

**VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 5th day of February, 2021.*

Joseph A. Daniels, Appellant,

against Record No. 200869  
Circuit Court Nos. CR08-3438/3439-00F

Commonwealth of Virginia, Appellee.

From the Circuit Court of Henrico County

Upon review of the record in this case and consideration of the argument submitted in support of the granting of an appeal, the Court is of the opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

A Copy,

Teste:

Douglas B. Robelen, Clerk

By:

*Arlen Fagan*

Deputy Clerk

*APPENDIX A*

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF HENRICO

COMMONWEALTH OF VIRGINIA

vs.

JOSEPH A. DANIELS

ORDER – Case No. CR08-3438 and 3439

Upon mature consideration of a "Motion to Vacate Void Judgment", received and filed on March 4, 2020, by the above defendant, the Commonwealth's Response, received and filed on April 4, 2020, and upon a review of the files, and the evidence taken during the trial and sentencing, this Court finding no basis to grant said "Motion", it is

ORDERED that the "Motion to Vacate Void Judgment" is denied as the Court has no further jurisdiction.

A copy of this Order is made available to the Attorney for the Commonwealth through the Officer of the Court Remote Access System.

The Clerk is directed to forward a certified copy of this Order to the defendant, Inmate #1044277, at the Greensville Correctional Center, 901 Corrections Way, Jarratt, VA 23870.

ENTER: *4/2/20*

*[Signature]*  
JAMES S. YOFFY,  
JUDGE

A COPY TESTE:  
HEIDI S. BARSHINGER, CLERK  
HENRICO CIRCUIT COURT

*[Signature]*  
DEPUTY CLERK

/dms

APPENDIX B

VIRGINIA

IN THE CIRCUIT COURT FOR THE COUNTY OF HENRICO

COMMONWEALTH OF VIRGINIA

V.

CASE NOS. CR08-3438 AND -3439

JOSEPH A. DANIELS

COMMONWEALTH'S RESPONSE TO DEFENDANT'S MOTION TO VACATE VOID JUDGMENT

COMES NOW the Commonwealth of Virginia, by counsel, and respectfully moves this Honorable Court to Deny defendant's above styled motion. In support thereof, the defendant respectfully avers the following:

1. Defendant was convicted in the above styled matters on March 25, 2009 in a trial by jury. Defendant was ably represented by counsel at that time. Any statutory or rule driven time frame within which to modify a sentence has long since expired.
2. Once the finality of a criminal judgment is intact, the Virginia Code provides limited avenues to challenge a conviction. These include appeal, a writ of habeas corpus, and limited statutory writs of actual innocence as included in Chapter 19.2 and Chapter 19.3 of section 19.2 of the Code of Virginia. Defendant does not allege that he is actually innocent in his petition or that biological evidence unknown to him at the time of his trial has subsequently proven his innocence. Rather, petitioner argues that his judgement is void because of malfeasance on the part of the prosecuting attorney. In short, the argument is this: Mayfield tipped off police that Daniels admitted to committing the crime. The police prepared a photospread including Daniels. The victim picked Daniels out from the lineup. Mayfield was a convicted felon. The Commonwealth did not call Mayfield as a witness. The Commonwealth did not tell the jury that Mayfield tipped them off that Daniels had admitted to the crime. The Commonwealth did not seek to impeach a witness that the Commonwealth did not call. Ergo, the Commonwealth committed fraud on the Court. Ergo, the judgment is void.

There are several key missing steps to this argument: (a) defendant's petition is devoid of any allegation that the existence of Mayfield or Mayfield's

