

19-8687

No.

Supreme Court, U.S.

FILED

MAY 11 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

HAMIDREZA GHAZAVI - Petitioner

Vs.

VA Commonwealth - Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO

VA SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

VA SUPREME COURT No. 191022

VA COURT OF APPEAL RECORD No. 0441-18-4

Leesburg CIRCUIT COURT RECORD No. 31044 & 31045

HAMIDREZA GHAZAVI

Pro Se Defendant / A Helpless Victim of Federal agents Conspiracy

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McLean, VA 22101

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QUESTIONS PRESENTED

The circuit court& upper courts:

1/ followed CORRUPT federal agents to make a **CONSPIRACY** case& violate my entire US& VA Constitutional Rights& destroyed my whole life

2/ did **DOUBLE JEOPARDY& MISTRIAL**

3/ intentionally ignored **INDIGENCE** as a core of problems to not provide free transcript& public defender who had been already granted, also appointed wrong interpreter on purpose

4/ intentionally **IGORED** or **UNTIMELY** ruled on my **VITAL** motions (long delay)

5/ violated my Constitutional Rights to **DUE PROCESS, SPEEDY TRIAL**

(continuances without my motion, knowledge& consent)

6/ trialed with **NO** discovery, **NO** witness confrontation& unfair biased **jury** selection

7/ found the trespass statute unconstitutionally vague as applied to a customer

8/ intentionally misguided helpless defendants &abused his trust in "US Judiciary System"& violated my rights in term of "**Fraud upon the Court**", **MISCARRIAGE of the JUSTICE**

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Opposing party

VA Commonwealth

Related Cases

VA Supreme Court No. 191022

VA Court of Appeal No. 0441-18-4

Leesburg Circuit Court No. 31044 & 31045

Chronological Judicial process

11/15/2016 return to the US from the UK

12/02/2016 1st conspiracy arrest by officer Graham for trespassing in dealership

(as customer based on arbitration agreement went back to return the lemon car)

02/09/2017 finalized adjudicatory, the verdict **Nulle Prosequi**, GC16005721-00

02/16/2017 2nd conspiracy arrest, warrant issued by officer Graham in 02/12/2017
for trespassing in 10/18/2016 (I was in the UK), the judge changed the date to the
1st arrest& re-trialed!

08/10/2017 Trial, double jeopardy



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1st arrest & re-trialed!

08/10/2017 Trial, double jeopardy

03/12/2018 Jury-trial (prejudiced juries)

03.15.2018 filed the **notice of appeal** Richmond& handled a copy to the circuit court

06.15.208 the commonwealth denied the notice of appeal

08.15.2018 the circuit court suspended my petition

11.09.2018 due date of petition by the circuit court

11.08.2018 petition submitted

03.21.2019 petition denied

04.04.2019 motion to extend time of reply

04.24.2019 re-motion to extend time for reply, because the commonwealth

FALSELY denied the service& the VA appeal court asked to do it again

05.24.2019 delay-ruling on my crucial motion, intentional violation of my right to

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Table of Contents

Table of Authorities Cited	VII
Constitutional & Statutory Provisions Involve	IX
Opinions Below	XI
Statement of the Case	1
Reasons for Granting the Writ	10
Conclusion	26

Index to appendices

- Appendix A Order of VA Supreme Court Denying Rehearing
- Appendix B Decision of VA Appeal Court (B 1, 2.3)
- Appendix C Decision of VA Court of Appeal& VA Supreme Court, denied my reply
- Appendix D Decision of Loudoun trial court (Nulle Prosequi)
- Appendix E The police report
- Appendix F The fabricate police report by the court
- Appendix G The recognizance
- Appendix H The fabricate recognizance by the court
- Appendix I The warrant of the first arrest
- Appendix J The warrant of the second arrest (the date that mentioned I was in the UK!)
- Appendix K Notice of the appeal
- Appendix L & L 1, The commonwealth denied my notice of appeal
- Appendix M The circuit court suspended my petition
- Appendix N The circuit court due date for petition
- Appendix O The evidence of timely filing my petition

Table of Contents

Table of Authorities Cited	VII
Constitutional & Statutory Provisions Involve	IX
Opinions Below	XI
Statement of the Case	1
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- Appendix D Decision of Loudoun trial court (Nulle Prosequi)
- Appendix E The police report
- Appendix F The fabricate police report by the court
- Appendix G The recognizance
- Appendix H The fabricate recognizance by the court
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- Appendix J The warrant of the second arrest (the date that mentioned I was in the UK!)
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- Appendix L & L 1, The commonwealth denied my notice of appeal
- Appendix M The circuit court suspended my petition
- Appendix N The circuit court due date for petition
- Appendix O The evidence of timely filing my petition

Appendix P VA Court of Appeal letter to redo the service

Appendix Q My timely motion to extend time of reply

Appendix R The evidence proves my timely of the service to the commonwealth

Appendix S The order denied 3-judge review

Appendix T The order denied 3-judge review& time extension (June 10/2019)

Appendix U Notice of appeal to VA supreme Court (June 13/2019)

Appendix V VA supreme Court denied my motion to counsel& free transcript as indigent

Appendix W After 72 days the Circuit Court denied my Emergency motion for transcript

Appendix X After 56 days the Circuit Court denied my Emergency motion for confirmation of the statement of the fact

Appendix Y The order of the jury trial March 12/2018

Appendix Z The evidence that the Circuit Court was fully aware of my language
(PERSIAN)

Appendix Z 1 Motion to counsel

Appendix Z 2 Motion to counsel& Persian interpreter

Appendix Z 3 Motion to counsel

Appendix Z 4 The order denied my motions

Appendix Z 5 The Emergency motion for transcript

Appendix Z 6 The Emergency motion for transcript& confirmation of the statement of the fact

Appendix P VA Court of Appeal letter to redo the service

Appendix Q My timely motion to extend time of reply

Appendix R The evidence proves my timely of the service to the commonwealth

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Table of Authorities Cited

Case	Page No.
Arizona v. Washington, 434 U.S. 497, 503-05 (1978)	11
Barker v. Wingo, 407 U.S. 514, 530, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972)	19
Benton v. Maryland, 395 U.S. 784 (1969)	12
Brady v. Maryland, 373 U.S. 83 (1963)	15
Breeden v. Commonwealth, 217 Va. 297, 298, 227 S.E.2d 734 (1976)	18
Brown v. Ohio, 432 U.S. 161 (1977) No. 75-6933 06/16/77 U.S. Supreme Court	12
Clements v. Commonwealth, 21 Va. App. 386, 392, 464 S.E.2d 534 (1996)	18
Corell v. Commonwealth, 232 Va. 454, 465, 352 S.E.2d 352 (1987)	15
David Boyce v. Commonwealth, 1820-91-1,unpublished,(va.app.2-2-1993)	15
Douglas v. California, 372 U.S. 353 (1963)	17
Draper v. Washington, 372 U.S. 487, 496 (1963)	13
Ellis v. Commonwealth, 29 Va. App. 548, 554, 513 S.E.2d 453, 456 (1999)	24
Eskridge v. Washington Prison Bd., 357 U.S. 214 (1958)	14
Gideon v. Wainwright, <u>372 U.S. 335</u> (1963)	16
Gilio v. US 405 US 150(1972)	15
Glasser v. United States, 315 U.S. 60 (1942)	16
Griffin v. Illinois, 351 US 12(1956)	14
Hall v. Commonwealth, 12 Va.App. 972, 973, 406 S.E.2d 674, 675 (1991)	26
Harlow v. Commonwealth, 195 Va. 269, 271-272, 77S.E.2d 851, 853 (1953)	26
Herring v. New York, 422 U.S. 853, 858 (1975)	16

