

No. _____

21-6422

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

JACOB RADER — PETITIONER
(Your Name)

SUPREME COURT of VIRGINIA vs. — RESPONDENT(S)

FILED
NOV 12 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Virginia Record # 2067-19-2
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JACOB RADER # 2019435
(Your Name)

LUNENBURG CORRECTIONAL CENTER
690 FALLS ROAD
(Address)

VICTORIA, VA 23974
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

INEFFECTIVE ASSISTANCE OF APPELLANT COUNSEL

According to the Supreme Court of Virginia on June 25th, 2021, THERE ARE FIVE ISSUES RAISED IN PETITIONERS HABEAS CORPUS WHICH SHOULD HAVE BEEN RAISED ON DIRECT APPEAL.... BUT WERE NOT.

THIS FINDING ON ITS OWN SHOULD SUFFICE A VALID CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL AS JOHN JONES, VIRGINIA STATE BAR NO. 89300 EXCLUSIVELY ARGUED "SUFFICIENCY OF EVIDENCE."

PLEASE SEE APPENDIX #1 TO WHICH JOHN JONES REGRETS "THAT SO MANY POTENTIAL ISSUES.... WERE NOT PRESERVED FOR APPEAL," AND PLEASE SEE APPENDIX #2 WHERE ON JUNE 25th, 2021, THE SUPREME COURT OF VIRGINIA RULED THAT AT MINIMUM, 5 ISSUES COULD HAVE BEEN RAISED ON APPEAL WHICH WERE NOT.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

RECORD No. 2067-19-2

Circuit Court Nos. CR17F02548-01
CR19F01544-01
CR19F01544-02

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix 2 to the petition and is

- ☐ reported at Supreme Court of Virginia; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was July 16th, 2021.
A copy of that decision appears at Appendix 1.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

THE SUPREME COURT OF VIRGINIA,
ACCORDING TO ~~THIS COURT~~ ON JUNE 25TH, 2021, THERE ARE FIVE
ISSUES RAISED IN PETITIONERS HABEAS WHICH COULD OF BEEN RAISED
ON DIRECT APPEAL. THIS FINDING ON ITS OWN SHOULD SUFFICE A
VALID CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL AS JOHN
JONES AND MATT MIKULAS APPEAL STRATEGY EXCLUSIVELY AROVED,
"SUFFICIENCY OF EVIDENCE."

NOT ONLY ARE THERE FIVE ISSUES IDENTIFIED BY THIS COURT
WHICH COULD OF BEEN RAISED ON APPEAL, THERE ARE FOUR OTHER
OBVIOUS ERRORS WHICH WERE NEITHER RAISED ON APPEAL NOR
WERE THEY INCLUDED IN PETITIONERS HABEAS, DUE TO BEING
"INSIDE THE RECORD," WHICH INCLUDED:

- 1) THE COURTS ERROR AT TRIAL OF "STOPPING THE DEFENSE-
SHORT" OF FULL EXHAUSTION IN REGARDS TO CONFRONTATION
AGAINST DETECTIVE HYLTON IN VIOLATION OF THE
DEFENDANTS SIXTH AMENDMENT RIGHTS. (EXHIBIT #1)
- 2) THE PREJUDICIAL AND DANGEROUS IMPACT OF THE
COURTS DECISION OF NOT ALLOWING THE JURY TO VIEW
A VIDEO RECORDED INTERVIEW WHICH MOST CERTAINLY
WOULD HAVE EXPOSED CONTRADICTION OF "AT ISSUE"
EVIDENCE THAT OCCURRED BETWEEN THE DEFENDANT

AND DETECTIVE HYLTON ON AUGUST 9th, 2018.

3) PERJURY BY DETECTIVE HYLTON.

4) THE PREJUDICIAL AND DANGEROUS IMPACT OF THE COURTS OWN COMMENTS OF MISREPRESENTED TESTIMONY BY DETECTIVE HYLTON OR NON-TESTIMONY BY THE DEFENDANT REGARDING THE VIDEO RECORDED INTERVIEW ON AUGUST 9th, 2018, AND;

5) THE "SMOKING-GUN" EVIDENCE THIS COURT IGNORED ENTIRELY WHICH WAS PRESENTED IN PETITIONERS HABEAS, PARAGRAPHS 28-33, WHICH PROVES SOMEONE, MOST LIKELY ED BOWMAN, MANUFACTURED FRAUDULENT THREATENING TEXT MESSAGES IN ORDER TO FRAME THE DEFENDANT.

THE DECISION BY THE COURT TO NOT ALLOW THE JURY TO VIEW A VIDEO RECORDED INTERVIEW BETWEEN THE DEFENDANT AND DETECTIVE HYLTON OF THE CHESTERFIELD POLICE DEPARTMENT WHICH WOULD HAVE IMPEACHED "AT ISSUE" AND PRESUMPTIVE THREATENING TEXT MESSAGE EVIDENCE WAS EXTREMELY PREJUDICIAL AND DANGEROUS TO THE DEFENDANTS TRIAL. BY DEFAULT, THE COURTS ERROR "STOPPED-THE-DEFENSE-SHORT" OF FULL EXHAUSTION OF CONFRONTATION RIGHTS, VIOLATING DEFENDANTS SIXTH AMENDMENT. DETECTIVE HYLTON WAS

CALLED AS A WITNESS BY BOTH PARTIES, PROSECUTION AND DEFENSE. IN A CRIMINAL CASE, THE CONFRONTATION CLAUSE OF THE SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION MAY BE VIOLATED IF A DEFENDANT IS NOT ALLOWED TO INTRODUCE AN INCONSISTENT STATEMENT THAT IMPAIRS THE CREDIBILITY OF A PROSECUTIONS WITNESS. SEE E.G. U.S. V. ADAMSON, 291 F.3d 606, 612-14 (9TH CR. 2002)

THE DEFENSE ALSO CALLED DETECTIVE HYLTON AS ITS OWN WITNESS AND WAS UNEXPECTEDLY SHOCKED DURING EXAMINATION WHEN IT WAS GROSSLY OBVIOUS TO THE DEFENSE THAT:

- 1) DETECTIVE HYLTON HAD NOT REVIEWED THE VIDEO RECORDED INTERVIEW FROM AUGUST 9TH, 2018, IN PREPARATION FOR TRIAL, AND;
- 2) DETECTIVE HYLTON COMMITTED PERJURY, AND;
- 3) DETECTIVE HYLTON MISLEAD THE JURY.

