

VIRGINIA:

SUPREME COURT OF THE UNITED STATES

Gregory Terrell Brown 1041808

Petitioner, appellant

V.

Docket No.

18-9036

Court of Appeals

No. 0873-17-1

Record No.

180362

Attorney General of Virginia, et al.

Respondent, appellees

MOTION TO REHEAR WRIT OF CERTIORARI

Comes now on the 13th day of June 2019, I Gregory Tarrell Brown would humbly motion this honorable court to rehear the arguments submitted in support of the Writ of Certiorari docket No. 18-9036, Court of Appeals No. 0873-17-1, Record No. 180362.

The facts in this case that the court ignored the blatant attempt to create Exigent circumstances by the officer involved. (Johnson v. U.S. 10,68 S.court 367, 92 L Ed.436 (1948).) The allegation of a scuffle was contested by the officer involved in the incident who vehemently denied any scuffle at all. While Exigent circumstances may justify a warrantless search, there is not sufficient grounds for a warrantless search if the police manufactured the Exigency. (U.S. v. Rico, 51 F. 3d 495 5th cir (1995).)

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(United States v. Mendenhall 446 U.S. 544 (1980)), clearly states that it is the right of a citizen to simply walk away from routine police inquiry if said person is not accused of illegal activity. Also, nor does the fact a policeman identifies himself as law enforcement, without more, convert the encounter into a seizure requiring some level of objective justification, a person approached in this manner may LEGALLY disregard the questions and walk away. (Florida v. Royer 460 U.S. at 497.) The officers own testimony states he approached in routine way and that the defendant would have felt free to leave.

The court also ignored case law in (Commonwealth of Virginia v. David Kurnard Hackett, Court of Appeals VA. App. Lexis 120 NO. 2594 (2008),) which states a detective without a warrant lacked probable cause to enter defendants backyard prior to a drug transaction. The backyard was within the curtilage of the home in which the defendant had an expectation of privacy. In this case the driveway of an end unit town home enclosed with a gate was 5 feet away from front door. Chairs and toys littered the area which in itself shows an expectation of privacy. Furthermore, in (Mcgee v. Commonwealth of Va., VA. App. 193, 487 S.E. 2d 259 (1997),) as well as (United States V. Reaves, 512 F. 3d 123 4th cir) both plainly state that an anonymous tip that a man with a vague description was selling drugs on a particular corner does not provide a basis for investigatory detention of a man who exhibited no suspicious behavior. A subsequent search is illegal. The arresting officer in this case stated Brown was free to leave and that no mention of the smell of marijuana or question of a search were brought up at anytime prior to him grabbing the defendant. Nothing changed except

the officers creation of an Exigent circumstances which is denied by the detainee, witnesses and most importantly the officer accused of being involved in the scuffle. These facts combined are grounds for dismissal and were brought up but ignored during suppression hearing. I ask of this court to review what the officer admits when he states that the defendant was free to leave and the admission by that same officer that says he never spoke of smelling marijuana and never asked the defendant could he search him. These facts paired with the the creation of the Exigent circumstances are the definition of an illegal search and seizure. Petitioner humbly requests this honorable court to rehear and dismiss this conviction.

Respectfully submitted

*Gregory Brown*

Gregory Tarrell Brown 1041808

State Farm Enterprise Unit

3600 Woods Way

State Farm ,Virginia 23160

Certificate of Good Faith

I, Gregory Tarrell Brown, Without counsel representation, on this 1st day of July 2019, present this petition for rehearing in Good Faith and not for delay.

Submitted,

Gregory Tarrell Brown

1041808

3600 Woods way

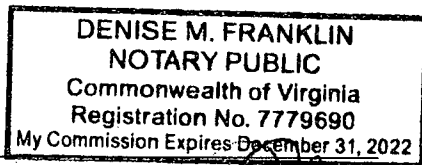
State Farm ,VA. 23160

Commonwealth of Virginia

County of Bowhatan

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of July, 2019 by

Gregory T. Brown (name of person  
acknowledged.



Seal

Signature

Notary's Registration Number:

7779690

Certificate of Grounds

I, Gregory Tarrell Brown, without counsel , and proceeding in  
Forma Paupis certify that the grounds are limited to intervening  
circumstances of substantial or controlling effect.

submitted,

Gregory Tarrell Brown 1041808

3600 woods way

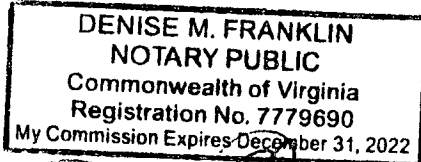
State farm , VA. 23160

Commonwealth of Virginia

County of Powhatan

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of July 20 19 by

Gregory T. Brown (name of person  
acknowledged.



Seal

Signature [Signature]

Notary's Registration Number:

7779690

**Additional material  
from this filing is  
available in the  
Clerk's Office.**