changed dramatically

117

00:05:15 --> 00:05:17

[Fred Smith] since 2018 when that,

118

00:05:17 --> 00:05:19

[Fred Smith] when you were first charged

119

00:05:19 --> 00:05:20

[Fred Smith] and

120

00:05:22 --> 00:05:23

[Fred Smith] my system I

121

00:05:24 --> 00:05:24

[Fred Smith] get.

122

00:05:32 --> 00:05:32

[Fred Smith] Ok,

123

00:05:32 --> 00:05:34

[Fred Smith] I'll just take that message.

124

00:05:37 --> 00:05:37

[Fred Smith] Yeah.

125

00:05:38 --> 00:05:39

[Fred Smith] And,

126

00:05:39 --> 00:05:45

[Fred Smith] you know, ii, I certainly understand that you were upset and you felt like,

127

00:05:45 --> 00:05:46

[Fred Smith] um,

128

00:05:47 --> 00:05:49

[Fred Smith] your issues weren't being properly addressed.

129

00:05:50 --> 00:05:51

[Fred Smith] I understand that.

130

00:05:51 --> 00:05:52

[Fred Smith] But

131

00:05:52 --> 00:05:52

[Fred Smith] what

132

00:05:53 --> 00:05:56

[Fred Smith] the prosecutors used the process,

133

00:05:56 --> 00:05:57

[Fred Smith] uh, and, and

134

00:05:57 --> 00:05:59

[Fred Smith] I mean, the, you know, defense attorneys,

135

00:06:00 --> 00:06:02

[Fred Smith] uh, when I look at the record

136

00:06:03 --> 00:06:07

[Fred Smith] while all the appropriate motions took all the appropriate steps,

137

00:06:08 --> 00:06:11

[Fred Smith] they were handicapped as what they could do for you in 2018.

138

00:06:11 --> 00:06:13

[Fred Smith] And I understand you were upset

139

00:06:13 --> 00:06:16

[Fred Smith] and Judge Greer's pan for time because,

140

00:06:17 --> 00:06:19

[Fred
Smith] because getting, getting

141

00:06:20 --> 00:06:22

[Fred Smith] your issues before the court

142

00:06:22 --> 00:06:24

[Fred Smith] in the proper format

143

00:06:25 --> 00:06:25

[Fred Smith] do not have,

144

00:06:26 --> 00:06:27

[Brian Hill] um, actually,

145

00:06:28 --> 00:06:30

[Brian Hill] why were they allowed to let the body camera footage

146

00:06:30 --> 00:06:35

[Brian Hill] be destroyed in 2019 before seven months before I withdraw my

147

00:06:35 --> 00:06:35

[Brian Hill] appeal

148

00:06:36 --> 00:06:36

[Fred Smith] uh,

149

00:06:36 --> 00:06:40

[Fred Smith] that I, I don't, I don't answer that, but that's, but you, you've got to get the,

150

00:06:40 --> 00:06:44

[Fred Smith] you've got to get the proper form and the proper procedure

151

00:06:45 --> 00:06:47

[Fred Smith] to, to address that Brian, you just, you know,

152

00:06:47 --> 00:06:50

[Fred Smith] and so forth that has not happened.

153

00:06:50 --> 00:06:51

[Fred Smith] And so,

154

00:06:51 --> 00:06:51

[Fred Smith] uh,

155

00:06:51 --> 00:06:55

[Fred Smith] what needs to happen is you get this, this chapter right now,

156

00:06:55 --> 00:06:57

[Fred Smith] this contempt chapter closed

[Brian Hill] alright

157

00:06:57 --> 00:06:59

[Fred Smith] and you simply must

158

00:06:59 --> 00:07:00

[Fred Smith] engage

159

00:07:00 --> 00:07:01

[Fred Smith] an attorney

160

00:07:02 --> 00:07:07

[Fred Smith] to pursue a petition and filing of actual innocence in the proper format.
[Stella Forinash] Can

161

00:07:08 --> 00:07:08

[Stella Forinash] you still

162

00:07:08 --> 00:07:08

[Stella Forinash] do

163

00:07:08 --> 00:07:09

[Stella Forinash] that?

164

00:07:14 --> 00:07:15

[Fred Smith] Sure, you can, you can file the petition

165

00:07:16 --> 00:07:16

[Fred Smith] for the actual innocence anytime

166

00:07:16 --> 00:07:17

[Fred Smith] There you go. (Note: may have been in audio, AI found this one)

167

00:07:17 --> 00:07:20

[Brian Hill] Uh, that's not, they don't have that for

168

00:07:20 --> 00:07:21

[Brian Hill] misdemeanors.

169

00:07:21 --> 00:07:21

[Brian Hill] They're just felonies

170

00:07:22 --> 00:07:22

[Brian Hill] I've tried

171

00:07:23 --> 00:07:23

[Brian Hill] that.

[Fred Smith] Your right about that.

172

00:07:26 --> 00:07:27

[Fred Smith] Uh

173

00:07:27 --> 00:07:29

[Fred Smith] And if that's the case, that's just the law,

174

00:07:30 --> 00:07:31

[Fred Smith] that's, that's,

175

00:07:31 --> 00:07:34

[Fred Smith] you know, that's just, unfortunately, the law,

176

00:07:34 --> 00:07:38

[Roberta Hill] I have a question, what specifically did he say?

177

00:07:38 --> 00:07:42

[Roberta Hill] in the three appeals that offended or insulted that they

178

00:07:43 --> 00:07:44

[Fred Smith] accused him of fraud and conspi (note: almost said the word conspiracy)

179

00:07:46 --> 00:07:47

[Fred Smith] fraud on the court.

180

00:07:47 --> 00:07:49

[Fred Smith] Uh

181

00:07:49 --> 00:07:49

[Fred Smith] Was it

182

00:07:51 --> 00:07:51

[Fred Smith] really

183

00:07:52 --> 00:07:55

[Fred Smith] man that when you accuse a judge of committing fraud?

184

00:07:55 --> 00:07:56

[Fred Smith] That's

185

00:07:57 --> 00:07:57

[Fred Smith] uh

186

00:07:59 --> 00:08:01

[Roberta Hill] what about freedom of speech?

[Fred Smith] what?

187

00:08:01 --> 00:08:01

[Roberta Hill] Are you

188

00:08:01 --> 00:08:01

[Roberta Hill] not

189

00:08:01 --> 00:08:02

[Roberta Hill] allowed

190

00:08:02 --> 00:08:02

[Roberta Hill] to

191

00:08:02 --> 00:08:02

[Roberta Hill] accuse

192

00:08:04 --> 00:08:04

[Roberta Hill] anybody of anything?

193

00:08:05 --> 00:08:06

[Fred Smith] You got to have facts

194

00:08:06 --> 00:08:07

[Fred Smith] to support that.

195

00:08:09 --> 00:08:09

[Stella Forinash] He did have facts.

196

00:08:09 --> 00:08:11

[Brian Hill] did you read all of the facts I have?

197

00:08:12 --> 00:08:15

[Fred Smith] I've read your facts. I haven't seen any facts

198

00:08:15 --> 00:08:16

[Fred Smith] that would have,

199

00:08:16 --> 00:08:17

[Fred Smith] that would

200

00:08:18 --> 00:08:20

[Fred Smith] suggest that Judge Greer didn't do anything

201

00:08:21 --> 00:08:21
[Fred Smith] but follow

202
00:08:21.920 --> 00:08:22.029
[Fred Smith] the

203
00:08:23 --> 00:08:25
[Fred Smith] law
[Brian Hill] disobeying court orders is disobeying the law.

204
00:08:26 --> 00:08:29
[Fred Smith] I'm in a situation to get this chapter closed.
[Brian Hill] alright

205
00:08:30 --> 00:08:32
[Fred Smith] I do not want to get into all this other stuff

206
00:08:33 --> 00:08:35
[Fred Smith] and I will not get into all this other stuff.

207
00:08:36 --> 00:08:41
[Fred Smith] So if you want me to conclude this matter with respect to this contempt proceeding

208
00:08:41 --> 00:08:44
[Fred Smith] in the fashion of which I've described I will.

209
00:08:46 --> 00:08:48
[Fred Smith] But you are gonna have to get some other lawyer
[Brian Hill] alright

210
00:08:48 --> 00:08:49
[Fred Smith] to pick this up,

211

00:08:50 --> 00:08:52

[Fred Smith] uh, and pursue,

212

00:08:52 --> 00:08:54

[Fred Smith] uh, the issues that you all, uh,

213

00:08:56 --> 00:09:00

[Fred Smith] have focused a great deal of time and attention on in recent years?

[Brian Hill] alright

214

00:09:02 --> 00:09:03

[Stella Forinash] Is that [speaker difficult to hear]

215

00:09:03 --> 00:09:03

[Stella Forinash] ok? [speaker difficult to hear]

216

00:09:04 --> 00:09:04

[Stella Forinash] Yeah. [speaker difficult to hear]

217

00:09:07 --> 00:09:11

[Fred Smith] So that the, the there are, there are attorneys out there who specialize, uh,

218

00:09:11 --> 00:09:15

[Fred Smith] in, in, in these sorts of things. You might, you might could, you could,

219

00:09:15 --> 00:09:19

[Fred Smith] I don't know whether it's too late to file

220

00:09:19 --> 00:09:19

[Fred Smith] a habeas

221

00:09:19 --> 00:09:19

[Fred Smith] corpus

222

00:09:21 --> 00:09:22

[Fred Smith] petition or not.

223

00:09:22 --> 00:09:26

[Brian Hill] The innocence project could go to the governor and provide

224

00:09:26 --> 00:09:29

[Brian Hill] the proof that it was not dealt the right way

225

00:09:29 --> 00:09:31

[Brian Hill] and the governor could pardon me.

[Fred Smith] You

226

00:09:32 --> 00:09:33

[Fred Smith] can, you, can

227

00:09:33 --> 00:09:33

[Fred Smith] you,

228

00:09:34 --> 00:09:36

[Fred Smith] there any number of ways you could pursue this?

229

00:09:37 --> 00:09:37

[Fred Smith] But

230

00:09:37 --> 00:09:43

[Fred Smith] I'm, I'm here to get an agreement with you folks that, that what I've outlined to you

231

00:09:43 --> 00:09:48

[Fred Smith] is what you would like me to get done with respect to the current troubles Brian has.

232

00:09:49 --> 00:09:49

[Brian Hill] All right.

233

00:09:50 --> 00:09:50

[Unidentified speaker] Ok.

234

00:09:51 --> 00:09:53

[Fred Smith] All right. So that's what the plan is now tomorrow.

235

00:09:53 --> 00:09:57

[Fred Smith] Then you just need to be in court with me and we'll find out the date for us to return

236

00:09:57 --> 00:10:00

[Fred Smith] and you'll sign your recognizance to be back

237

00:10:00 --> 00:10:02

[Fred Smith] in the meantime, Mr

238

00:10:02 --> 00:10:05

[Fred Smith] Griffith and I will prepare the joint motion

239

00:10:05 --> 00:10:10

[Fred Smith] which I will review with everyone before we submit it.

240

00:10:10 --> 00:10:11

[Fred Smith] Ok.

[Brian Hill] alright

241

00:10:12 --> 00:10:13

[Fred Smith] Ok.

242

00:10:14 --> 00:10:18

[Stella Forinash] Sounds good to me.

[Brian Hill] thanks

[Fred Smith] See you in the morning.

243

00:10:18 --> 00:10:19

[Brian Hill] All right.

[Stella Forinash] 9 o'clock huh?

244

00:10:21 --> 00:10:21

[Fred Smith] Yep,

245

00:10:23 --> 00:10:25

[Fred Smith] how about 845.

246

00:10:27 --> 00:10:30

[Stella Forinash] I'm, I'm bad about it. They'll say like eight.

247

00:10:30 --> 00:10:30

[Stella Forinash] It's my age,

248

00:10:32 --> 00:10:32

[Fred Smith] let's

249

00:10:32 --> 00:10:32

[Fred Smith] not

250

00:10:33 --> 00:10:33

[Fred Smith] talk about age.

EXHIBIT 6

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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TRANSCRIPT OF Apr13-045432.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Stella Forinash

Date of transcription: January 14, 2024.

Date of audio file recording: April 13, 2023.

Participants: Brian D. Hill, Roberta Hill, Attorney Fred Smith

Recording by: Brian D. Hill, consented to recording of conversation

Conversation recorded at: Office of Fred D. Smith, Jr. P.C., 46 W Main St, Martinsville, VA 24112

Note: Transcription based on time-frame of audio file. So full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

1
00:00:06 --> 00:00:06
[Fred Smith] morning,

2
00:00:07 --> 00:00:08
[Brian Hill] morning
[Roberta Hill] morning

3
00:00:13 --> 00:00:16
[Fred Smith] In light of your concerns about what's gonna happen tomorrow.

4
00:00:17 --> 00:00:19
[Fred Smith] Here's, uh, what will happen

5
00:00:20 --> 00:00:23

[Fred Smith] tomorrow morning and the, and the commonwealth's attorney agrees to this,

6

00:00:24 --> 00:00:24

[Fred Smith] uh,

7

00:00:25 --> 00:00:26

[Fred Smith] this will be continued for six months.

8

00:00:27 --> 00:00:27

[Brian Hill] Alright.

9

00:00:29 --> 00:00:30

[Fred Smith] during that six months, Brian,

10

00:00:30 --> 00:00:32

[Fred Smith] don't file anything

[Brian Hill] Alright.

11

00:00:32 --> 00:00:34

[Fred Smith] with, with state court.

12

00:00:34 --> 00:00:37

[Fred Smith] They, they have no jurisdiction of what you might do in federal

13

00:00:37 --> 00:00:37

[Fred Smith] court.

14

00:00:37 --> 00:00:40

[Brian Hill] That's fine.

[Fred Smith] Don't file anything in state court.

15

00:00:41 --> 00:00:41

[Fred Smith] Now,

16

00:00:42 --> 00:00:42

[Fred Smith] uh,

17

00:00:43 --> 00:00:45

[Fred Smith] at the end of the six months when we come back to court,

18

00:00:47 --> 00:00:47

[Fred Smith] um,

19

00:00:48 --> 00:00:49

[Fred Smith] I have a good relationship with this prosecutor

20

00:00:50 --> 00:00:54

[Fred Smith] Uh, if we don't have any more paper in the file

21

00:00:54 --> 00:00:56

[Fred Smith] or more issues, um,

22

00:00:56 --> 00:00:59

[Fred Smith] I have a reason to believe he will dismiss the case.

23

00:00:59 --> 00:01:00

[Fred Smith] Ok.

24

00:01:01 --> 00:01:01

[Brian Hill] Alright.

25

00:01:01 --> 00:01:04

[Fred Smith] So that's what's gonna happen in the morning. It'll be straight and simple

26

00:01:05 --> 00:01:06

[Fred Smith] case will be called.

27

00:01:06 --> 00:01:08

[Fred Smith] I will stand, move the court

28

00:01:09 --> 00:01:10

[Fred Smith] to continue the case for six months.

29

00:01:11 --> 00:01:14

[Fred Smith] The prosecutor will stand up and say I do not object

30

00:01:15 --> 00:01:17

[Fred Smith] and the judge will be able to stay the case in six months.

31

00:01:18 --> 00:01:18

[Fred Smith] Ok.

32

00:01:19 --> 00:01:21

[Fred Smith] Alright, good.

33

00:01:22 --> 00:01:22

[Brian Hill] Alright.

34

00:01:23 --> 00:01:23

[Fred Smith] Ok.

35

00:01:24 --> 00:01:27

[Fred Smith] See you in the morning. Get there about 845 Ok.

36

00:01:27 --> 00:01:28

[Brian Hill] Alright

[Fred Smith] Ok.

37

00:01:29 --> 00:01:31

[Roberta Hill] Alright.

[Brian Hill] God bless you.

[Fred Smith] Yes.

38

00:01:33 --> 00:01:35

[Fred Smith] Alright, y'all have a good day.

[Roberta Hill] You too.

[Brian Hill] Thank

39

00:01:35 --> 00:01:35

[Brian Hill] you.

EXHIBIT 7

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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TRANSCRIPT OF Oct20-077885.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Stella Forinash

Date of transcription: January 14, 2024.

Date of audio file recording: October 20, 2023.

Participants: Brian D. Hill, Roberta Hill, Attorney Fred Smith

Recording by: Brian D. Hill, consented to recording of conversation

Conversation recorded at: Office of Fred D. Smith, Jr. P.C., 46 W Main St, Martinsville, VA 24112

Note: Transcription based on time-frame of audio file. So full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

0

00:00:02 --> 00:00:04

[Fred Smith] Hey, y'all.

[Brian Hill] Hey

[Roberta Hill] Hey

1

00:00:07 --> 00:00:08

[Fred Smith] Ok. Um,

2

00:00:08.880 --> 00:00:10.380

[Fred Smith] it's usually very simple.

3

00:00:11 --> 00:00:13

[Fred Smith] Uh, case will be called,

4

00:00:13 --> 00:00:16

[Fred Smith] I'll walk up to the bench with a dismissal order.

5

00:00:16 --> 00:00:17

[Fred Smith] The judge will sign it

6

00:00:17 --> 00:00:18

[Fred Smith] and we'll leave.

7

00:00:19 --> 00:00:22

[Fred Smith] Now about your question about what to do about your subsequent filings

8

00:00:23 --> 00:00:25

[Fred Smith] I have talked to that, uh,

9

00:00:26 --> 00:00:30

[Fred Smith] assistant Attorney General. What's his name?

[Brian Hill] Uh, Justin,

10

00:00:31 --> 00:00:33

[Fred Smith] uh, what was his last name?

[Brian Hill] Uh Hill.

11

00:00:34 --> 00:00:34

[Fred Smith] Yeah. Right.

12

00:00:35 --> 00:00:35

[Fred Smith] Uh,

13

00:00:35 --> 00:00:39

[Fred Smith] he, he, he, he knew about the six month thing

14

00:00:39 --> 00:00:43

[Fred Smith] and I talked to him and they get, I understood that you got an extension

15

00:00:43 --> 00:00:44

[Fred Smith] to, to file.

[Brian Hill] Oh,

16

00:00:44 --> 00:00:46

[Brian Hill] ok. Oh,

17

00:00:47 --> 00:00:50

[Fred Smith] yeah, let me review it with you because I think it's gonna be ok for you to file,

18

00:00:50 --> 00:00:53

[Fred Smith] just file your, your regular legal pleadings.

19

00:00:53 --> 00:00:58

[Fred Smith] But once we get that order, uh, entered on Tuesday, I'll reach out to him

20

00:00:58 --> 00:00:59

[Fred Smith] and, uh,

21

00:01:00 --> 00:01:04

[Fred Smith] it seeks the way clear for you to do that because I talked to him once before

22

00:01:05 --> 00:01:07

[Brian Hill] and I'm, I'm a patient person.

23

00:01:07 --> 00:01:08

[Fred Smith] Yeah. Well, good,

24

00:01:09 --> 00:01:10

[Fred Smith] good.

25

00:01:10 --> 00:01:12

[Fred Smith] So that's, that's all there is to it

26

00:01:12 --> 00:01:15

[Fred Smith] Brian. That's all that will happen Tuesday morning. And, uh,

27

00:01:16 --> 00:01:17

[Fred Smith] and, uh,

28

00:01:18 --> 00:01:19

[Fred Smith] once that order I will call,

29

00:01:19 --> 00:01:22

[Fred Smith] uh, Miss Hill until after the orders in.

30

00:01:22 --> 00:01:24

[Fred Smith] So in case he needs to see the, an order

31

00:01:25 --> 00:01:26

[Fred Smith] or that kind of thing.

32

00:01:26 --> 00:01:28

[Fred Smith] But, uh, I'll, I'll reach out to him

33

00:01:29 --> 00:01:30

[Fred Smith] so you can get,

34

00:01:30 --> 00:01:30

[Fred Smith] uh,

35

00:01:30 --> 00:01:31

[Fred Smith] the

36

00:01:31 --> 00:01:33

[Fred Smith] other filings going that you wanna do.

37

00:01:34.209 --> 00:01:35.750

[Brian Hill] And, you know, I mean,

38

00:01:36.209 --> 00:01:38.000

[Brian Hill] there's some things that I learned this year.

39

00:01:38.010 --> 00:01:40.489

[Brian Hill] I didn't know the years before that and,

40

00:01:40 --> 00:01:43

[Brian Hill] you know, there's been a lot of emotions and stuff like that.

41

00:01:44 --> 00:01:47

[Brian Hill] I mean, I will not make the same mistake I ever made again.

[Fred Smith] okay

42

00:01:48 --> 00:01:48

[Brian Hill] You

43

00:01:48 --> 00:01:48

[Brian Hill] know,

44

00:01:49 --> 00:01:50

[Fred Smith] good

[Fred Smith] good

[Fred Smith] that's good

45

00:01:50 --> 00:01:52

[Fred Smith] because the thing to realize, uh,

46

00:01:52 --> 00:01:53

[Fred Smith] uh

47

00:01:53 --> 00:01:54

[Fred Smith] Brian

48

00:01:55 --> 00:01:57

[Fred Smith] that when you file papers in court,

49

00:01:58 --> 00:01:59

[Fred Smith] uh,

50

00:01:59 --> 00:02:00

[Fred Smith] you know,

51

00:02:01 --> 00:02:02

[Fred Smith] you're kind of required to

52

00:02:03 --> 00:02:05

[Fred Smith] speak the lingo a little bit.

[Brian Hill] yeah

53

00:02:05 --> 00:02:09

[Fred Smith] Uh, because if you don't speak the lingo, the court don't pay any attention to you.

54

00:02:09 --> 00:02:12

[Fred Smith] And if you don't speak the lingo, sometimes you get in trouble.

55

00:02:12 --> 00:02:13

[Fred Smith] So, uh

56

00:02:13 --> 00:02:14

[Fred Smith] uh uh

57

00:02:14 --> 00:02:16

[Fred Smith] but you're, you're bright,

58

00:02:16 --> 00:02:20

[Fred Smith] you, if you, you read enough cases and they have the cases read

59

00:02:20 --> 00:02:22

[Fred Smith] and it just kind of

60

00:02:23 --> 00:02:27

[Fred Smith] talk like the, the cases you read and, and, and you'll be fine.

EXHIBIT 8

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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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**

**DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF AMENDED
APPELLANT'S MOTION FOR DELAYED APPEAL**



Brian David Hill – Ally of Q and Lin Wood
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Pro Se Appellant

– JusticeForUSWGO.wordpress.com

DECLARATION

Pursuant to the Virginia Code § 8.01-4.3. “Unsworn declarations under penalty of perjury; penalty.”, Appellant Brian David Hill hereby state to the Court of Appeals of Virginia and Appellee(s) the statement of facts as under penalty of perjury, pro se Appellant Brian David Hill, on oath deposes and states:

1. I am Brian David Hill, Appellant in the case nos. 1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3, 0289-22-3, 0290-22-3. I represent myself in those appeal cases because I cannot afford a private attorney. I feel that I am competent to continually work on my appeals.

2. On or about February 24, 2023, a rule to show cause was issued against me, the Appellant, on a charge of criminal contempt of court 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”. The criminal case number was CR19000009-01.

3. The direct cause of the criminal contempt charge was over statements made in my three notices of appeal, the same appeals at issue with the Motion for Delayed Appeal. See Trial Court record pages 4278-4291, 4292-4306, and pg. 4313-4325. The statements which triggered the contempt charge did not threaten the judge in any criminal way but only made lawful statements saying that certain people should

be held accountable for what I felt were that there were violations of law going on. I did not yell fire in a crowded theater. I did not defame the judge as I felt I had evidence and felt that the judge neglected to do his duties and neglected to do the right thing. All I did was criticize the judge and criticize some other people in my notices of appeal. Even the U.S. Supreme Court Justices give dissenting opinions and can criticize other judges or justices, that is freedom of speech. The bulwark of the very judicial process, the judiciary of government. I did not threaten any harm against the judge. I did not defame the judge. I was not charged with defaming the judge, and neither was I accused of defaming the judge. I felt that the judge got offended at my statements in my notices of appeal based on various evidence and factors going on in my trial court criminal case. I felt that I was protected under the First Amendment of United States Constitution and had filed pleadings early on in the contempt of court case asserting my constitutional legal defenses to the contempt of court charge, as I felt that my conduct in my notices of appeal were protected under the First Amendment of the United States Constitution, and the Virginia Constitution also has a clause for freedom of speech in its Bill of Rights. Even the Virginia Constitution says that freedom of speech can “never be restrained except by despotic governments”. I felt that the Trial Court had acted despotic with it's criminal contempt charge and abused its contempt powers by the legislature to restrain my freedom of speech according to the Virginia Constitution's own words under Article I, “Section 12. Freedom of speech and of the press; right peaceably to

assemble, and to petition.” I was not guilty of the contempt case. I don’t believe I was ever guilty because even the Virginia General Assembly has no lawmaking power above the Constitution to restrain the peaceful and orderly freedom of speech. The contempt of court case was unwarranted in my opinion and I never should have been charged with this. This was wrong. It was retaliation against me for my truthful claims and honest opinions and arguments based on what I had witnessed going on in my criminal case before the Trial Court.