DETECTIVE HYLTON'S TESTIMONY ABOUT THE VIDEO RECORDED INTERVIEW WAS PROFOUNDLY INACCURATE REGARDING:

- 1) WHAT AND WHAT NOT TEXT MESSAGES THE DEFENDANT ADMITTED TO SENDING.
- 2) WHAT AND WHAT NOT DETECTIVE HYLTON ASKED THE DEFENDANT IN REGARDS TO ANY SPECIFIC THREATENING

TEXT MESSAGE(S), AND;

3) WHAT AND WHAT NOT TEXT MESSAGES THE DEFENDANT WAS PHYSICALLY SHOWN BY DETECTIVE HYLTON DURING THE VIDEO RECORDED INTERVIEW ON AUGUST 9TH, 2018.

ALL TOGETHER, THE HIGHLY QUESTIONABLE AND CONFUSING TESTIMONY BY DETECTIVE HYLTON REGARDING THE VIDEO RECORDED INTERVIEW WAS VOLUMINOUS (pg 193-202). THE COURT ERRORED WHEN IT RULED THE DEFENSE COULD NOT IMPERCH ITS OWN WITNESS. THE PERJURY, CONFUSION AND MISLEADING STATEMENTS OF CRITICAL "AT ISSUE" EVIDENCE COUPLED WITH THE DEFENSES INABILITY TO "UNRING-THE-BELL" WAS DETRIMENTAL IN THE JURIES DELIBERATIONS AND CERTAINLY ON ITS OWN COULD HAVE BEEN THE METAPHORICAL, "NAIL IN THE COFFIN," THAT LED TO THE DEFENDANTS CONVICTION.

DETECTIVE HYLTON HIMSELF OPENED THE DOOR REGARDING THE VIDEO RECORDED INTERVIEW, NOT THE DEFENSE. DETECTIVE HYLTON BLATANTLY COMMITTED PERJURY WHEN HE WAS ASKED, "CAN YOU PROVE THAT THE MESSAGES WHICH EDGAR BOWMAN SAID HE FELT THREATENED BY WAS SOMETHING THAT HE DIDN'T MANUFACTURE HIMSELF?" (pg 193). DETECTIVE HYLTON'S RESPONSES OF, "YES" AND "THROUGH MY INTERVIEW WITH YOU," WAS PERJURIOUS AND OPENED

THE DOOR TO THE VIDEO RECORDED INTERVIEW, WHICH BY DEFAULT BECAME UNAVOIDABLE CONFRONTATION. THOSE RESPONSES WERE NOT AND COULD NEVER HAVE POSSIBLY BEEN PROVEN "DURING THE INTERVIEW." THE DEFENDANT NEVER ADMITTED TO SENDING ANY THREATENING TEXT MESSAGE "DURING THE INTERVIEW" AND DETECTIVE HYLTON'S RESPONSE WAS AN IMPOSSIBILITY BECAUSE HE NEVER ASKED THE DEFENDANT ABOUT ANY SPECIFIC THREATENING TEXT MESSAGE AND NEVER FLAT OUT ASKED THE DEFENDANT, "DID YOU SEND ANY THREATENING TEXT MESSAGES, AT ALL, WHATSOEVER TO EDGAR BOWMAN?"

AFTER DETECTIVE LIED, HE MISLEAD THE JURY AS HE IMPLIED THE DEFENDANT WAS GUILTY BECAUSE THE DEFENDANT WAS "REMORSEFUL" (pg 193). DURING THE VIDEO RECORDED INTERVIEW AT 1:05 P.M., THE DEFENDANT SAID HE WAS "WRONG....TO GIVE BOWMAN A PIECE OF HIS MIND," WHICH IS NOT AN ADMISSION TO SENDING ANY TEXT MESSAGE(S) CONTAINING THREATS TO HARM SOMEONE PHYSICALLY, ESPECIALLY RAPE OR SODOMY. THOSE CONCEPTS ARE MUTUALLY EXCLUSIVE, YET THE DAMAGING FALSE TESTIMONY THAT BEGAN AS ABSOLUTE SHIFTED AND CLOAKED BY "I DON'T RECALL." THIS CRITICAL EVIDENTIARY SWING OF TESTIMONY SHOULD HAVE BEEN SORTED OUT PROPERLY AND DEFINITELY. THE JURY

SHOULD HAVE HAD THE OPPORTUNITY TO SEE AND HEAR THE FACTS OF THE VIDEO RECORDED INTERVIEW THEMSELVES WHICH WOULD HAVE DISCREDITED AND IMPEACHED THE PERJURY OF THAT ENTIRE PORTION OF DETECTIVE HYLTON'S TESTIMONY WHICH WAS EXTREMELY DAMAGING AND PREJUDICIAL. DURING THE VIDEO RECORDED INTERVIEW THE DEFENDANT MAINLY DISCUSSES A BUSINESS DISPUTE, KARMA, AND BEING BI-POLAR.

DETECTIVE HYLTON ALSO COMMITTED PERJURY WHEN HE TESTIFIED, "I SHOWED YOU ALL OF THE MESSAGES THAT ARE IN EXHIBIT #1 OF THE COMMONWEALTHS EVIDENCE" (pg 194). IN FACT, DETECTIVE HYLTON NEVER SHOWED THE DEFENDANT:

- 1) ALL OF THE MESSAGES, OR;
- 2) AN ENTIRE DOCUMENT, OR;
- 3) ANY SPECIFIC THREATENING TEXT MESSAGE OR BATTER YET;
- 4) NEVER READ ANY TEXT OR SPECIFIC THREATENING TEXT MESSAGE OUTLOUD DURING THE VIDEO RECORDED INTERVIEW IN A QUOTING-TYPE PROCESS.

THE VIDEO RECORDED INTERVIEW CLEARLY SHOWS DETECTIVE HYLTON QUICKLY AND NONCHALANTLY FLIPPING THROUGH AN UNIDENTIFIABLE DOCUMENT IN AN ALLOOF FASHION WHICH THE DEFENDANT WAS ADJACENT

TO OR PHYSICALLY JUXTAPOSED FROM.