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Breeden v. Commonwealth, 217 Va. 297, 298, 227 S.E.2d 734 (1976)	18
Brown v. Ohio, 432 U.S. 161 (1977) No. 75-6933 06/16/77 U.S. Supreme Court	12
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David Boyce v. Commonwealth, 1820-91-1,unpublished,(va.app.2-2-1993)	15
Douglas v. California, 372 U.S. 353 (1963)	17
Draper v. Washington, 372 U.S. 487, 496 (1963)	13
Ellis v. Commonwealth, 29 Va. App. 548, 554, 513 S.E.2d 453, 456 (1999)	24
Eskridge v. Washington Prison Bd., 357 U.S. 214 (1958)	14
Gideon v. Wainwright, <u>372 U.S. 335</u> (1963)	16
Gilio v. US 405 US 150(1972)	15
Glasser v. United States, 315 U.S. 60 (1942)	16
Griffin v. Illinois,351US12(1956)	14
Hall v. Commonwealth, 12 Va.App. 972, 973, 406 S.E.2d 674, 675 (1991)	26
Harlow v. Commonwealth, 195 Va. 269, 271-272, 77S.E.2d 851, 853 (1953)	26
Herring v. New York, 422 U.S. 853, 858 (1975)	16

Jiminez V. Comm., 241 Va. 244, 250, 402 S.E.2d 678 (1991)	24
Murphy v. Waterfront Common, 378 U.S. 52, 84 S.Ct. 1594, 12 L.Ed.2d 678	24
Norvel v. Illinois, 373 US 420 (1963)	13
Parker v. Commonwealth, 24 Va. App. 681, 690, <u>485 S.E.2d 150, 154-55, 1997</u>	21
Preston v. Municipal Court, 188 Cal. App. 2d 76, 10 Cal. Rptr. 301 (1961)	13
Reed v. Commonwealth, 6 Va. App. 65, 70, 366 S.E.2d 274, 278 (1988)	24
Reed, 6 Va. App. at 71, 366 S.E.2d at 278 (75 Am.Jur.2d Trespass §87 (1974))	24
Rosales-Lopez v. United States, 451 U.S. 182, 188 (1981)	18
Simmons v. Commonwealth, 238 Va. 200, 202-03, 380 S.E.2d 656, 658 (1989)	25
Snead v. Commonwealth, 11 Va. App. 643, 646, 400 S.E.2d 806, 807 (1991)	24
Stokes v. Warden, 226 Va. 111, 117, 306 S.E.2d 882 (1983)	21
<u>State v. Javien Cajuan Pegeese, 2017 AP 741-CR</u>	21
Strickler v. Greene, 527 U.S. 263, 280 (1999)	15
Wade v. Hunter, 336 U.S. 684 (1949)	12
Swain v. Alabama, 380 U.S. 202, 219 (1965)	18
Swenson v. Bosler, 386 U.S. 258 (1967)	17
United States v. Agurs 427 U.S. 97 (1976)	15
United States v. Lancaster, 96 F.3d 734, 740 (4th Cir. 1996)	19
US v. Murdock, 290 U.S. 389, 394, 54 S.Ct. 223, 225, 78 L.Ed.2d 381 (1933)	24

Jiminez V. Comm., 241 Va. 244, 250, 402 S.E.2d 678 (1991)	24
Murphy v. Waterfront Common, 378 U.S. 52, 84 S.Ct. 1594, 12 L.Ed.2d 678	24
Norvel v. Illinois, 373 US420(1963)	13
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Preston v. Municipal Court, 188 Cal. App.2d76, 10Cal. Rptr.301(1961)	13
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Rosales-Lopez v. United States, 451 U.S. 182, 188 (1981)	18
Simmons v. Commonwealth, 238 Va. 200, 202-03, 380 S.E.2d 656, 658 (1989)	25
Snead v. Commonwealth, 11 Va. App. 643, 646, 400 S.E.2d 806, 807 (1991)	24
Stokes v. Warden, 226 Va. 111, 117, 306 S.E.2d 882 (1983)	21
<u>State v. Javien Cajujuan Pegeese, 2017AP741-CR</u>	21
Strickler v. Greene, 527 U.S. 263, 280 (1999)	15
Wade v. Hunter, 336 U.S. 684(1949)	12
Swain v. Alabama, 380 U.S. 202, 219 (1965)	18
Swenson v. Bosler, 386 U.S. 258 (1967)	17
United States v. Agurs 427 U.S. 97 (1976)	15
United States v. Lancaster, 96 F.3d 734, 740 (4th Cir. 1996)	19
US v. Murdock, 290 U.S. 389, 394, 54 S.Ct. 223, 225, 78 L.Ed.2d 381(1933)	24

Constitutional & Statutory Provisions Involve

US Statute

1 st Amendment Constitutional Right of the United States	25
4 th Amendment Constitutional Right of the United States	25
5 th Amendments Constitutional Right of the United States	11, 14, 15
6 th Amendment Constitutional Right of the United States	14, 16, 18, 19
<u>14th Amendment</u> Constitutional Right of the US	12, 13, 14, 15, 16
US Code § 14141, Cause of action, re-codified 34 U.S.C. 12601	19
US Equal Protection Clause/372 U.S. at 357–58	13
US New Maryland Discovery Rule 4-236 & Rule 7C	15
US Supreme Court Rule 12(d) &47	22
US Supreme Court Rule 102	21
US Supreme Court Rule 44	18
28 U.S.C. former §394 (now §1654)	18
28 U.S.C. § 636(c)(3) Rule 3.(1)	21
Clause 39 of <u>Magna Carta</u>	25
<u>Title VI of the Civil Rights Act</u> , of 1964, 42 U.S.C. 2000d et seq. ("Title VI")	14
US Code Rule 39, <u>In Forma Pauperis</u> /Act of 1964	23
<u>US judiciary</u> 949. Proof of Fraudulent Intent	21
Fraud upon the Court	20

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<u>14th Amendment</u> Constitutional Right of the US	12, 13, 14, 15, 16
US Code § 14141, Cause of action, re-codified 34 U.S.C. 12601	19
US Equal Protection Clause/372 U.S. at 357–58	13
US New Maryland Discovery Rule 4-236 & Rule 7C	15
US Supreme Court Rule 12(d) &47	23
US Supreme Court Rule 102	21
US Supreme Court Rule 44	18
28 U.S.C. former §394 (now §1654)	18
28 U.S.C. § 636(c)(3) Rule 3.(1)	21
Clause 39 of <u>Magna Carta</u>	25
<u>Title VI of the Civil Rights Act</u> , of 1964, 42 U.S.C. 2000d et seq. ("Title VI")	14
US Code Rule 39, <u>In Forma Pauperis</u> /Act of 1964	23
US judiciary 949. Proof of Fraudulent Intent	21
Fraud upon the Court	20

