

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOWARSKI RUSSELL NEDD — PETITIONER
(Your Name)

VS.

HAROLD W. CLARKE — RESPONDENT(S)

PROOF OF SERVICE

I, JOWARSKI RUSSELL NEDD, do swear or declare that on this date, _____, 20____, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

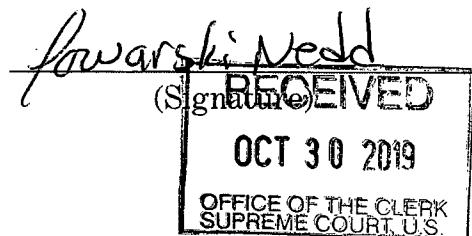
David M. Uberman, Asst. Atty. Gen., Couonsel for Respondent:

Office of the Atty. Gen. of Va., 202 North Ninth Street,

Richmond, VA 23219..

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

Executed on October 24, 2019





VIRGINIA:

*In the Court of Appeals of Virginia on Wednesday the 9th
day of February, 2011.*

Jowarski Russell Nedd, Jr.,

Appellant,

against Record No. 1388-10-1

Circuit Court Nos. 09CR051-01, 09CR051-02 and 09CR086

Commonwealth of Virginia,

Appellee.

From the Circuit Court of Accomack County

Per Curiam

This petition for appeal has been reviewed by a judge of this Court, to whom it was referred pursuant to Code § 17.1-407(C), and is denied for the following reasons:

I. Appellant contends the trial court erred by refusing to grant his motion for a change in venue.

Approximately one week before the trial, the trial court held a hearing on several pre-trial motions, including appellant's motion for a change in venue based on pre-trial publicity. At the hearing, the trial court acknowledged that there had been several articles in the local newspapers about the case. The trial court concluded that the question of whether a change in venue was necessary was based on the difficulty encountered when seating a jury panel. Therefore, at the hearing, the trial court "temporarily" denied the motion for a change in venue and stated it would reconsider the motion again at the time of the trial after it attempted to seat a jury. However, appellant did not raise the issue again at the trial. It was incumbent upon appellant to renew the motion before the jury was empanelled and sworn, or at least remind the court that it was still pending and that he wanted the court to rule on it. Accordingly, appellant waived his motion for a change in venue. See Green v. Commonwealth, 266 Va. 81, 94-95, 580 S.E.2d 834, 842 (2003) (change of venue issue waived because a defendant did not renew the