IT SHOULD BE NOTED THAT THE DEFENSE FILED A MOTION OF (EX #2) DISCOVERY ON JUNE 5TH, 2019, AND A SECOND MOTION TO COMPEL (EX #3) DISCOVERY ON JULY 18TH, 2019. IN A PRE-TRIAL HEARING ON AUGUST 8TH, 2019, THE COURT ADDRESSED THE DISCOVERY ISSUE AND ORDERED THE COMMONWEALTH TO BE VERY THOROUGH REGARDING BRADY AND IMPEACHABLE EVIDENCE. THE COURT ORDERED THE COMMONWEALTH TO PROVIDE A COPY OF ALL EVIDENCE PROVIDED TO THE DEFENSE, TO (EX #4) COURT CLERK WENDY HUGHES. THIS RECORD PROVES AND IT CANNOT BE DISPUTED, THAT THE DEFENSE DID NOT HAVE THE FOURTEEN (EX #5) PAGES OF COMMONWEALTHS EXHIBIT #1, PAGES 782-795, PRIOR TO TRIAL. WHAT THE RECORD BY WENDY HUGHES PROVES IS THAT THE DEFENSE WAS GIVEN THIRTY-FOUR PAGES OF A MICROSOFT WORD FORMAT TYPED DOCUMENT, PAGES (EX #6) 90-123. IN A SIDE-BY-SIDE COMPARISON THESE TWO DOCUMENTS ARE DRAMATICALLY DIFFERENT.

THIS ALSO PROVES THE DEFENSE WAS AMBUSHED AT TRIAL AND THE DEFENSE POSES THE QUESTIONS:

1) WHY WERE THERE TWO DRAMATICALLY DIFFERENT SETS OF TEXT MESSAGES, AND;

2) WHAT PURPOSE DID THAT SERVE?

A "SCREENSHOT" IS AN UNEDITED AND UNEDITABLE PICTURE OR FILE THAT CAPTURES EXACTLY WHATS ON A SCREEN. THE THIRTY-FOUR PAGES FROM 90-123 HAD TO HAVE BEEN TYPED INTO A MICROSOFT WORD FORMAT. MANIPULATING A CELL PHONE "SCREENSHOT" IS NOT POSSIBLE BY "COPY AND PASTE" INTO A MICROSOFT WORD DOCUMENT WITHOUT CORRUPTING THE ENTIRE IMAGE AND DOING SO IS AN INTENTIONAL ACT TO MANIPULATE EVIDENCE.

THE DEFENSE ENCOURAGES THIS COURT TO ASK ITSELF:

- 1) WHO AND WHY RE-FORMATTED A "SCREENSHOT" OR PICTURE OF A FILE INTO A MICROSOFT WORD DOCUMENT AND THEREFORE, CREATED DISCOVERY OR EVIDENCE?
- 2) WHO AND WHY MADE A CONSCIOUS DECISION TO NOT PROVIDE THE DEFENSE WITH THE ORIGINAL AND UNEDITED "SCREENSHOTS"? , AND;
- 3) WHO AND WHY ADDED AN EXTRA PIECE OF DISCOVERY INTO THE EVIDENTIARY CHAIN?

THE ANSWERS CAN BE NOTHING MORE THAN DISTURBING AND A DELIBERATE ACT OF MORAL TURPITUDE. THERE NEVER SHOULD HAVE BEEN A MICROSOFT WORD VERSION OF A PICTURE CAPTURED OR

FILE OF ANY "SCREENSHOTS." THE DISCOVERY PAGES OF 90-123 WHICH WERE EXCLUSIVELY PROVIDED TO THE DEFENSE HAD NO REASON TO EXIST.

THAT INTENTIONAL BAIT-AND-SWITCH TACTIC ELIMINATED MY OPPORTUNITY TO PREPARE FOR TRIAL OR SECURE AN EXPERT WITNESS PROFICIENT IN APPLE I-PHONE TECHNOLOGY/CAPTURED "SCREENSHOTS," AND THIS THEORY WILL BE PROVEN THROUGH THE "SMOKING-GUN."

"DURING THE INTERVIEW," NOT ONLY WERE ANY THREATENING TEXT MESSAGES READ OUTLOUD OR QUOTED FROM EVIDENCE, DETECTIVE HYLTON TRIES TO CONVINCE OR REFRESH THE DEFENDANTS MEMORY WITH A TEXT MESSAGE OR STATEMENT THAT NEVER EXISTED IN ANY DOCUMENT, ARTICLE OF DISCOVERY AND CERTAINLY NOT IN ANY "SCREENSHOT." AT 12:58 P.M. "DURING THE INTERVIEW," DETECTIVE HYLTON TELLS THE DEFENDANT, "YOU SAID, YOU KNOW WHATS COMING TO YOU." THAT STATEMENT OR TEXT MESSAGE DOES NOT EXIST IN ANY EVIDENCE. THE VIDEO RECORDED INTERVIEW CONTAINED IMPEACHABLE MATERIAL INCONSISTENT WITH DETECTIVE HYLTON'S TESTIMONY AND THE JURY SHOULD HAVE BEEN ALLOWED TO SEE THE INCONSISTENCIES AND HOW BOTHUMED THIS INVESTIGATION WAS.

EVERYTIME THE DEFENSE PRESSED DETECTIVE HYLTON REGARDING "AT ISSUE" EVIDENCE OF SPECIFIC THREATENING TEXT MESSAGES THAT

HE ASKED THE DEFENDANT AND/OR THE DEFENDANT ADMITTED TO SENDING, HE RESPONDED WITH, "I DON'T KNOW IF THAT WAS SPECIFICALLY ASKED OF YOU" OR "I DON'T RECALL."

THE SPECIFIC TEXT MESSAGES WHICH DETECTIVE HYLTON AT TRIAL COULD NOT RECALL ASKING THE DEFENDANT "DURING THE INTERVIEW," ARE THE EXACT TEXT MESSAGES THE JURY IDENTIFIED USING ARROWS TO FIND THE DEFENDANT GUILTY, WHICH WERE:

- 1) YOU'RE NEVER GOING TO SEE ME COMING (P782);
- 2) DAYS AND DAYS ARE NUMBERED ON YOU (P783);
- 3) TICK TOCK CUNT BOY (P783), AND;
- 4) LIKE YOU SAID YOU WANT TO BURN IT DOWN (P783).