information that he provided to police was disguised from the defense. In fact, the defendant enclosed a search warrant affidavit that refers to Mayfield. Although there is no record speaking to this fact, petitioner alleges that Mayfield was a subpoenaed witness whom the Commonwealth chose not to call to testify. If true, Mayfield's presence in the court house would have provided the defense an opportunity to present the evidence to the jury that Daniels became a suspect because of Mayfield's tip. The defense could have asked the Court to treat Mayfield as a "hostile" witness and brought in impeaching evidence. It is difficult to argue with a straight face that the Commonwealth was deceptive in its approach when the defense was fully aware of the existence of this witness and the Commonwealth brought this witness to the courthouse. (b) Defendant asserts that the convictions were the product of "extrinsic fraud" in that the Police Officer who presented the indictments committed Fraud. In spite of a laundry list of cases that defendant puts before the Court, defendant never presented any authority for the proposition that a judgment, returned over ten years ago, can now be set aside because defendant was unhappy with the evidence presented to a Grand Jury. In fact, defendant offers no indication other than his supposition as to what evidence was presented to the Grand Jury. Regardless, defendant elected for trial by jury and was given a full, fair, and complete opportunity to be confronted with the Commonwealth's evidence and to present his defense to these matters. A jury heard the evidence and determined defendant's guilt. Defendant does not assert any of the statutorily created mechanisms for post-conviction relief apply. Defendant instead offers his own theory of the conviction being void.

Defendant's approach of a post trial, post-sentencing, and frankly ten year removed attack on the validity of the indictment is without any legal basis. Virginia Supreme Court Rule 3A:9 provides that:

objections based on defects in the institution of the prosecution or in the written charge upon which the accused is to be tried, other than that it fails to show jurisdiction in the court or to charge an offense, must be raised by motion . . . filed or made before a plea is entered and, in a circuit court, at least 7 days before the day fixed for trial.

"Failure to comply with these requirements constitutes a waiver." *Prieto v. Commonwealth*, 283 Va. 149, 181-82, 721 S.E.2d 484, 503 (2012). In appellate jurisprudence, this rule is most frequently applied when objection to the form or a procedural aspect of the indictment is raised, such as the

foreman not signing the indictment. e.g. Reed v. Commonwealth, 281 Va. 471, 706 S.E.2d 854 (2011). Defendant, however, attempts to challenge the presentment of evidence in seeking the indictment. Although defendant has no idea what evidence was presented in seeking the indictment, defendant assumes that this evidence was fraudulent, and thereby renders the indictment itself void. Again, no remedy exists under Virginia law for such a challenge to the indictment process. That defendant was given a full and fair opportunity to adjudicate his guilt or innocence and a jury found the defendant guilty, shows that defendant's collateral attack on the indictment process, even if there was some legal avenue to pursue such an attack, has no merit.

For the foregoing reasons the Commonwealth respectfully moves that this Honorable Court deny defendant's Motion.

RESPECTFULLY SUBMITTED

COMMONWEALTH OF VIRGINIA



Michael Y. Feinmel  
Deputy Commonwealth's Attorney  
County of Henrico  
PO Box 90775  
Henrico VA 23273

CERTIFICATE OF SERVICE

I hereby certify that on this 3<sup>rd</sup> day of April, 2020, I did send a true and correct copy of the foregoing Commonwealth's Response to Defendant's Motion to:

Joseph Anthony Daniels, #1044277  
Greenville Correctional Center  
901 Corrections Way  
Jarratt, Virginia 23870

# AFFIDAVIT FOR SEARCH WARRANT

VA. CODE ANN. § 19.2-54  
RULE 3A:27

CASE NO. 100-10000000

The undersigned Applicant states under oath:

1. A search is requested in relation to an offense substantially described as follows:  
Robbery - 18.2-58 Code of Virginia

2. The place, person, or thing to be searched is described as follows:

An apartment located at 4108-P Townhouse Road, Richmond, Virginia, and any and all storage areas and structures associated within the curtilage thereof.

This is a two story apartment located in the Staples Mill Townhomes in Henrico County, Virginia. The apartment building is a two story brick and wood frame structure with numbers 4108 on the end of the building. The apartment has a black door with the letter "P" on the doorframe.

CONTINUED ON  
ATTACHED SHEET

3. The things or persons to be searched for are described as follows:

Weapons, including knives, clothing, including collared shirts, shorts, jeans, boots, tennis shoes, and ball caps.

Currency, and any and all evidence and instrumentalities associated with the crime of robbery.