4. On or about March 3, 2023, Attorney Fred Smith was appointed by the Hon. Giles Carter Greer of the Trial Court, to represent me over my contempt of court charge case. I have to make it clear factually that the same judge who I had brought allegations and opinions against in my notices of appeals, was the same judge over my contempt of court case and this judge did not recuse himself despite the fact that I was criticizing the exact same judge with my freedom of speech, honestly, who is the same judge over my contempt of court case. I felt that it was a conflict of interest and that it should have been a different judge over this case to protect my due process of law, my right to a fair trial, my right to an impartial trier of fact, and my right to effective assistance of counsel. I do not think it was appropriate for judge Greer to be the same judge in my contempt case as the one who I criticized and never threatened any harm against.

5. I had recorded conversations with my attorney Fred Smith at three visits to his law office located at 46 W. Main St., Martinsville, VA 24114. The conversation

dates which were recorded were March 9, 2023, April 13, 2023, and October 20, 2023.

6. **Exhibit 2**, link to the audio recording file, link given to me by family and was uploaded by Roberta Hill to the website directly to that link since I am under a supervised release condition where I am prohibited from using the internet. Exhibit 2 audio file, Mar09-726407.wav is a true and correct portion of the entire audio recording I had recorded at the office of Attorney Fred Smith on that date. I had given consent to recording my own attorney/client visit due to trust issues between me and Attorney Fred Smith. I had trust issues since judge Greer had appointed this attorney. I had a feeling that he was not looking out for my best interests protected under the United States Constitution and Virginia Constitution. I felt that Attorney Fred Smith was appointed to protect judge Greer's interests rather than protecting my constitutional right to freedom of speech and to possibly interfere with my constitutional right to appeal in the Court of Appeals of Virginia or cause prohibition of my constitutional right to appeal in the Court of Appeals of Virginia, despite my statutory appeal rights being protected by the Procedural due process of law under the Fourteenth Amendment of the United States Constitution. The original recording was recorded on the visit of Mar 9, 2023.

7. **Exhibit 3**, link to the audio recording file, link given to me by family and

was uploaded by Roberta Hill to the website directly to that link since I am under a supervised release condition where I am prohibited from using the internet. Exhibit 3 audio file, Apr13-045432.wav is a true and correct portion of the entire audio recording I had recorded at the office of Attorney Fred Smith on that date. I had given consent to recording my own attorney/client visit due to trust issues between me and Attorney Fred Smith. I had trust issues since judge Greer had appointed this attorney. I had a feeling that he was not looking out for my best interests protected under the United States Constitution and Virginia Constitution. I felt that Attorney Fred Smith was appointed to protect judge Greer's interests rather than protecting my constitutional right to freedom of speech and to possibly interfere with my constitutional right to appeal in the Court of Appeals of Virginia or cause prohibition of my constitutional right to appeal in the Court of Appeals of Virginia, despite my statutory appeal rights being protected by the Procedural due process of law under the Fourteenth Amendment of the United States Constitution. The original recording was recorded on the visit of April 13, 2023.

8. **Exhibit 4**, link to the audio recording file, link given to me by family and was uploaded by Roberta Hill to the website directly to that link since I am under a supervised release condition where I am prohibited from using the internet. Exhibit 4 audio file, Oct20-077885.wav is a true and correct portion of the entire audio

recording I had recorded at the office of Attorney Fred Smith on that date. I had given consent to recording my own attorney/client visit due to trust issues between me and Attorney Fred Smith. I had trust issues since judge Greer had appointed this attorney. I had a feeling that he was not looking out for my best interests protected under the United States Constitution and Virginia Constitution. I felt that Attorney Fred Smith was appointed to protect judge Greer's interests rather than protecting my constitutional right to freedom of speech and to possibly interfere with my constitutional right to appeal in the Court of Appeals of Virginia or cause prohibition of my constitutional right to appeal in the Court of Appeals of Virginia, despite my statutory appeal rights being protected by the Procedural due process of law under the Fourteenth Amendment of the United States Constitution. The original recording was recorded on the visit of April 13, 2023.

9. **Exhibit 5**, is a TRANSCRIPT OF Mar09-726407.wav. Date of transcription: January 14, 2024. Date of when audio was recorded: March 09, 2023.

10. **Exhibit 6**, is a TRANSCRIPT OF Apr13-045432.wav. Date of transcription: January 14, 2024. Date of when audio was recorded: April 13, 2023.

11. **Exhibit 7**, is a TRANSCRIPT OF Oct20-077885.wav. Date of transcription: January 14, 2024. Date of when audio was recorded: October 20, 2023.

12. The error, neglect, or fault in me losing the original opportunity for appeal

was that I had agreed verbally to not file anything in the “state court” for six months. The Attorney Fred Smith had made it abundantly clear, that I was not to file anything in the “state courts” for six months. In the **Exhibit 6 Transcript** and recording in **Exhibit 3**, the evidence supports that Attorney Fred Smith was going to have my contempt of court case continued for six months, and that the Commonwealth Attorney had agreed to it. That during the six-month period, he told me don't file anything with state court. Then he said again: “Don't file anything in state court.” He did not give me an exception to file in the Court of Appeals of Virginia. He did not give any indication during my visit with Fred Smith on April 13, 2023, according the conversation recording which is present as evidence in the **Exhibit 6 Transcript** and recording in **Exhibit 3**. I had agreed to this and had complied with his demand or order or whatever.

13. I did not have any opportunity to file anything with the Court of Appeals of Virginia for six-months. Because I was prohibited from doing so as directed by Attorney Fred Smith. The six-month period had started when the continuance was granted by Judge Greer. So, it started in April, 2023, and ended in October, 2023. If I had not complied with Attorney Fred Smith’s demand or order or whatever I verbally agreed to, there would have been no joint push with the Commonwealth’s Attorney for dismissing my contempt charge and Attorney Fred Smith would have refused to protect my first amendment right to freedom of speech and I would have been convicted of contempt of court as charged if my attorney refuses to defend my

First Amendment right to freedom of speech and my Virginia Constitutional right to freedom of speech under Article I, Section 12 in the Bill of Rights. The constitution is usually the only supreme law which can nullify an unconstitutional statute passed by a legislature or unconstitutional usage of a statute. Unless Fred Smith my attorney had agreed to protect my first amendment right as my defense to my criminal contempt of court charge, I would be convicted, no doubt about it when my attorney refuses to present a defense for me. So, my choice was if I filed in the Court of Appeals of Virginia to timely file my opening appellant briefs, then I would have faced jailtime for criminal contempt. This court should be aware that I am under federal supervised release conditions by the United States Probation Office for the Western District of Virginia. If I am convicted of any crime, then I face revocation of supervised release and then I am liable for sentencing for that revocation such as federal imprisonment. If I am convicted of criminal contempt, then I can be in violation of conditions of my federal supervised release and would face revocation which means federal imprisonment (See record pg. 3655-3735). According to trial court record page 3728, Judge Thomas David Schroeder had said: "So I'm going to order that Mr. Hill be committed to the custody of the United States Bureau of Prisons for 9 months." That was over the indecent exposure misdemeanor charge. Since I had faced 9 months of federal imprisonment over only a misdemeanor, the contempt of court case may carry a similar federal imprisonment sentence. Not only would I face jailtime for contempt of court, I would face concurrently or

consecutively or close to after the jailtime period, I can face a federal imprisonment sentence. I may be unable to comply with the rules of timely filing with the Court of Appeals of Virginia while sitting in a federal prison in a different state in the United States of America, as it is clear that I likely would not be incarcerated in a federal prison in Virginia. Because of my severe medical issues, I would likely to be sent to the Federal Medical Center in Kentucky if not the FMC in Butner, North Carolina.

14. Unless my attorney were to agree to protect and defend my first amendment rights in defense against the contempt of court charge, I am guaranteed that I would face federal imprisonment and local jailtime which would have fettered with my due process right to appeal to the Court of Appeals of Virginia, and would directly interfere with my ability to comply with the Rules of the Supreme Court of Virginia and prevent me from timely filing of my appeal briefs or anything timely.

15. According to Attorney Fred Smith as proven in the audio recordings, the situation would be that I was either to not file anything in any of the Virginia state courts for six months, case was dismissed in October 23, 2023, or likely he would have had me gone to trial for the contempt of court case without defending my first amendment right to freedom of speech and I would have been convicted because my attorney would not defend me or not defend my constitutional rights. I had to agree not to file in state court to protect myself from the outcome which would have been a certain verdict. Either scenario meant that I would be interfered with or fettered with of my right to file in the Court of Appeals of Virginia. I clearly was prohibited

because of the alternative of filing with the CAV during a six-month period may have caused the Commonwealth Attorney aka special prosecutor to reconsider the decision to agree to push for dismissing the case, and I would have faced a certain outcome of jailtime and federal imprisonment.

16. The error, neglect, or fault in me losing the original opportunity for appeal was that I had agreed verbally to not file anything in the “state court” for six months. The Attorney Fred Smith had made it abundantly clear, that I was not to file anything in the “state court” for six months. The Court of Appeals of Virginia is a “state court”. The recorded conversation proves that Attorney Fred Smith orally gave no exceptions to my prohibition to file in “state court”. It can be any state court in Virginia. He was aware of my appeals. The opposite would be jailtime and federal imprisonment which would cause an interference and may prevent me from being able to file in the Court of Appeals of Virginia. The record of the trial court is over 4,000 pages. It would be difficult for the Court of Appeals of Virginia to mail over 4,000 pages of the record of the trial court to the federal prison where I would be an inmate, where I would be housed, just to protect my procedural due process of law. It may very well be impossible for me to prosecute my appeals while in a federal prison facility as a repercussion of my contempt of court case due to Attorney Fred Smith not willing to protect my freedom of speech in defense to my contempt of court charge. The CAV record request section having to mail over 4,000 pages of the trial court record to me while me being housed at a federal prison. The prison

facility may not allow me to possess over 4,000 pages of paper for my Virginia appeals inside of wherever I would be housed at a federal prison. If I am convicted of contempt of court, my appeals would be fettered with and my prosecution of my appeals would be extremely difficult to maybe impossible. Probably impossible. What can I say? It is pretty clear that it cannot be done. No federal prison will allow me to possess over 4,000 pages from the Court of Appeals of Virginia in a small prison cell. It would be a messy situation. Imagine this court having to mail a large box with over 4,000 pages of trial court record, just to protect my right to prosecute my appeals while I sit in a federal prison over my contempt of court charge when Attorney Fred Smith refused to protect my first amendment right to freedom of speech.

17. I feel and believe that the error, neglect, or fault is not my fault because of my freedom of speech. I believe that the error, neglect, or fault, is at fault of Attorney Fred Smith for not protecting my freedom of speech and for not protecting my constitutional right to my appeals in the Court of Appeals of Virginia. It is Attorney Fred Smith's fault why I couldn't file timely in the Court of Appeals of Virginia.

18. On January 17, 2023, the Court of Appeals of Virginia had said in its order I am aware of that: "Under Rule 5A:19(b)(1), the appellant's opening brief was due not later than Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023." Both of those dates, I was prohibited from filing in the "state court" which

can mean any Virginia court including this court as I was given no exception by Attorney Fred Smith to file in this court and Attorney Fred Smith had not given me any exception to file in the Court of Appeals of Virginia. The audio recordings of my visits with my attorney prove that Attorney Fred Smith did not give me any exception to not file anything in the state courts for six months of the continuance of the contempt of court case. Those two dates in the order of the Court of Appeals of Virginia, any filing before the deadlines as set by the rules would have gotten me in trouble and I would have been convicted of contempt of court due to the circumstances where my court appointed attorney by Judge Greer, my attorney would not fight for my first amendment right to freedom of speech. A constitutional defense would negate any possible criminal conviction of a charged crime over a constitutionally protected action or constitutionally protected behavior. Because Attorney Fred Smith would not go that route, I had to agree not to file in the state courts for six months and until the six-month continuance had been over. That would be in October, 23, 2023, when the contempt of court case was dismissed with agreement of the Commonwealth's Attorney which would be the special prosecutor. It was impossible under my circumstances for me to comply with Rule 5A:19(b)(1), It was impossible for me to comply with Rule 5A:19(b)(4) under my circumstances. If I had filed timely before those deadlines, then I would have gone to federal prison and faced revocation of supervised release for facing a conviction of contempt of court. Then I would have sat in federal prison which would make it impossible or

nearly impossible to prosecute my appeals under the rules of the Supreme Court of Virginia, as the Court would have to mail over 4,000 pages of the record of the Trial Court to me in a federal prison cell. Also, I couldn't comply with any of the other rules since I may only have access to pen and paper if I am lucky to get access to a pen, maybe it would be pencil and paper writing to the Court of Appeals of Virginia. So, they would have to receive my handwritten pleadings which may be considered not compliant with the rules of the Supreme Court of Virginia but I would have no choice while sitting in a federal prison somewhere. If I get placed in the Special Housing Unit (SHU) of the federal prison for whatever reason or no reason, then I may not be able to write the Court of Appeals of Virginia at all or face more prison restrictions making it impossible for me to comply with any rule of the Supreme Court of Virginia, and I probably couldn't even comply with the rules of formality anyways while in a federal prison, period.

19. There was no way to avoid dismissal for failure to prosecute my appeals and timely file documents in my appeals because of the six-month no filing verbal agreement in the no filing in the "state court" prohibition. My hands were tied, I could not inform the Court of Appeals of Virginia about this predicament once I had agreed not to file in the state courts, so I couldn't file any request for an extension of time once the six-month period had begun in April, 2023. I did ask Justin Hill, counsel for Appellees to notify the Court of Appeals of Virginia about me not being able to file anything with this court, and he refused to do anything about it. What a

nice guy he was, being sarcastic here. It is clear that he didn't do his duty as Appellees to notify the court that I couldn't file in the state court for six months. Fred didn't say "circuit court", but the words: "state court". He was clear about the six-month prohibition.

20. By order entered January 17, 2024, this Court dismissed my appeals in all three appeal cases, nos. 0313-23-3, 0314-23-3 and 0317-23-3.

21. I as Appellant bear no personal responsibility for my error, neglect, or fault in me not timely filing my opening briefs in the three appeal cases. The responsibility lies entirely with Attorney Fred Smith who instructed me not to file anything in the "state court" to avoid me being convicted of contempt of court since he refused to present a first amendment defense by having a freedom of speech defense to my charge of criminal contempt for my "language" in my three notices of appeal at issue of which had begun my three appeals at issue. I shouldn't be held personally responsible for not filing timely because of the prohibition which I had no control of that matter. It was either I not file for six months or I face repercussions such as federal imprisonment and jailtime for criminal contempt because of not being allowed a first amendment challenge by my own court appointed lawyer Fred Smith. I feel that Fred Smith is at fault and should be who is responsible for me not filing timely. I feel personally that it is his fault and not my fault. It is his fault for me being prohibited from filing for six-months. My recordings of the conversation between me and Attorney Fred Smith proves this to be true.

22. AMENDED DECLARATION STATEMENTS, ORIGINAL DECLARATION STATEMENTS ABOVE ON EARLIER DATE. **JANUARY 20, 2024 STATEMENT:** I, Brian David Hill found additional evidence which I will submit to the Court of Appeals of Virginia and copies to both Glen Andrew Hall and Justin Hill, the Assistant Attorney General.

23. **Exhibit 9**, link to the audio recording file, link given to me by family and was uploaded by Roberta Hill to the website directly to that link since I am under a supervised release condition where I am prohibited from using the internet. Exhibit 9 audio file, 20230306154652-O-12766382555.wav is a true and correct copy of the entire audio recording I had recorded at 310 Forest Street, Martinsville, VA 24112 in Roberta Hill's apartment. The recording was of a phone call conversation between me and Attorney Fred Smith. I had given consent to recording my own attorney/client phone call due to trust issues between me and Attorney Fred Smith. I had trust issues since judge Greer had appointed this attorney. I had a feeling that he was not looking out for my best interests protected under the United States Constitution and Virginia Constitution. I felt that Attorney Fred Smith was appointed to protect judge Greer's interests rather than protecting my constitutional right to freedom of speech and to possibly interfere with my constitutional right to appeal in the Court of Appeals of Virginia or cause prohibition of my constitutional right to appeal in the

Court of Appeals of Virginia, despite my statutory appeal rights being protected by the Procedural due process of law under the Fourteenth Amendment of the United States Constitution. The copy of the original recording was recorded on the phone call conversation of March 6, 2023.

23. **Exhibit 10**, link to the audio recording file, link given to me by family and was uploaded by Roberta Hill to the website directly to that link since I am under a supervised release condition where I am prohibited from using the internet. Exhibit 10 audio file, 20230622090230-I-2766382555.wav is a true and correct copy of the entire audio recording which I was made aware that Roberta Hill had recorded at 310 Forest Street, Martinsville, VA 24112 in Roberta Hill's apartment. The recording was of a phone call conversation between Roberta Hill (*my mother and online filing assistant since I cannot use the internet*) and Attorney Fred Smith. The Court can ask her directly if necessary but I am aware personally that she, my mother had given consent to recording my mother's phone conversation with my Attorney Fred Smith. I had trust issues since judge Greer had appointed this attorney. I had a feeling that he was not looking out for my best interests protected under the United States Constitution and Virginia Constitution. I felt that Attorney Fred Smith was appointed to protect judge Greer's interests rather than protecting my constitutional right to freedom of speech and to possibly interfere with my constitutional right to

appeal in the Court of Appeals of Virginia or cause prohibition of my constitutional right to appeal in the Court of Appeals of Virginia, despite my statutory appeal rights being protected by the Procedural due process of law under the Fourteenth Amendment of the United States Constitution. The copy of the original recording was recorded on the phone call conversation of March 6, 2023.

24. **Exhibit 11**, is a TRANSCRIPT OF 20230306154652-O-12766382555.wav. Date of transcription: January 20, 2024. Date of when audio was recorded: March 06, 2023.

25. **Exhibit 12**, is a TRANSCRIPT OF 20230622090230-I-2766382555.wav. Date of transcription: January 20, 2024. Date of when audio was recorded: June 22, 2023.

26. **Exhibit 13**, FILE: EXHIBIT 13-2nd 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 14. Email Subject: 2nd Emergency Letter to Justin Hill, Attorney General; Date: 6/28/2023, 4:18 AM.

27. Exhibit 14, FILE: EXHIBIT 14-Emergency_Letter_Justin_Hill_6_28_2023.pdf.pdf. It is a true and correct copy of a file attachment to email of EXHIBIT 13. Entitled: "2ND EMERGENCY LETTER TO JUSTIN HILL OF OFFICE OF THE ATTORNEY GENERAL - RE: Case nos.

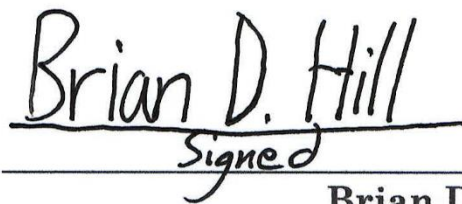
1424-22, 1425-22, 0313-23-3, 0314-23-3, 0317-23-3, 0289-22-3, 0290-22-3”.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 20, 2024.

BRIAN DAVID HILL

Pro Se


Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

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(276) 790-3505

Pro Se Appellant

<https://JusticeForUSWGO.wordpress.com>

<https://JusticeForUSWGO.nl>



EXHIBIT 9

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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**THIS EXHIBIT 9 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: AMENDED APPELLANT'S MOTION FOR DELAYED
APPEAL**

File: 20230306154652-O-12766382555.wav

<https://justiceforuswgo.nl/PUBLICATION/20230306154652-O-12766382555.wav>

It is also an attachment to this PDF File exhibit.
If the attachment audio file still exists after
the combining all
Exhibits together in a single PDF file,
then it is recommended that the Clerk,
judges, and court staff download and archive the
evidence audio files as part of the appeal
record for the evidence in support
of the motion.

EXHIBIT 10

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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**THIS EXHIBIT 10 CONTAINS THE AUDIO URL/LINK
TO EVIDENCE CRITICAL AND IMPORTANT TO THE FOLLOWING
MOTION: AMENDED APPELLANT'S MOTION FOR DELAYED
APPEAL**

File: 20230622090230-I-2766382555.wav

<https://justiceforuswgo.nl/PUBLICATION/20230622090230-I-2766382555.wav>

It is also an attachment to this PDF File exhibit.
If the attachment audio file still exists after
the combining all
Exhibits together in a single PDF file,
then it is recommended that the Clerk,
judges, and court staff download and archive the
evidence audio files as part of the appeal
record for the evidence in support
of the motion.

EXHIBIT 11

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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TRANSCRIPT OF 20230306154652-O-12766382555.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Brian Hill

Date of transcription: January 20, 2024.

Date of audio file recording: March 6, 2023.

Participants: Brian D. Hill, Attorney Fred Smith (1-276-638-2555)

Recording by: Phone Call recording device. Brian D. Hill, consented to recording of conversation

Conversation recorded at: Home of Brian D. Hill, Appellant. At address of 310 Forest Street, Martinsville, VA 24112, recording device used in Apartment 1. Appellant lives in Apartment 2.

Note: Transcription based on Audio Identification system of analyzing audio file. Still, full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

[Fred Smith]: Fred Smith.

[Brian Hill]: Um, were you able to receive the signed? Um,

[Fred Smith]: Yes I did and we've sent them

[Fred Smith]: on to

[Fred Smith]: get the updated records.

[Brian Hill]: Um, is there anything else you want me to do or just, uh, just hang tight?

[Fred Smith]: Just hang tight. Don't, don't file anything. Uh,

[Fred Smith]: this is a very unusual

[Fred Smith]: procedure that, uh, is, has been undertaken by Judge Greer and looking at the paper and looking at the statute. Uh, he, he could have summarily given you up to 10 days in jail or fined you up to \$250. But he's,

[Fred Smith]: he's

[Fred Smith]: decided to set this case down for jury trial, Brian. Uh, so I've got to, um, um, collect a lot of info. I think it will, uh, relate heavily to your mental health. So, uh, we have to work on all that to get updated records and that sort of thing. Um, I did. Um, um, I've reached out to Dr. Loehrer and hopefully I can talk to her in the next day or so. But anyway, that's where we are. So, uh, uh, I don't think. I've got a jury trial to do on Friday. So as soon as we get your trial date, uh, that morning before the jury trial starts. Uh, that's, that's all we'll be doing for the time being. Uh, so that's where we are. Just keep your head down and lay low. Ok.

[Brian Hill]: Alright.

[Fred Smith]: Ok, Brian, thanks for calling, call anytime.

[Brian Hill]: Alright. Thank you.

[Fred Smith]: Ok. Bye

[Brian Hill]: bye.

EXHIBIT 12

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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TRANSCRIPT OF 20230622090230-I-2766382555.wav

Transcription by Brian D. Hill after Roberta Hill uploaded audio file to Amazon AWS service which had used the assistance of Artificial Intelligence (AI) of analyzing the audio file; with review by Brian Hill

Date of transcription: January 20, 2024.

Date of audio file recording: June 22, 2023.

Participants: Roberta Hill, Attorney Fred Smith (1-276-638-2555)

Recording by: Phone Call recording device. Roberta Hill, consented to recording of conversation, knew it was recorded, consented to recording, and permitted usage of this recording. Court can independently verify this if the Court feels that it is necessary.

Conversation recorded at: Home of Brian D. Hill, Appellant. At address of 310 Forest Street, Martinsville, VA 24112, recording device used in Apartment 1. Appellant lives in Apartment 2.

Note: Transcription based on Audio Identification system of analyzing audio file. Still, full sentences may be split into separate sections when created with the assistance of AI transcription.

TRANSCRIPTION:

[Roberta Hill]: Hello.

[Fred Smith]: Uh, MS Hill.

[Roberta Hill]: Uh huh.

[Fred Smith]: This is Fred Smith. How are you this morning?

[Roberta Hill]: Ok.

[Fred Smith]: Um, I got a call from the Attorney General's office yesterday concerning a filing that Brian has due in approximately 30 days.

[Roberta Hill]: Uh huh.

[Fred Smith]: And, uh, the, the, the attorney general, the assistant attorney General that spoke to me expressed concern that Brian has about filing anything until we get this October hearing behind us.

[Roberta Hill]: Uh huh.

[Fred Smith]: Um, uh, the attorney general will agree to give Brian until after October

[Roberta Hill]: Ok

[Fred Smith]: uh, of his hearing date, uh, in order to make further filings in the matters he has in the court of appeals. So, Brian needs to call the, the, the gentleman that he spoke with and tell him he would like to agree to do that, that he would like that extra time to make filings until sometime on a date after his October hearing date.

[Roberta Hill]: Ok, I'll let him know about that.

[Fred Smith]: Ok, thank you, Miss Hill.

[Roberta Hill]: Alright, thanks. Bye

[Fred Smith]: Bye.