THE CONCLUSION THAT EVIDENCE OR TESTIMONY INCONSISTENT WITH A PRESENT LACK OF MEMORY MAY BE ADMISSIBLE AS A CONTRADICTION IS NOT A NOVEL ONE. DEAN WIGMORE HAS SUGGESTED THAT, IN CERTAIN CASES, WHERE A WITNESS CLAIMS AN INABILITY TO RECOLLECT A MATTER, A FORMER AFFIRMATION OF IT SHOULD BE ADMITTED AS A CONTRADICTION. THE REASON WHY WIGMORE ADVANCES IN SUPPORT OF THIS PRINCIPLE IS THAT AN UNWILLING WITNESS OFTEN TAKES REFUGE IN A FAILURE TO REMEMBER

AND THE ASTUTE LIAR IS SOMETHING IMPREGNABLE UNLESS HIS FLANK CAN BE EXPOSED TO AN ATTACK OF THIS SORT.

DETECTIVE HYLTONS TESTIMONY AND LACK OF MEMORY REGARDING "AT ISSUE" SUBSTANCE WITHIN THE VIDEO RECORDED INTERVIEW WAS DEVASTATING TO THE DEFENDANTS INNOCENCE AND HIS PERJURY VIOLATED THE DEFENDANTS DUE PROCESS RIGHTS AND SPEAKS FOR ITSELF THAT JUSTICE WAS NOT SERVED. DETECTIVE HYLTON LIED, MISLEAD THE JURY, AVOIDED QUESTIONING AND CONTINUOUSLY RELIED ON A LACK OF MEMORY. IF THE COURT WOULD HAVE ALLOWED THE JURY TO VIEW THE VIDEO RECORDED INTERVIEW, FIVE SERIOUS EVIDENTIARY ISSUES WOULD HAVE BEEN PROVEN, WHICH WERE :

- 1) THE DEFENDANT NEVER ADMITTED TO SENDING ANY TEXT MESSAGE WHICH CONTAINED THREATS, AND;
- 2) THE DEFENDANT WAS NEVER ASKED IF HE SENT ANY TEXT MESSAGE WHICH CONTAINED THREATS OR ASKED ANY QUESTION ABOUT SPECIFIC THREATENING TEXT MESSAGES THAT WERE WITHIN COMMONWEALTHS #1 OR "SCREENSHOTS" WHICH WAS MARKED WITH ARROWS BY THE JURY, AND;
- 3) THAT DETECTIVE HYLTON LIED ABOUT "SHOWING YOU ALL

OF THE MESSAGES THAT ARE IN EXHIBIT #1 OF THE COMMONWEALTHS EVIDENCE" AND THAT DETECTIVE HYLTON COULD PROVE EDGAR BOWMAN DIDN'T MANUFACTURE EVIDENCE "THROUGH MY INTERVIEW WITH YOU," AND;

4) THE IMPLICATION BY DETECTIVE HYLTON THAT THE DEFENDANT WAS GUILTY DUE TO "REMORSE" WHICH MISCHARACTERIZED THE DEFENDANTS ACTUAL STATEMENT OF, "BEING WRONG.... FOR GIVING BOWMAN A PIECE OF MY MIND," AND;

5) THAT DURING THE INTERVIEW DETECTIVE HYLTON TRIES TO CONVINCE THE DEFENDANT HE IS GUILTY AND MISREPRESENTS ANY EVIDENCE WHICH WAS, "YOU SAID, YOU KNOW WHATS COMING TO YOU," THAT TEXT OR STATEMENT SIMPLY DOES NOT EXIST ANYWHERE, PURE AND SIMPLE.

IF INDEED DETECTIVE HYLTON SHOWED THE DEFENDANT ALL THE TEXT MESSAGES IN COMMONWEALTHS #1 DURING THE INTERVIEW, THEN HOW IS IT POSSIBLE NOTHING IS MENTIONED REGARDING BOWMAN'S DAUGHTER? "DURING THE INTERVIEW," DETECTIVE HYLTON NEVER ASKED THE DEFENDANT ANYTHING ABOUT THREATS CONCERNING RAPE OR SODOMY TO BOWMAN'S DAUGHTER. SURELY, IF EDGAR BOWMAN HAD

REVEALED HIS FEAR AND CONCERN OF HIS DAUGHTER BEING RAPED
AND PRODUCED TEXT MESSAGES OF THAT TYPE OF EVIDENCE, DETECTIVE
HYLTON WOULD HAVE AT LEAST MENTIONED IT AND QUESTIONED THE
DEFENDANT ABOUT IT, YET HE NEVER DID. AGAIN, THE JURY UTILIZED
ARROWS AND MARKED THAT TEXT MESSAGE TO FIND THE DEFENDANT
GUILTY (P. 188). THERE IS ALSO NO MENTIONING OF A TEXT REGARDING
BOWMAN'S DAUGHTER BY "TENNYSEN 437" ^(EX. #7) OR WITHIN DETECTIVE
HYLTON'S OWN NOTES OR "SYNOPSIS" ^(EX. #8), AND BOTH OF THOSE PIECES
OF DISCOVERY WERE NOT PROVIDED TO THE DEFENSE OR RECORDED
AS BEING PROVIDED TO THE DEFENSE BY COURT CLERK, WENDY
HUGHES, THUS VIOLATING BRADY.

A WITNESSES PROFESSED LACK OF KNOWLEDGE OR MEMORY IMPLIES
THE EXISTENCE OR NON-EXISTENCE OF A FACT IN ISSUE AND THEN
ANY PARTY ADVERSELY AFFECTED BY THE IMPLICATION SHOULD BE
ALLOWED TO IMPEACH THE CREDIBILITY OF THE WITNESS BY INTRODUCING
EVIDENCE THAT THE WITNESS MADE A PRIOR INCONSISTENT STATEMENT
AND NOT DOING SO SURELY VIOLATES A DEFENDANTS RIGHT TO
CONFRONTATION. OTHERWISE, THIS STRATEGY CAN BE INTENTIONALLY
RELIED UPON TO CIRCUMVENT A FAIR TRIAL OR JUSTICE AND IS THE
ENTIRE POINT OF CONFRONTATION UNDER THE SIXTH AMENDMENT.