Virginia Codes

§ 8.01-358. voir dire examination of persons called as jurors provides	18
§ 8.01-428. Fraud on the court	20
§ 11.411 <u>United States Code</u> sections Criminal trespass	23
§16.1-69.40	21
VA Code §17.1-275	21
VA Code §17.1-502	21
§ 17.1-407. Procedures on appeal	22
§ 18.2-119. Trespass Virginia Code of Trespassing	23
VA Code §19.2-160. Waiver of Right	17
§ <u>19.2-159</u>	17
§ 19.2-164	14
<u>§19.2-163.01</u>	18
§ 19.2-243. Speedy trial	19
§ 19.2-265.4 & Rule 7C:5	15

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§ 8.01-358. voir dire examination of persons called as jurors provides	18
§ 8.01-428. Fraud on the court	20
§ 11.411 <u>United States Code</u> sections Criminal trespass	23
§16.1-69.40	21
VA Code §17.1-275	21
VA Code §17.1-502	21
§ 17.1-407. Procedures on appeal	22
§ 18.2-119. Trespass Virginia Code of Trespassing	23
VA Code §19.2-160. Waiver of Right	17
§ <u>19.2-159</u>	17
§ 19.2-164	14
<u>§19.2-163.01</u>	18
§ 19.2-243. Speedy trial	19
§ 19.2-265.4 & Rule 7C:5	15

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Petitioner respectfully prays that a writ of certiorari issue to review the judgement below

Opinion below

For the case from State Court

The opinion of the highest state court to review the merits appears at Appendix

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has been designated for publication but is not yet reported, or,

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The opinion of the court appears at Appendix to the petition & is reported at , or, has been designated for publication but is not yet reported, or, is unpublished

For the case from State Court

02/14/2020

The date on which the highest state court decided my case was 10.29.2019

A copy of that decision appears at Appendix A

A timely petition for rehearsing was thereafter denied on the following date 02.14.2020& a copy of the order denying rehearing appears at Appendix A

An extension of time to file the petition for a writ of certiorari was granted to & including (date) in Appendix No A

The jurisdiction of this Court is invoked under 28 U.S.C. 1257(a)

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State of the Case

After 52 years decent life& 16 years medical practice, nonstop conspiracies started Nov. 2016 by federal agents& Islamists due to my belief& political views, articles& comments criticizing religion superstitions& political corruption.

- In **11/15/2016** I returned to the US from the UK& financed a car from Dulles Motorcars dealership¹. I was forced to sign the **arbitration** agreement to return to the dealership in case of any problem
- After 24-hour, the engine-light came up, the salesman falsely said it's because of cold weather, but the problem exacerbated with a serious warning "Required Immediate Transmission Service". I insisted my car get checked by the dealership-service that found a transmission damage& referred me to authorized King-Mitsubishi service² that confirmed &said it's not under warranty³.
- Based on the **arbitration** I legally returned to the dealership in**12/02/2016** to exchange or return the **lemon** car. Too busy due to black Friday's sales. I parked my car **beside other cars**, NO passage/entrance was obstructed& NO sign.
- I calmly asked to talk to the manager. He came late& started shouting& threatening me: "it's your car, you are responsible, VA laws protect all

¹ They financially made fraud, charged \$2000 more than our agreement

² Their claim as an "authorized Mitsubishi dealer&service" was not true.

³ Mitsubishi Motors, costumer relations/Chris 888-648-7820 said based on the information in the car-manual, "the transmission warranty is just for original owner not the subsequent ones".
(That's why the salesman never gave me the manual).

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dealerships, get out otherwise I call police. I encouraged him to call as my witness, but, it was a set up. The officer never properly listened to me& ignored the arbitration agreement. I accepted the trespass notice& was leaving in good faith, only asked officer Graham to advise me what to do because the cool-off time was being expired. The officer went inside to talk to the manager, came back& immediately handcuffed me!

- In the police car, officer Graham initially told me that his wife is a muslim Palestinian which Iran regime helped them a lot. In the jail, another officer said, he is from Bosnia& likes Iran regime for its helps⁴.
- The **only** reason of the arrest based on the **warrant** (the recognizance issued **after** arrest (**App G**)& the police report (**App E**) was “trespassing to Dulles Motorcars dealership”.
- The court appointed an **Iranian public defender** (Shayan Noor) who cooperated with the prosecutor& the dealership’s attorney who was present in all trial sessions⁵. He transferred the prosecutor’s message to me to accept the guilt& ask forgiveness.

⁴ It was to show my arrest is because of my critiques to Iran Islamic regime. I had never talked to them about my political views against Islamic regime.

⁵ In the small room before the courtroom, Mr. Noor was suggesting the prosecutor, the dealership’s attorney& the witnesses how to convict me! He said the presence of the dealership attorney in the hearings is illegal but did nothing. It wasn’t the dealership complaint!

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⁴ It was to show my arrest is because of my critiques to Iran Islamic regime. I had never talked to them about my political views against Islamic regime.

⁵ In the small room before the courtroom, Mr. Noor was suggesting the prosecutor, the dealership's attorney& the witnesses how to convict me! He said the presence of the dealership attorney in the hearings is illegal but did nothing. It wasn't the dealership complaint!

- The trial was scheduled in **12/22/2016** but several times continued without my motion, knowledge& consent:

1. 1st: 12/22/2016, 2. 2nd: 01/12/2017, **absence** of the witnesses 3. 3rd: 01/20/2017,
4. 4th: Thursday, **02/09/2017**, finalized adjudicatory, the verdict **Nulle Prosequi**,
GC16005721-00 (App C)

- Few days after my dismissed case in **02/16/2017**, I was violently handcuffed again by Officer Trooper Goldstein, VA State Police, in I-66 west-bound when I was driving home from the Arlington library⁶ but refused to say the reason! It was an ambush just for me, another **conspiracy**⁷.

- In the jail, the magistrate said Officer Graham who had arrested me in **02/12/2017** issued this warrant exactly few days after the case dismissed (the date of issuance is exactly the same as the 1st arrest) for trespassing in **10/18/2016** (at this time I was in the UK!). **(App I & J)**.

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- 3. 3rd, **Aug/10/2017**, I was unfairly convicted on two cases Trespassing& obstruction.
- In the trials May/04/2017& June/08/2017, my requests to dismiss the case because of not showing up the witnesses was denied.