EXHIBIT 13

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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Subject: 2nd Emergency Letter to Justin Hill, Attorney General

From: ROBERTA HILL <rbhill67@comcast.net>

Date: 6/28/2023, 4:18 AM

To: "Hill, Justin B." <jhill@oag.state.va.us>, "OAG Criminal Litigation

(oagcriminallitigation@oag.state.va.us)" <oagcriminallitigation@oag.state.va.us>, "Coen, Chris"

<ccoen@oag.state.va.us>, "Henderson, Deborah J." <DHenderson@oag.state.va.us>

CC: adriennadicioccio@yahoo.com, Lin Wood <lwood@linwoodlaw.com>, Lin Wood

<lwood@fightback.law>, "stanleybolten@justiceforuswgo.nl" <StanleyBolten@justiceforuswgo.nl>,

"rbhill67@justiceforuswgo.nl" <rbhill67@justiceforuswgo.nl>

Justin Hill,

I spoke with Brian's attorney Fred Smith who wanted Brian to notify you about continuing his appeals after the period where he agreed that he cannot file in the Virginia courts for a certain period of time for the contempt case (I believe was filed out of emotion or anger out of what my son had said) to go away after things cool down from that escalation. My son Brian Hill wanted me to email you his 2nd emergency letter about this new development. It is attached.

Emergency_Letter_Justin_Hill_6_28_2023.pdf.pdf - 2nd Emergency Letter

Brian's court appointed lawyer from his contempt case doesn't object to Brian continuing his appeals and moving the filing deadlines to after he is allowed to file again in the "state court". I think this lawyer may have realized that Brian has real evidence filed in the court. He isn't just talking. He does have proof. Proof documents. That was why Brian wanted the State Police to come and interview him about the evidence he wanted them to have and investigate. Brian does have real proof that laws were violated here by the government. Rob Fincher is a better police chief for Martinsville. He actually cared more about listening to the citizens who are concerned about crimes and issues which need police intervention. Brian is bold when he feels that he is innocent of his charge, Brian ain't afraid to prove to the police that he is innocent when there is evidence favorable to him. It is his right.

The DEEP STATE can Frame You - the Documentary

<https://rumble.com/v2ozhp6-the-deep-state-can-frame-you-the-documentary.html>

Best Regard,
Roberta Hill

— Attachments: —

Emergency_Letter_Justin_Hill_6_28_2023.pdf.pdf

129 KB

EXHIBIT 14

for

AMENDED APPELLANT'S MOTION FOR
DELAYED APPEAL

CAV record no. 0313-23-3, 0314-23-3 and 0317-23-3

Ally of Q, Former news reporter of USWGO Alternative News

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**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**

Wednesday, June 28, 2023

ATTN: Justin Hill Office of the Attorney General	202 North Ninth Street Richmond, Virginia 23219 Phone: (804) 786-2071
---	---

Justin Hill,

My court appointed attorney Fred Smith had attempted to contact me on June 22, 2023. He spoke with my mother over the phone, she explained the situation; and his position on the appeals matter was that I can continue with my appeals after that timeout period, that is what I call it, a timeout period. Fred didn't call it a timeout period but I call it that as that I believe is the right term to call the six months no filing period in the state courts.

He wanted me to notify you about this, since Fred Smith was the one who asked and I had agreed with him verbally on me not filing for six months in the state court, assuming it means all courts in the Commonwealth of Virginia, but not including the United States District Courts, United States Courts of Appeals, and United States Supreme Court.

I am glad that the Commonwealth/Appellees' does not oppose some kind of continuance or delay until after this timeout period had concluded. If you want, you can ask Fred Smith for an affidavit if that is necessary for the Court of Appeals of Virginia to continue the appeals or delay the appeals until after October, 2023.

My mother did witness me not having all pleadings in the UPS envelope from your office. I did not receive your motions but I did receive your opposition brief and e-filing paper of what was electronically filed. I did wanted her to email that information to you that she was also aware that I

did not receive all motions. So I do ask that the continuance also allows me to explain to the Court of Appeals of Virginia that the three appeals this year are not the same as the appeals filed last year. Judge Greer's orders this year where he claimed to have jurisdiction but denied my motions. He claimed not to have jurisdiction in the orders which were appealed last year. So there are issues I do have with any mass consolidation request for appeal cases when the appeals filed this year are of different substance. Like the difference being that Judge Greer did not invoke or argue that there was lack of jurisdiction to have acted on my motions filed this year in 2023.

I do wish to have a counter response to your motion for consolidation, at least of the three appeals filed this year. I did receive the court order where they were not acting on your consolidation motion until the record had been received where it can be reviewed by the clerks. I am sure the Clerks and judges may see differences in the type of motions which were denied this year and last year, differences in the court orders appealed from this year and last year. They may not completely agree with your request in the motion for mass appeal cases consolidation, at least with three appeals.

Also I should at least be allowed to file one brief for my remaining three appeals this year. That is all I need to file as the issues in all three appeals filed this year do deserve a consolidation of those appeal cases. Even if all appeal cases are consolidated, I should have a right to still file one more brief for the appeals filed this year since there was no brief filed this year for the three appeals. Hopefully you understand the issues I have with a consolidation of all appeals. Evidence this year wasn't on record last year.

Anyways, I have plenty of time during the timeout period to think of what the assignments of error should be. I think the reason why I was targeted with a contempt of court charge over telling the truth about the judge involved in the Circuit Court, was because I think these appeals have a better chance of succeeding than the ones last year. That is because I had caught the corrupt former Chief of Police G. E. Cassady and Glen Andrew Hall the Corrupt Commonwealth Attorney destroying evidence in violation of two court orders from the Circuit Court and the court order from the General District Court. Crimes were committed and perpetuated by Glen Andrew Hall, the Commonwealth Attorney for the City of Martinsville.

That is why these three appeals are important and why I risked jail time and a contempt charge over the three appeals, is because I HAVE THE PROOF, I HAVE THE EVIDENCE. Evidence I did not have last year, proof I did not have last year. I could speculate and make conspiracy theories about Martinsville, but I didn't have the solid proof that evidence was ILLEGALLY COVERED UP by Glen Andrew Hall. I knew once Rob Fincher the new Police Chief of the City of Martinsville had admitted that the body-camera footage had been deleted because it was NOT MARKED AS EVIDENCE when they knew of the prosecution against me, well Glen A. Hall aka Andy Hall knew of the prosecution against me, he prosecuted me yet he didn't inform Martinsville Police Department about the criminal prosecution which Robert Jones of Martinsville Police Department had pushed for. They were all in on this criminal conspiracy, they knew body-camera footage had been recorded. They VIOLATED my BRADY RIGHTS, they violated my right to all discovery materials as the COURT ORDERED.

You see why the judge wanted me charged with CONTEMPT, because I had solid proof that I didn't have before, solid evidence from Chief of Police Rob Fincher of Martinsville when he took over in January, 2023.

I also informed the U.S. Probation Officer on the real reason I was charged with contempt of court by Judge Greer. My federal Probation Officer who investigated my indecent exposure charge in 2018, didn't receive all evidence pertinent to the investigation by the United States Probation Office, which is a federal law enforcement office of the United States Judiciary. Jason knows that he was deceived, that he never got a chance to review over the body-camera footage. So it wasn't just court orders being violated. Criminal laws in the United States were violated by Glen Andrew Hall. Under 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records in Federal investigations and bankruptcy, Glen Andrew Hall knowingly had evidence (body camera footage, admitted by Rob Fincher, Chief of Police) he did not disclose to the Defendant or Defendant's lawyer (myself as Appellant); and the Commonwealth Attorney Andy Hall and Martinsville Police under G. E. Cassady (corrupt Police Chief) did not disclose to ANY FEDERAL INVESTIGATORS including Jason McMurray a United States Probation Officer. Andy Hall did not disclose to the United

States Attorney Office the body-camera footage and acted like it didn't exist by calling me delusional. Yeah I was diagnosed wrongfully with delusional disorder in federal court over disagreements and issues while I was in jail in 2014 being messed with by the jail guards and some weird things that went on by the court officials. There was some dirty stuff there. Anyways, because of that label of "delusional disorder" they thought me talking about the body-camera footage was a product of a delusion and didn't believe me.

WELL, ROB FINCHER, Chief of Police admitted that there were recordings from Martinsville Police Department concerning my name, aka the body-camera footage proving beyond doubt that it did exist, that I was NOT delusional. Now they have to cover that up by charging me with contempt of court for telling the truth about Judge Greer protecting them.

I couldn't prove this under corrupt former Police Chief G. E. Cassady and corrupt former City Attorney Eric Monday, worked hand in hand to keep the corruption going where I am the victim. Once those corrupt bastards left office, I was able to obtain evidence and proof I could not obtain previously. Rob Fincher saved my life from disarray by bringing me the truth, by admitting that the destroyed evidence had once existed.

So Justin, be aware of the corruption and criminality involving Appellees' in my case, involving Martinsville. There is a reason why Justice for Brian D. Hill of USWGO Alternative News talks about my case. There is a reason why I created the Documentary entitled: The DEEP STATE can Frame You - the Documentary. There is a reason my family uploaded this to the world.

My family gave me the link to the Rumble video:

<https://rumble.com/v2ozhp6-the-deep-state-can-frame-you-the-documentary.html>

If I can get popular in any way, shape, or form, I can defeat Judge Greer and expose the two tiered justice system, same system that Donald John Trump is under right now in the communist court of New York City. The two tiered court system is WRONG, and is unAmerican. It is not constitutional for a judge to operate a two tiered justice system. WRONG!!!

Wrong!!!! Wrong!!!!!! That is not a fair trial and is not constitutional.

The Qanons know about my situation. I do not need the internet to know this. I have a friend who has spoken with me over the phone, who I am allowed to text, and they are Qanons involved with other people including Roger Stone who I had text messaged begging for a presidential pardon (due to the judicial corruption and malfeasance) and he had almost succeeded. They are aware that I am suffering under the two-tiered justice system in Martinsville. They are aware of Fred Smith, they are aware of the procedural due process being violated here when I cannot file for six months for telling the truth. My Documentary will continue getting more and more popular. I had been mailing DVD copies of my documentary to big name people and at some point I will have the verification that they received it. The Deep State and the federal frame up against me in 2012-2013. Tulsi Gabbard has a copy, I am trying to make sure that Robert F. Kennedy has a copy who agreed with John F. Kennedy who vowed to splinter the CIA in Virginia into a thousand pieces and scatter them to the winds. I am asking for investigations into the CIA/NSA tampering with my judicial cases and possibly for other dirty things they may have done to me including potential murder with carbon monoxide poisoning which I had proof of thanks to Pete Compton of ACE Chimney and Wildlife in Bassett, Virginia. I ain't afraid to die in clearing my name and proving my innocence to every criminal charge I had ever received where I have actual proof that shows I am innocent and was wrongfully convicted. When I have evidence, or seen things in federal discovery papers, anything which shows I am innocent, I am not afraid to die in proving this to the world. The Deep State can go to hell, the corruption can go to hell too. I am not letting them hold me hostage over my right to appeal in the Court of Appeals of Virginia. I am tired of being hostage by the Deep State. My mom voted for Donald Trump, my grandparents voted for Donald Trump in 2016 because Tim Kaine is DIRTY, so is Hillary Clinton. They are dirty people and corrupt politicians. Donald Trump didn't drain the swamp before he left office as promised. Hopefully one day the swamp will be drained. Tim Kaine doesn't care about my autism, we know it.

I have enough evidence to prove that the Circuit Court in Martinsville operates a TWO-TIERED Justice System where the laws don't apply to the Commonwealth but only apply to me. That is unconstitutional under the

Fourteenth Amendment of the United States Constitution. I can prove this in these three appeals. The record proves it. It proves that Rob Fincher admitted the destruction of the body-camera footage and the lawyer refusing to comply with court orders. That is CONTEMPT, yet I am charged with contempt but not the contemnor Glen Andy Hall.

So I will give you a few assignments of error I plan on arguing after October of 2023. You did wanted me to notify you ahead of time of potentially what assignments of error I plan on bringing up.

1. Martinsville Circuit Court aka the Trial Court refused to charge prosecutor Glen Andrew Hall with contempt and refuses any kind of action or sanction against the contemnor when evidence surfaces from a new Police Chief that evidence was unlawfully deleted and illegally deleted while knowing that the United States Probation Office was investigating Brian's indecent exposure charge. They didn't get all of the evidence, because some of it was COVERED UP by Glen Andrew Hall and others involved in Martinsville Police Department. They charged Brian with a criminal litigation and yet allowed evidence to be deleted and not marked as evidence in violation of multiple court orders. Then the Trial Court refuses to hold Glen Andrew Hall accountable when the contempt allegations were proven by a letter from Rob Fincher and FOIA Officer of Martinsville. Refusing to follow or obey a court order is contempt. So the court had erred by not enforcing it's own court orders when evidence recently surfaces proving the allegations by Appellant. Didn't ask questions, just deny another motion.

2. It is a proven fraud when Officer Robert Jones admitted in federal court under penalty of perjury that Appellant was not obscene, yet charged Brian with making an obscene display. The same officer who charged Brian with making an obscene display said under oath in federal court that Brian was not obscene. He didn't know that the lab tests were deleted from the chart, officer was ignorant. Clearly the charge on September 21, 2018 was fraudulent or wrongful or both. Evidence was covered up. Appellant proved it, and the Trial Court had decided to deny the motions asking for relief. The Trial Court at least should have had an obligation to hold a hearing, a show cause hearing, to ask about Appellant's claims and supporting affidavits, and compel Officer Robert Jones to answer a few questions under oath in the

Trial Court about what he said at the federal court about Brian not being obscene. If he affirms what he said in the federal court in 2019, then this proves the entire basis for the ARREST WARRANT was FALSE, and no criminal conviction should sustain over a false arrest charge. Fraud on the court to such an extent where I had every right to accuse Judge Greer of what I had accused him of in those notices of appeal. I did nothing criminal here when I accused the judge of fraud on his court. It was Glen Andrew Hall and Officer Robert Jones who destroyed evidence or at least allowed it and deceived the U.S. Probation Office which I also have proof of in the federal court case where even the U.S. Attorney didn't object that Martinsville Police deceived them, ON RECORD, Robert Jones knowingly lied under oath or affirmation in the ARREST WARRANT. They knowingly deceived the United States Probation Office and not even the U.S. Attorney objected to those arguments that they were deceived by Glen Andrew Hall and G. E. Cassady the former Police Chief.

Crimes were committed here, the proof is in the record in my federal case and in the trial court record, and I have proven it on the record in the three appeals this year. My appeals this year are full of merit, and should have warranted better treatment by the Circuit Court. I want to check the record and be sure that it isn't tampered with. If everything is in order, I will file my brief after my timeout period of not filing anything except in the federal courts.

A continuance is warranted here, until after the timeout period on Friday, October 13, 2023.

As an attorney you are aware that I cannot file in the state courts at this time. Arguably, If you were not allowed to file for six months in the case and you begged me for a continuance or delay until you were allowed to file again, I would file a motion doing so to give you your Due Process right. I don't care that your opposing counsel. A real lawyer understands the Constitutional right to procedural due process of law and substantive due process of law. The right to be heard, the right to file in court.

Criminal conspiracy or not involved in my case, my constitutional rights are what is at stake here. It is very important. Fred Smith knows this,

he is a lawyer. If he had reviewed the entire record of what caused me to lash out at Judge Greer with fraud allegations, he understands why if he had read the FOIA response letter from Rob Fincher and the FOIA officer, the three page FOIA response letter. If he read that Officer Jones said that I was not being obscene in federal court, it can easily be confirmed by simply having him appear in the Circuit Court to answer a few questions, and that can easily fix any potential issues of any hearsay. Officer Jones did admit I (Brian) was not obscene in the General District Court but there was no transcript so I didn't have that. It's clear that my appeals this year have more teeth and evidence than last year. I have so much evidence, I am swimming in it. A continuance is best for these appeals.

A continuance is best because more and more my criminal conviction is a fraud in itself. If I can prove even half of the elements were a fraud, does that warrant me having a criminal record???

When the judge realizes my appeals may have teeth and started charging me with contempt for telling the truth based on new evidence proving a two-tiered justice system, then the lawyers work to prevent me from my appeals???. Does that not violate procedural due process to tie my hands and hold me hostage???. Then racketeer by demanding legal fees out of my SSI money to pay for a criminal case based entirely on fraud and covered up evidence???. The U.S. Probation Office being deceived by Martinsville???


 Brian D. Hill

God bless you,
 Brian D. Hill

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

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

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com

U.S.W.G.O.

ROBERTA HILL <rbhill67@comcast.net>

1/20/2024 11:44 PM

Amended Appellant Motion for Delayed Appeal, Exhibits

To Hill, Justin B. <jhill@oag.state.va.us> •
OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> •
Chris Coen <ccoen@oag.state.va.us> •
Martinsville City Commonwealth's Attorney Glen Andrew Hall <ahall@ci.martinsville.va.us> Copy
stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl> • stanleybolten@uswgo.com •
adriennadicioccio@yahoo.com • gabe@fixthecourt.com • stone@stonezone.com

Hey Justin Hill (Assistant Attorney General) and Glen Andrew Hall (Commonwealth's Attorney),

I am Roberta Hill, Brian Hill's mother. I am sorry but we have to do this, Brian Hill is filing this (1) Amended Appellant's Motion for delayed appeal and (2) exhibits in support of that motion on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading and exhibits on his behalf. This should serve the counsel for Appellees through email. This motion and exhibits will filed via VACES with the Court of Appeals of Virginia.

You are obligated to review over the new audio recordings evidence my son Brian Hill has and is filing on the record. He had trust issues with his court appointed attorney Fred Smith when he refused to protect Brian's first amendment right to freedom of speech against Judge Greer and feared this contempt case was a conspiracy or plot to end his appeals, so he had used the one party consent recording statute, where he kept recordings and those recordings between Brian Hill and Fred Smith had proved you lied in your brief of the commonwealth. Fred said he spoke with you multiple times and claimed that you granted Brian an extension for his appeals due to the six month thing. Those are in the audio recordings, and you lied about all of that. Here are the links to the evidence and copies were distributed to Q Anons, so you cannot stop this evidence with any suppression campaign. We are sorry to have to do this, but we cannot accept liars lying to the courts. We cannot accept that you would stoop down to lying about his contempt case situation.

Attorney Fred Smith Meeting with Brian Hill on October 20, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Oct20-077885.wav> or

<https://archive.org/details/oct-20-077885>

Attorney Fred Smith Meeting with Brian Hill on April 13, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Apr13-045432.wav>

Attorney Fred Smith Meeting with Brian Hill on March 09, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Mar09-726407.wav> or <https://archive.org>

CAV: Submitted on 01-20-2024 23:50:14 EST for filing on 01-22-2024

[/details/mar-09-726407](#)

Attorney Fred Smith Phone Conversation with Brian Hill on March 06, 2023:

<https://justiceforuswgo.nl/PUBLICATION/20230306154652-O-12766382555.wav>

Attorney Fred Smith Phone Conversation with myself, Roberta Hill on June 22,

2023: [https://justiceforuswgo.nl/PUBLICATION/20230622090230-](https://justiceforuswgo.nl/PUBLICATION/20230622090230-I-2766382555.wav)

[I-2766382555.wav](#)

We are sorry for the truth coming out. But Jesus is all about the truth will set you free. The truth will set Brian D. Hill free, who is a virgin with no victims, and get him off of the sex registry with the truth of his innocence. Truth will make us free.

Brian David Hill = Innocence. <https://web.archive.org/web/20230515093703>

[/https://wearechange.org/case-brian-d-hill/](https://wearechange.org/case-brian-d-hill/)

File list of attachments:

1. Motion1-20-2024.pdf

2. ALL-EXHIBITS-1-20-2024.pdf

Roberta Hill (representative for electronic filing)

310 Forest Street, Apartment 1

Martinsville, Virginia 24112

Court of Appeals of Virginia, cases no. 0313-23-3, 0314-23-3 and 0317-23-3:

Brian David Hill v. Commonwealth of Virginia, City of Martinsville

Appellant:

Brian David Hill

310 Forest Street, Apartment 2

Martinsville, Virginia 24112

Thanks,

Roberta Hill

-
- Motion1-20-2024.pdf (658 KB)
 - ALL-EXHIBITS-1-20-2024.pdf (17 MB)

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**

APPELLANT'S MOTION FOR DELAYED APPEAL



Brian David Hill – Ally of Q and Lin Wood
Founder of USWGO Alternative News
310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505
c/o: Rbhill67@comcast.net; Roberta Hill



Pro Se Appellant

– JusticeForUSWGO.wordpress.com

SUMMARY

Pursuant to Virginia Code § 19.2-321.1, Brian David Hill, (“Appellant”) respectfully moves this Court for three delayed appeals in the above-captioned cases (cases no. 0313-23-3, 0314-23-3 and 0317-23-3).

In support of this motion, Mr. Hill offers the following:

1. First appeal. By order entered February 17, 2023, the Circuit Court of the City of Martinsville denied Mr. Hill’s motion entitled: “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 For Reconsideration), filed on February 17, 2023. (R. 4255). Mr. Hill, acting pro se, timely filed a notice of appeal to this Court challenging this judgment/order. (R. 4278-4291). Record No. 0313-23-3. Circuit Court case no. is CR19000009-00. Style is: COMMONWEALTH OF VIRGINIA and CITY OF MARTINSVILLE v. BRIAN DAVID HILL, Commonwealth of Virginia and City of Martinsville are appellees of the appealed case.

2. Second appeal. By order entered February 14, 2023, the Circuit Court of the City of Martinsville denied Mr. Hill’s motion entitled: “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”, filed on January 26, 2023. (R. 4120). Mr. Hill, acting pro se, timely filed a notice of appeal to this Court challenging this judgment/order. (R. 4292-4306). Record No. 0314-23-3. Circuit Court case no. is CR19000009-00. Style is: COMMONWEALTH OF VIRGINIA and CITY OF MARTINSVILLE v. BRIAN DAVID HILL, Commonwealth of Virginia and City of Martinsville are appellees of the appealed case.

3. Third appeal. By order entered February 21, 2023, the Circuit Court of the City of Martinsville denied Mr. Hill’s motion entitled: “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 For Reconsideration), filed on February 17, 2023. (R. 4277). Mr. Hill, acting pro se, timely filed a notice of appeal to this Court challenging this judgment/order. (R. 4313-4325). Record No. 0317-23-3. Circuit Court case no. is CR19000009-00. Style is: COMMONWEALTH OF VIRGINIA and CITY OF MARTINSVILLE v.

BRIAN DAVID HILL, Commonwealth of Virginia and City of Martinsville are appellees of the appealed case.

4. Virginia Law governing Motions for Delayed Appeals, state as follows in-part:

Va. Code § 19.2-321.1 (“Such motion shall identify the circuit court and the style, date, and circuit court record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment, shall give the Court of Appeals record number in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.”)

5. Appellant hereby establishes with Exhibits of evidence, the clear and convincing evidence, prima facie evidence, which proves said error, neglect, or fault to such an extent where Appellant is not personally responsible in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

6. Appeal record citation will also be used and not just citation of the Trial Court record. Trial Court record citation will be using the “R. #####” context. Citation of the Appeal court record will be using the “App. R. ##### of case no. 0313-23-3” context.

7. Further arguments in support of this motion will be made below the Exhibits listings, exhibits in support of this motion.

8. 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 delayed appeal is warranted due to good reasons as will be described below the EXHIBIT LIST.

EXHIBITS (attached ALL-EXHIBITS-1-20-2024.pdf):

EXHIBIT 1. File: EXHIBIT 1-Declaration for Motion for sanctions against Justin Hill.pdf. It is a true and correct copy of a Declaration/Affidavit of Brian David Hill explaining what the hard evidence is talking about. Explaining that the other exhibits are credible evidence, prima facie evidence. Index: EXHIBIT PAGES 1 THROUGH 14 OF 102.

EXHIBIT 2. File: EXHIBIT 2.pdf. It is a true and correct copy of a URL/LINK to an audio file Mar09-726407.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 15 THROUGH 16 OF 102.

EXHIBIT 3. File: EXHIBIT 3.pdf. It is a true and correct copy of a URL/LINK to an audio file Apr13-045432.wav uploaded to the internet by family

of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 17 THROUGH 18 OF 102.

EXHIBIT 4. File: EXHIBIT 4.pdf. It is a true and correct copy of a URL/LINK to an audio file Oct20-077885.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 19 THROUGH 20 OF 102.

EXHIBIT 5. File: EXHIBIT 5-TRANSCRIPT OF Mar09-726407.wav(2).pdf. It is a true and correct copy of a transcript of audio file Mar09-726407.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Mar09-726407.wav.** Index: EXHIBIT PAGES 21 THROUGH 47 OF 102.

EXHIBIT 6. File: EXHIBIT 6-TRANSCRIPT OF Apr13-045432.wav.pdf. It is a true and correct copy of a transcript of audio file Apr13-045432.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was

legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Apr13-045432.wav**. Index: EXHIBIT PAGES 48 THROUGH 53 OF 102.

EXHIBIT 7. File: EXHIBIT 7-TRANSCRIPT OF Oct20-077885.wav.pdf. It is a true and correct copy of a transcript of audio file Oct20-077885.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Oct20-077885.wav**. Index: EXHIBIT PAGES 54 THROUGH 61 OF 102.