THIS COURT SHOULD BE CONCERNED THERE IS AN INNOCENT MAN SITTING IN PRISON AND NEEDS TO EVALUATE THE CUMULATIVE AND OVERWHELMING ABUNDANCE OF CONTROVERSIAL ISSUES SHOWING AN UNFAIR TRIAL WHICH INCLUDES:

- 1) ADMISSION BY THE COMMONWEALTH ON NOVEMBER 26TH, 2019, THAT THE DEFENSE WAS NOT PROVIDED DISCOVERY FROM DISTRICT COURT IN 2017. (EX. #9)
- 2) THE DISCOVERY MATERIAL WHICH VIOLATED BRADY AND WAS NOT TURNED OVER INCLUDES MAJOR "AT ISSUE" EVIDENCE OF:
 - A) DETECTIVE HYLTON'S SYNOPSIS
 - B) REPORT OF "TENNYSEN 437", AND;
 - C) COMMONWEALTH'S #1 OR "SCREENSHOTS"
- 3) PERJURY BY DETECTIVE HYLTON.
- 4) DEFENDANTS RIGHT TO CONFRONTATION VIOLATED.
- 5) THE COURTS OWN MISREPRESENTATION OF TESTIMONY TO THE JURY AT TRIAL, AND MOST IMPORTANTLY;
- 6) THE "SMOKING GUN" OR MANUFACTURED FRAUDULENT EVIDENCE, AKA, COMMONWEALTH'S #1.

THE COURT ITSELF MISREPRESENTED THE VIDEO RECORDED INTERVIEW OR TESTIMONY BY DETECTIVE HYLTON. AT NO TIME ANYWHERE IN THE RECORD, OR IN THE VIDEO RECORDED INTERVIEW, NOR DID THE DEFENDANT TESTIFY TO SENDING ANY THREATENING TEXT MESSAGE(S), YET IN FRONT OF THE JURY THE COURT ERRONEOUSLY SAID: "YOU'VE VERIFIED THAT YOU SENT HIM THE TEXTS" ^(EX. #10) (6198). THAT IMPROPER STATEMENT BY THE COURT IN FRONT OF THE JURY WAS EXTREMELY PREJUDICIAL AND AGAIN SHOULD HAVE TRIGGERED THE BALANCING TEST AND THE DECISION SHOULD HAVE BEEN MADE TO ELIMINATE THE CONFUSION AND ALLOWED THE JURY TO VIEW THE VIDEO RECORDED INTERVIEW.

IN MAKING THE BALANCING TEST IN A CRIMINAL CASE, THE DANGER OF PREJUDICIAL IMPACT OF A PRIOR INCONSISTENT STATEMENT, I.E., A JURY'S IMPROPER CONSIDERATION OF IT IS AS SUBSTANTIVE EVIDENCE IS SUBSTANTIALLY GREATER WHEN IT IS INTRODUCED BY THE PROSECUTION THAN WHEN IT IS INTRODUCED BY THE DEFENDANT. JUDGE MAILLOY SAID: "WHEN THE PROSECUTION ATTEMPTS TO INTRODUCE A PRIOR INCONSISTENT STATEMENT TO IMPEACH ITS OWN WITNESS, THE STATEMENTS' LIKELY PREJUDICIAL IMPACT OFTEN SUBSTANTIALLY OUTWEIGHS ITS PROBATIVE VALUE FOR IMPEACHMENT PURPOSES BECAUSE THE JURY MAY IGNORE THE JUDGE'S LIMITING INSTRUCTIONS AND CONSIDER THE "IMPEACHMENT"

TESTIMONY FOR SUBSTANTIVE PURPOSES WHEN THE DEFENDANT SEEKS TO INTRODUCE A PRIOR INCONSISTENT STATEMENT FOR IMPEACHMENT PURPOSES, THE DANGERS IDENTIFIED ABOVE ARE NOT IMPLICATED Simply put, THE PREJUDICIAL IMPACT OF THE STATEMENT DOES NOT ENDANGER THE DEFENDANT'S LIBERTY BY RISKING A CONVICTION BASED ON OUT-OF-COURT STATEMENTS THAT ARE NOT SUBJECT TO CONFRONTATION BY WAY OF CROSS-EXAMINATION." U.S. V. BUFFALO, 358 F.3d 519, 522-27 (8TH CIR. 2004). A PARTY'S MOTIVE IN CALLING A WITNESS AND THEN IMPEACHING THE WITNESS'S CREDIBILITY WITH A PRIOR INCONSISTENT STATEMENT IS IRRELEVANT. THE ISSUE IS SIMPLY WHETHER THE PROBATIVE VALUE OF THE INCONSISTENT STATEMENT AS IMPEACHMENT IS SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE, CONFUSION OF THE ISSUES, MISLEADING THE JURY, ETC. (CF. U.S. V. LOGAN, 121 F.3d 1172, 1174-77 (8TH CIR. 1997)) A PARTY MAY CALL A WITNESS WHOSE TESTIMONY IS A TWO-EDGED SWORD, I.E., IS BOTH HELPFUL AND HARMFUL. THE PARTY THEN IS JUSTIFIED IN IMPEACHING THE CREDIBILITY OF THE WITNESS WITH A PRIOR INCONSISTENT STATEMENT. U.S. V. KANE, 944 F.2d 1406, 1411-12 (7TH CIR. 1991).

IN THIS CASE, THE DEFENSE HAD NO CHOICE OTHER THAN IMPEACHING DETECTIVE HYLTON DUE TO THE UNDISPUTABLE FACT THAT DETECTIVE HYLTON

CONFUSED THE ISSUES OF THE VIDEO RECORDED INTERVIEW, MISLEAD THE JURY AS TO WHAT THE DEFENDANT SAID, AND COMMITTED PERJURY ABOUT WHAT HE HIMSELF ASKED THE DEFENDANT AND WHAT EVIDENCE HE SHOWED TO THE DEFENDANT.

THE COURT ERRORED ON ITS RULING AND IN DOING SO VIOLATED THE DEFENDANT'S RIGHT TO CONFRONTATION UNDER THE SIXTH AMENDMENT. "DUE PROCESS REQUIRES THAT A DEFENDANT RECEIVE A FUNDAMENTALLY FAIR TRIAL, INCLUDING A MEANINGFUL OPPORTUNITY TO PRESENT A COMPLETE DEFENSE" *CRAIG V. KENTUCKY*, 476 U.S. 683 (1986).

THE "SMOKING-GUN" EVIDENCE PROVING THE DEFENDANT WAS
FRAMED AND SHOULD HAVE BEEN RAISED ON APPEAL AND WAS
ALSO IGNORED BY THIS COURT ENTIRELY IN PARAGRAPHS 28-33
(EX #11)
OF PETITIONERS HABEAS, IS THAT COMMONWEALTH'S #1 WAS AND
IS, FRAUDULENT AND MANUFACTURED EVIDENCE.