CONTINUED ON  
ATTACHED SHEET

RECEIVED & FILED IN OFFICE

*Matthew J. Jones*  
Matthew J. Jones

D/C  
Clerk, Henrico Circuit Court

CONTINUED ON  
ATTACHED SHEET

APPENDIX C

## AFFIDAVIT FOR SEARCH WARRANT

APPLICANT:

P.J. Lawton

NAME

Investigator

TITLE (IF ANY)

Henrico Police

ADDRESS

P.O. Box 27032

Richmond, Virginia 23273

Certified to Clerk of

*Henrico*

Circuit Court on

*July 31, 2008*

MASTROSTRO

TITLE

SIGNATURE

Delivered to Clerk of

*Henrico*

Circuit Court on

*7/31/08*

by the undersigned

MASTROSTRO

TITLE

SIGNATURE

THE MATERIAL FOLLOWS CONCERNING PLEASURABLE VACATION WITH THE SWEETHEARTS OF THE MONTH.

On April 12, 2008, at approximately 02:09 AM, Ms. Jacque Bowmaster was working as a clerk at the CVS drugstore located at 5001 W. Broad St. in Henrico County, Virginia. A male entered the store wearing a faded yellow collared shirt, jeans, boots, and a black ball cap. He jumped over the counter and demanded money from the victim. He told her he had a knife and would stab her. The victim opened the register and the suspect fled with US currency. At approximately 07:00 AM that morning, the same suspect returned, this time accompanied by a second black male. The suspect jumped across the counter again, this time brandishing a small knife. He cut the victim on the finger as he put the knife to her neck. He again demanded money and threatened the victim. She opened the register and both men fled the scene. On July 22, 2008, the suspect was identified as Joseph Anthony Daniels. His accomplice, Emanuel Mayfield, provided information to police identifying Daniels as the suspect with the knife. Mayfield also implicated Daniels as the suspect in the robbery of a 7/11 store in Chesterfield where he wore a collared shirt, jeans shorts, and white tennis shoes. He also used a knife in that robbery. On July 30, 2008, Daniels was taken into custody near his home after it was confirmed through Henrico Probation and Parole that he currently resided at 4108-P Townhouse Road. Upon his arrest, Daniels also confirmed that he stayed at this address for the past two months.

CONTINUED ON ATTACHED SHEET

5. The object, thing or person searched for constitutes evidence of the commission of such offense.

6.  I have personal knowledge of the facts set forth in this affidavit OR

I was advised of the facts set forth in this affidavit, in whole or in part, by an informer. This informer's credibility or the reliability of the information may be determined from the following facts:

This affiant has been a Henrico County Police Officer for eleven years and is currently assigned to the Criminal Investigations Section, Violent Crimes Robbery Unit, which investigates all robberies of persons and businesses in the County of Henrico. This affiant has made several arrests in robbery cases that have occurred in Henrico County, VA. The facts contained in this affidavit are true and accurate to the best of my knowledge. Based on the information contained in Part 4, this affiant firmly believes those items listed in Part 3 to be evidence of the crimes listed in Part 1 and are located in the apartment listed in part 2.

CONTINUED ON ATTACHED SHEET

The statements above are true and accurate to the best of my knowledge and belief.

Investigator

TITLE OF APPLICANT (IF ANY)

Subscribed and sworn to before this day.

July 30, 2008 @ 4:34 pm

DATE AND TIME

APPLICANT

CLERK

MAGISTRATE

JUDGE

him.

7 So I'm glad Ms. Bowmaster was not injured. I  
8 respect your decision.

9 THE COURT: Thank you, Mr. Luxton.

10 MR. WOOD: I do have one comment in closing  
11 argument. It addresses directly one point that Mr. Luxton  
12 raised.

13 THE COURT: Briefly.

**MR. WOOD:** It'll be extremely brief.

22 THE COURT: Thank you, Mr. Wood.

Virginia:  
County of Henrico, to-wit:



In The Circuit Court of the County of Henrico

COMMONWEALTH OF VIRGINIA

Charge:  
Robbery by Assault or Violence

v.

JOSEPH ANTHONY DANIELS

Virginia Code Section: 18.2-58  
Virginia Crime Code: ROB-1212-F9

November 10, 2008 Grand Jury

The Grand Jury charges that, in the County of Henrico,

JOSEPH ANTHONY DANIELS

on or about July 12, 2008, did feloniously rob Jacque Bowmaster of United States Currency belonging to CVS, in violation of §18.2-58 of the Code of Virginia.

Witness sworn and sent by the Court to the  
Grand Jury to give evidence.