EXHIBIT 8. File: EXHIBIT 8-Declaration for Motion for Delayed Appeal.pdf. It is a true and correct copy of a Declaration/Affidavit of Brian David Hill explaining what the hard evidence is talking about. Explaining that the other exhibits are credible evidence, prima facie evidence. Also explains things as to why the motion for delayed appeal should be granted. Index: EXHIBIT PAGES 62 THROUGH 81 OF 102.

EXHIBIT 9. File: EXHIBIT 9.pdf. It is a true and correct copy of a URL/LINK to an audio file 20230306154652-O-12766382555.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts

surrounding this motion. Index: EXHIBIT PAGES 82 THROUGH 83 OF 102.

EXHIBIT 10. File: EXHIBIT 10.pdf. It is a true and correct copy of a URL/LINK to an audio file 20230622090230-I-2766382555.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 84 THROUGH 85 OF 102.

EXHIBIT 11. File: EXHIBIT 11-TRANSCRIPT OF 20230306154652-O-12766382555.wav(2).pdf. It is a true and correct copy of a transcript of audio file 20230306154652-O-12766382555.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a phone conversation with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF 20230306154652-O-12766382555.wav.** Index: EXHIBIT PAGES 86 THROUGH 88 OF 102.

EXHIBIT 12. File: EXHIBIT 12-TRANSCRIPT OF 20230622090230-I-2766382555.wav(1).pdf. It is a true and correct copy of a transcript of audio file 20230622090230-I-2766382555.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant's mother Roberta Hill (also online filing assistant) had a phone conversation with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who

consented to the recording being made was Appellant's mother Roberta Hill (also online filing assistant). **TRANSCRIPT OF 20230622090230-I-2766382555.wav.**

Index: EXHIBIT PAGES 89 THROUGH 91 OF 102.

EXHIBIT 13. File: EXHIBIT 13-2nd 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 14. Email Subject: 2nd Emergency Letter to Justin Hill, Attorney General; Date: 6/28/2023, 4:18 AM. Index: EXHIBIT PAGES 92 THROUGH 93 OF 102.

EXHIBIT 14. File: EXHIBIT 14-Emergency_Letter_Justin_Hill_6_28_2023.pdf.pdf. It is a true and correct copy of a file attachment to email of EXHIBIT 13. 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 94 THROUGH 102 OF 102.

LEGAL ARGUMENTS AND STATEMENT OF FACTS

9. On Thursday, April 13, 2023, Appellant had agreed not to file anything in the "State Court" aka Commonwealth Courts for six months. No verbal exception was given permitting Appellant to file in the Court of Appeals of Virginia throughout the recordings of Brian Hill the appellant at the meetings with Attorney Fred Smith. That agreement was made verbally 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 court"(s) 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 the affidavit in **EXHIBIT 1** (EXHIBIT PAGES 1 THROUGH 14 OF 102), as well as the audio file on **EXHIBIT 4** (EXHIBIT PAGES 19 THROUGH 20 OF 102), second affidavit in **EXHIBIT 8** (EXHIBIT PAGES 54 THROUGH 61 OF 102). and **EXHIBIT 7** (EXHIBIT PAGES 54 THROUGH 61 OF 102). This court is free to seek confirmation of this fact by inquiring with Attorney Fred Smith or even with counsel for Appellees. In fact, this Court can have both the Commonwealth's Attorney and Assistant Attorney General listen to the audio recordings and then inquire as to the verbal agreement prohibiting Appellant from filing in the CAV when audio recordings prove that Attorney Fred Smith directs Appellant not to file in any "state Court" of Virginia except in the federal courts. This attorney allowed Brian to file in the federal courts for six months because of Virginia having no jurisdiction/jurisprudence over federal, but prohibited Appellant from filing in any court of Virginia.

10. Appellant had stated under oath in **EXHIBIT 8 (EXHIBIT PAGES 54 THROUGH 61 OF 102)**, that Appellant is not at fault for the error, neglect, or fault. Appellant has the evidence proving that Attorney Fred Smith had directed or ordered

the Appellant not to file anything in the “state court” with no verbal exception to the Court of Appeals of Virginia. The only exception was that he can file in the federal courts during the six-month no-filing period because the state had no jurisdiction to prohibit him from filing in the federal court system. That was the only exception which the exhibits prove beyond a reasonable doubt. Appellant said under oath in **EXHIBIT 8**, that by filing within the six-month period, he would face criminal consequences such as he would face not just a conviction of contempt of court but also federal imprisonment due to the circumstances laid out in his affidavit/declaration.

11. The error, neglect, or fault in Appellant losing the original opportunity for appeal was that he had agreed verbally to not file anything in the “state court” for six months. The Attorney Fred Smith had made it abundantly clear, that Appellant was not to file anything in the “state courts” for six months. In the **Exhibit 6 Transcript** and recording in **Exhibit 3**, the evidence supports that Attorney Fred Smith was going to have his contempt of court case continued for six months, and that the Commonwealth Attorney had agreed to it. That during the six-month period, he told Appellant don't file anything with state court. Then he said again: “Don't file anything in state court.” He did not give him an exception to file in the Court of Appeals of Virginia. He did not give any indication during his visit with Fred Smith on April 13, 2023, according the conversation recording which is present as evidence in the **Exhibit 6 Transcript** and recording in **Exhibit 3**. Appellant had agreed to this

and had complied with his demand or order or whatever. See EXHIBIT PAGES 69-70 OF 102, **EXHIBIT 8**.

12. At one point in March, the court appointed Attorney Fred Smith had told Brian D. Hill on March 9, 2023 that he would have to agree to six months of state probation where his primary term or condition would be that Appellant cannot file in the Virginia state courts without the assistance of a lawyer. So, if Appellant cannot afford a lawyer, then he would not be allowed to file anything in the Court of Appeals of Virginia, and that was the first attempt to prohibit Appellant from filing in this court. See **EXHIBIT 2** (EXHIBIT PAGES 15 THROUGH 16 OF 61) and **EXHIBIT 5** (EXHIBIT PAGES 21 THROUGH 47 OF 61). Fred Smith said and I quote:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 22 OF 102) “now out in this case, they uh asked that a special prosecutor be”, (EXHIBIT PAGES 23 OF 102) “Uh Justin, and I have talked extensively about... this case.” (EXHIBIT PAGES 28 OF 102) “here's what uh we have under consideration... Griffin and I talked extensively about... uh your history, various diagnoses... Uh He proposes that... uh there will be a joint motion by... the Commonwealth... and the defendant one” (EXHIBIT PAGES 29 OF 102) “that there is an agreement on the record in the court files that you have a diagnosis... of autism... that autism explains uh... the behaviors at issue here,”; (EXHIBIT PAGES 29 OF 102) “you would be placed on probation for probably six months and probably the only...the biggest term of your” (EXHIBIT PAGES 30 OF 102) “probation be that...you don't make any more filings...uh without the assistance of a lawyer...that, that, that would be the primary condition.”

13. The court appointed attorney on April 13, 2023, no longer pursued the

state probation idea but instead told Brian D. Hill that his contempt of court case would be delayed/stayed for six months and during that time he cannot file in state court which also encompasses the Court of Appeals of Virginia (CAV) but did allow Appellant to file in federal court during the six-month period. This was the second attempt to prohibit Appellant from filing in this court and in any “state court”, and that attempt had succeeded. See **EXHIBIT 3** (EXHIBIT PAGES 17 THROUGH 18 OF 61) and **EXHIBIT 6** (EXHIBIT PAGES 48 THROUGH 53 OF 61). Fred Smith said and I quote:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 50 OF 102) “tomorrow morning and the, and the commonwealth's attorney agrees to this,... this will be continued for six months.... during that six months, Brian,... don't file anything... [Brian Hill] Alright.... [Fred Smith] with, with state court.... They, they have no jurisdiction of what you might do in federal... court.... [Brian Hill] That's fine. [Fred Smith] Don't file anything in state court.”, (EXHIBIT PAGES 51 OF 102) “[Fred Smith] at the end of the six months when we come back to court, [Fred Smith] Uh, if we don't have any more paper in the file [Fred Smith] or more issues, um, [Fred Smith] I have a reason to believe he will dismiss the case.”

10. Granting this motion protects Appellant’s constitutionally protected procedural due process of law under the Fourteenth Amendment of the United States Constitution. The audio recordings along with the **EXHIBIT 8** affidavit prove that such a prohibition exists and thus the constitutional right of procedural due process of law of Appellant was violated and that the constitutional right of procedural due process of law was not afforded to Appellant. 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.**”). Appellant’s constitutional right to procedural due process of law is violated if this court even considers Appellees erroneous claims in their bid to have Appellant’s three appeals rejected as possibly untimely filed because of being given a false assumption that Appellant was not prohibited from filing in this court for a period of six months when the verbal agreement is proven with the audio files of recording the conversation between Appellant and his lawyer Fred Smith on three separate dates in 2023.

11. All exhibits including Brian David Hill’s affidavit/declaration in support of this motion prove that Appellant was prohibited from filing in the state court and there had been no exceptions given except for the federal court system. The Court of Appeals of Virginia is a “state court” and not a federal court. Attorney Fred Smith gave Brian David Hill, the appellant, explicit instructions not to file anything in the “state court” for six months after the continuance was granted in his contempt of

court case. Admitted that the Commonwealth Attorney had agreed to this. The verbal agreement between Brian D. Hill, Appellant, and the court appointed lawyer Fred Smith had been recorded by Brian Hill and that evidence is in **Exhibits 2, 3, and 4**. Transcripts of the evidence in **Exhibits 5, 6, and 7**.

12. By order entered January 17, 2024, this Court dismissed all appeals in cases no. 0313-23-3, 0314-23-3 and 0317-23-3, for untimely filing.

13. Mr. Hill now moves this Court pursuant to Code § 19.2-321.1 for a delayed appeal in all three appeal cases (cases no. 0313-23-3, 0314-23-3 and 0317-23-3) from the trial court's orders entered February 14, 2023, February 17, 2023, and February 21, 2023. See the paragraphs 1, 2, and 3, noted above inside of this motion document.

14. This motion is timely because it has been less than six months since Mr. Hill's appeal in all three appeal cases was dismissed. See Code§ 19.2-321.1(A).

15. This case satisfies the requirements for eligibility for a delayed appeal because due to the " error, neglect, or fault in me losing the original opportunity for appeal was that I had agreed verbally to not file anything in the "state court" for six months....," (EXHIBIT PAGES 73 OF 102) Mr. Hill's three appeals were dismissed for failure to adhere to proper ... time limits in the appeal process." Code § 19.2-321.1(A). Moreover, Mr. Hill is in no way responsible, in whole or in part, for Attorney Fred Smith ordering or instructing Appellant not to file in any "state court" for six months until the continuance had passed and his contempt of court case was

dismissed. See Code § 19.2-321.1(D).

16. **AMENDED JANUARY 20, 2024:** Pursuant to Rule, Mr. Hill, pro se without counsel, served a copy (through online filing Assistant Roberta Hill) on counsel of Appellees (Assistant Attorney General Justin Hill) including Glen Andrew Hall (since required by statute) on the date of January 20, 2024, notifying the Commonwealth Attorney and Assistant Attorney General (counsel of Appellees) of filing this Motion.

17. **AMENDED JANUARY 20, 2024:** Appellant found more evidence which he is presenting to this Court and to Appellees and the Commonwealth's Attorney as such service is required by the statute. Paragraphs below are being added as the amended Motion for Delayed Appeal.

18. Appellant's attorney Fred Smith who was appointed to represent Appellant in Appellant's contempt of court charge, had called Roberta Hill intending to call Brian Hill, his client, the Appellant. See **EXHIBIT 10**, EXHIBIT PAGES 84 THROUGH 85 OF 102. His client was unavailable at the time, so Roberta Hill had spoken with Attorney Fred Smith. Transcription makes it easy for the judges of this Court to see what is really going on here See **EXHIBIT 12**, EXHIBIT PAGES 89 THROUGH 91 OF 102. The discussion between Roberta Hill and Fred Smith are in a quoted citation below:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 90-91 OF 102)

[Fred Smith]: Um, I got a call from the Attorney General's office yesterday concerning a filing that Brian has due in approximately 30 days.

[Roberta Hill]: Uh huh.

[Fred Smith]: And, uh, the, the, the attorney general, the assistant attorney General that spoke to me expressed concern that Brian has about filing anything until we get this October hearing behind us.

[Roberta Hill]: Uh huh.

[Fred Smith]: Um, uh, the attorney general will agree to give Brian until after October

[Roberta Hill]: Ok

[Fred Smith]: uh, of his hearing date, uh, in order to make further filings in the matters he has in the court of appeals. So, Brian needs to call the, the, the gentleman that he spoke with and tell him he would like to agree to do that, that he would like that extra time to make filings until sometime on a date after his October hearing date.

[Roberta Hill]: Ok, I'll let him know about that.

[Fred Smith]: Ok, thank you, Miss Hill.

19. Appellant's attorney Fred Smith who was appointed to represent Appellant in Appellant's contempt of court charge, had told Appellant that Fred *"...got a call from the Attorney General's office yesterday concerning a filing that Brian has due in approximately 30 days....And, uh, the, the, the attorney general, the assistant attorney General that spoke to me expressed concern that Brian has about filing anything until we get this October hearing behind us."* Also Fred said that: *"Um, uh, the attorney general will agree to give Brian until after October uh, of his hearing date, uh, in order to make further filings in the matters he has in the court of appeals. So, Brian needs to call the, the, the gentleman that he spoke with and tell him he would like to agree to do that, that he would like that extra time to*

make filings until sometime on a date after his October hearing date.” So, Fred Smith, the counsel who was supposed to represent Appellant in the contempt of court case, had given Appellant the false impression that Appellees counsel Justin Hill or the Attorney General himself had agreed to give Brian, the Appellant until after October of his contempt of court hearing date to file in his appeals, that the Attorney General agreed to Appellant’s request to extend the time of his appeals filing deadline. Told Appellant that: *“Brian needs to call the, the, the gentleman that he spoke with and tell him he would like to agree to do that”*. Fred Smith appeared to have told Appellant this around approx. 30 days before the deadline in the three foregoing appeals, interesting. Appellant didn’t make a phone call to Justin Hill (*the gentleman that he spoke with...*), but instead he made the request in writing to Justin Hill (*the gentleman that he spoke with...*) which his mother Roberta Hill had emailed the counsel for Appellees, Justin Hill (*the gentleman that he spoke with...*). See the 2nd email for emergency letter to Justin Hill, **EXHIBIT 13**, EXHIBIT PAGES 92 THROUGH 93 OF 102. That email had an pdf file attachment to that email to Justin Hill, so this Court should see **EXHIBIT 14**, EXHIBIT PAGES 94 THROUGH 102 OF 102.

20. Justin Hill did respond to Appellant’s mother’s email. See Appellate Court record for CAV case no. 0313-23-3, pg. 246-248, 259-260. See Appellate Court record for CAV case no. 0314-23-3, pg. 252-253, 264-265. See Appellate Court record for CAV case no. 0317-23-3, pg. 247-248, 259-260. Justin Hill said: *“I would*

ask that you please pass along to him the same response I gave last time: I am prohibited from taking any legal action on his behalf. Your son, or an attorney representing him, are the only persons allowed to file a motion or request on his behalf. I remain amenable to a motion requesting a continuance, were he to file one. But, I cannot request a continuance or take any other action on your son's behalf.”

This means that Attorney Fred Smith had lied to Appellant. This proves it, and

Justin Hill can file a copy of the exact same email he sent back to Appellant's

mother Roberta Hill. Counsel for Appellees can confirm this email and response.

Fred Smith had told Appellant that Appellees aka “*the attorney general will agree to give Brian until after October uh, of his hearing date, uh, in order to make further filings in the matters he has in the court of appeals*”. Justin Hill saying in email that he will not accept Appellant’s request for a continuance or anything to file on Appellant’s behalf (**Brian’s hands were tied thanks to Attorney Fred Smith**)

because Justin Hill does not represent Appellant, proves that Attorney Fred Smith had lied to the Appellant, lied to his mother Roberta Hill the online filing assistant, and had Appellant falsely believing that Appellees was amendable to simply Appellant giving them a phone call or sending a letter and then his appeals would be extended until after October 23, 2023. Then Appellant’s attorney Fred Smith had lied again to Appellant by claiming on October 20, 2023: “[Fred Smith] and I talked to him and they get, I understood that you got an extension...to, to file.” (See EXHIBIT PAGES 8 OF 102, and **EXHIBIT 7**, EXHIBIT PAGES 56-57 OF 102).

So, Attorney Fred Smith admitted to being in contact with Justin Hill, counsel for Appellees in the three noted appeals (foregoing cases at the top of this pleading, and claimed that Justin Hill had somehow given Appellant an “extension...to, to file” since Appellant had sent a letter to Justin Hill in June of 2023 requesting the extension of time to timely file his appeal briefs or anything, all at the direction of Attorney Fred Smith. The record of all three appeal cases prove that Appellees filed no extension of time on behalf of Appellant despite Attorney Fred Smith’s convincing lie or lies, even after Appellant had requested to Appellees that they notify the Court that Appellant was prohibited from filing in the Court of Appeals of Virginia for six months. The only one who filed a Motion for Leave of Court to file an opening brief and Appellant Designation of Appellant, was Appellant on the date of October 27, 2023, four days after the contempt of court case was dismissed. The Court of Appeals of Virginia can check the record of all three appeal cases no. 0313-23-3, 0314-23-3 and 0317-23-3, for Appellant’s denied motion asking to file his Appellant brief, because Appellant was told by Attorney Fred Smith that an extension was given to Appellant to file outside of time, as if it were filed not outside of time. Appellant was lied to by Attorney Fred Smith on June 22, 2023. Appellant’s mother had emailed Justin Hill, and Justin Hill had declined to file an extension of time for Appellant, despite Fred Smith giving advice to Brian Hill, the Appellant, to simply contact Justin Hill and then he would automatically be granted an extension of time to file in October, 2023, after the hearing to dismiss his contempt of court

case, so that Appellant is safe from his “contempt of court” case, safe to follow his duties to this Court as Appellant. Attorney Fred Smith may have manipulated Appellant and/or Appellees into believing something which may not have been true all along. Attorney Fred Smith convinced Appellant that Appellees was willing to listen to Brian’s plea for extending the time for his appeal while Justin Hill gave an email response for Appellant which wasn’t exactly what Attorney Fred Smith had told Roberta Hill to tell her son, the Appellant. Appellant had been deceived by Attorney Fred Smith into believing that simply contacting Justin Hill, counsel for Appellees begging them for an extension of time to file in his appeals would make it automatically so. Attorney Fred Smith gave Appellant that impression despite the fact that it wasn’t true at all. Attorney Fred Smith IS AT FAULT for why Appellant filed outside of time, after the deadline, causing the three dismissals of his appeals.

21. Another phone conversation between Appellant and Attorney Fred Smith, had demonstrated how Attorney Fred Smith had manipulated Appellant out of fear into accepting whatever Attorney Fred Smith had to say, to persuade Appellant not to file anything including in the Court of Appeals of Virginia. This attorney had been really adamant about demanding that his client Brian David Hill not file anything in the state court for six months. Almost as if this attorney had planned to wreck the appeals of Appellant by instilling fear and control into Appellant and lying to Appellant, and his family on record according to the recorded conversations in Exhibits. Appellant had no choice but to accept the fear and lies from his counsel

out of fear of going to prison for contempt of court. See EXHIBIT 9, EXHIBIT PAGES 82 THROUGH 83 OF 102. See EXHIBIT 11, EXHIBIT PAGES 86 THROUGH 88 OF 102.

22. The fear which Attorney Fred Smith had instilled into Appellant is that he would face a jury trial and that Judge Greer had wanted to make it so. Fred Smith had said:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 87-88 OF 102)

[Fred Smith]: Just hang tight. Don't, don't file anything. Uh,

[Fred Smith]: this is a very unusual

[Fred Smith]: procedure that, uh, is, has been undertaken by Judge Greer and looking at the paper and looking at the statute. Uh, he, he could have summarily given you up to 10 days in jail or fined you up to \$250. But he's,

[Fred Smith]: he's

[Fred Smith]: decided to set this case down for jury trial, Brian. Uh, so I've got to, um, um, collect a lot of info. I think it will, uh, relate heavily to your mental health. So, uh, we have to work on all that to get updated records and that sort of thing. Um, I did. Um, um, I've reached out to Dr. Loehrer and hopefully I can talk to her in the next day or so. But anyway, that's where we are. So, uh, uh, I don't think. I've got a jury trial to do on Friday. So as soon as we get your trial date, uh, that morning before the jury trial starts. Uh, that's, that's all we'll be doing for the time being. Uh, so that's where we are. Just keep your head down and lay low. Ok.

[Brian Hill]: Alright.

23. Yeah, Fred Smith telling Appellant to keep his head down, lay low, and not file anything in any state court including the Court of Appeals of Virginia, while his appeals get dismissed for failure to prosecute or failing to file timely. All

Attorney Fred Smith had to do to Appellant was put him in the mindset of fear of losing his contempt of court case by instilling the belief that Appellant would face a “jury trial” where the jury would be told of his “prior conviction” and then the jury would already feel prejudiced into convicting Appellant of contempt of court. (R. 0217, 0158-0210, MOTION - MOT TO SUPPRESS EVIDENCE). Apparently, Fred Smith somehow knew that Appellant would fear a jury trial over a contempt of court case, as the jury could easily be swayed by his “prior conviction” (R. 0217, 0158-0210, MOTION - MOT TO SUPPRESS EVIDENCE) to prejudice the jury, make them angry and emotionally want to kill Appellant or be angry at Appellant and hateful at Appellant, thinking Appellant is somehow evil over his “prior” and make Appellant feel that the contempt of court case was a guaranteed verdict of whatever the angry jury has to feel. Fred Smith may have somehow known of him withdrawing his appeal and had decided to instill similar fear hoping that Appellant would give up on his appeals by false impression that his appeals would be extended in time and that Appellant submit to whatever Attorney Fred Smith had wanted Appellant to do, like not file for six months. It is as if, Fred Smith was acting like he was the boss of Appellant and Appellant had to follow the orders of Fred Smith, acting as his boss and not as counsel who was supposed to represent Appellant. This is COERCION, ON THE RECORD, the phone call recording proves this. Imagine, a contempt of court criminal charge and conviction is less than 2 weeks of jailtime, according to Attorney Fred Smith, but then he instills the fear that Appellant is facing a jury trial

at the direction of Judge Greer, that this is an unusual situation aka “this is a very unusual procedure that, uh, is, has been undertaken by Judge Greer”. So out of the blue, Attorney Fred Smith just tells Appellant on Mar 6, 2023, that Judge Greer is out to set a new procedure that is not normally done with contempt of court cases. So just out of the blue, Judge Greer decides to give Appellant a jury trial according to the claim by Attorney Fred Smith, the attorney who was already caught lying about different facets of his no-filing/filing prohibitions whatnot. Appellant who had faced the issue of, if he testifies, then his prior conviction comes up in front a jury of his peers who will fear of what he was convicted of which will drive the jury into possibly a violent rage, a need to convict Appellant at all costs and they will forget about any of the substance of his contempt of court charge. Attorney Fred Smith had used a psychological abuse tactic of instilling fear and telling Appellant to “lay low” as if Appellant had committed a “crime” so bad that he must “lay low” and keep his head down. Oh and forgot: “[Fred Smith]: Just hang tight. Don't, don't file anything.” Fred Smith hasn't told Appellant enough times to not file anything in a court. Appellant just happens to have three appeals where he has to file something by Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023. According to Attorney Fred Smith and the evidence concludes, with the fear instilled in Appellant over his freedom of speech, God forbid, his FREEDOM OF SPEECH, he was told over and over again not to file anything in the state court or anywhere in

Virginia, except the federal courts. Doesn't matter about the "rules" according to the fear instilled by Attorney Fred Smith. The evidence is overwhelming, proving that Appellant was manipulated by Attorney Fred Smith psychologically or mentally to not file timely in his appeals, by Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023. This is at no fault of Appellant because Appellant thought he was being a good boy and listening to his lawyer. So being a good boy doesn't mean that his appeals should be dismissed forever, God forbid. Appellant had thought his attorney was going to at least let him file his appeals, but Appellant was lied to and was manipulated by psychological abuse tactics to achieve the objective of ruining Appellant's three appeals under cases no. 0313-23-3, 0314-23-3 and 0317-23-3. Nothing Appellees will be able to argue can convince this Court otherwise, thanks to the prima face evidence, that Appellant does have the justification for this Court granting his motion for a delayed appeal pursuant to Code § 19.2-3 21.1. Exhibits 1-14 demonstrate that this Court has the legal justification to grant Appellant's request for the relief sought under that statute. Appellant cannot be at fault when his own lawyer manipulated his client and instilled fear in his client, refused to protect his client's first amendment right to freedom of speech to criticize a circuit court judge, and the lawyer lied to Appellant long enough for Appellant's appeals to fail for untimely filing. **Sounds a lot like MALPRACTICE. Appellant also prays that the Court of Appeals of Virginia may disbar Attorney Fred**

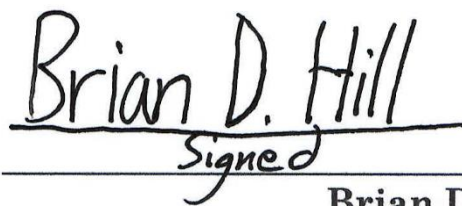
Smith, punish Attorney Fred Smith, and allow Appellant to file a lawsuit against Fred Smith in his individual capacity for malpractice. Attorney Fred Smith ruined Appellant's three appeals by causing the dismissals of those appeals. Fred Smith is at fault and he needs to be questioned by this Court about Fred Smith's misconduct as an attorney.