BRADY IS VIOLATED AS A MATTER OF LAW IF THE DEFENDANT
HAS NOT HAD SUFFICIENT TIME TO MAKE USE OF THE IMPLACEMENT
EVIDENCE AT TRIAL, COMMONWEALTH V. TUMA (2013).

FACT = COMMONWEALTH'S #1 WAS NOT PROVIDED PRIOR TO TRIAL.
JUST AS THE DEFENSE WAS EXPECTED TO MAKE USE OF COMMON-
WEALTH'S #1 AT TRIAL, THE DEFENSE HUMBLY AND RESPECTFULLY
CHALLENGES THIS COURT TO PLAY DEVIL'S ADVOCATE AND DO THE SAME.
BEFORE PROCEEDING PAST PAGE 33 OF THIS MOTION, THE
DEFENSE ASKS THIS COURT TO TAKE AS LONG AS IT DESIRES TO
SEE IF THIS COURT WITHOUT AN EXPERT WITNESS CAN IDENTIFY
THE FRAUD OF COMMONWEALTH'S #1. (EXHIBIT #5 - NEXT PAGE)

BE ASSURED, THE FRAUD IS WITHIN COMMONWEALTH'S #1, AND
IS, WITHOUT A DOUBT, PROOF THE DEFENDANT IS INNOCENT AND
THIS COURT SHOULD REVERSE THIS VERDICT AND INDICTMENT.

< Messages Jake

Details

EXHIBIT # 5

I know u think u had
me fooled...and I
confirmed it when I
read ur facial
paradigms, which
there are 19, at the
gas station.

I'm gonna finish this

Relentless by
default big man...Ur
never gonna see me
coming.

...except what I want
you to see lolouder

Monday 10:06 PM

CASE #: CR19F01644-01,0
JUDGE: CR17F02548-01
DATE: 8-26-19
EXHIBIT #: CW #1



Send 782

< Messages

Jake

Details

EXHIBIT # 5 (CONT)

Monday 10:06 PM

days and days are
numbered on u

tik tok cunt boy

* Monday 11:49 PM *

Like u said...you
want to burn it down

Yesterday 9:14 PM

Jake,
After receiving the
latest rounds emails
to me and
customers, and from
my perspective



Text Message

Send 783

 Messages

Jake

Details

EXHIBIT #5 (CONT)

Jake,
After receiving the latest rounds emails to me and customers, and from my perspective threatening texts, I am requesting that all forms of communication end. I do not want you to contact me or my wife anymore period. I also request that you not contact my customers including doctors and their



New Message

Send

784

< Messages

Jake

Details

EXHIBIT # 5 (CONT)

customers including
doctors and their
staff, nurses and
other ancillary staff
at hospitals, as I
know several have
made this request.
Lastly I would ask
that you not contact
the personnel at
Zimmer Biomet.

Gratefully,

Ed

Suck my dick

You need to read



Send 785

 Messages

Jake

Details

EXHIBIT #5 (CONT)

You need to read
The Art of War by
Sun Tzu. You made
you play.

lol...u actually
thought I would go
quiet in the night
Dylan Thomas??? Is
what makes you
dumb enough to do
what you did to your
own surgeons

I have relocated to
the west coast and
no longer reside in
VA so file the bogus
lawsuit if you



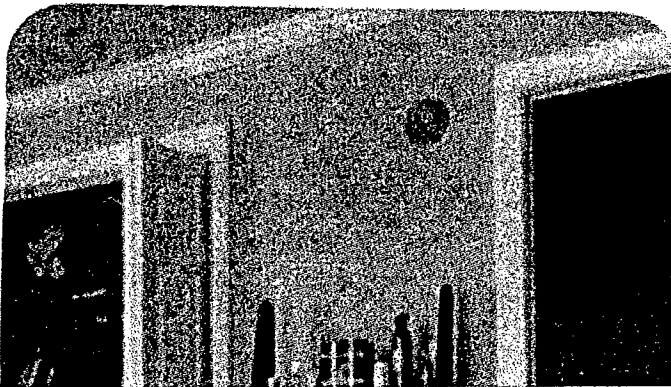
Send 786

[← Messages](#)**Jake**[Details](#)

EXHIBIT #5 (cont)

VA so file the bogus
lawsuit if you
want...I'll come back
for it.

Otherwise....GO
FUCK YOURSELF



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separately
+ sealed (nudity)



ext Message

Send 787

 Messages Jake Details

EXHIBIT #5 (CONT)

My nephew said
he'd love to find ur
daughter and see
how she feels about
his dick in her ass
and I told him it
wasn't
necessary...but he's
pretty determined



And what do you
care...u told me your
wife is a whore
anyway who is
fucking some guy in
the Senate

What's a matter...cat
got ur cunt



Send 788



May 25, 2016

11:22 AM

Edit

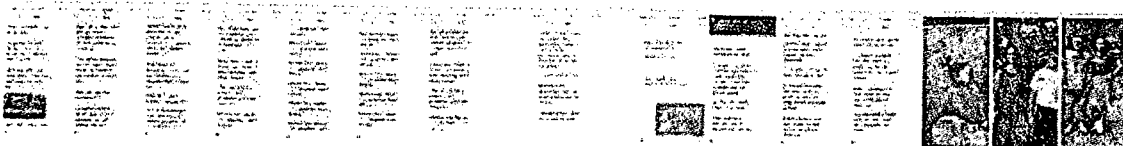
EXHIBIT # 5 (CONT)

I know u think u had
me fooled...and I
confirmed it when I
read ur facial
paradigms, which
there are 19, at the
gas station.

I'm gonna finish this

Relentless by
default big man...Ur
never gonna see me
coming.