Trial Aug/10/2017

- Despite my motions& requests, I was deprived to have **counsel** (discontinued despite my indigence), **discovery**, **confronting with the witnesses**& **Persian interpreter**.
- The scenario changed from trespassing to “trespassing& obstruction free passage”
- In the **warrant** of the second illegal arrest, the date of new charge was **10/18/2016**, but when the **judge** realized I was out of the US (my passport proved I was in the UK& came back home **11/15/2016**), immediately changed the date to **12/02/2016** (**App J**) **the same date& time as the first conspiracy arrest for trespassing to the same dealership** (**App I**). My objection as **double jeopardy** that this case has been already trialed& finalized as **Nulle Prosequi** in **02/09/2017** (**App C**), was denied!
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2. The first recognizance (App G) of trespassing was replaced by new one which added obstruction of entrance (App H), **the same dealership, same date as previous conspiracy case.**

- My Indigence Constitutional Right to extend the public defender was violated despite I was still unemployed& my financial situation worsened.
- Despite my request for **Persian** interpreter (the court knew it in my previous case I was intentionally granted an **Afghan** interpreter.
- The prosecutor started without mentioning 1. this case had been already trialed& finalized in 02/09/2017 as **Nulle Prosequi**, 2. nothing about the real reason of my presence in the dealership as **customer** based on **arbitration** 3. never talked about the security camera's footages in the dealership as **exculpatory evidence** that showed everything& proved my innocence.
- They opened a closed conspiracy case& added another misdemeanor charge(obstruction of the entrance) to the previous dismissed misdemeanor (trespassing) both in 12/02/2016 to Leesburg motorcar dealership). My objection of **double jeopardy** was denied.
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only passage used several times by the officers& the dealership's manager, salesman& employees to go in& out as they testified& the security-camera proves⁸.

- I noticed that the vast majority of my defense statements was not recorded, when I was talking, the court reporter was either out of the court room or just listened without typing or any mouth-device.
- The officer, the dealership's salesman& manager made lots of lies& kept answering "we do not remember" to my questions. The prosecutor frequently stopped me, not to clarify the truth& disclose conspiracy. An unfair order was issued in **Aug/10/2017 (NEVER mailed to me)**. I disputed by jury trial.

Jury-trial 03/12/2018

- Again, I was deprived to have public defender(despite my unemployment), discovery, confronting with the witnesses& **Persian** interpreter.
- The court intentionally kept appointing a **wrong** interpreter "**Afghan** language" different from **Persian**, despite I had emphasized in several motions& verbally raised my concern about "**Persian**-interpreter" in trial **09/13/2017**& filed another motion to re-emphasize with the named an interpreter who had already served me.

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- After long delay, the trial started& the judge said the **interpreter**'ll arrive late due to emergency. They selected whoever wished from **jury pool** (I was not familiar with the process).
- Wrong interpreter ("Afghan language" who refused to give me her name) arrived **too late**, after the jurors selected by the prosecutor. Despite what mentioned in the order 03/23/2018 (**App Y**) due to different language, she **NEVER** translated a word for me. I was not able to understand many words of the judge& others, but tried to defend myself in English.
- The prosecutor started without mentioning **1.**this case had been already trialed& finalized in **02/09/2017**as **Nulle Prosequi**, **2.**nothing about the real reason of my presence in the dealership as **customer** based on the **arbitration** agreement **3.**never talked about the security camera's footages in the dealership as **exculpatory evidence** that showed everything **4.**showed the photo of the main entrance that showed many cars parked on the curb in front of the entrance& proved one car cannot obstruct the big-size of the entrance
- My statement about the conspiracy behind the scene& double jeopardy was objected& the **prosecutor** tried to change the jurors' mind against me by discussing irrelevant issue of another **CONSPIRACY** case in Fairfax County Court in which no trial had been held at the time (I was attacked in 09/10/2017 in my home by the Iranian landlord& 2other attackers, but CORRUPT agents

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- The salesman & manager testified & confirmed the video camera recorded the scene, but despite my several requests, the prosecutor refused to show the footages which proved my innocence
- The officer testified that I respectfully accepted the notice & was leaving in good behavior. He confirmed that he & others used only the mentioned main entrance

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- Despited nonstop objection on my statement, I tried to fully explain my **legal** reason of presence in the dealership but an unfair order issued.
- After the trial, in response to how to dispute, the clerk intentionally **misguided** me to file an appeal in **Richmond** VA Appeal Court. I filed the **notice of appeal** in **03.15.2018 in Richmond**(App K) against the order issued in **03.12.2018**, but the clerk said I should have done in the circuit court! (Lots of commutes from Fairfax, utmost psychological stresses& financial damages). Despite I had done the service to the circuit court& commonwealth, they initially denied (**App L**)&then suspended **08.15.2018**(App M)&in **10.11.2018** ordered the due date by**11.09.2018**(App N). I submitted my petition in**11.08.2018**(App O)

VA Appeal court did the same circuit court:

1. refused to appoint a counsel despite my indigence.
2. denied my petition in **03.21.2019**.
3. violated my absolute right to reply the denial order on my petition by intentionally **delayed** order on my **timely** motion to extend time, I needed more time since I was deprived from counsel. I **timely** motioned to extend time in **04.04.2019**(App Q)& personally handled a copy to the circuit court a day after(**App R**). But in **04.17.2019** I was informed by VA appeal court to redo it (**App P**)(the circuit court& commonwealth had denied the service. It was not true¹⁰). I did it

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VA Supreme Court did the same lower courts

- Sent the letter of **VA Appeal Court** in10.29.2019(App D) with many wrong information& mentioned my motion to extend time of petition for appeal was 08.05.2019. Firstly I had timely filed the notice of the petition(App K) &the petition(App O) Secondly, I NEVER filed such motion, the motion might be to extend the time of reply to the denied petition that I filed it timely too(App Q).
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Reasons for Granting the Petition

This **CONSPIRACY** case is an absolute violation of citizens's **Constitutional & Civil Rights** originated from a fraud system by corrupts federal agents supported by politicians, those who abuse power to their personal& political gains. These corrupt

ignored), many times they refused to give me a receipt, refused to accept the copy of the motions (I had to mail it in the post office in front of the court)& even few times post office returned the mails to me because the commonwealth refused to accept!

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agents with the cooperation of US judiciary system have totally destroyed my life, no job, nonstop damages to my car, destroyed my 4 MacBook, luggages ... stole my valuables, 2international cellphones... It's a **National Security threat** since 1. it definitely has been happening for other innocent people who get threatened to silence. 2. Corruption like a **CANCER** metastasizes nationwide &kills society, human values, justice... in which destroy people's trust to government, intel community, judiciary system...since dirty cops &fraud persons promoted &hire their families& friends.

What these CORRUPT agents did to me in a so-called democratic state is far more shameful& worse than what S. African apartheid did to Nelson Mandela in a totalitarian regime.

1. The circuit court abused its discretion violated my constitutional right under **5th Amendments** within the meaning of the **double jeopardy clause** in which 1.1 tried me **twice** for the **same** charge, at the **same** time &in the **same** place which had been already dismissed.

1.2 convicted me for 2misdemeanors that constitute "the same statutory offense". (trespassing &obstruction of entrance both in the **same** place &**same** day &**same** time).

The prosecutor kept prosecuting for an exonerated charge(Nulle Prosequi 02/09/2017 GC16005721-00,App C). As a general rule, the prosecutor is entitled to only one opportunity to stand trial an accused. *Arizona v. Washington*, 434 U.S.497,503–05(1978). The **5th Amendment** guarantees "No individual can be tried

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2.1 double jeopardy in the trial 03.12.2018 &08.10.2017

2.2 unfair, biased jury selection(court employees) in the trial 03.12.2018

As a **fundamental error** in the proceedings of both trials the case should have been dismissed. Having a jury of unbiased regular people is the cornerstone upon which the judicial system is built. The defendant's right to an impartial jury, the "**Equal Protection Clause of the 14th Amendment**" protects the right of a criminal defendant to a jury selection process that is free from any discrimination. In my case, the prosecutor/court easily selected the jurors since I was deprived to have counsel &even a **Persian** interpreter &I was not familiar with the process.