WHEREFORE, Mr. Hill prays this Court to grant his motion for a delayed appeal pursuant to Code § 19.2-321.1.

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

Respectfully Filed/Submitted on January 20, 2024,

BRIAN DAVID HILL
Pro Se


Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

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Pro Se Appellant

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CERTIFICATE OF COMPLIANCE

1. This motion complies with type-volume limits:

[X] this motion contains [6,609] 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: January 20, 2024



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Pro Se Appellant

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 20th day of January, 2024, I caused this “APPELLANT’S MOTION FOR DELAYED APPEAL” and attached EXHIBITS (ALL-EXHIBITS-1-18-2024.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 Court of Appeals 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
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Pro Se Appellant

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**

AMENDED APPELLANT'S MOTION FOR DELAYED APPEAL



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SUMMARY

Pursuant to Virginia Code § 19.2-321.1, Brian David Hill, (“Appellant”) respectfully moves this Court for three delayed appeals in the above-captioned cases (cases no. 0313-23-3, 0314-23-3 and 0317-23-3).

In support of this motion, Mr. Hill offers the following:

1. First appeal. By order entered February 17, 2023, the Circuit Court of the City of Martinsville denied Mr. Hill’s motion entitled: “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 For Reconsideration), filed on February 17, 2023. (R. 4255). Mr. Hill, acting pro se, timely filed a notice of appeal to this Court challenging this judgment/order. (R. 4278-4291). Record No. 0313-23-3. Circuit Court case no. is CR19000009-00. Style is: COMMONWEALTH OF VIRGINIA and CITY OF MARTINSVILLE v. BRIAN DAVID HILL, Commonwealth of Virginia and City of Martinsville are appellees of the appealed case.

2. Second appeal. By order entered February 14, 2023, the Circuit Court of the City of Martinsville denied Mr. Hill’s motion entitled: “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”, filed on January 26, 2023. (R. 4120). Mr. Hill, acting pro se, timely filed a notice of appeal to this Court challenging this judgment/order. (R. 4292-4306). Record No. 0314-23-3. Circuit Court case no. is CR19000009-00. Style is: COMMONWEALTH OF VIRGINIA and CITY OF MARTINSVILLE v. BRIAN DAVID HILL, Commonwealth of Virginia and City of Martinsville are appellees of the appealed case.

3. Third appeal. By order entered February 21, 2023, the Circuit Court of the City of Martinsville denied Mr. Hill’s motion entitled: “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 For Reconsideration), filed on February 17, 2023. (R. 4277). Mr. Hill, acting pro se, timely filed a notice of appeal to this Court challenging this judgment/order. (R. 4313-4325). Record No. 0317-23-3. Circuit Court case no. is CR19000009-00. Style is: COMMONWEALTH OF VIRGINIA and CITY OF MARTINSVILLE v.

BRIAN DAVID HILL, Commonwealth of Virginia and City of Martinsville are appellees of the appealed case.

4. Virginia Law governing Motions for Delayed Appeals, state as follows in-part:

Va. Code § 19.2-321.1 (“Such motion shall identify the circuit court and the style, date, and circuit court record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment, shall give the Court of Appeals record number in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.”)

5. Appellant hereby establishes with Exhibits of evidence, the clear and convincing evidence, prima facie evidence, which proves said error, neglect, or fault to such an extent where Appellant is not personally responsible in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

6. Appeal record citation will also be used and not just citation of the Trial Court record. Trial Court record citation will be using the “R. #####” context. Citation of the Appeal court record will be using the “App. R. ##### of case no. 0313-23-3” context.

7. Further arguments in support of this motion will be made below the Exhibits listings, exhibits in support of this motion.

8. 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 delayed appeal is warranted due to good reasons as will be described below the EXHIBIT LIST.

EXHIBITS (attached ALL-EXHIBITS-1-20-2024.pdf):

EXHIBIT 1. File: EXHIBIT 1-Declaration for Motion for sanctions against Justin Hill.pdf. It is a true and correct copy of a Declaration/Affidavit of Brian David Hill explaining what the hard evidence is talking about. Explaining that the other exhibits are credible evidence, prima facie evidence. Index: EXHIBIT PAGES 1 THROUGH 14 OF 102.

EXHIBIT 2. File: EXHIBIT 2.pdf. It is a true and correct copy of a URL/LINK to an audio file Mar09-726407.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 15 THROUGH 16 OF 102.

EXHIBIT 3. File: EXHIBIT 3.pdf. It is a true and correct copy of a URL/LINK to an audio file Apr13-045432.wav uploaded to the internet by family

of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 17 THROUGH 18 OF 102.

EXHIBIT 4. File: EXHIBIT 4.pdf. It is a true and correct copy of a URL/LINK to an audio file Oct20-077885.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 19 THROUGH 20 OF 102.

EXHIBIT 5. File: EXHIBIT 5-TRANSCRIPT OF Mar09-726407.wav(2).pdf. It is a true and correct copy of a transcript of audio file Mar09-726407.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Mar09-726407.wav.** Index: EXHIBIT PAGES 21 THROUGH 47 OF 102.

EXHIBIT 6. File: EXHIBIT 6-TRANSCRIPT OF Apr13-045432.wav.pdf. It is a true and correct copy of a transcript of audio file Apr13-045432.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was

legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Apr13-045432.wav**. Index: EXHIBIT PAGES 48 THROUGH 53 OF 102.

EXHIBIT 7. File: EXHIBIT 7-TRANSCRIPT OF Oct20-077885.wav.pdf. It is a true and correct copy of a transcript of audio file Oct20-077885.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a meeting with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF Oct20-077885.wav**. Index: EXHIBIT PAGES 54 THROUGH 61 OF 102.

EXHIBIT 8. File: EXHIBIT 8-Declaration for Motion for Delayed Appeal.pdf. It is a true and correct copy of a Declaration/Affidavit of Brian David Hill explaining what the hard evidence is talking about. Explaining that the other exhibits are credible evidence, prima facie evidence. Also explains things as to why the motion for delayed appeal should be granted. Index: EXHIBIT PAGES 62 THROUGH 81 OF 102.

EXHIBIT 9. File: EXHIBIT 9.pdf. It is a true and correct copy of a URL/LINK to an audio file 20230306154652-O-12766382555.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts

surrounding this motion. Index: EXHIBIT PAGES 82 THROUGH 83 OF 102.

EXHIBIT 10. File: EXHIBIT 10.pdf. It is a true and correct copy of a URL/LINK to an audio file 20230622090230-I-2766382555.wav uploaded to the internet by family of Appellant Brian D. Hill and link was given by Appellant since the Court of Appeals of Virginia does not directly accept audio files, however this audio file is necessary as evidence for disposition of this motion and the facts surrounding this motion. Index: EXHIBIT PAGES 84 THROUGH 85 OF 102.

EXHIBIT 11. File: EXHIBIT 11-TRANSCRIPT OF 20230306154652-O-12766382555.wav(2).pdf. It is a true and correct copy of a transcript of audio file 20230306154652-O-12766382555.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant had a phone conversation with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who consented to the recording being made was Appellant. **TRANSCRIPT OF 20230306154652-O-12766382555.wav.** Index: EXHIBIT PAGES 86 THROUGH 88 OF 102.

EXHIBIT 12. File: EXHIBIT 12-TRANSCRIPT OF 20230622090230-I-2766382555.wav(1).pdf. It is a true and correct copy of a transcript of audio file 20230622090230-I-2766382555.wav, making it easy for the judges of this court to examine the transcribed words of that audio recording when Appellant's mother Roberta Hill (also online filing assistant) had a phone conversation with Attorney Fred Smith. Recording was legally allowed by one party consent, as the party who

consented to the recording being made was Appellant's mother Roberta Hill (also online filing assistant). **TRANSCRIPT OF 20230622090230-I-2766382555.wav.**

Index: EXHIBIT PAGES 89 THROUGH 91 OF 102.

EXHIBIT 13. File: EXHIBIT 13-2nd 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 14. Email Subject: 2nd Emergency Letter to Justin Hill, Attorney General; Date: 6/28/2023, 4:18 AM. Index: EXHIBIT PAGES 92 THROUGH 93 OF 102.

EXHIBIT 14. File: EXHIBIT 14-Emergency_Letter_Justin_Hill_6_28_2023.pdf.pdf. It is a true and correct copy of a file attachment to email of EXHIBIT 13. 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 94 THROUGH 102 OF 102.

LEGAL ARGUMENTS AND STATEMENT OF FACTS

9. On Thursday, April 13, 2023, Appellant had agreed not to file anything in the "State Court" aka Commonwealth Courts for six months. No verbal exception was given permitting Appellant to file in the Court of Appeals of Virginia throughout the recordings of Brian Hill the appellant at the meetings with Attorney Fred Smith. That agreement was made verbally 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 court"(s) 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 the affidavit in **EXHIBIT 1** (EXHIBIT PAGES 1 THROUGH 14 OF 102), as well as the audio file on **EXHIBIT 4** (EXHIBIT PAGES 19 THROUGH 20 OF 102), second affidavit in **EXHIBIT 8** (EXHIBIT PAGES 54 THROUGH 61 OF 102). and **EXHIBIT 7** (EXHIBIT PAGES 54 THROUGH 61 OF 102). This court is free to seek confirmation of this fact by inquiring with Attorney Fred Smith or even with counsel for Appellees. In fact, this Court can have both the Commonwealth's Attorney and Assistant Attorney General listen to the audio recordings and then inquire as to the verbal agreement prohibiting Appellant from filing in the CAV when audio recordings prove that Attorney Fred Smith directs Appellant not to file in any "state Court" of Virginia except in the federal courts. This attorney allowed Brian to file in the federal courts for six months because of Virginia having no jurisdiction/jurisprudence over federal, but prohibited Appellant from filing in any court of Virginia.

10. Appellant had stated under oath in **EXHIBIT 8 (EXHIBIT PAGES 54 THROUGH 61 OF 102)**, that Appellant is not at fault for the error, neglect, or fault. Appellant has the evidence proving that Attorney Fred Smith had directed or ordered

the Appellant not to file anything in the “state court” with no verbal exception to the Court of Appeals of Virginia. The only exception was that he can file in the federal courts during the six-month no-filing period because the state had no jurisdiction to prohibit him from filing in the federal court system. That was the only exception which the exhibits prove beyond a reasonable doubt. Appellant said under oath in **EXHIBIT 8**, that by filing within the six-month period, he would face criminal consequences such as he would face not just a conviction of contempt of court but also federal imprisonment due to the circumstances laid out in his affidavit/declaration.

11. The error, neglect, or fault in Appellant losing the original opportunity for appeal was that he had agreed verbally to not file anything in the “state court” for six months. The Attorney Fred Smith had made it abundantly clear, that Appellant was not to file anything in the “state courts” for six months. In the **Exhibit 6 Transcript** and recording in **Exhibit 3**, the evidence supports that Attorney Fred Smith was going to have his contempt of court case continued for six months, and that the Commonwealth Attorney had agreed to it. That during the six-month period, he told Appellant don't file anything with state court. Then he said again: “Don't file anything in state court.” He did not give him an exception to file in the Court of Appeals of Virginia. He did not give any indication during his visit with Fred Smith on April 13, 2023, according the conversation recording which is present as evidence in the **Exhibit 6 Transcript** and recording in **Exhibit 3**. Appellant had agreed to this

and had complied with his demand or order or whatever. See EXHIBIT PAGES 69-70 OF 102, **EXHIBIT 8**.

12. At one point in March, the court appointed Attorney Fred Smith had told Brian D. Hill on March 9, 2023 that he would have to agree to six months of state probation where his primary term or condition would be that Appellant cannot file in the Virginia state courts without the assistance of a lawyer. So, if Appellant cannot afford a lawyer, then he would not be allowed to file anything in the Court of Appeals of Virginia, and that was the first attempt to prohibit Appellant from filing in this court. See **EXHIBIT 2** (EXHIBIT PAGES 15 THROUGH 16 OF 61) and **EXHIBIT 5** (EXHIBIT PAGES 21 THROUGH 47 OF 61). Fred Smith said and I quote:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 22 OF 102) “now out in this case, they uh asked that a special prosecutor be”, (EXHIBIT PAGES 23 OF 102) “Uh Justin, and I have talked extensively about... this case.” (EXHIBIT PAGES 28 OF 102) “here's what uh we have under consideration... Griffin and I talked extensively about... uh your history, various diagnoses... Uh He proposes that... uh there will be a joint motion by... the Commonwealth... and the defendant one” (EXHIBIT PAGES 29 OF 102) “that there is an agreement on the record in the court files that you have a diagnosis... of autism... that autism explains uh... the behaviors at issue here,”; (EXHIBIT PAGES 29 OF 102) “you would be placed on probation for probably six months and probably the only...the biggest term of your” (EXHIBIT PAGES 30 OF 102) “probation be that...you don't make any more filings...uh without the assistance of a lawyer...that, that, that would be the primary condition.”

13. The court appointed attorney on April 13, 2023, no longer pursued the

state probation idea but instead told Brian D. Hill that his contempt of court case would be delayed/stayed for six months and during that time he cannot file in state court which also encompasses the Court of Appeals of Virginia (CAV) but did allow Appellant to file in federal court during the six-month period. This was the second attempt to prohibit Appellant from filing in this court and in any “state court”, and that attempt had succeeded. See **EXHIBIT 3** (EXHIBIT PAGES 17 THROUGH 18 OF 61) and **EXHIBIT 6** (EXHIBIT PAGES 48 THROUGH 53 OF 61). Fred Smith said and I quote:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 50 OF 102) “tomorrow morning and the, and the commonwealth's attorney agrees to this,... this will be continued for six months.... during that six months, Brian,... don't file anything... [Brian Hill] Alright.... [Fred Smith] with, with state court.... They, they have no jurisdiction of what you might do in federal... court.... [Brian Hill] That's fine. [Fred Smith] Don't file anything in state court.”, (EXHIBIT PAGES 51 OF 102) “[Fred Smith] at the end of the six months when we come back to court, [Fred Smith] Uh, if we don't have any more paper in the file [Fred Smith] or more issues, um, [Fred Smith] I have a reason to believe he will dismiss the case.”

10. Granting this motion protects Appellant’s constitutionally protected procedural due process of law under the Fourteenth Amendment of the United States Constitution. The audio recordings along with the **EXHIBIT 8** affidavit prove that such a prohibition exists and thus the constitutional right of procedural due process of law of Appellant was violated and that the constitutional right of procedural due process of law was not afforded to Appellant. 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.**”). Appellant’s constitutional right to procedural due process of law is violated if this court even considers Appellees erroneous claims in their bid to have Appellant’s three appeals rejected as possibly untimely filed because of being given a false assumption that Appellant was not prohibited from filing in this court for a period of six months when the verbal agreement is proven with the audio files of recording the conversation between Appellant and his lawyer Fred Smith on three separate dates in 2023.

11. All exhibits including Brian David Hill’s affidavit/declaration in support of this motion prove that Appellant was prohibited from filing in the state court and there had been no exceptions given except for the federal court system. The Court of Appeals of Virginia is a “state court” and not a federal court. Attorney Fred Smith gave Brian David Hill, the appellant, explicit instructions not to file anything in the “state court” for six months after the continuance was granted in his contempt of

court case. Admitted that the Commonwealth Attorney had agreed to this. The verbal agreement between Brian D. Hill, Appellant, and the court appointed lawyer Fred Smith had been recorded by Brian Hill and that evidence is in **Exhibits 2, 3, and 4.** Transcripts of the evidence in **Exhibits 5, 6, and 7.**

12. By order entered January 17, 2024, this Court dismissed all appeals in cases no. 0313-23-3, 0314-23-3 and 0317-23-3, for untimely filing.

13. Mr. Hill now moves this Court pursuant to Code § 19.2-321.1 for a delayed appeal in all three appeal cases (cases no. 0313-23-3, 0314-23-3 and 0317-23-3) from the trial court's orders entered February 14, 2023, February 17, 2023, and February 21, 2023. See the paragraphs 1, 2, and 3, noted above inside of this motion document.

14. This motion is timely because it has been less than six months since Mr. Hill's appeal in all three appeal cases was dismissed. See Code§ 19.2-321.1(A).

15. This case satisfies the requirements for eligibility for a delayed appeal because due to the " error, neglect, or fault in me losing the original opportunity for appeal was that I had agreed verbally to not file anything in the "state court" for six months....," (EXHIBIT PAGES 73 OF 102) Mr. Hill's three appeals were dismissed for failure to adhere to proper ... time limits in the appeal process." Code § 19.2-321.1(A). Moreover, Mr. Hill is in no way responsible, in whole or in part, for Attorney Fred Smith ordering or instructing Appellant not to file in any "state court" for six months until the continuance had passed and his contempt of court case was

dismissed. See Code § 19.2-321.1(D).

16. **AMENDED JANUARY 20, 2024:** Pursuant to Rule, Mr. Hill, pro se without counsel, served a copy (through online filing Assistant Roberta Hill) on counsel of Appellees (Assistant Attorney General Justin Hill) including Glen Andrew Hall (since required by statute) on the date of January 20, 2024, notifying the Commonwealth Attorney and Assistant Attorney General (counsel of Appellees) of filing this Motion.

17. **AMENDED JANUARY 20, 2024:** Appellant found more evidence which he is presenting to this Court and to Appellees and the Commonwealth's Attorney as such service is required by the statute. Paragraphs below are being added as the amended Motion for Delayed Appeal.

18. Appellant's attorney Fred Smith who was appointed to represent Appellant in Appellant's contempt of court charge, had called Roberta Hill intending to call Brian Hill, his client, the Appellant. See **EXHIBIT 10**, EXHIBIT PAGES 84 THROUGH 85 OF 102. His client was unavailable at the time, so Roberta Hill had spoken with Attorney Fred Smith. Transcription makes it easy for the judges of this Court to see what is really going on here See **EXHIBIT 12**, EXHIBIT PAGES 89 THROUGH 91 OF 102. The discussion between Roberta Hill and Fred Smith are in a quoted citation below:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 90-91 OF 102)

[Fred Smith]: Um, I got a call from the Attorney General's office yesterday concerning a filing that Brian has due in approximately 30 days.

[Roberta Hill]: Uh huh.

[Fred Smith]: And, uh, the, the, the attorney general, the assistant attorney General that spoke to me expressed concern that Brian has about filing anything until we get this October hearing behind us.

[Roberta Hill]: Uh huh.

[Fred Smith]: Um, uh, the attorney general will agree to give Brian until after October

[Roberta Hill]: Ok

[Fred Smith]: uh, of his hearing date, uh, in order to make further filings in the matters he has in the court of appeals. So, Brian needs to call the, the, the gentleman that he spoke with and tell him he would like to agree to do that, that he would like that extra time to make filings until sometime on a date after his October hearing date.

[Roberta Hill]: Ok, I'll let him know about that.

[Fred Smith]: Ok, thank you, Miss Hill.

19. Appellant's attorney Fred Smith who was appointed to represent Appellant in Appellant's contempt of court charge, had told Appellant that Fred *"...got a call from the Attorney General's office yesterday concerning a filing that Brian has due in approximately 30 days....And, uh, the, the, the attorney general, the assistant attorney General that spoke to me expressed concern that Brian has about filing anything until we get this October hearing behind us."* Also Fred said that: *"Um, uh, the attorney general will agree to give Brian until after October uh, of his hearing date, uh, in order to make further filings in the matters he has in the court of appeals. So, Brian needs to call the, the, the gentleman that he spoke with and tell him he would like to agree to do that, that he would like that extra time to*

make filings until sometime on a date after his October hearing date.” So, Fred Smith, the counsel who was supposed to represent Appellant in the contempt of court case, had given Appellant the false impression that Appellees counsel Justin Hill or the Attorney General himself had agreed to give Brian, the Appellant until after October of his contempt of court hearing date to file in his appeals, that the Attorney General agreed to Appellant’s request to extend the time of his appeals filing deadline. Told Appellant that: *“Brian needs to call the, the, the gentleman that he spoke with and tell him he would like to agree to do that”*. Fred Smith appeared to have told Appellant this around approx. 30 days before the deadline in the three foregoing appeals, interesting. Appellant didn’t make a phone call to Justin Hill (*the gentleman that he spoke with...*), but instead he made the request in writing to Justin Hill (*the gentleman that he spoke with...*) which his mother Roberta Hill had emailed the counsel for Appellees, Justin Hill (*the gentleman that he spoke with...*). See the 2nd email for emergency letter to Justin Hill, **EXHIBIT 13**, EXHIBIT PAGES 92 THROUGH 93 OF 102. That email had an pdf file attachment to that email to Justin Hill, so this Court should see **EXHIBIT 14**, EXHIBIT PAGES 94 THROUGH 102 OF 102.

20. Justin Hill did respond to Appellant’s mother’s email. See Appellate Court record for CAV case no. 0313-23-3, pg. 246-248, 259-260. See Appellate Court record for CAV case no. 0314-23-3, pg. 252-253, 264-265. See Appellate Court record for CAV case no. 0317-23-3, pg. 247-248, 259-260. Justin Hill said: *“I would*

ask that you please pass along to him the same response I gave last time: I am prohibited from taking any legal action on his behalf. Your son, or an attorney representing him, are the only persons allowed to file a motion or request on his behalf. I remain amenable to a motion requesting a continuance, were he to file one. But, I cannot request a continuance or take any other action on your son's behalf.”

This means that Attorney Fred Smith had lied to Appellant. This proves it, and

Justin Hill can file a copy of the exact same email he sent back to Appellant's

mother Roberta Hill. Counsel for Appellees can confirm this email and response.

Fred Smith had told Appellant that Appellees aka “*the attorney general will agree to give Brian until after October uh, of his hearing date, uh, in order to make further filings in the matters he has in the court of appeals*”. Justin Hill saying in email that he will not accept Appellant’s request for a continuance or anything to file on Appellant’s behalf (**Brian’s hands were tied thanks to Attorney Fred Smith**)

because Justin Hill does not represent Appellant, proves that Attorney Fred Smith had lied to the Appellant, lied to his mother Roberta Hill the online filing assistant, and had Appellant falsely believing that Appellees was amendable to simply Appellant giving them a phone call or sending a letter and then his appeals would be extended until after October 23, 2023. Then Appellant’s attorney Fred Smith had lied again to Appellant by claiming on October 20, 2023: “[Fred Smith] and I talked to him and they get, I understood that you got an extension...to, to file.” (See EXHIBIT PAGES 8 OF 102, and **EXHIBIT 7**, EXHIBIT PAGES 56-57 OF 102).

So, Attorney Fred Smith admitted to being in contact with Justin Hill, counsel for Appellees in the three noted appeals (foregoing cases at the top of this pleading, and claimed that Justin Hill had somehow given Appellant an “extension...to, to file” since Appellant had sent a letter to Justin Hill in June of 2023 requesting the extension of time to timely file his appeal briefs or anything, all at the direction of Attorney Fred Smith. The record of all three appeal cases prove that Appellees filed no extension of time on behalf of Appellant despite Attorney Fred Smith’s convincing lie or lies, even after Appellant had requested to Appellees that they notify the Court that Appellant was prohibited from filing in the Court of Appeals of Virginia for six months. The only one who filed a Motion for Leave of Court to file an opening brief and Appellant Designation of Appellant, was Appellant on the date of October 27, 2023, four days after the contempt of court case was dismissed. The Court of Appeals of Virginia can check the record of all three appeal cases no. 0313-23-3, 0314-23-3 and 0317-23-3, for Appellant’s denied motion asking to file his Appellant brief, because Appellant was told by Attorney Fred Smith that an extension was given to Appellant to file outside of time, as if it were filed not outside of time. Appellant was lied to by Attorney Fred Smith on June 22, 2023. Appellant’s mother had emailed Justin Hill, and Justin Hill had declined to file an extension of time for Appellant, despite Fred Smith giving advice to Brian Hill, the Appellant, to simply contact Justin Hill and then he would automatically be granted an extension of time to file in October, 2023, after the hearing to dismiss his contempt of court

case, so that Appellant is safe from his “contempt of court” case, safe to follow his duties to this Court as Appellant. Attorney Fred Smith may have manipulated Appellant and/or Appellees into believing something which may not have been true all along. Attorney Fred Smith convinced Appellant that Appellees was willing to listen to Brian’s plea for extending the time for his appeal while Justin Hill gave an email response for Appellant which wasn’t exactly what Attorney Fred Smith had told Roberta Hill to tell her son, the Appellant. Appellant had been deceived by Attorney Fred Smith into believing that simply contacting Justin Hill, counsel for Appellees begging them for an extension of time to file in his appeals would make it automatically so. Attorney Fred Smith gave Appellant that impression despite the fact that it wasn’t true at all. Attorney Fred Smith IS AT FAULT for why Appellant filed outside of time, after the deadline, causing the three dismissals of his appeals.