...except what I want
you to see lolouder



789



May 25, 2016

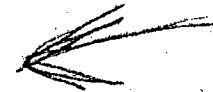
11:23 AM



Monday 10:06 PM

EXHIBIT # 5 (CONT)

days and days are
numbered on u



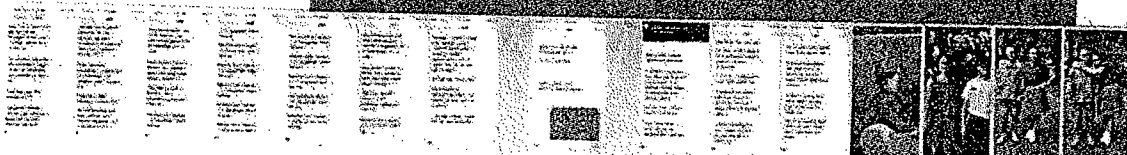
tik tok cunt boy

* Monday 11:49 PM *

Like u said...you
want to burn it down

Yesterday 9:14 PM

Jake,
After receiving the
latest rounds emails
to me and



790



May 25, 2016

Edit



10:58 AM



EXHIBIT #5 (CONT)

Jake,
After receiving the latest rounds emails to me and customers, and from my perspective threatening texts, I am requesting that all forms of communication end. I do not want you to contact me or my wife anymore period. I also request that you not contact my customers including



791

May 25, 2016

10:59 AM

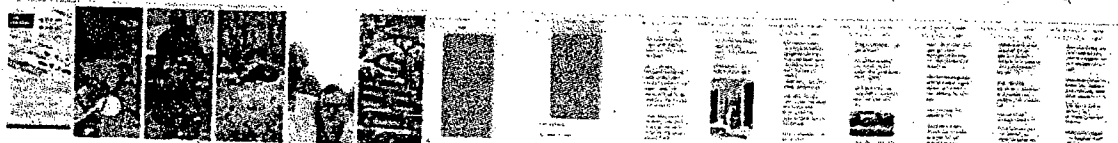
Edit

customers including
doctors and their
staff, nurses and
other ancillary staff
at hospitals, as I
know several have
made this request.
Lastly I would ask
that you not contact
the personnel at
Zimmer Biomet.

Gratefully,

Ed

Suck my dick



792



May 25, 2016

11:01 AM

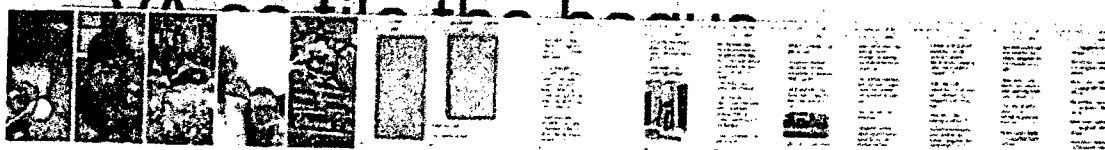
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EXHIBIT #5 (CONT)

You need to read
The Art of War by
Sun Tzu. You made
you play.

lol...u actually
thought I would go
quiet in the night
Dylan Thomas??? Is
what makes you
dumb enough to do
what you did to your
own surgeons

I have relocated to
the west coast and
no longer reside in



793



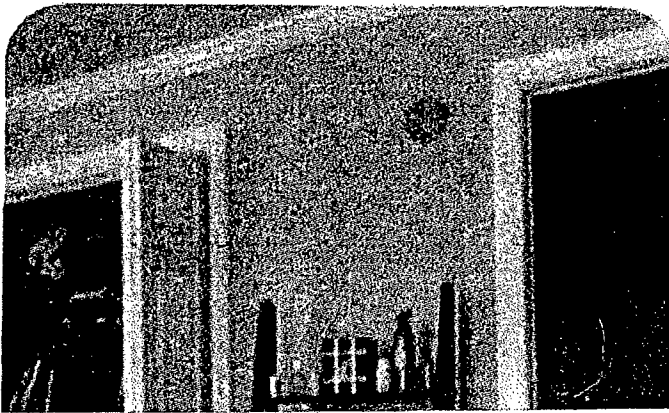
May 25, 2016

Edit

11:01 AM
EXHIBIT # 5 (CONT)

VA so file the bogus
lawsuit if you
want...I'll come back
for it.

Otherwise....GO
FUCK YOURSELF



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separately
& sealed (nudity)



794



May 25, 2016
11:02 AM

Edit

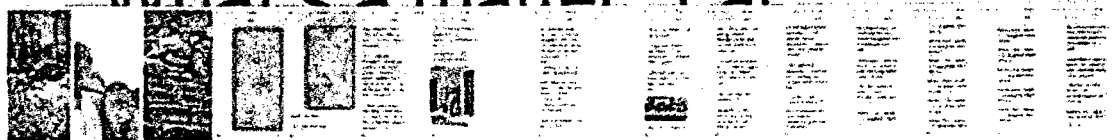
EXHIBIT #5 (CONT)

My nephew said
he'd love to find ur
daughter and see
how she feels about
his dick in her ass
and I told him it
wasn't
necessary...but he's
pretty determined



And what do you
care...u told me your
wife is a whore
anyway who is
fucking some guy in
the Senate

What's a matter cat



795

THE SMOKING GUN

TWO DIFFERENT I-PHONES WERE UTILIZED TO CREATE FRAUDULENT TEXT MESSAGES IN ORDER TO FRAME THE DEFENDANT. I-PHONE # B CREATED THE FRAUDULENT TEXTS AND SENT THEM TO I-PHONE # A.

IN ORDER TO VISUALLY DEMONSTRATE THIS FRAUD, COMMONWEALTHS #1 (PG 782-795) NEEDS TO BE SEPERATED INTO TWO PACKETS:

- I-PHONE # A - PAGES 782-788
- I-PHONE # B - PAGES 789-795

EVEN THOUGH THE TEXT MESSAGES THEMSELVES ARE IDENTICAL AND IN THE EXACT ORDER, THE UNMISTAKABLE AND UNIQUE ICONS OF # A VERSUS # B, PROVES TWO DIFFERENT I-PHONES COLLECTIVELY CREATED THE FRAUD. ONLY THE KEEN EXPERT COULD HAVE MADE USE OF THE SUPPRESSED EVIDENCE "ON-THE-SPOT" AT TRIAL, WHICH IS TWO SETS OF:

- 1) "RECEPTION" ICONS
- 2) "CHARGING" ICONS
- 3) "BATTERY" ICONS
- 4) "PERCENTAGE PLACEMENT" ICONS OF THE ORDER OR ARRANGEMENT OF: CHARGING, BATTERY AND PERCENTAGE ICONS.

EXAMPLE #1 - "RECEPTION" ICONS

THE UPPER LEFT HAND CORNER OF AN I PHONE IS WHERE THE ICON FOR "RECEPTION" IS LOCATED.

- I-PHONE # A HAS 5 CIRCLES THAT IDENTIFIES "RECEPTION."