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3. The circuit court violated my Civil & Constitutional Rights & committed reversible error by denying my motions as **indigent** for **free transcripts** since my appeal was denied due to lack of transcript to prove the Assignment of Errors & argument. Equal protection requires the State to provide indigent defendants with the basic tools of an adequate defense including a trial transcript which's necessary for an effective defense & safeguard liberty. Despite the court was fully aware of my indigence as initially gave me a public defender & approved a deferred payment plan for the fine, I was prejudiced by the lack of transcript. The protection of liberty necessarily involves the concept of **due process** that its concept expands to the right to free transcript. It also is considered as an **elementary** and **fundamental** requirement of **due process** in any proceeding. The United States **Supreme Court** stating 'there can be no equal justice where the kind of a trial a man gets depends on the amount of money he has, 372 U.S. at 357-58 reliance on the **Equal Protection Clause**. **Destitute** defendants must be afforded as adequate appellate review as defendants who have money enough to buy transcripts. This application of the equal protection clause of the **14th Amendment** requires that **an indigent appellant be furnished with a free transcript** whenever a state guarantees a right to appellate review, and a transcript is necessary to secure this right. The right to a free transcript is largely governed by statute. *Norvel v. Illinois*, 373 U.S. 420 (1963); *Preston v. Municipal Court*, 188 Cal. App.2d 76, 10 Cal. Rptr. 301 (1961) In all cases the duty of the State is to provide the indigent as adequate & effective an appellate review as that given appellants with funds *Draper v. Washington*, 372

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U.S. 487, 496 (1963). So, it must be provided to **indigent** defendants or to others unable to pay Griffin v. Illinois, 351 U.S. 12 (1956); Eskridge v. Washington Prison Bd., 357 U.S. 214 (1958)

4. The circuit court abused its discretion& violated my right to **Persian** interpreter under Code of Virginia§19.2-164& the **5th, 6th& 14th Amendment& despite my several notice of Persian interpreter** intentionally assigned an **Afghan** interpreter. The court was aware (**App. Z**)that I had emphasized in several motions for **Persian** interpreter, since in my last motion I re-emphasize "**Persian**" 04/17/2017& put the name of the interpreter who had initially served me, also verbally emphasized in trial 09/13/2017 &all hearings, but they intentionally kept assigning a wrong **Afghan** interpreter in the **trials**. She came too late after the jurors had been elected by the prosecutor. The order 06/18/2018 (**App. Z4**)claims wrong that the court appointed a fluent Farsi interpreter& then excused her due to my request is not true, she was Afghan &I never understood her. I have never waived my rights. The Congress& VA State have created the right to an appointed, in-court interpreter. Indeed, my rights to due process, equal protection &a fair trial would be substantially hampered &completely denied when I was not able to **understand** the meaning of the criminal proceedings& the legal dialogues. The right of a criminal defendant to have effective defense, to protect himself against self-incrimination based on national origin in **Title VI of the Civil Rights Act** will have very little or no meaning at all if he is unable to properly understand/speak English. The right of an **indigent** victim as criminal defendant to a court-

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appointed **RIGHT** interpreter is implied from the prohibition against discrimination. Lack of **Persian** interpreter at jury trial, along with the fact that I was not familiar with the process of jury selection & the preliminary examination to determine the competency of jurors, resulted in selection of all jurors in favor of the prosecutor. So, the goal of voir dire to impanel impartial jurors from the pool of jurors was absolutely failed.

5. The circuit court erred & violated the **due process clause** & **Brady v. Maryland** & **14th & 5th Amendment** by not providing **discovery** to show **exculpatory** evidence & also violated the **evidentiary rules** by ignoring my nonstop request to provide the footage of security camera in the dealership. The prosecution must turn over all evidence (open file) that might exonerate the defendant to the defense **Brady v. Maryland** 373 US 83(1963) & New Maryland Discovery Rule 4-236 §19.2-265.4 & Rule 7C & **Gilio v. US** 405 US 150(1972), **or** upon a general request **US v. Agurs** 427 U.S. 97 (1976) **or even** when there has been "**no request** by the accused & it encompasses impeachment evidence as well as exculpatory evidence. **Strickler v. Greene**, 527 U.S. 263, 280, (1999), **Corell v. Commonwealth**, 232 Va. 454, 465, 352 S.E.2d 352 (1987). The requirements of procedural due process apply to the deprivation of interests encompassed by the **14th Amendment's** protection of liberty. **David Boyce v. Commonwealth**, 1820-91-1, unpublished (va.app.2-2-1993). In this case the prosecution of evidence was favorable to the prosecutor who failed to consider the exculpatory evidence by failing to disclose the video recording & the fact that the only reason of my presence as customer in the dealership was based on the

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arbitration agreement. This intentional negligence conducted the case to unfair order. Also the court erred &violated the evidentiary rules by excluding ¬ providing the video-recording evidence recorded by the dealership's security camera as a legal principle which was relevant to the fact finder. It disclosed the officer's misconduct &illegal arrest while I was leaving with full cooperation. Also, it proved the biased witnesses &officer's false &fabricated testimonies.

6. The circuit court violated my Constitutional Right under the **6th Amendments** &violated the **due process** by refusing my right as **indigent** to counsel &forcing me to proceed in the absence of the **counsel** in the trials. All my verbal requests &motions for council was refused (**App L**). Criminal defendant's right to **effective** assistance &ability to be represented by a counsel is at the very **core** of the **6th** Amendment, also constitutionalized in the **14th** Amendments **Herring v. New York**, 422 U.S. 853, 858 (1975) that attaches directly to the fidelity &competence of defense. A court's denial of my right is a structural error that requires dismissal of the case. The **US Supreme Court** ruling that the deprivation of a defendant council entitles him to an **automatic reversal** of his conviction under the **6th Amendment**. **Gideon v. Wainwright** (1963), 372 U.S. 335, **Glasser v. United States**, 315 U.S. 60 (1942). The **6th** Amendment says "In all criminal prosecutions, the accused shall enjoy the right...to have the Assistance of Counsel for defense ..." Lack of counsel especially at the jury-trial, along with the fact that I was not familiar with the process of jury selection &the preliminary examination to determine the competency of jurors, consequently resulted in selection of all jurors

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In fact, despite the court knew my lack of knowledge in processing individualized voir dire but intentionally forced me to the process &deprived me to counsel &**Persian** interpreter that made an impartial jury in favor of the prosecutor. The right to be tried by an impartial jury is a **fundamental** guarantee of both the US &VA Constitution. Clements v. Commonwealth, 21.Va..App.386,392,464. S.E.2d 534(1996). Every prospective juror must be "indifferent to the cause and any reasonable doubt as to a juror's qualifications must be resolved in favor of the accused".(Breeden v. Commonwealth,217.Va.297,298,227,S.E.2d,734, (1976) Individual voir dire is an important Constitutional &statutory right in which provides the litigants an opportunity to discover a potential juror's bias and prejudices. The fundamental purpose of voir dire is not only to select appropriate jurors, but also to eliminate potential jurors who have strong bias &prejudices that will be harmful to a party. It's a **vital mechanism to ensure a fair justice**.