21. Another phone conversation between Appellant and Attorney Fred Smith, had demonstrated how Attorney Fred Smith had manipulated Appellant out of fear into accepting whatever Attorney Fred Smith had to say, to persuade Appellant not to file anything including in the Court of Appeals of Virginia. This attorney had been really adamant about demanding that his client Brian David Hill not file anything in the state court for six months. Almost as if this attorney had planned to wreck the appeals of Appellant by instilling fear and control into Appellant and lying to Appellant, and his family on record according to the recorded conversations in Exhibits. Appellant had no choice but to accept the fear and lies from his counsel

out of fear of going to prison for contempt of court. See EXHIBIT 9, EXHIBIT PAGES 82 THROUGH 83 OF 102. See EXHIBIT 11, EXHIBIT PAGES 86 THROUGH 88 OF 102.

22. The fear which Attorney Fred Smith had instilled into Appellant is that he would face a jury trial and that Judge Greer had wanted to make it so. Fred Smith had said:

CITATION FROM TRANSCRIPTION:

(EXHIBIT PAGES 87-88 OF 102)

[Fred Smith]: Just hang tight. Don't, don't file anything. Uh,

[Fred Smith]: this is a very unusual

[Fred Smith]: procedure that, uh, is, has been undertaken by Judge Greer and looking at the paper and looking at the statute. Uh, he, he could have summarily given you up to 10 days in jail or fined you up to \$250. But he's,

[Fred Smith]: he's

[Fred Smith]: decided to set this case down for jury trial, Brian. Uh, so I've got to, um, um, collect a lot of info. I think it will, uh, relate heavily to your mental health. So, uh, we have to work on all that to get updated records and that sort of thing. Um, I did. Um, um, I've reached out to Dr. Loehrer and hopefully I can talk to her in the next day or so. But anyway, that's where we are. So, uh, uh, I don't think. I've got a jury trial to do on Friday. So as soon as we get your trial date, uh, that morning before the jury trial starts. Uh, that's, that's all we'll be doing for the time being. Uh, so that's where we are. Just keep your head down and lay low. Ok.

[Brian Hill]: Alright.

23. Yeah, Fred Smith telling Appellant to keep his head down, lay low, and not file anything in any state court including the Court of Appeals of Virginia, while his appeals get dismissed for failure to prosecute or failing to file timely. All

Attorney Fred Smith had to do to Appellant was put him in the mindset of fear of losing his contempt of court case by instilling the belief that Appellant would face a “jury trial” where the jury would be told of his “prior conviction” and then the jury would already feel prejudiced into convicting Appellant of contempt of court. (R. 0217, 0158-0210, MOTION - MOT TO SUPPRESS EVIDENCE). Apparently, Fred Smith somehow knew that Appellant would fear a jury trial over a contempt of court case, as the jury could easily be swayed by his “prior conviction” (R. 0217, 0158-0210, MOTION - MOT TO SUPPRESS EVIDENCE) to prejudice the jury, make them angry and emotionally want to kill Appellant or be angry at Appellant and hateful at Appellant, thinking Appellant is somehow evil over his “prior” and make Appellant feel that the contempt of court case was a guaranteed verdict of whatever the angry jury has to feel. Fred Smith may have somehow known of him withdrawing his appeal and had decided to instill similar fear hoping that Appellant would give up on his appeals by false impression that his appeals would be extended in time and that Appellant submit to whatever Attorney Fred Smith had wanted Appellant to do, like not file for six months. It is as if, Fred Smith was acting like he was the boss of Appellant and Appellant had to follow the orders of Fred Smith, acting as his boss and not as counsel who was supposed to represent Appellant. This is COERCION, ON THE RECORD, the phone call recording proves this. Imagine, a contempt of court criminal charge and conviction is less than 2 weeks of jailtime, according to Attorney Fred Smith, but then he instills the fear that Appellant is facing a jury trial

at the direction of Judge Greer, that this is an unusual situation aka “this is a very unusual procedure that, uh, is, has been undertaken by Judge Greer”. So out of the blue, Attorney Fred Smith just tells Appellant on Mar 6, 2023, that Judge Greer is out to set a new procedure that is not normally done with contempt of court cases. So just out of the blue, Judge Greer decides to give Appellant a jury trial according to the claim by Attorney Fred Smith, the attorney who was already caught lying about different facets of his no-filing/filing prohibitions whatnot. Appellant who had faced the issue of, if he testifies, then his prior conviction comes up in front a jury of his peers who will fear of what he was convicted of which will drive the jury into possibly a violent rage, a need to convict Appellant at all costs and they will forget about any of the substance of his contempt of court charge. Attorney Fred Smith had used a psychological abuse tactic of instilling fear and telling Appellant to “lay low” as if Appellant had committed a “crime” so bad that he must “lay low” and keep his head down. Oh and forgot: “[Fred Smith]: Just hang tight. Don't, don't file anything.” Fred Smith hasn't told Appellant enough times to not file anything in a court. Appellant just happens to have three appeals where he has to file something by Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023. According to Attorney Fred Smith and the evidence concludes, with the fear instilled in Appellant over his freedom of speech, God forbid, his FREEDOM OF SPEECH, he was told over and over again not to file anything in the state court or anywhere in

Virginia, except the federal courts. Doesn't matter about the "rules" according to the fear instilled by Attorney Fred Smith. The evidence is overwhelming, proving that Appellant was manipulated by Attorney Fred Smith psychologically or mentally to not file timely in his appeals, by Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023. This is at no fault of Appellant because Appellant thought he was being a good boy and listening to his lawyer. So being a good boy doesn't mean that his appeals should be dismissed forever, God forbid. Appellant had thought his attorney was going to at least let him file his appeals, but Appellant was lied to and was manipulated by psychological abuse tactics to achieve the objective of ruining Appellant's three appeals under cases no. 0313-23-3, 0314-23-3 and 0317-23-3. Nothing Appellees will be able to argue can convince this Court otherwise, thanks to the prima face evidence, that Appellant does have the justification for this Court granting his motion for a delayed appeal pursuant to Code § 19.2-3 21.1. Exhibits 1-14 demonstrate that this Court has the legal justification to grant Appellant's request for the relief sought under that statute. Appellant cannot be at fault when his own lawyer manipulated his client and instilled fear in his client, refused to protect his client's first amendment right to freedom of speech to criticize a circuit court judge, and the lawyer lied to Appellant long enough for Appellant's appeals to fail for untimely filing. **Sounds a lot like MALPRACTICE. Appellant also prays that the Court of Appeals of Virginia may disbar Attorney Fred**

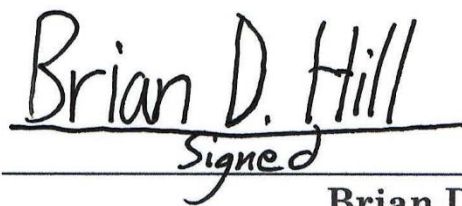
Smith, punish Attorney Fred Smith, and allow Appellant to file a lawsuit against Fred Smith in his individual capacity for malpractice. Attorney Fred Smith ruined Appellant's three appeals by causing the dismissals of those appeals. Fred Smith is at fault and he needs to be questioned by this Court about Fred Smith's misconduct as an attorney.

WHEREFORE, Mr. Hill prays this Court to grant his motion for a delayed appeal pursuant to Code § 19.2-321.1.

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

Respectfully Filed/Submitted on January 20, 2024,

BRIAN DAVID HILL
Pro Se


Signed

Brian D. Hill

Brian David Hill – Ally of Qanon
Founder of USWGO Alternative
News

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

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 [6,609] 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: January 20, 2024



Brian David Hill – Ally of Qanon
Founder of USWGO Alternative News
310 Forest Street, Apt. 2 Martinsville,
Virginia 24112
(276) 790-3505

JusticeForUSWGO.wordpress.com

Pro Se Appellant

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 20th day of January, 2024, I caused this “APPELLANT’S MOTION FOR DELAYED APPEAL” and attached EXHIBITS (ALL-EXHIBITS-1-18-2024.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 Court of Appeals 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; OAG Criminal Litigation:



310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505
JusticeForUSWGO.wordpress.com
Pro Se Appellant

ROBERTA HILL <rbhill67@comcast.net>

1/21/2024 10:51 PM

Re: Amended Appellant Motion for Delayed Appeal, Exhibits

To Hill, Justin B. <jhill@oag.state.va.us> •
 OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> •
 Chris Coen <ccoen@oag.state.va.us> •
 Martinsville City Commonwealth's Attorney Glen Andrew Hall <ahall@ci.martinsville.va.us> Copy
 stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl> • stanleybolten@uswgo.com •
 adriennadicioccio@yahoo.com • gabe@fixthecourt.com

Clerical mistake in Amended motion. Appellant forgot to add the word amended to the motion, and the CAV is usually strict about following proper procedures and errors. So Appellant is making sure to add the word amended so that the Court of Appeals of Virginia understands that it was an amended motion. I am sending you the fixed Amended Motion to fix the clerical mistake to serve all parties. Will be filed by VACES to correct clerical mistake.

File list of attachments:

1. AMDMotion1-20-2024.pdf

On 1/20/2024 11:44 PM, ROBERTA HILL wrote:

Hey Justin Hill (Assistant Attorney General) and Glen Andrew Hall (Commonwealth's Attorney),

I am Roberta Hill, Brian Hill's mother. I am sorry but we have to do this, Brian Hill is filing this (1) Amended Appellant's Motion for delayed appeal and (2) exhibits in support of that motion on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading and exhibits on his behalf. This should serve the counsel for Appellees through email. This motion and exhibits will be filed via VACES with the Court of Appeals of Virginia.

You are obligated to review over the new audio recordings evidence my son Brian Hill has and is filing on the record. He had trust issues with his court appointed attorney Fred Smith when he refused to protect Brian's first amendment right to freedom of speech against Judge Greer and feared this contempt case was a conspiracy or plot to end his appeals, so he had used the one party consent recording statute, where he kept recordings and those recordings between Brian Hill and Fred Smith had proved you lied in your brief of the commonwealth. Fred said he spoke with you multiple times and claimed that you granted Brian an extension for his appeals due to the six month thing. Those are in the audio recordings, and you lied about all of that.

CAV: Submitted on 01-21-2024 23:29:22 EST for filing on 01-22-2024

Here are the links to the evidence and copies were distributed to Q Anons, so you cannot stop this evidence with any suppression campaign. We are sorry to have to do this, but we cannot accept liars lying to the courts. We cannot accept that you would stoop down to lying about his contempt case situation.

Attorney Fred Smith Meeting with Brian Hill on October 20, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Oct20-077885.wav> or

<https://archive.org/details/oct-20-077885>

Attorney Fred Smith Meeting with Brian Hill on April 13, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Apr13-045432.wav>

Attorney Fred Smith Meeting with Brian Hill on March 09, 2023:

<https://justiceforuswgo.nl/PUBLICATION/Mar09-726407.wav> or

<https://archive.org/details/mar-09-726407>

Attorney Fred Smith Phone Conversation with Brian Hill on March 06, 2023:

<https://justiceforuswgo.nl/PUBLICATION/20230306154652-O-12766382555.wav>

Attorney Fred Smith Phone Conversation with myself, Roberta Hill on June 22,

2023: [https://justiceforuswgo.nl/PUBLICATION/20230622090230-I-](https://justiceforuswgo.nl/PUBLICATION/20230622090230-I-2766382555.wav)

[2766382555.wav](https://justiceforuswgo.nl/PUBLICATION/20230622090230-I-2766382555.wav)

We are sorry for the truth coming out. But Jesus is all about the truth will set you free. The truth will set Brian D. Hill free, who is a virgin with no victims, and get him off of the sex registry with the truth of his innocence. Truth will make us free. Brian David Hill = Innocence.

<https://web.archive.org/web/20230515093703/https://wearechange.org/case-brian-d-hill/>

File list of attachments:

1. Motion1-20-2024.pdf
2. ALL-EXHIBITS-1-20-2024.pdf

Roberta Hill (representative for electronic filing)

310 Forest Street, Apartment 1

Martinsville, Virginia 24112

Court of Appeals of Virginia, cases no. 0313-23-3, 0314-23-3 and 0317-23-3:

Brian David Hill v. Commonwealth of Virginia, City of Martinsville

Appellant:

Brian David Hill

310 Forest Street, Apartment 2

Martinsville, Virginia 24112

Thanks,
Roberta Hill

- [AMDMotion1-20-2024.pdf \(719 KB\)](#)

From: [Court of Appeals of VA - 2](#)
To: jhill@oag.state.va.us; oagcriminallitigation@oag.state.va.us
Subject: BRIAN DAVID HILL v. COMMONWEALTH OF VIRGINIA, ET AL.; Record Nos. 0313-23-3, 0314-23-3, and 0317-23-3
Date: Friday, January 26, 2024 1:13:55 PM
Attachments: [012624 letter - case disposed of, SCV deadline running 0313-23-3, 0314-23-3, 0317-23-3.pdf](#)
[011724 Dismissal Order 0313-23-3.pdf](#)



COURT OF APPEALS OF VIRGINIA

Counsel:

Attached is this Court's letter entered today in the above-referenced matter and sent via USPS to the appellant at the following address:

Brian David Hill
310 Forest Street
Apt 2
Martinsville, VA 24112

No other paper copies of the attachment(s) will be mailed.

Counsel must file all correspondence and pleadings electronically through the VACES system. Information about VACES is available on the Virginia Judicial System Website at <https://eapps.courts.state.va.us/help/robo/vaces/index.htm>. Pro se/self-represented litigants may file through the VACES system. Otherwise, such individuals must submit one paper copy of a filing to the Clerk of the Court.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219

COURT OF APPEALS OF VIRGINIA

CHIEF JUDGE

MARLA GRAFF DECKER

JUDGES

RANDOLPH A. BEALES
GLEN A. HUFF
MARY GRACE O'BRIEN
RICHARD Y. ATLEE, JR.
MARY B. MALVEAUX
CLIFFORD L. ATHEY, JR.
JUNIUS P. FULTON, III
DANIEL E. ORTIZ
DORIS HENDERSON CAUSEY
FRANK K. FRIEDMAN



109 NORTH EIGHTH STREET
RICHMOND, VIRGINIA 23219-2321
(804) 371-8428 (V/TDD)

JUDGES

VERNIDA R. CHANEY
STUART A. RAPHAEL
LISA M. LORISH
DOMINIQUE A. CALLINS
KIMBERLEY SLAYTON WHITE

SENIOR JUDGES

ROSEMARIE ANNUNZIATA
JEAN HARRISON CLEMENTS
JAMES W. HALEY, JR.
WILLIAM G. PETTY

January 26, 2024

Brian David Hill
310 Forest Street
Apt 2
Martinsville, VA 24112

Re: *Brian David Hill*
v. Commonwealth of Virginia, et al.
Record Nos. 0313-23-3, 0314-23-3,
and 0317-23-3

Dear Mr. Hill:

This will acknowledge receipt of your letter regarding the above-referenced case. In that regard, please find enclosed a copy of this Court's January 17, 2024 order. The time to file a petition for rehearing or a notice to appeal this Court's decision to the Supreme Court of Virginia has not yet expired. To date, we do not have a record of either being filed.

Sincerely yours,

Sincerely,

A handwritten signature in black ink, appearing to read "Abby M. Russo".

Abby M. Russo, Esq.
Deputy Clerk

cc: Justin Bryon Hill, Esquire

ROBERTA HILL <rbhill67@comcast.net>

1/30/2024 3:49 AM

Appellant petition for rehearing and/or rehearing en banc

To Hill, Justin B. <jhill@oag.state.va.us> •

OAG Criminal Litigation (oagcriminallitigation@oag.state.va.us) <oagcriminallitigation@oag.state.va.us> •

Chris Coen <ccoen@oag.state.va.us> •

Martinsville City Commonwealth's Attorney Glen Andrew Hall <ahall@ci.martinsville.va.us> •

Williams, Angela T. <atwilliams@oag.state.va.us> • Henderson, Deborah J. <dhenderson@oag.state.va.us> Copy

stanleybolten@justiceforuswgo.nl <stanleybolten@justiceforuswgo.nl> • stanleybolten@uswgo.com •

gabe@fixthecourt.com

Hey Justin Hill (Assistant Attorney General) and Glen Andrew Hall
(Commonwealth's Attorney),

I am Roberta Hill, Brian Hill's mother. I am sorry but we have to do this, Brian Hill is filing this (1) Appellant's petition for rehearing and/or rehearing en banc on Brian's behalf due to his federal probation conditions where he is not allowed to use the internet. He is having me file this pleading and exhibits on his behalf. This should serve the counsel for Appellees through email. This motion and exhibits will be filed via VACES with the Court of Appeals of Virginia.

The reason why my son has decided to timely file a petition for rehearing is because of the important issues even before the motion for delayed appeal. My son wanted to make sure that they are all addressed before whatever the next decision is from the Court of Appeals.

File list of attachments:

1. Appe-Rehearing1-30-2024.pdf

Roberta Hill (representative for electronic filing)

310 Forest Street, Apartment 1

Martinsville, Virginia 24112

Court of Appeals of Virginia, cases no. 0313-23-3, 0314-23-3 and 0317-23-3:

Brian David Hill v. Commonwealth of Virginia, City of Martinsville

Appellant:

Brian David Hill

310 Forest Street, Apartment 2

Martinsville, Virginia 24112

Thanks,

Roberta Hill

CAV: Submitted on 01-30-2024 07:04:33 EST for filing on 01-30-2024

-
- Appe-Rehearing1-30-2024.pdf (631 KB)

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**

**APPELLANT'S PETITION FOR REHEARING AND PETITION FOR
REHEARING EN BANC**

U.S.W.G.O.

**Brian David Hill – Ally of Q /Anons/Lin Wood
Founder of USWGO Alternative News
310 Forest Street, Apt. 2
Martinsville, Virginia 24112
(276) 790-3505
c/o: Rbhill67@comcast.net; Roberta Hill**



Pro Se Appellant

– JusticeForUSWGO.wordpress.com

JusticeForUSWGO.NL / JusticeForUSWGO.COM

APPELLANT’S PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC

Pursuant to Rule 5A:33. (“Rehearing”, Rules of the Supreme Court of Virginia) and Rule 5A:34. Rule 5A:34. (“Rehearing En Banc After Final Disposition of a Case”, Rules of the Supreme Court of Virginia), Mr. Brian David Hill, (“Appellant”) respectfully files this Petition for Rehearing and Petition for Rehearing En Banc with this Court for the three delayed appeals in the above-captioned cases (cases no. 0313-23-3, 0314-23-3 and 0317-23-3).

INTRODUCTION

The Court of Appeals of Virginia by either a judge, a Panel, or anybody else from the court itself including the clerk (who had authority to dismiss the appeals) (“the CAV”) had entered on January 17, 2024, the Order dismissing Appellant’s three criminal appeals of right on the finding that:

CITATION IN-PART OF ORDER 1-17-2024: “Upon review, the motion is denied. The Court received the record in the three identified appeals on June 14, 2023, and sent the parties a record acknowledgment on that same date. Under Rule 5A:19(b)(1), the appellant’s opening brief was due not later than Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023. Nothing in the Court’s consolidation order indicated that appellant could not or should not file a timely opening brief in the three identified appeals. Moreover, his requests for relief are untimely. Upon further consideration, the Court dismisses the appeals in Record Numbers 0313-23-3, 0314-23-3, and 0317-23-3 because no opening brief has been filed. See Rule 5A:26 (“If an appellant fails to file a brief in compliance with these Rules, this Court may dismiss the appeal.”).”

There clearly is error here in the record of the three appeals for the reasons which Appellant will specify and citing from the record itself on the errors made by the CAV. These errors will be brought up as to why the CAV had wrongfully dismissed the three appeals when there clearly was a timely filed motion for extension of time and good cause shown for the second motion for an extension of time which the ORDER dated January 17, 2024, had neglected to bring up in that order. The issues that Appellant did file a timely request to extend the time for Appellant's appeals before the deadlines and for good cause shown but was wrongfully denied. These errors can be reversed and the appeals can be reinstated based on the record of the CAV. Appellant explains why and argues good cause.

Citation of the record of the CAV appeal cases will be noted as follows: Appeal Record aka A.R. (A.R. ####-####, CAV no. #####-##-#). Citation of both the record pages and then the CAV case number.

Here we go, honorable judges of this Court. Appellant states the following errors and issues.

ARGUMENT

I. Appellant did timely file a motion for extending the time for the appeals for good cause shown, and motion was filed on March 9, 2023. Motion was uncontested by the Appellees. The CAV wrongfully denied that undisputed/uncontested motion on March 29, 2023, despite being filed timely under Rule 5A:19(b)(4) before Appellant was prohibited from filing in this court for six months. The CAV erred and that error should have been reversed which means that this Court should have granted that motion for extension of time would have made Appellant's filing on December 1, 2023, as timely filed.

Appellant did in fact timely filed a motion for an extension of time before the deadline of Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023.

That order on January 17, 2024, overlooked and failed to acknowledge that a timely filed motion for extension of time was already filed before the deadlines set in all three appeals, noted, CAV cases no. 0313-23-3, 0314-23-3, and 0317-23-3. Good cause was shown in that motion (A.R. 153-163, CAV no. 0313-23-3)(A.R. 154-164, CAV no. 0314-23-3)(A.R. 150-159, CAV no. 0317-23-3).

Even though that motion didn't contain exhibits, Appellant had filed an earlier motion pleading with the Court proving that he had faced contempt of court which would ultimately affect his ability to continue with his appeals without obstruction and interference from the Trial Court. The Trial Court could use the contempt power ultimately to obstruct and interfere with Appellant's appeals. Appellant had clearly proven to the CAV (A.R. 21-123, CAV no. 0313-23-3)(A.R. 22-124, CAV no. 0314-23-3)(A.R. 18-119, CAV no. 0317-23-3) prior to being prohibited from filing for six-months that he was charged with contempt of court over his NOTICES OF APPEAL (A.R. 1-14, CAV no. 0313-23-3)(A.R. 1-15, CAV no. 0314-23-3)(A.R. 1-15, CAV no. 0317-23-3), and the evidence was at least enough to prove to the CAV that an extension of time was warranted here. It was timely filed and thus should

have been granted.

II. This Court should extend and/or modify existing law *Lacava v. Commonwealth*, 283 Va. 465, 469 (Va. 2012) to hold that the judge or panel or whoever else at the CAV who entered the order on March 29, 2023 had erred and abused its discretion when it denied Appellant’s motion for extending the time for the appeals which meant not continuing the matter until after the six-month prohibition period where Appellant could not file in the CAV until the matter was completed, then it caused the wrongfully dismissals of Appellant’s appeals on January 17, 2014 for the cause of untimely filing due to the same six-month prohibition/restriction placed on Appellant by Attorney Fred Smith

This Court should extend and/or modify existing law to hold that the CAV erred and abused its discretion when it denied Appellant’s timely filed motion for “Extension of Time” (A.R. 153-163, CAV no. 0313-23-3)(A.R. 154-164, CAV no. 0314-23-3)(A.R. 150-159, CAV no. 0317-23-3) which meant not continuing the matter until after the six-month no-filing prohibition of Appellant was completed. As stated above, this Court should extend and/or modify existing law to find that Appellant had a constitutional right to procedural due process of law in the Court of Appeals of Virginia and for his right to present his claims within the adversarial system by filing his appeal brief. Appellant’s procedural due process of law was deprived and was violated when the CAV denied Appellant’s motion for extension of time (A.R. 153-163, CAV no. 0313-23-3)(A.R. 154-164, CAV no. 0314-23-3)(A.R. 150-159, CAV no. 0317-23-3). That motion was not contested by Appellees and uncontested motions are usually granted without further notice.

The **existing law already in the Supreme Court of Virginia**, is under

Lacava v. Commonwealth, 283 Va. 465, 469 (Va. 2012) (“[w]hen a motion to extend is filed after the expiration of the original underlying deadline (in this instance, 60 days after entry of final judgment), but before the specific deadline governing a motion to extend (in this instance, 90 days after judgment), good cause must be shown as to why an extension was not sought by the original due date. In other words, the “good cause” showing must present some persuasive reason for waiting until after the expiration of the underlying deadline to file the motion for an extension of time.”)

Appellant had clearly proven to the CAV (A.R. 21-123, CAV no. 0313-23-3)(A.R. 22-124, CAV no. 0314-23-3)(A.R. 18-119, CAV no. 0317-23-3) prior to being prohibited from filing for six-months that he was charged with contempt of court over his NOTICES OF APPEAL (A.R. 1-14, CAV no. 0313-23-3)(A.R. 1-15, CAV no. 0314-23-3)(A.R. 1-15, CAV no. 0317-23-3), and the evidence was at least enough to prove to the CAV that an extension of time was warranted the relief sought.