PG 782



PG 783



PG 784



PG 785



PG 786



PG 787



PG 788

- I-PHONE # B HAS 4 BARS THAT IDENTIFIES "RECEPTION."



PG 789



PG 790



PG 791



PG 792



PG 793



PG 794



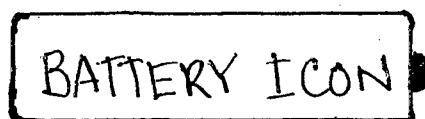
PG 795

- I-PHONE # A AND I-PHONE # B ARE TWO DIFFERENT PHONES.

EXAMPLE #2 - "CHARGING" ICONS

THE UPPER RIGHT HAND CORNER OF AN I-PHONE IS WHERE THE ICON FOR "CHARGING" IS LOCATED.

- I-PHONE #A HAS A LIGHTENING BOLT THAT IDENTIFIES "CHARGING", AND THE LIGHTENING BOLT IS ON THE RIGHT-HAND SIDE OF THE BATTERY ICON.



PG 782

PG 783

PG 784

PG 785

PG 786

PG 787

PG 788

- I-PHONE #B HAS A SUN-DIAL THAT IDENTIFIES "CHARGING", AND THE SUN-DIAL IS ON THE LEFT-HAND SIDE OF THE BATTERY ICON.

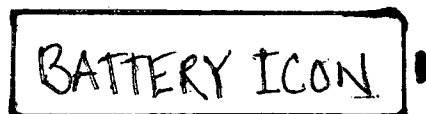
PG 790

PG 792

PG 793

PG 794

PG 795



- I-PHONE #A AND I-PHONE #B ARE TWO DIFFERENT PHONES.

EXAMPLE #3 - "BATTERY LIFE" ICON

THE UPPER RIGHT HAND CORNER OF AN I-PHONE IS WHERE THE ICON FOR "BATTERY LIFE" IS LOCATED.

- I-PHONE #A USES A SOLID-COLORED (FROM TOP TO BOTTOM) BATTERY ICON WITH A TIP THAT TOUCHES THE BATTERY BODY.



Pgs - 782-788

- I-PHONE #B USES A NON-SOLID-COLORED BATTERY ICON WITH A TIP THAT IS SEPERATED FROM THE BATTERY BODY.



Pgs - 789-795

I-PHONE #A AND I-PHONE #B ARE TWO DIFFERENT PHONES.

EXAMPLE #4 - "PERCENTAGE PLACEMENT"

THE UPPER RIGHT HAND CORNER OF AN I-PHONE IS WHERE A DISTINCT SEQUENCE OF ALL THE ICONS ARE ARRANGED:

- 1) PERCENTAGE NUMERIC VALUE
- 2) "CHARGING" ICON
- 3) "BATTERY LIFE" ICON

• I-PHONE #A HAS A DISTINCT SEQUENCE OF:

100%



PGS - 782-788

• I-PHONE #B HAS A DISTINCT SEQUENCE OF:

*73%



PGS - 789-795

IT IS IMPOSSIBLE FOR THE SAME I-PHONE TO HAVE MUTUALLY EXCLUSIVE ICONS FOR RECEPTION, CHARGING AND BATTERY LIFE AND THEN ARRANGE THOSE ICONS IN A COMPLETELY DIFFERENT SEQUENCE.

IF THE DEFENDANTS RIGHT TO DISCOVERY WOULDN'T HAVE BEEN VIOLATED BY THE SUPPRESSION OF COMMONWEALTHS EXHIBIT #1, AN EXPERT WITNESS FROM I-PHONE WOULD HAVE BEEN CALLED TO DEMONSTRATE TO THE JURY THAT I-PHONE # B HAD:

- 1) FOUR BARS FOR RECEPTION;
- 2) A SUN-DIAL FOR CHARGING;
- 3) A NON-SOLID-COLORED BATTERY, AND;
- 4) A DISTINCT ICON SEQUENCE OF:
 - A) CHARGING;
 - B) PERCENTAGE VALUE, AND;
 - C) BATTERY LIFE

AND CREATED FRAUDULENT TEXT MESSAGES AND SENT THEM TO I-PHONE # A, WHICH HAD:

- 1) FIVE CIRCLES FOR RECEPTION;
- 2) A LIGHTNING-BOLT FOR CHARGING;
- 3) A SOLID-COLORED BATTERY, AND;
- 4) A DISTINCT ICON SEQUENCE OF:
 - A) PERCENTAGE VALUE;
 - B) BATTERY LIFE, AND;
 - C) CHARGING

WITH ALL DUE RESPECT TO JOHN JONES, HE SUBMITTED AN APPEAL TO THIS COURT PRIOR TO CONSULTING OR ADVISING THE PRO SE LITIGANT ABOUT THE ONE AND ONLY ISSUE AND STRATEGY HE ARGUED.

THIS DEFENDANT AND PRO SE LITIGANT IS INNOCENT OF THIS INDICTMENT AND GUILTY VERDICT. AT A MINIMUM, THE COURT RECORD BY WENDY HUGHES PROVES THE COMMONWEALTH VIOLATED BRADY. THERE ARE NUMEROUS ISSUES WITHIN THE ORIGINAL AND/OR FINAL LEAVE OF PETITIONERS HABEAS THAT ARE WORTHY OF A REVERSAL, AS WELL AS ALL OF THE REVERSIBLE ISSUES CONTAINED WITHIN THIS MOTION.

ON JULY 16TH, 2021, JOHN JONES ADMITTED "REGRET THAT SO MANY POTENTIAL ISSUES THAT WE SPOKE ABOUT WERE NOT PRESERVED FOR APPEAL," EVEN THOUGH TWO 20 MINUTE PHONE CALLS OVER THE COURSE OF TWO YEARS DIDN'T DO JUSTICE TO "SO MANY POTENTIAL ISSUES."

THIS PRO SE LITIGANT RESPECTFULLY REQUESTS THIS COURT TO NOT ONLY FIND IN FAVOR OF "INTERPRETIVE ASSISTANCE OF COUNSEL," BUT MAKE ASSURANCES THAT NEW COUNSEL CONTACT AND SPEAK WITH THE DEFENDANT PERSONALLY BEFORE SUBMITTING A NEW APPEAL OR ALLOW THE PRO SE DEFENDANT THE OPPORTUNITY TO WRITE HIS OWN APPEAL.

Sincerely Submitted,

JACOB RADER

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: Nov. 1st, 2021