State statute § 8.01-358 "The court& counsel for either party shall have the right to examine under oath& person..." The **Supreme Court** explains, voir dire "plays a critical function in assuring the criminal defendant that his **6th Amendment** right to an impartial jury as one of the '**high values**' will be honored." Rosales-Lopez v.United States,451,U.S.182,188 (1981) Moreover, peremptory challenges to prospective jurors are widely seen as a "necessary part of trial by jury," Swain v. Alabama,380,U.S.202,219(1965). So "lack of adequate voir dire impairs the

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defendant's right to exercise" the challenges. A court abuses its discretion if voir dire does not provide "a reasonable assurance that prejudice would be discovered if present." United States v. Lancaster, 96 F.3d 734, 740, (4th Cir. 1996)(en banc). Without adequate voir dire, "the trial judge's responsibility to remove prospective jurors who will not be able impartially to follow the court's instructions & evaluate the evidence cannot be fulfilled".

7. The circuit court violated my right to a **speedy trial** under the **6th Amendment** of the **US& VA Constitutional Rights&VA §19.2-243** by several **intentional** continuances **without** my motion, knowledge& consent in 01/12/2017, 01/20/2017, 05/04/2017& 06/08/2017. The violation of in length & reason of delay just prejudice to me. Barker v. Wingo, 407 U.S. 514, 530, 92 S.Ct. 2182, 33 L.Ed.2d 101, (1972).

8. The commonwealth was unable to carry its burden of proof beyond a reasonable doubt that I was guilty of trespassing & obstruction of entrance. To elevate a trespassing the Commonwealth must prove the existence of illegal presence, intentional remaining, criminal intent, along with violent behavior, on property or premises where **Signage** forbidding such act. The evidence offered at trial plainly did not meet that standard. The prosecutor advanced a negligence theory & intentionally concealed **exculpatory** evidence (video footage), covered up the reality& the reasons of my presence in the dealership (as **customer** to return the lemon car based on **arbitration** agreement)& never mentioned of no-sign of trespassing or parking-ban in the location. §14141. Cause of action (re-codified at 34 U.S.C. 12601) It shall be unlawful for any governmental authority, or any agent

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9. The circuit court abused its discretion & violated my Civil & Constitutional Rights & **due process** by abusing my trust in "US Judiciary System" in term of "Fraud upon the Court" in which the impartiality of the court has been so disrupted that it can't perform its tasks without bias. In addition to intentionally depriving an indigent from counsel which is the most serious violation of my Constitutional Rights, it's getting far worse when the clerks intentionally failing to inform the parties of necessary appointments or requirements, or "unconscionable-schemes" to deceive or make misrepresentations through the court system. It designed to improperly influence the courts in their decisions in efforts to obstruct the judicial process. It's due to **corruption** or influence of a court officers/clerks by external parties, mostly political interference, that makes the entire case, orders **voided** Virginia Code § 8.01-428 "**Setting aside default judgments**; clerical mistakes; independent actions to relieve party from judgment or proceedings; grounds & time limitations..." My case is considered as a **conspiracy** made by federal agents due to my articles & comments to expose their corruption & cooperation with Iran Islamic regime, it perpetrated by US law enforcement. From the beginning, the court

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officers intentionally tried to mistreat, misguide, deceive& misrepresent me. **US judiciary 949.** Proof of Fraudulent Intent which can be inferred from statements& conduct.

9.1 not informing the crucial times in the process of appeal &misguiding me: In accordance with 28 U.S.C. § 636(c)(3) Rule 3.(1) Appeal as of Right...(A)...after either conviction or sentencing, the court **must** advise the defendant of the right to appeal the conviction...(2)...the clerk must immediately prepare& file a notice of appeal on the defendant's behalf...The circuit court should inform defendant of judicial procedures, process& timing otherwise any failure causes violation of defendant's constitutional rights State v. Javien Cajujuan Pegeese, 2017AP741-CR. So it's the court's failure not to personally inform the appeal process& crucial timing from filing, motion of transcript to the end& insure that the defendant understood each constitutional right &its consequences. Code of Virginia's responsibilities for court clerk §17.1-275 §17.1-502 includes legal assistance, answer inquiries even from the general public regarding judicial procedures, trial,,, explain procedures &forms to parties in cases or to the general public. Moreover, US Rule 102 emphasizes the purpose of clerk to fairly administer every proceeding. §16.1-69.40 the clerk also issue to persons informational explaining the legal rights of such persons In fact the **circuit court's absolute responsibility** is to inform defendant to the right to appeal &its necessities, but they did **otherwise**, deprived me from my absolute right of counsel& in response to my questions, gave me improper answers,

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wrong information &referred me to Richmond to file appeal § 17.1-407 Virginia Code.

9.2 the documents were fabricated just to initiate a new conspiracy case 9month after the case dismissed in 02/09/2017as **Nulle Prosequi**. All original documents (police report, warrants,..)in my file were pulled out& replaced by fabricated documents (**explained Page 4/Trial 08.10.2017**)

9.3 illegally refused to provide free transcripts (after more than two weeks and 3 motion just to cover up the contradictions of the officer& witnesses in their testimonies, &the prosecutor's failure to carry burden of proof beyond the reasonable doubt in the trials.

10.4 Despite a copy of the appeal notice (filed 03/15/2018 in the court of Appeal-Richmond) was delivered& submitted in the Circuit court& commonwealth attorney 03/19/2018 (**App K**), they kept denying (**App L**),& VA Appeal Court did the same way(**App D**).

9.5 verbally threatened me to jail in case of filing any more motion, in the motion hearing **05.22.2018**

9.6 provided a CD of fabricated transcript instead of unedited& full audio-transcript that I paid for

9.7 intentionally assigned a wrong interpreter (Afghan NOT Persian) who came too late in the trials

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10. The VA Court of Appeal & the trial Court abused their discretion & erred by refusing, ignoring or untimely ordering on my motions esp. emergency ones including approval of Statement of Facts. US Supreme Court **Rule 12(d) &47** "Motions & Supporting Affidavits except for **emergency** motions that need immediate order...&the ruling must not be deferred while the deferral will adversely affect a party's right. When factual issues are involved in deciding a motion, the court must state its essential findings on the record". But, I have not been even informed the reason of deferral or not ruling. My **emergency** motions **0705.2018** as indigent to free trial transcript **App Z-5, ruled in 09.17.2018 (App W)** & my **emergency** motion to confirm the statement of fact **05.13.2019 App Z 6, denied in 07/08/2019 (App X)**.

11. Both the Trial Court & VA Court of Appeal abused their discretion & violated my Civil & Constitutional Rights & due process by ignoring my **INDIGENCE** as the core of problems. **US Code Rule 39 In Forma Pauperis/ Justice Act of 1964** **Appointment/IFP** designation is given by **both state & federal courts** to whoever is without the funds to pursue the costs of criminal defense. It's **unconditional** right of **indigents** regardless of the type of crime to have effective counsel, free transcript & right interpreter. The Circuit Court was fully aware of my indigence at the beginning & assigned a public defender but **unconstitutionally** cut it off without my consent.