Appellant had even filed a motion for leave of court on October 27, 2023, (A.R. 178-284, CAV no. 0313-23-3)(A.R. 179-285, CAV no. 0314-23-3)(A.R. 174-280, CAV no. 0317-23-3) with further evidence showing good cause that he was prohibited from filing in the CAV for six months, and Appellant had to comply with those demands of his court appointed lawyer Fred Smith in order for his criminal contempt of court charge to be dismissed. The CAV should have treated his “motion

for leave of court” as a motion for an extension of time as good cause was clearly demonstrated as to why an extension of time was warranted.

Appellees even admitted in email correspondence that Appellees were amendable to a request for an extension of time from Appellant (A.R. 250-252, CAV no. 0313-23-3)(A.R. 251-253, CAV no. 0314-23-3)(A.R. 246-248, CAV no. 0317-23-3). Justin Hill, who represented Appellees said by email to Appellant’s mother: *“I would note however, that the Commonwealth would be amenable to a continuance request in cases 0313-23, 0314-23, and 0317-23 while Mr. Hill handles his pending contempt charge in the circuit court. If you could pass that information on to Mr. Hill, I would appreciate it.”* This piece of evidence had proven that Appellees had no objection to a request for an extension of time for Appellant’s appeals. Therefore, the CAV never should have denied Appellant’s motions for an extension of time. Not on March 9, 2023, and not on October 27, 2023.

An abuse of discretion occurs when a court demonstrates “an unreasoning and arbitrary insistence upon expeditiousness in the face of a justifiable request for delay.” *Morris v. Slappy*, 461 U.S. 1, 11-12 (1983). The Court expected Appellant to timely file his appeal briefs, designations, and any other required filings while his hands were tied behind his back symbolically, not literally tied behind his back. But Appellant’s hands were tied nonetheless for six months. He had a justifiable cause for an extension of time and a justifiable cause for delay.

However, if the Court of Appeals of Virginia had not wanted to grant

Appellant's timely filed motion for extension of time on March 9, 2023 for good cause shown, it could have still protected Appellant's constitutional rights to procedural due process of law by simply granting Appellant's uncontested motion for leave of court filed on October 27, 2023 (NOTE: again, for good cause which Appellant had demonstrated) by treating it as a motion for extension of time on the basis of good cause shown. Had the CAV done so, it could have safeguarded Appellant's procedural due process rights in his appeals noted in this Petition. The CAV acted as though that the deadlines set for Appellant were hard deadlines, but that was not what the Supreme Court of Virginia had said in its controlling case law authority. See *Lacava v. Commonwealth*, 283 Va. 465, 469 (Va. 2012).

Even the CAV said in its January 17, 2024 order that: "*Under Rule 5A:19(b)(1), the appellant's opening brief was due not later than Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023.*" August 3, 2023, was not that long until Appellant's contempt of court case was dismissed on October 23, 2023, for Appellant to be compliant with Attorney Fred Smith's demand that Appellant not file anything in this court or in any of the Virginia courts until after the six-month prohibition period.

The CAV had two opportunities to correct its error and abuse of discretion by giving Appellant the extension of time necessary for him to have timely filed his opening appellant brief and designation of the record. See the brief and designation

in the Appeal record (A.R. 285-417, CAV no. 0313-23-3)(A.R. 286-418, CAV no. 0314-23-3)(A.R. 281-413, CAV no. 0317-23-3).

III. This Court should reverse the denying of the motion for an extension of time on March 9, 2023, and/or reverse the denying of the second motion for extension of time (the court can construe the pro se motion for leave of court as an extension of time since it preserved those issues) on October 27, 2023 in order to protect and safeguard Appellant’s constitutional right to procedural due process of law.

Two motions for extending the time for Appellant to file his opening brief timely was filed before the CAV. One before the deadline, and the other after the deadline. This Court should reverse the denying of the motion for an extension of time on March 9, 2023, or reverse the denying of the second motion for extension of time (the court can construe the pro se motion for leave of court as an extension of time since it preserved those issues) on October 27, 2023 in order to protect and safeguard Appellant’s constitutional right to procedural due process of law. Procedural due process of law is supported by both the Fourteenth Amendment of the U.S. Constitution in it’s Bill of Rights, and Article I. Bill of Rights, Section 11. “Due process of law” of the Virginia Constitution.

First of all, Appellant had filed a motion for extension of time (A.R. 153-163, CAV no. 0313-23-3)(A.R. 154-164, CAV no. 0314-23-3)(A.R. 150-159, CAV no. 0317-23-3) over the fact that he had faced a contempt of court charge over his freedom of speech in his three NOTICES OF APPEAL (A.R. 1-14, CAV no. 0313-23-3)(A.R. 1-15, CAV no. 0314-23-3)(A.R. 1-15, CAV no. 0317-23-3).

It is not a criminal act to engage in protected freedom of speech both inside of the Commonwealth of Virginia and outside of the Commonwealth of Virginia. Even a criminal contempt of court charge is unconstitutional when it is directly in retaliation to Appellant's protected freedom of speech. See *Richey v. Aiyeku*, NO: 4:16-CV-5047-RMP, 10 (E.D. Wash. Mar. 19, 2021) ("To qualify as protected speech, a grievance must contain an actual grievance seeking a practical result and not merely function as a vehicle of harassment. See *Jones v. Williams*, 791 F.3d 1023, 1035 (9th Cir. 2015)"). 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).

The freedom of speech is protected under the First Amendment of the U.S. Constitution, Bill of Rights, and Article 1, Section 12, of the Virginia Constitution. Article 1, Section 12, of the Virginia Constitution states: "That the freedoms of speech and of the press are among the great bulwarks of liberty, and can never be restrained except by despotic governments; that any citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; that the General Assembly shall not pass any law abridging the freedom of speech or of the press, nor the right of the people peaceably to assemble, and to petition the government for the redress of grievances."

See *Jackson v. Bachman*, Case No. 1:19-cv-422, 6 (S.D. Ohio Jun. 2, 2021) ("For the Court to find that governmental action was taken in retaliation for First

Amendment speech by a private citizen, plaintiff must prove that “1) [s]he engaged in protected conduct, 2) the defendant took an adverse action that would deter a person of ordinary firmness from continuing to engage in that conduct, and 3) the adverse action was taken at least in part because of the exercise of the protected conduct.” *Holzemer v. City of Memphis*, 621 F.3d 512, 520 (6th Cir. 2010) (quoting *Siggers-El v. Barlow*, 412 F.3d 693, 699 (6th Cir. 2005)).”

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....”).

Appellant clearly didn’t engage in criminal speech because he never advocated criminal activity, never advocated insurrection, never yelled fire in a crowded theater, never advocated murder, never threatened harm against the judge, did not advocate harming himself, and did not advocate harm against anyone else in his NOTICES OF APPEAL (A.R. 1-14, CAV no. 0313-23-3)(A.R. 1-15, CAV no. 0314-23-3)(A.R. 1-15, CAV no. 0317-23-3). His freedom of speech was clearly protected under the Constitution of both the United States and of Virginia. It was clearly only meant to be preserving issues for his appeals. That is his procedural due process of law. The contempt case threatened not just Appellant’s protected freedom of speech but also threatened his right to petition the Court of Appeals of Virginia for a redress of grievances. That itself deprives Appellant of procedural due process

of law.

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.”).

Now as to Appellant’s first motion for extension of time. He clearly gave good cause as to why that motion should have been granted.

Second of all, Appellant had filed a motion for leave of court on October 27, 2023, (A.R. 178-284, CAV no. 0313-23-3)(A.R. 179-285, CAV no. 0314-23-3)(A.R. 174-280, CAV no. 0317-23-3) with further evidence showing good cause that he was prohibited from filing in the CAV for six months, and Appellant had to comply with those demands of his court appointed lawyer Fred Smith in order for his criminal contempt of court charge to be dismissed. The CAV should have treated his “motion for leave of court” as a motion for an extension of time as good cause was clearly demonstrated as to why an extension of time was warranted.

The Supreme Court of Virginia said in its controlling opinion that a litigant can file after the deadline for filing when good cause is clearly shown. *Lacava v. Commonwealth*, 283 Va. 465, 469 (Va. 2012) (“[w]hen a motion to extend is filed

after the expiration of the original underlying deadline (in this instance, 60 days after entry of final judgment), but before the specific deadline governing a motion to extend (in this instance, 90 days after judgment), good cause must be shown as to why an extension was not sought by the original due date. In other words, the “good cause” showing must present some persuasive reason for waiting until after the expiration of the underlying deadline to file the motion for an extension of time.”).

Appellees even admitted in email correspondence that Appellees were amendable to a request for an extension of time from Appellant (A.R. 250-252, CAV no. 0313-23-3)(A.R. 251-253, CAV no. 0314-23-3)(A.R. 246-248, CAV no. 0317-23-3). Justin Hill, who represented Appellees said by email to Appellant’s mother: “I would note however, that the Commonwealth would be amenable to a continuance request in cases 0313-23, 0314-23, and 0317-23 while Mr. Hill handles his pending contempt charge in the circuit court. If you could pass that information on to Mr. Hill, I would appreciate it.” This piece of evidence had proven that Appellees had no objection to a request for an extension of time for Appellant’s appeals. Therefore, the CAV never should have denied Appellant’s motions for an extension of time. Not on March 9, 2023, and not on October 27, 2023. Uncontested motions.

It is clear that Appellant had proven to the CAV that he was prohibited from filing with the CAV for six months (A.R. 447-507 and 508-550, CAV no. 0313-23-3)(A.R. 448-508 and 509-551, CAV no. 0314-23-3)(A.R. 443-503 and 504-546, CAV no. 0317-23-3). Even Appellant had recorded conversations with his attorney

Fred Smith concerning the misrepresentation from Appellant's contempt of court case. Appellant had good cause shown and had demonstrated good faith as to why he couldn't file by the deadlines set by the CAV.

Appellant had demonstrated good cause for why an extension of time should have been granted on either motion.

The CAV in its order on January 17, 2024, insisted that the motion for leave of court should be denied as to being untimely, when the Supreme Court of Virginia had said that: "[w]hen a motion to extend is filed after the expiration of the original underlying deadline...good cause must be shown as to why an extension was not sought by the original due date." Good cause was shown by Appellant. It was clear error and abuse of discretion to dismiss the appeals.

Appellant and Appellees both have a constitutional right to procedural due process of law in all appeals before this court when a statute already grants such a right. See *Husske v. Commonwealth*, 252 Va. 203, 204 (Va. 1996). Appellant was clearly deprived of his procedural due process of law as caused by the Trial Court under its court appointed attorney Fred Smith. Appellant was prohibited from filing in the CAV until after the hearing in October, 2023 dismissing the contempt charge against Appellant. When Appellant was allowed to file, he filed a motion for leave of court which can also be treated as a motion for an extension of time as those issues were already preserved for the CAV, and he asked for 40 days as if it were the same 40 days after the filing of the record. He clearly demonstrated good cause.

Here are the issues if this Court does not reverse the erroneous decision made on January 17, 2024.

The issues are that it opens up appellants to unconstitutional attack by the trial courts and criminalization of appeals by the decision of a single trial court judge. If a judge of a trial court disagrees with a criminal defendant (Appellant's NOTICES OF APPEAL, for example) appealing a decision to the Court of Appeals of Virginia, all the judge would have to do is file a "SHOW CAUSE" order charging the appellant with criminal contempt for anything which could be construed or misconstrued as offensive to try to interpret any language as: "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE". Anything can be considered as "vile, contemptuous, or insulting language". There are judges from different cultures, different religious backgrounds, different political beliefs, different views, and different skin colors. What is acceptable in one culture is not acceptable in another. What is considered insulting language by one judge is not considered insulting language by another. Every judge may consider what is "vile, contemptuous, or insulting language" differently depending on his/her perspective. No offense to anybody in the CAV. One judge may feel that something in a pleading sounds offensive then charges the party with uttering a "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE". Any judge can be offended by any little thing a litigant had ever filed. That is why we have the first amendment protecting freedom of speech otherwise everybody would be in prison for contempt of court for verbally

offending another human being or offending another human being in writing. We have the first amendment protecting freedom of speech to prevent those abuses of discretion, and to prevent abuses of the contempt power of a court. Appellant didn't just get charged with criminal contempt of court but ultimately lost-by-default all three of his appeals caused as a repercussion by the criminal contempt charge for Appellant's freedom of speech. It sets a very dangerous precedent here which goes against multiple rulings by both the Supreme Court of Virginia and the U.S. Supreme Court, and ultimately suspends the freedom of speech protections for every citizen of Virginia, and ultimately suspends procedural due process protections on all appellants for simply a trial court judge disagreeing with what somebody had truthfully said or ever argued.

It creates a new precedent where essentially a CIRCUIT COURT aka the TRIAL COURT can engage in a DICTATORSHIP. That means any judge of any courthouse in the Commonwealth of Virginia can act as a dictator in a uniform which would automatically violate Article 1, Sect. 12 of the Virginia Constitution, and would make a despotic regime in every judicial district in Virginia. In these dictatorships, a single judge can decide to retaliate against an appellant who appeals to the Court of Appeals of Virginia. Retaliation with the sole intent of a single court judge having the ability to abuse his/her contempt powers to be thwarting, obstructing, interfering with, and suspending appeals to a higher court.

Retaliate by means of a contempt of court charge as he/she is free to abuse the

contempt powers set by Va. Code § 18.2-456 (“3. *Vile, contemptuous, or insulting language addressed to or published of a judge for or in respect of any act or proceeding had, or to be had, in such court, or like language used in his presence and intended for his hearing for or in respect of such act or proceeding...*”). The abuse of the contempt powers happens when protected free speech has become criminalized by a single judge in a Circuit Court or any Courthouse in Virginia.

The problems are clearly that Appellant’s appeals being dismissed is further a penalty or punitive action against Appellant all caused by Appellant being charged with contempt of court over his notices of appeal. Then the lawyer tells Appellant not to file for six-months which goes beyond the deadlines. That means Appellant wasn’t just punished by being told not to file for six-months to stay safe from being convicted of contempt of court over his protected freedom of speech which offended a single trial court judge, then he was further penalized by losing his appeals. All caused by his freedom of speech of accusing the judge of this or that when there is sufficient cause to believe a judge did this or did that in the Appellant’s own honest opinion. God forbid, we can’t criticize a trial court judge for any wrongdoing, when the whole purpose of appeals is to criticize a trial court’s wrongdoing. Essentially the contempt powers have been abused by the trial court to negate an appellant’s right to appeal, period. It is an unconstitutional deprivation of rights, a CONSTITUTIONAL CRISIS which affects every Virginian/American citizen.

Essentially, if the wrongful decision to dismiss Appellant’s appeals on

January 17, 2024 are not reversed then this sets the precedent that any judge of any court below the Court of Appeals of Virginia can simply charge a litigant with a contempt of court charge over anything deemed as offensive language, then can use that as leverage to suspend and end the rights to appeal for any and every litigant. If this doesn't get reversed, then this legitimizes the practice of a single court judge having the ability to abuse his/her contempt powers to end appeals if the trial court judge is offended by such an appeal or is offended by what was said in a pleading for such an appeal to a higher court. If a Writ of Mandamus offends the judge, then the judge can charge the litigant with contempt in order to weasel out of the Mandamus action. Appeals can be thwarted by judges abusing the contempt statute under Va. Code § 18.2-456(A)(3). The Virginia legislature never intended to pass the contempt of court statute to use it's government powers to thwart appeals and criminalize protected freedom of speech. The decision on January 17, 2024 was a bad decision and needs to be reversed to protect the Appellant's procedural due process of law and his freedom of speech.

CONCLUSION

The CAV's January 17 2024, Order contains faulty legal analysis, and/or faulty legal contentions, and/or unsupported factual conclusions for denying the motion and dismissing the appeals since controlling case law authority by the Supreme Court of Virginia said that a motion can be filed after the deadline for requesting an extension of time for good cause shown. See *Lacava v.*

Commonwealth, 283 Va. 465, 469 (Va. 2012). It ignores or implicitly reverses controlling precedent and imposes dangerous new precedent that not only sets impossible standards for Appellants who are unusually prohibited from filing in the Court of Appeals of Virginia by a court appointed lawyer in the trial court to demonstrate diligence, to demonstrate good cause to file after a deadline, but also compromises judicial efficiency by allowing a trial court judge to charge an appellant with contempt of court in response to notices of appeal, which may be used unconstitutionally to stall appeals and thwart appeals that may impact the judge's verdict or verdicts. Finally, and most disturbingly, it implicitly condones the punitive penalties of appellants losing their appeals over a trial court lawyer imposing a prohibition on his client, where Appellant isn't just prohibited from filing in the Court of Appeals of Virginia by some attorney in the trial court but loses his procedural due process of law at the discretion of the trial court by simply charging an appellant with contempt of court to be used as an excuse to punish an appellant for his/her appeal. For these reasons, Appellant respectfully requests that this Court order a rehearing and/or rehearing en banc, and afford him any additional relief it deems necessary.

It is clear that the Appellant's timely filed motion for extension of time on March 9, 2023 should have been granted or Appellant's motion for extension of time on October 27, 2023 should have been granted. Then there would have been no issue here to cause the wrongful dismissal of Appellant's appeals.

Appellant requests vacatur of this court's January 17, 2024 order and grant Appellant's motion for an extension of time filed on October 27, 2023 for good cause shown as to why the second motion for an extension of time was not filed before the deadline.

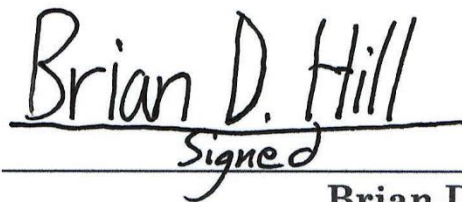
Appellant requests vacatur of this court's March 29, 2023 order and grant Appellant's motion for an extension of time timely filed before the deadline.

Appellant requests relief accordingly and asks for any other relief which the Court of Appeals of Virginia may deem proper/appropriate.

Respectfully Filed/Submitted on January 30, 2024,

BRIAN DAVID HILL

Pro Se


Signed

Brian D. Hill

Brian David Hill – Ally of Q/Anons
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News

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Pro Se Appellant

<https://JusticeForUSWGO.wordpress.com>

<https://JusticeForUSWGO.nl>

<https://JusticeForUSWGO.COM>



CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 30th day of January, 2024, I caused this “APPELLANT’S PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC” 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 Court of Appeals 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):

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Email: ahall@ci.martinsville.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.


Signed

Brian D. Hill



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Pro Se Appellant

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**

**APPELLANT'S PETITION FOR REHEARING AND PETITION FOR
REHEARING EN BANC**

U.S.W.G.O.

**Brian David Hill – Ally of Q /Anons/Lin Wood
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APPELLANT’S PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC

Pursuant to Rule 5A:33. (“Rehearing”, Rules of the Supreme Court of Virginia) and Rule 5A:34. Rule 5A:34. (“Rehearing En Banc After Final Disposition of a Case”, Rules of the Supreme Court of Virginia), Mr. Brian David Hill, (“Appellant”) respectfully files this Petition for Rehearing and Petition for Rehearing En Banc with this Court for the three delayed appeals in the above-captioned cases (cases no. 0313-23-3, 0314-23-3 and 0317-23-3).

INTRODUCTION

The Court of Appeals of Virginia by either a judge, a Panel, or anybody else from the court itself including the clerk (who had authority to dismiss the appeals) (“the CAV”) had entered on January 17, 2024, the Order dismissing Appellant’s three criminal appeals of right on the finding that:

CITATION IN-PART OF ORDER 1-17-2024: “Upon review, the motion is denied. The Court received the record in the three identified appeals on June 14, 2023, and sent the parties a record acknowledgment on that same date. Under Rule 5A:19(b)(1), the appellant’s opening brief was due not later than Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023. Nothing in the Court’s consolidation order indicated that appellant could not or should not file a timely opening brief in the three identified appeals. Moreover, his requests for relief are untimely. Upon further consideration, the Court dismisses the appeals in Record Numbers 0313-23-3, 0314-23-3, and 0317-23-3 because no opening brief has been filed. See Rule 5A:26 (“If an appellant fails to file a brief in compliance with these Rules, this Court may dismiss the appeal.”).”

There clearly is error here in the record of the three appeals for the reasons which Appellant will specify and citing from the record itself on the errors made by the CAV. These errors will be brought up as to why the CAV had wrongfully dismissed the three appeals when there clearly was a timely filed motion for extension of time and good cause shown for the second motion for an extension of time which the ORDER dated January 17, 2024, had neglected to bring up in that order. The issues that Appellant did file a timely request to extend the time for Appellant's appeals before the deadlines and for good cause shown but was wrongfully denied. These errors can be reversed and the appeals can be reinstated based on the record of the CAV. Appellant explains why and argues good cause.

Citation of the record of the CAV appeal cases will be noted as follows: Appeal Record aka A.R. (A.R. ####-####, CAV no. #####-##-#). Citation of both the record pages and then the CAV case number.

Here we go, honorable judges of this Court. Appellant states the following errors and issues.

ARGUMENT

I. Appellant did timely file a motion for extending the time for the appeals for good cause shown, and motion was filed on March 9, 2023. Motion was uncontested by the Appellees. The CAV wrongfully denied that undisputed/uncontested motion on March 29, 2023, despite being filed timely under Rule 5A:19(b)(4) before Appellant was prohibited from filing in this court for six months. The CAV erred and that error should have been reversed which means that this Court should have granted that motion for extension of time would have made Appellant's filing on December 1, 2023, as timely filed.

Appellant did in fact timely filed a motion for an extension of time before the deadline of Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023.

That order on January 17, 2024, overlooked and failed to acknowledge that a timely filed motion for extension of time was already filed before the deadlines set in all three appeals, noted, CAV cases no. 0313-23-3, 0314-23-3, and 0317-23-3. Good cause was shown in that motion (A.R. 153-163, CAV no. 0313-23-3)(A.R. 154-164, CAV no. 0314-23-3)(A.R. 150-159, CAV no. 0317-23-3).

Even though that motion didn't contain exhibits, Appellant had filed an earlier motion pleading with the Court proving that he had faced contempt of court which would ultimately affect his ability to continue with his appeals without obstruction and interference from the Trial Court. The Trial Court could use the contempt power ultimately to obstruct and interfere with Appellant's appeals. Appellant had clearly proven to the CAV (A.R. 21-123, CAV no. 0313-23-3)(A.R. 22-124, CAV no. 0314-23-3)(A.R. 18-119, CAV no. 0317-23-3) prior to being prohibited from filing for six-months that he was charged with contempt of court over his NOTICES OF APPEAL (A.R. 1-14, CAV no. 0313-23-3)(A.R. 1-15, CAV no. 0314-23-3)(A.R. 1-15, CAV no. 0317-23-3), and the evidence was at least enough to prove to the CAV that an extension of time was warranted here. It was timely filed and thus should

have been granted.

II. This Court should extend and/or modify existing law *Lacava v. Commonwealth*, 283 Va. 465, 469 (Va. 2012) to hold that the judge or panel or whoever else at the CAV who entered the order on March 29, 2023 had erred and abused its discretion when it denied Appellant’s motion for extending the time for the appeals which meant not continuing the matter until after the six-month prohibition period where Appellant could not file in the CAV until the matter was completed, then it caused the wrongfully dismissals of Appellant’s appeals on January 17, 2014 for the cause of untimely filing due to the same six-month prohibition/restriction placed on Appellant by Attorney Fred Smith

This Court should extend and/or modify existing law to hold that the CAV erred and abused its discretion when it denied Appellant’s timely filed motion for “Extension of Time” (A.R. 153-163, CAV no. 0313-23-3)(A.R. 154-164, CAV no. 0314-23-3)(A.R. 150-159, CAV no. 0317-23-3) which meant not continuing the matter until after the six-month no-filing prohibition of Appellant was completed. As stated above, this Court should extend and/or modify existing law to find that Appellant had a constitutional right to procedural due process of law in the Court of Appeals of Virginia and for his right to present his claims within the adversarial system by filing his appeal brief. Appellant’s procedural due process of law was deprived and was violated when the CAV denied Appellant’s motion for extension of time (A.R. 153-163, CAV no. 0313-23-3)(A.R. 154-164, CAV no. 0314-23-3)(A.R. 150-159, CAV no. 0317-23-3). That motion was not contested by Appellees and uncontested motions are usually granted without further notice.

The existing law already in the Supreme Court of Virginia, is under

Lacava v. Commonwealth, 283 Va. 465, 469 (Va. 2012) (“[w]hen a motion to extend is filed after the expiration of the original underlying deadline (in this instance, 60 days after entry of final judgment), but before the specific deadline governing a motion to extend (in this instance, 90 days after judgment), good cause must be shown as to why an extension was not sought by the original due date. In other words, the “good cause” showing must present some persuasive reason for waiting until after the expiration of the underlying deadline to file the motion for an extension of time.”)