J. M. Guess  
Henrico Division of Police 080712022

A True Bill  
 Not a True Bill

Karen O. Clegg  
Deputy Clerk

Howard W. Murphy  
Foreman of the Grand Jury

APPENDIX E

Virginia:  
County of Henrico, to-wit:



**In The Circuit Court of the County of Henrico**

COMMONWEALTH OF VIRGINIA

v.

Charge:  
Robbery by Assault or Violence

JOSEPH ANTHONY DANIELS

Virginia Code Section: 18.2-58  
Virginia Crime Code: ROB-1212-F9

November 10, 2008 Grand Jury  
The Grand Jury charges that, in the County of Henrico,

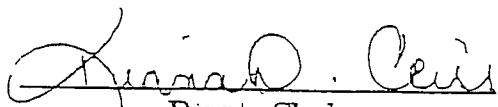
**JOSEPH ANTHONY DANIELS**

on or about July 12, 2008, did feloniously rob Jacque Bowmaster of United States Currency belonging to CVS, in violation of §18.2-58 of the Code of Virginia.

Witness sworn and sent by the Court to the  
Grand Jury to give evidence.

J. M. Guess  
Henrico Division of Police 080712056.

A True Bill  
 Not a True Bill

  
Deputy Clerk

  
Foreman of the Grand Jury



APPENDIX F

LAW OFFICE

OF

JOHN W. LUXTON, P.C.

9 E. FRANKLIN STREET  
RICHMOND, VIRGINIA 23219-2105  
(804) 643-0148 • FAX: (804) 648-5514

March 31, 2010

LEGAL MAIL

Open Only in Presence of Inmate  
Joseph Anthony Daniel, Inmate  
Henrico County Jail - West  
P.O. Box 3368  
Henrico, VA 23228

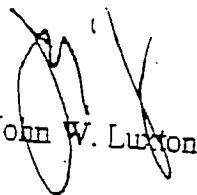
Dear Joseph:

This is to acknowledge your letter of March 26, 2010. The Assistant Commonwealth's Attorney, Robert Wood, is under an obligation to provide us any Brady material in his possession or in possession of the police officers involved in the case. As you may know, Brady material is evidence which would tend to suggest that you did not commit the actual crime or it could be evidence that would reduce the penalty which you could be facing. Obviously, if Mr. Mayfield had been interviewed by the police and he advised them of some other person who had been involved in the robbery of the clerk at the CVS then that would be Brady material which would have to be furnished to me. Mr. Wood provided me no Brady material in regards to Mr. Mayfield.

Wood would not have to provide any plea agreements regarding Mayfield unless Mayfield was scheduled to testify in Henrico County Circuit Court. I don't know that he was ever charged in Henrico and he was certainly not used as a witness in the trial that the Jury heard.

I have enclosed a copy of the search warrant for the apartment and you will notice in Paragraph No. 4 that Mr. Mayfield indicated you as a participant in the robbery. Wood did not obviously feel comfortable calling Mayfield as a witness because of perhaps his lack of credibility. I certainly would not have called him as a witness with him testifying that you had committed the robbery.

Sincerely yours,

  
John W. Luxton

JWL/sm

APPENDIX G

**WARRANT OF ARREST—FELONY****APPENDIX H**

COMMONWEALTH OF VIRGINIA Va. Code § 19.2-71, -72

Henrico

CITY OR COUNTY

General District Court  Criminal  Traffic  
 Juvenile and Domestic Relations District Court

**TO ANY AUTHORIZED OFFICER:**

You are hereby commanded in the name of the Commonwealth of Virginia forthwith to arrest and bring the Accused before this Court to answer the charge that the Accused, within this city or county, on or about **07/12/2008** did unlawfully and feloniously in violation of Section

DATE

**18 58**

, Code of Virginia:  
 rob Jacque Bowmaster of U.S. Currency belonging to CVS located at 5001 W. Broad St. by means of violence, assault, putting the victim in fear of serious bodily harm, threats, or by presenting a firearm or other deadly weapon. ICR#080712022

I, the undersigned, have found probable cause to believe that the Accused committed the offense charged, based on the sworn statements of