12. The circuit court erred in interpretation of US statute/Code §11.411 and Va. Code §18.2-119 of "Criminal trespass & obstruction" & its compliance with the event

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for the jurors. In fact the trial court failed its affirmative duty of instruction of jury which is vital to a defendant in a criminal case Jiminez V. Comm., 241 Va. 244, 250, 402 S.E.2d 678 (1991). A proper description of the elements of the offense is critical because the jury, as finder of fact, must determine whether the prosecution has met its "burden of proving all elements of the offense beyond a reasonable doubt." Stokes v. Warden, 226 Va. 111, 117, 306 S.E.2d, 882 (1983). This statute has been uniformly construed to require a willful trespass. Reed v. Commonwealth, 6 Va. App. 65, 70, 366 S.E.2d 274, 278 (1988). 'Willful' generally means an act done with a bad purpose, without justifiable excuse, without ground for believing it's lawful that denotes "an act which is intentional, knowing". Ellis v. Commonwealth, 29 Va.App. 548, 554, 513 S.E.2d 453, 456 (1999), Snead v. Commonwealth, 11 Va.App. 643, 646, 400 S.E.2d 806, 807 (1991), United States v. Murdock, 290 U.S. 389, 394, 54 S.Ct. 223, 225, 78 L.Ed. 2d, 381 (1933), overruled, Murphy v. Waterfront Common, 378 U.S. 52, 84 S.Ct. 1594, 12 L.Ed. 2d 678 (1964). In other word, "criminal intent" is an **essential** element of the statutory offense of trespass. Reed, 6 Va. App. at 71, 366 S.E.2d at 278 (quoting 75 Am.Jur.2d Trespass § 87 (1974)). As stated in the "nature of the case", as a customer, I had to go there based on the arbitration agreement means an explicit permission. I accepted the trespass notice & was calmly leaving. The circumstantial evidence & the officer's statements were insufficient to establish criminal intent & the prosecutor failed to prove it. The circuit court self erred to find the trespass statute unconstitutionally vague & over-broad as applied to me. That is designed to burden or punish activities which

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are not constitutionally protected NOT customers. Lack of any standard governing constitute trespass along with the influence of the third party (federal agents) give the police ability to act arbitrarily in trespass Parker v. Commonwealth, 24 Va. App. 681, 690, 485 S.E.2d 150, 154-55, 1997

When a principle of law is "materially vital to a defendant in a criminal case," it is an "error" for the trial court not to instruct the jury about the relevant legal principles & its failure is a constitutional error, a violation of the **due process** principle.

13. The trial court abused its discretion & erred by violating my **Fourth** constitutional right by accepting the officers alibi in illegal unreasonable arrests in lack of probable cause), since the arrest resulted from the exercise of unfettered discretion of officers under the influence of the third party to infringe my freedom to associate under **First Amendment**, the 1st-arrest crucially prevented me to communicate with the manager, banned me to return a lemon car & caused lots of financial damages, plenty of physical & psychological stresses.

Clause 39 of Magna Carta (Cornerstone of the U.S. Constitution) provided: "No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way ..."

This clause has helped the federal & state governments adopt fairness standards to ensure people's rights are not violated. When the justice system unfairly treat a person & accuse a fake crime, it violates the person's rights to Due Process.

The **Fourth Amendment** decisively bans it. Simmons v. Commonwealth, 238 Va.

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200, 202-03, 380 S.E.2d 656, 658 (1989); Hall v. Commonwealth, 12 Va.App. 972, 973, 406 S.E.2d 674, 675 (1991), The officer did not have any reasonable reason& evidence that I engaged in criminal activity. The officer's justification for stopping& arresting individuals need the level of probable cause& must be based on more than an "inchoate and unparticularized suspicion.

Those errors, individually and collectively require that my unfair convictions to be **vacated** & the orders **reversed**. Harlow v. Commonwealth, 195 Va.269,271-272,77S.E.2d 851,853(1953).

Conclusion

Based on the facts and evidence presented the circuit court made a number of erroneous rulings over my right to a fair trial& my appeal was rejected in higher court.

The petition for a writ of certiorari should be granted.

Respectfully submitted

Hamidreza Ghazavi

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1.h I do hereby certify that the above Petition for writ of certiorari contains 6595 words. I declare under penalty of perjury that the foregoing is true& correct.

Executed on 04.20.2020

Hamidreza Ghazavi

- ① Mr. Redmond in tel. talk morning 05/08/2020 said due to Covid19 infection, one copy is enough.
- ② In original copy, every page has my signature in violet ink.
(Bottom, Right hand side)

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(Bottom, Right hand side)

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Friday the 14th day of February, 2020.*

Hamidreza Ghazavi,

Appellant,

against Record No. 191022
 Court of Appeals No. 0441-18-4

Commonwealth of Virginia,

Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein
on October 29, 2019 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

Douglas B. Robelen, Clerk

By:



Deputy Clerk



APP/A

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Friday the 14th day of February, 2020.*

Hamidreza Ghazavi,

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A Copy,

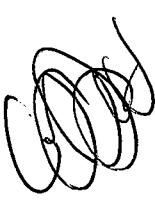
Teste:

Douglas B. Robelen, Clerk

By:



Deputy Clerk


APP/A

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 29th day of October, 2019.

Hamidreza Ghazavi,

Appellant,

against Record No. 191022

Court of Appeals No. 0441-18-4

Commonwealth of Virginia,

Appellee.

From the Court of Appeals of Virginia

On August 5, 2019 came the appellant, who is self-represented, and filed a motion for extension of time to file the petition for appeal and notice of appeal in this case.

Upon consideration whereof, the Court denies the motion.

On October 17. 2019, came again the appellant and filed a "motion to annex to the appeal and speed up the process."

Finding that the appeal was not perfected in the manner provided by law because the appellant failed to timely file the notice of appeal in the Court of Appeals and petition for appeal in this Court, the Court dismisses the petition for appeal filed in the above-styled case. Rule 5:14(a) and Rule 5:17(a)(2). Therefore, the October motion to supplement the petition for appeal and expedite the case are denied as moot.

A Copy,

Teste:

Douglas B. Robelen, Clerk

Mary B. Robelen
Deputy Clerk

1- I timely filed the notice of appeal (APP/K)
& the petition (APP/O) By:
2- So, I never filed motion to extend time
to file notice & petition

APP/D

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In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Tuesday the 29th day of October, 2019.

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against

Record No. 191022

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A Copy,

Teste:

Douglas B. Robelen, Clerk

By:

Mary Beth Riney
Deputy Clerk

1/ I timely filed the notice of appeal (APP/K)
& the petition (APPO)

2/ I never filed motion to extend time
to file notice & Petition

APP/D

VIRGINIA:

In the Court of Appeals of Virginia on Thursday the 21st day of March, 2019.

Hamidreza Ghazavi, Appellant,
against Record No. 0441-18-4
Circuit Court No. CR 31045

Commonwealth of Virginia, Appellee.