Appellant had clearly proven to the CAV (A.R. 21-123, CAV no. 0313-23-3)(A.R. 22-124, CAV no. 0314-23-3)(A.R. 18-119, CAV no. 0317-23-3) prior to being prohibited from filing for six-months that he was charged with contempt of court over his NOTICES OF APPEAL (A.R. 1-14, CAV no. 0313-23-3)(A.R. 1-15, CAV no. 0314-23-3)(A.R. 1-15, CAV no. 0317-23-3), and the evidence was at least enough to prove to the CAV that an extension of time was warranted the relief sought.

Appellant had even filed a motion for leave of court on October 27, 2023, (A.R. 178-284, CAV no. 0313-23-3)(A.R. 179-285, CAV no. 0314-23-3)(A.R. 174-280, CAV no. 0317-23-3) with further evidence showing good cause that he was prohibited from filing in the CAV for six months, and Appellant had to comply with those demands of his court appointed lawyer Fred Smith in order for his criminal contempt of court charge to be dismissed. The CAV should have treated his “motion

for leave of court” as a motion for an extension of time as good cause was clearly demonstrated as to why an extension of time was warranted.

Appellees even admitted in email correspondence that Appellees were amendable to a request for an extension of time from Appellant (A.R. 250-252, CAV no. 0313-23-3)(A.R. 251-253, CAV no. 0314-23-3)(A.R. 246-248, CAV no. 0317-23-3). Justin Hill, who represented Appellees said by email to Appellant’s mother: *“I would note however, that the Commonwealth would be amenable to a continuance request in cases 0313-23, 0314-23, and 0317-23 while Mr. Hill handles his pending contempt charge in the circuit court. If you could pass that information on to Mr. Hill, I would appreciate it.”* This piece of evidence had proven that Appellees had no objection to a request for an extension of time for Appellant’s appeals. Therefore, the CAV never should have denied Appellant’s motions for an extension of time. Not on March 9, 2023, and not on October 27, 2023.

An abuse of discretion occurs when a court demonstrates “an unreasoning and arbitrary insistence upon expeditiousness in the face of a justifiable request for delay.” *Morris v. Slappy*, 461 U.S. 1, 11-12 (1983). The Court expected Appellant to timely file his appeal briefs, designations, and any other required filings while his hands were tied behind his back symbolically, not literally tied behind his back. But Appellant’s hands were tied nonetheless for six months. He had a justifiable cause for an extension of time and a justifiable cause for delay.

However, if the Court of Appeals of Virginia had not wanted to grant

Appellant's timely filed motion for extension of time on March 9, 2023 for good cause shown, it could have still protected Appellant's constitutional rights to procedural due process of law by simply granting Appellant's uncontested motion for leave of court filed on October 27, 2023 (NOTE: again, for good cause which Appellant had demonstrated) by treating it as a motion for extension of time on the basis of good cause shown. Had the CAV done so, it could have safeguarded Appellant's procedural due process rights in his appeals noted in this Petition. The CAV acted as though that the deadlines set for Appellant were hard deadlines, but that was not what the Supreme Court of Virginia had said in its controlling case law authority. See *Lacava v. Commonwealth*, 283 Va. 465, 469 (Va. 2012).

Even the CAV said in its January 17, 2024 order that: "*Under Rule 5A:19(b)(1), the appellant's opening brief was due not later than Monday, July 24, 2023. And under Rule 5A:19(b)(4) any motion for an extension of time to file the opening brief was due not later than Thursday, August 3, 2023.*" August 3, 2023, was not that long until Appellant's contempt of court case was dismissed on October 23, 2023, for Appellant to be compliant with Attorney Fred Smith's demand that Appellant not file anything in this court or in any of the Virginia courts until after the six-month prohibition period.

The CAV had two opportunities to correct its error and abuse of discretion by giving Appellant the extension of time necessary for him to have timely filed his opening appellant brief and designation of the record. See the brief and designation

in the Appeal record (A.R. 285-417, CAV no. 0313-23-3)(A.R. 286-418, CAV no. 0314-23-3)(A.R. 281-413, CAV no. 0317-23-3).

III. This Court should reverse the denying of the motion for an extension of time on March 9, 2023, and/or reverse the denying of the second motion for extension of time (the court can construe the pro se motion for leave of court as an extension of time since it preserved those issues) on October 27, 2023 in order to protect and safeguard Appellant’s constitutional right to procedural due process of law.

Two motions for extending the time for Appellant to file his opening brief timely was filed before the CAV. One before the deadline, and the other after the deadline. This Court should reverse the denying of the motion for an extension of time on March 9, 2023, or reverse the denying of the second motion for extension of time (the court can construe the pro se motion for leave of court as an extension of time since it preserved those issues) on October 27, 2023 in order to protect and safeguard Appellant’s constitutional right to procedural due process of law. Procedural due process of law is supported by both the Fourteenth Amendment of the U.S. Constitution in it’s Bill of Rights, and Article I. Bill of Rights, Section 11. “Due process of law” of the Virginia Constitution.

First of all, Appellant had filed a motion for extension of time (A.R. 153-163, CAV no. 0313-23-3)(A.R. 154-164, CAV no. 0314-23-3)(A.R. 150-159, CAV no. 0317-23-3) over the fact that he had faced a contempt of court charge over his freedom of speech in his three NOTICES OF APPEAL (A.R. 1-14, CAV no. 0313-23-3)(A.R. 1-15, CAV no. 0314-23-3)(A.R. 1-15, CAV no. 0317-23-3).

It is not a criminal act to engage in protected freedom of speech both inside of the Commonwealth of Virginia and outside of the Commonwealth of Virginia. Even a criminal contempt of court charge is unconstitutional when it is directly in retaliation to Appellant's protected freedom of speech. See *Richey v. Aiyeku*, NO: 4:16-CV-5047-RMP, 10 (E.D. Wash. Mar. 19, 2021) ("To qualify as protected speech, a grievance must contain an actual grievance seeking a practical result and not merely function as a vehicle of harassment. See *Jones v. Williams*, 791 F.3d 1023, 1035 (9th Cir. 2015)"). 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).

The freedom of speech is protected under the First Amendment of the U.S. Constitution, Bill of Rights, and Article 1, Section 12, of the Virginia Constitution. Article 1, Section 12, of the Virginia Constitution states: "That the freedoms of speech and of the press are among the great bulwarks of liberty, and can never be restrained except by despotic governments; that any citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; that the General Assembly shall not pass any law abridging the freedom of speech or of the press, nor the right of the people peaceably to assemble, and to petition the government for the redress of grievances."

See *Jackson v. Bachman*, Case No. 1:19-cv-422, 6 (S.D. Ohio Jun. 2, 2021) ("For the Court to find that governmental action was taken in retaliation for First

Amendment speech by a private citizen, plaintiff must prove that “1) [s]he engaged in protected conduct, 2) the defendant took an adverse action that would deter a person of ordinary firmness from continuing to engage in that conduct, and 3) the adverse action was taken at least in part because of the exercise of the protected conduct.” *Holzemer v. City of Memphis*, 621 F.3d 512, 520 (6th Cir. 2010) (quoting *Siggers-El v. Barlow*, 412 F.3d 693, 699 (6th Cir. 2005)).”

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....”).

Appellant clearly didn’t engage in criminal speech because he never advocated criminal activity, never advocated insurrection, never yelled fire in a crowded theater, never advocated murder, never threatened harm against the judge, did not advocate harming himself, and did not advocate harm against anyone else in his NOTICES OF APPEAL (A.R. 1-14, CAV no. 0313-23-3)(A.R. 1-15, CAV no. 0314-23-3)(A.R. 1-15, CAV no. 0317-23-3). His freedom of speech was clearly protected under the Constitution of both the United States and of Virginia. It was clearly only meant to be preserving issues for his appeals. That is his procedural due process of law. The contempt case threatened not just Appellant’s protected freedom of speech but also threatened his right to petition the Court of Appeals of Virginia for a redress of grievances. That itself deprives Appellant of procedural due process

of law.

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.”).

Now as to Appellant’s first motion for extension of time. He clearly gave good cause as to why that motion should have been granted.

Second of all, Appellant had filed a motion for leave of court on October 27, 2023, (A.R. 178-284, CAV no. 0313-23-3)(A.R. 179-285, CAV no. 0314-23-3)(A.R. 174-280, CAV no. 0317-23-3) with further evidence showing good cause that he was prohibited from filing in the CAV for six months, and Appellant had to comply with those demands of his court appointed lawyer Fred Smith in order for his criminal contempt of court charge to be dismissed. The CAV should have treated his “motion for leave of court” as a motion for an extension of time as good cause was clearly demonstrated as to why an extension of time was warranted.

The Supreme Court of Virginia said in its controlling opinion that a litigant can file after the deadline for filing when good cause is clearly shown. *Lacava v. Commonwealth*, 283 Va. 465, 469 (Va. 2012) (“[w]hen a motion to extend is filed

after the expiration of the original underlying deadline (in this instance, 60 days after entry of final judgment), but before the specific deadline governing a motion to extend (in this instance, 90 days after judgment), good cause must be shown as to why an extension was not sought by the original due date. In other words, the “good cause” showing must present some persuasive reason for waiting until after the expiration of the underlying deadline to file the motion for an extension of time.”).

Appellees even admitted in email correspondence that Appellees were amendable to a request for an extension of time from Appellant (A.R. 250-252, CAV no. 0313-23-3)(A.R. 251-253, CAV no. 0314-23-3)(A.R. 246-248, CAV no. 0317-23-3). Justin Hill, who represented Appellees said by email to Appellant’s mother: “I would note however, that the Commonwealth would be amenable to a continuance request in cases 0313-23, 0314-23, and 0317-23 while Mr. Hill handles his pending contempt charge in the circuit court. If you could pass that information on to Mr. Hill, I would appreciate it.” This piece of evidence had proven that Appellees had no objection to a request for an extension of time for Appellant’s appeals. Therefore, the CAV never should have denied Appellant’s motions for an extension of time. Not on March 9, 2023, and not on October 27, 2023. Uncontested motions.

It is clear that Appellant had proven to the CAV that he was prohibited from filing with the CAV for six months (A.R. 447-507 and 508-550, CAV no. 0313-23-3)(A.R. 448-508 and 509-551, CAV no. 0314-23-3)(A.R. 443-503 and 504-546, CAV no. 0317-23-3). Even Appellant had recorded conversations with his attorney

Fred Smith concerning the misrepresentation from Appellant's contempt of court case. Appellant had good cause shown and had demonstrated good faith as to why he couldn't file by the deadlines set by the CAV.

Appellant had demonstrated good cause for why an extension of time should have been granted on either motion.

The CAV in its order on January 17, 2024, insisted that the motion for leave of court should be denied as to being untimely, when the Supreme Court of Virginia had said that: "[w]hen a motion to extend is filed after the expiration of the original underlying deadline...good cause must be shown as to why an extension was not sought by the original due date." Good cause was shown by Appellant. It was clear error and abuse of discretion to dismiss the appeals.

Appellant and Appellees both have a constitutional right to procedural due process of law in all appeals before this court when a statute already grants such a right. See *Husske v. Commonwealth*, 252 Va. 203, 204 (Va. 1996). Appellant was clearly deprived of his procedural due process of law as caused by the Trial Court under its court appointed attorney Fred Smith. Appellant was prohibited from filing in the CAV until after the hearing in October, 2023 dismissing the contempt charge against Appellant. When Appellant was allowed to file, he filed a motion for leave of court which can also be treated as a motion for an extension of time as those issues were already preserved for the CAV, and he asked for 40 days as if it were the same 40 days after the filing of the record. He clearly demonstrated good cause.

Here are the issues if this Court does not reverse the erroneous decision made on January 17, 2024.

The issues are that it opens up appellants to unconstitutional attack by the trial courts and criminalization of appeals by the decision of a single trial court judge. If a judge of a trial court disagrees with a criminal defendant (Appellant's NOTICES OF APPEAL, for example) appealing a decision to the Court of Appeals of Virginia, all the judge would have to do is file a "SHOW CAUSE" order charging the appellant with criminal contempt for anything which could be construed or misconstrued as offensive to try to interpret any language as: "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE". Anything can be considered as "vile, contemptuous, or insulting language". There are judges from different cultures, different religious backgrounds, different political beliefs, different views, and different skin colors. What is acceptable in one culture is not acceptable in another. What is considered insulting language by one judge is not considered insulting language by another. Every judge may consider what is "vile, contemptuous, or insulting language" differently depending on his/her perspective. No offense to anybody in the CAV. One judge may feel that something in a pleading sounds offensive then charges the party with uttering a "VILE, CONTEMPTUOUS, OR INSULTING LANGUAGE". Any judge can be offended by any little thing a litigant had ever filed. That is why we have the first amendment protecting freedom of speech otherwise everybody would be in prison for contempt of court for verbally

offending another human being or offending another human being in writing. We have the first amendment protecting freedom of speech to prevent those abuses of discretion, and to prevent abuses of the contempt power of a court. Appellant didn't just get charged with criminal contempt of court but ultimately lost-by-default all three of his appeals caused as a repercussion by the criminal contempt charge for Appellant's freedom of speech. It sets a very dangerous precedent here which goes against multiple rulings by both the Supreme Court of Virginia and the U.S. Supreme Court, and ultimately suspends the freedom of speech protections for every citizen of Virginia, and ultimately suspends procedural due process protections on all appellants for simply a trial court judge disagreeing with what somebody had truthfully said or ever argued.

It creates a new precedent where essentially a CIRCUIT COURT aka the TRIAL COURT can engage in a DICTATORSHIP. That means any judge of any courthouse in the Commonwealth of Virginia can act as a dictator in a uniform which would automatically violate Article 1, Sect. 12 of the Virginia Constitution, and would make a despotic regime in every judicial district in Virginia. In these dictatorships, a single judge can decide to retaliate against an appellant who appeals to the Court of Appeals of Virginia. Retaliation with the sole intent of a single court judge having the ability to abuse his/her contempt powers to be thwarting, obstructing, interfering with, and suspending appeals to a higher court.

Retaliate by means of a contempt of court charge as he/she is free to abuse the

contempt powers set by Va. Code § 18.2-456 (“3. *Vile, contemptuous, or insulting language addressed to or published of a judge for or in respect of any act or proceeding had, or to be had, in such court, or like language used in his presence and intended for his hearing for or in respect of such act or proceeding...*”). The abuse of the contempt powers happens when protected free speech has become criminalized by a single judge in a Circuit Court or any Courthouse in Virginia.

The problems are clearly that Appellant’s appeals being dismissed is further a penalty or punitive action against Appellant all caused by Appellant being charged with contempt of court over his notices of appeal. Then the lawyer tells Appellant not to file for six-months which goes beyond the deadlines. That means Appellant wasn’t just punished by being told not to file for six-months to stay safe from being convicted of contempt of court over his protected freedom of speech which offended a single trial court judge, then he was further penalized by losing his appeals. All caused by his freedom of speech of accusing the judge of this or that when there is sufficient cause to believe a judge did this or did that in the Appellant’s own honest opinion. God forbid, we can’t criticize a trial court judge for any wrongdoing, when the whole purpose of appeals is to criticize a trial court’s wrongdoing. Essentially the contempt powers have been abused by the trial court to negate an appellant’s right to appeal, period. It is an unconstitutional deprivation of rights, a CONSTITUTIONAL CRISIS which affects every Virginian/American citizen.

Essentially, if the wrongful decision to dismiss Appellant’s appeals on

January 17, 2024 are not reversed then this sets the precedent that any judge of any court below the Court of Appeals of Virginia can simply charge a litigant with a contempt of court charge over anything deemed as offensive language, then can use that as leverage to suspend and end the rights to appeal for any and every litigant. If this doesn't get reversed, then this legitimizes the practice of a single court judge having the ability to abuse his/her contempt powers to end appeals if the trial court judge is offended by such an appeal or is offended by what was said in a pleading for such an appeal to a higher court. If a Writ of Mandamus offends the judge, then the judge can charge the litigant with contempt in order to weasel out of the Mandamus action. Appeals can be thwarted by judges abusing the contempt statute under Va. Code § 18.2-456(A)(3). The Virginia legislature never intended to pass the contempt of court statute to use it's government powers to thwart appeals and criminalize protected freedom of speech. The decision on January 17, 2024 was a bad decision and needs to be reversed to protect the Appellant's procedural due process of law and his freedom of speech.

CONCLUSION

The CAV's January 17 2024, Order contains faulty legal analysis, and/or faulty legal contentions, and/or unsupported factual conclusions for denying the motion and dismissing the appeals since controlling case law authority by the Supreme Court of Virginia said that a motion can be filed after the deadline for requesting an extension of time for good cause shown. See *Lacava v.*

Commonwealth, 283 Va. 465, 469 (Va. 2012). It ignores or implicitly reverses controlling precedent and imposes dangerous new precedent that not only sets impossible standards for Appellants who are unusually prohibited from filing in the Court of Appeals of Virginia by a court appointed lawyer in the trial court to demonstrate diligence, to demonstrate good cause to file after a deadline, but also compromises judicial efficiency by allowing a trial court judge to charge an appellant with contempt of court in response to notices of appeal, which may be used unconstitutionally to stall appeals and thwart appeals that may impact the judge's verdict or verdicts. Finally, and most disturbingly, it implicitly condones the punitive penalties of appellants losing their appeals over a trial court lawyer imposing a prohibition on his client, where Appellant isn't just prohibited from filing in the Court of Appeals of Virginia by some attorney in the trial court but loses his procedural due process of law at the discretion of the trial court by simply charging an appellant with contempt of court to be used as an excuse to punish an appellant for his/her appeal. For these reasons, Appellant respectfully requests that this Court order a rehearing and/or rehearing en banc, and afford him any additional relief it deems necessary.

It is clear that the Appellant's timely filed motion for extension of time on March 9, 2023 should have been granted or Appellant's motion for extension of time on October 27, 2023 should have been granted. Then there would have been no issue here to cause the wrongful dismissal of Appellant's appeals.

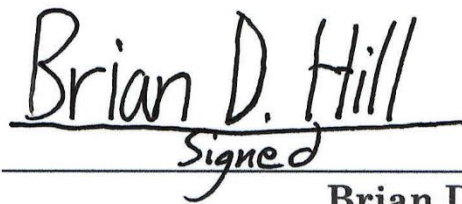
Appellant requests vacatur of this court’s January 17, 2024 order and grant Appellant’s motion for an extension of time filed on October 27, 2023 for good cause shown as to why the second motion for an extension of time was not filed before the deadline.

Appellant requests vacatur of this court’s March 29, 2023 order and grant Appellant’s motion for an extension of time timely filed before the deadline.

Appellant requests relief accordingly and asks for any other relief which the Court of Appeals of Virginia may deem proper/appropriate.

Respectfully Filed/Submitted on January 30, 2024,

BRIAN DAVID HILL
Pro Se



Brian D. Hill
Signed

Brian D. Hill

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CERTIFICATE OF COMPLIANCE

In accordance with Virginia Supreme Court Rules 5A:4(d) and 5A:34, I hereby certify that the foregoing APPELLANT’S PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC contains 19 pages. The rules limit the petition for rehearing to 25 pages or 5,300 words.

1. This motion complies with type-volume limits:

[] this petition contains [] words.

[X] this petition used 19 pages.

2. This petition 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*].



Brian D. Hill

Dated: January 30, 2024



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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 30th day of January, 2024, I caused this “APPELLANT’S PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC” 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 Court of Appeals 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):

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Fax: 276-403-5478
Email: ahall@ci.martinsville.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.


Signed

Brian D. Hill



Brian David Hill – Ally of Qanon
Founder of USWGO Alternative News



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

JusticeForUSWGO.wordpress.com

JusticeForUSWGO.NL

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Pro Se Appellant

VIRGINIA:

In the Court of Appeals of Virginia on Tuesday the 6th day of February, 2024.

Brian David Hill, Appellant,
against Record No. 0313-23-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, et al., Appellees.

Brian David Hill, Appellant,
against Record No. 0314-23-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, et al., Appellees.

Brian David Hill, Appellant,
against Record No. 0317-23-3
Circuit Court No. CR19000009-00

Commonwealth of Virginia, et al., Appellees.

Upon a Petition for Rehearing En Banc

Before the Full Court

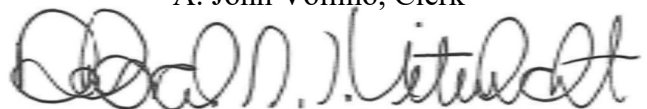
On consideration of the petition of the appellant to set aside the judgment rendered herein on the 17th day of January, 2024 and grant a rehearing *en banc* thereof, the said petition is denied on the grounds that there is no dissent in the panel decision, no member of the panel has certified that the decision is in conflict with a prior decision of the Court, nor has a majority of the Court determined that it is appropriate to grant the petition for rehearing *en banc* in this case. Code § 17.1-402(D).

A Copy,

Teste:

A. John Vollino, Clerk

By:



Deputy Clerk

VIRGINIA:

In the Court of Appeals of Virginia on Tuesday the 6th day of February, 2024.

Brian David Hill,		Appellant,
against	Record No. 0313-23-3 Circuit Court No. CR19000009-00	
Commonwealth of Virginia, et al.,		Appellees.
Brian David Hill,		Appellant,
against	Record No. 0314-23-3 Circuit Court No. CR19000009-00	
Commonwealth of Virginia, et al.,		Appellees.
Brian David Hill,		Appellant,
against	Record No. 0317-23-3 Circuit Court No. CR19000009-00	
Commonwealth of Virginia, et al.,		Appellees.

Upon a Petition for Rehearing

Before Judges Huff, Lorish and Senior Judge Petty

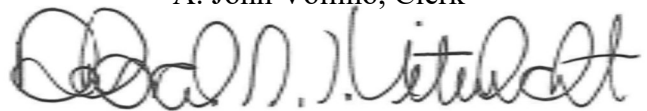
On consideration of the petition of the appellant to set aside the judgment rendered herein on the 17th day of January, 2024 and grant a rehearing thereof, the said petition is denied.

A Copy,

Teste:

A. John Vollino, Clerk

By:



Deputy Clerk

Court of Appeals of VA _3

From: Court of Appeals of VA _3
Sent: Tuesday, February 6, 2024 9:27 AM
To: Hill, Justin B.
Cc: OAGCriminalLitigation
Subject: Brian David Hill v. Commonwealth, et al., Record Nos. 0313-23-3, 0314-23-3, 0317-23-3 - Orders
Attachments: 020624 order - PFR denied, 0313-23-3, 0314-23-3, 0317-23-3, B&W.pdf; 020624 order - PFR en banc denied, 0313-23-3, 0314-23-3, 0317-23-3, B&W.pdf



COURT OF APPEALS OF VIRGINIA

Attached are the Court of Appeal's orders, which dispose of the petition for rehearing *en banc* in the above-noted cases. Copies were sent to the appellant via USPS at:

Brian David Hill
310 Forest Street, Apt. 2
Martinsville, VA 24112

Counsel must file all correspondence and pleadings electronically through the VACES system. Information about VACES is available on the Virginia Judicial System Website at <https://eapps.courts.state.va.us/help/robo/vaces/index.htm>. Pro se/self-represented litigants may file through the VACES system. Otherwise, such individuals must submit one paper copy of a filing to the Clerk of the Court.

DO NOT REPLY TO THIS EMAIL.

This Court will take no action on anything received at this email address. Should you wish to contact the Clerk's Office of the Court of Appeals of Virginia, you may do so by telephone at 804-786-5651 or by writing to A. John Vollino, Clerk, Court of Appeals of Virginia, 109 North Eighth Street, Richmond, Virginia, 23219

EMERGENCY LETTER TO CLERK OF THE COURT ASKING FOR COPY OF COURT ORDERS AND STATUS ON MOTIONS FOR DELAYED APPEAL

Re: CAV Cases No. 0313-23-3, 0314-23-3 and 0317-23-3

Tuesday, February 6, 2024 04:02 PM

<p>ATTN: CLERK OF THE COURT Clerk of the Court - A. John Vollino Court of Appeals of Virginia 109 North Eighth Street Richmond, VA 23219-2321</p>	<p>Brian David Hill (Appellant) v. City of Martinsville and Commonwealth of Virginia (Appellees)</p>
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Clerk of the Court,

I would like to request a pdf file copy of the court order or court orders denying Appellant's petition for rehearing in all three appeals. Please email it to rbhill67@comcast.net. I am the Appellant.

Also I would like to inquire on what the status is on my Motions for Delayed Appeals in all three of my appeals. Did the Appellees file a response at all or any requests for an extension of time to file a response to my Motions for Delayed Appeals?

I need to know as I only have a limited time to appeal to the Supreme Court of Virginia. I need to know about the status on the Motions for Delayed Appeals so that I can determine if I need to appeal to the SCV or wait until after a decision is made on my timely filed motions. I need to know As Soon As Possible so that I can make a decision here.

Please write me back informing me on whether any decision was made in regard to my Motions for Delayed Appeals, and whether the Commonwealth's Attorney and Attorney General had filed any responses to my Motions for Delayed Appeals?

Thank You.

God bless you,
Brian D. Hill

Brian D. Hill
Signed

Brian D. Hill

APPELLANT

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

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