**Inv. Lawton, P. J. #0722 HPD**, Complainant.

07/28/2008 12:17 PM

DATE AND TIME ISSUED

CLERK  MAGISTRATE  JUDGE  
 Karen A. Luzier

**TAKE BUCCAL SAMPLE IF LIDS SHOWS NO DNA SAMPLE IN DATA BANK**  
 Check if sample previously taken:  Check if sample taken for this arrest:

CCRE is Required

8-5-08 Ans to Motion

F

7/31/08

Q9m

8/11/08 9AM

Bond motion

8/28/08

1100

M1

FELONY

Barcode

CASE NO.		CR08-3438 08 40089					
ACCUSED:							
Daniels, Joseph Anthony LAST NAME, FIRST NAME, MIDDLE NAME							
20608 Southlawn Dr. ADDRESS/LOCATION							
Petersburg, VA 23803							
RACE    SEX    BORN    HT.    WGT.    EYES    HAIR							
B	M	MO. DAY YR	FT. IN.	190	BRO	BLK	
SSN		11/26/1964    5' 10"    190    BRO    BLK					
DL#		223-21-3291					
STATE							
CLASS    U    FELONY							
<input checked="" type="checkbox"/> EXECUTED by arresting the Accused named above on this day:							
7-30-08 1518 DATE AND TIME OF SERVICE							
Khu Corle, Arresting Officer							
7841 HSO 043 BADGE NO., AGENCY AND JURISDICTION							
M. Wade for Sheriff							
Attorney for the Accused: 7/31/08 Robert Geary capp/not							
Short Offense Description: ROBBERY-TYPE NOT CLEAR FROM RECORD							
Offense Tracking Number: 087GM0040803538							
FOR ADMINISTRATIVE USE ONLY Virginia Crime Code: FELONY							
for Disc. ROB-1216-F9							

# WARRANT OF ARREST—FELONY APPENDIX I

COMMONWEALTH OF VIRGINIA Va. Code § 19.2-71, -72

Henrico .....  
CITY OR COUNTY

General District Court  Criminal  Traffic  
 Juvenile and Domestic Relations District Court

## TO ANY AUTHORIZED OFFICER:

You are hereby commanded in the name of the Commonwealth of Virginia forthwith to arrest and bring the Accused before this Court to answer the charge that the Accused, within this city or county, on or about 07/12/2008 DATE did unlawfully and feloniously in violation of Section

18.58, Code of Virginia:  
rob Jacque Bowmaster of U.S. Currency belonging to CVS located at 5001 W. Broad St. by means of violence, assault, putting the victim in fear of serious bodily harm, threats, or by presenting a firearm or other deadly weapon. ICR#080712056

I, the undersigned, have found probable cause to believe that the Accused committed the offense charged, based on the sworn statements of

Inv. Lawton, P. J. #0722 HPD, Complainant.

07/28/2008 12:17 PM

DATE AND TIME ISSUED

CLERK  MAGISTRATE  JUDGE

Karen A. Luzier

TAKE BUCCAL SAMPLE IF LIDS SHOWS NO DNA SAMPLE IN DATA BANK

Check if sample previously taken: 8-5-08 Check if sample taken for this arrest

CCRF is Required

200807120-122

CASE NO. CR08-3439  
08 40890

## ACCUSED:

Daniels, Joseph Anthony

LAST NAME, FIRST NAME, MIDDLE NAME

20608 Southlawn Dr.

ADDRESS/LOCATION

Petersburg, VA 23803

RACE	SEX	BORN	HT.	WGT.	EYES	HAIR
B	M	MO. DAY YR 11/26/1964	FT. IN. 5' 10"	190	BRO	BLK
SSN	223-21-3291					
DL#	STATE					

CLASS U FELONY

EXECUTED by arresting the Accused named above on this day:

7-30-08 1518

DATE AND TIME OF SERVICE

Karl Conkle, Arresting Officer

7841 HSO 043

BADGE NO., AGENCY AND JURISDICTION

M Wade

SHERIFF

Attorney for the Accused:

8/31/08 Robert Geary app't not  
MIL

Short Offense Description:

ROBBERY-TYPE NOT CLEAR FROM RECORD

Offense Tracking Number:

087GM0040803539

FOR ADMINISTRATIVE USE ONLY

Virginia Crime Code:

ROB-1216-F9

FELONY

F

7/31/08

Hearing Date/Time

8/11/08 9AM

Bond motion

8/11/08  
1100