From the Circuit Court of Loudoun 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. through IV., VI. through XVII., IXX., XX., and XXII. through XXVII. The record on appeal does not contain a transcript or written statement of facts. See Rule 5A:8(a) and (c). On appeal, appellant asserts a litany of alleged trial court errors: in convicting him in violation of double jeopardy principles; in not declaring a mistrial; in ignoring prosecutorial misconduct; in misinterpreting and applying the statutes under which he was charged; in admitting certain evidence; in rejecting his defenses and finding that the evidence was sufficient to sustain his convictions for trespassing and obstructing the free passage of another; in convicting him of trespassing in violation of the First Amendment; in failing to find a violation of his Fourth Amendment rights; in refusing to dismiss the matter when witnesses did not appear at scheduled hearings; in continuing the matter over his objection; in permitting the attorney of the car dealership involved to be present at trial and to comment upon the evidence; in objecting to appellant's statements about the facts and evidence; in violating the First Amendment by refusing appellant's "right to ask to have the problems solved;" by denying him his right to trial by an impartial jury; by improperly instructing the jury regarding the charged offenses; in violating his rights under Brady v. Maryland, 373 U.S. 83 (1963); in violating his constitutional right to a speedy trial; and in convicting him upon false evidence and untruthful testimony.

APP/B

VIRGINIA:

In the Court of Appeals of Virginia on Thursday the 21st day of March, 2019.

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Circuit Court No. CR 31045

Commonwealth of Virginia, Appellee.

From the Circuit Court of Loudoun County

Per Curiam

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APP/B

We have reviewed the record and the petition for appeal. We conclude that a transcript or written statement of facts is indispensable to a determination of these assignments of error raised on appeal. See Smith v. Commonwealth, 32 Va. App. 766, 772 (2000); Turner v. Commonwealth, 2 Va. App. 96, 99-100 (1986). Appellant failed to ensure that the record contained a transcript or written statement of facts necessary to permit us to resolve these issues on appeal. Rule 5A:8(b)(4)(ii). Therefore, we deny the petition for appeal as to these assignments of error.¹

V. At the time appellant was charged with trespassing and obstructing the free passage of another person, both misdemeanor offenses, appellant waived his right to representation by an attorney and made no claim of indigency. The Commonwealth waived the possibility of the imposition of any jail time in the event ~~of conviction~~. In a jury trial on March 12, 2018, appellant was convicted for trespassing and obstructing the free passage of another person. The trial court sentenced appellant to a fine of \$250 for trespassing and \$125 for obstructing free passage. Three days after his trial, appellant claimed for the first time that he was indigent. On July 5, 2018, appellant requested the trial court to provide him with a trial transcript free of charge. The appellate record contains no order of the trial court ruling upon appellant's motion. By order of October 11, 2018, this Court denied appellant's motion for an extension of time to file a transcript because the motion was not timely filed. On appeal, appellant argues that the trial court erred in denying his motion for the production of a free trial transcript for his appeal!

“[R]efusing an indigent defendant a free transcript of the trial court record in order to perfect an appeal constitutes a denial of fundamental constitutional rights.” Anderson v. Commonwealth, 19 Va. App. 208, 211 (1994). “[T]he State must provide an indigent defendant with a transcript of prior proceedings when that transcript is needed for an effective defense or appeal.” Britt v. North Carolina, 404 U.S. 226, 227 (1971). However, “[i]n determining whether a defendant needs a free transcript, two factors are relevant:

¹ Under Code § 19.2-321.1(A), an appellant whose appeal has been denied, in whole or in part, for failing to file an indispensable transcript or statement of facts may, under certain circumstances, file a motion for a delayed appeal in this Court within six months of this Court's decision to deny the appeal. APP/

APP/B 1

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a motion
APP/B1

TS order necessary for motion / how long after motion filed

'(1) the value of the transcript to the defendant in connection with the appeal or trial for which it is sought, and (2) the availability of alternative devices that would fulfill the same functions as a transcript.'"

Anderson, 19 Va. App. at 211 (quoting Britt, 404 U.S. at 227).

Rule 5A:8 permits an appellant to memorialize trial proceedings in a statement of facts, which serves the same function as a transcript on appeal. See Rule 5A:8(c). Appellant did not pursue the alternative of utilizing a statement of facts in lieu of a transcript on appeal. Moreover, the trial court made no ruling upon appellant's post-trial claim of indigency or his request for the production of a free transcript. Where a defendant does not obtain a ruling from the trial court, "there is no ruling for us to review on appeal." Ohree v. Commonwealth, 26 Va. App. 299, 308 (1998); see also Fisher v. Commonwealth, 16 Va. App. 447, 454 (1993). In any event, by the time appellant requested the production of a transcript on July 5, 2018, his time for filing the transcript, or to request an extension of time to file it, had already expired, so his request was moot. See Rule 5A:8(a). We thus find no merit to appellant's claim that he was entitled to a free trial transcript or that the trial court unlawfully deprived him of it

XVIII. Appellant argues that the trial court erred in refusing to provide him with a Persian interpreter at trial. The trial court's order of March 23, 2018 states that an English-speaking interpreter for the Persian language was provided for appellant at trial pursuant to Code § 19.2-164. "A court speaks only through its orders[.]" Richardson v. Commonwealth, 67 Va. App. 436, 446 (2017) (quoting Cunningham v. Smith, 205 Va. 205, 208 (1964)). Accordingly, appellant's claim has no merit.

XXI. As noted above, appellant waived his right to an attorney prior to trial. Appellant was convicted for two misdemeanors, and he was not sentenced to any incarceration. After trial, on March 19 and April 27, 2018, appellant requested the appointment of an attorney to represent him. By order of May 18, 2018, the trial court denied appellant's motion upon the Commonwealth's representation that any possibility of the imposition of a jail sentence had been waived, so appellant would not have been entitled to a court-appointed attorney at trial. Appellant again moved for the appointment of an attorney on May 24 and 25, 2018. The

APP/B2

the order necessary for motion / how long after motion filed

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ask for 3 Judges

trial court again denied appellant's motions on June 18 and on July 18, 2018.² On appeal, appellant argues that the trial court erred in refusing to appoint an attorney to represent him at trial.

indigent Court-appointed counsel is not required in misdemeanor cases if imprisonment is not imposed. See

Sawyer v. Commonwealth, 43 Va. App. 42, 49 (2004); see also Code § 19.2-160. Thus, appellant was not entitled to the appointment of an attorney to represent him in the first instance, even if he had not waived his right to court-appointed counsel. Thus, appellant's claim has no merit.

This order is final for purposes of appeal unless, within fourteen days from the date of this order, there are further proceedings pursuant to Code § 17.1-407(D) and Rule 5A:15(a) or 5A:15A(a), as appropriate. If appellant files a demand for consideration by a three-judge panel, pursuant to those rules the demand shall include a statement identifying how this order is in error.

The Commonwealth shall recover of the appellant the costs in the trial court.

This Court's records reflect that appellant is proceeding *pro se* in this matter.

A Copy,

Teste:

Cynthia L. McCoy, Clerk

Marty K.P. Rilla

Deputy Clerk

Reconsideration

By:

why ^{APP/B3}
2 This Court, by order of October 11, 2018, denied appellant's motion for the appointment of an attorney to represent him on appeal.

OK for 3 Judges

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in absentia

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Teste:

Cynthia L. McCoy, Clerk

By:

Mary K. P. Riga

Deputy Clerk

reconsideration

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APP/B3