

VIRGINIA:

22-5374

IN THE

SUPREME COURT OF THE UNITED STATES
THE HONORABLE CHIEF JUSTICE JOHN G. ROBERTS JR.

DARRIS ALTONY NEWSOME
PETITIONER,

VS.

COMMONWEALTH'S ATTORNEY FOR THE CITY OF HAMPTON,
COURT OF APPEALS OF VIRGINIA,
SUPREME COURT OF VIRGINIA,
UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA,
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT,
ET AL,

RESPONDENT(S)

ON PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS

DARRIS ALTONY NEWSOME #1067717
LAWRENCEVILLE CORRECTIONAL CENTER
1607 PLANTERS ROAD
LAWRENCEVILLE, VIRGINIA 23868

PRO-SE

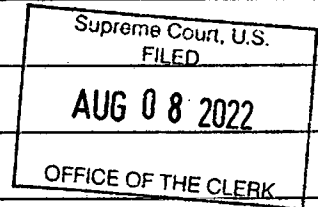


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QUESTIONS PRESENTED

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2. CAN TRIAL COURT MAINTAIN CONVICTIONS, WHEN A MISCARRIAGE OF JUSTICE HAS OCCURRED, BECAUSE DARRIS ALTONY NEWSOME WAS IN THE VIRGINIA DEPARTMENT OF CORRECTIONS IN THE TIME IN QUESTION?
3. Did the COMMONWEALTH initiate CRIMINAL PROCEEDINGS THAT THE COMMONWEALTH KNOW IS NOT SUPPORTED BY PROBABLE CAUSE?
4. Did TRIAL COUNSEL ETHICAL BEHAVIOR MISCONDUCT RENDER INEFFECTIVE ASSISTANCE OF COUNSEL, WHEN COUNSEL ENGAGED IN CONDUCT DIRECTLY MISREPRESENTATION HIMSELF TO THE COURT, DISHONESTY, INTENTIONALLY AND KNOWINGLY CONCEAL MATERIAL FACT, WHICH INVOLVE A CORRUPTION OF THE TRUTH SEEKING FUNCTION OF THE TRIAL, MAKING IT IMPOSSIBLE FOR HIM TO RECEIVE A FAIR TRIAL?
5. Did TRIAL COURT ERRED IN VIOLATING DARRIS ALTONY NEWSOME'S FIFTH AMENDMENT, DUE TO DOUBLE JEOPARDY OF MULTIPLE OFFENSES WITHIN ONE TIME PERIOD?

STATEMENT OF FACTS

ON the 12th of July 2011, during his JURY TRIAL BEFORE THE HONORABLE Judge JONES, the Appellant, JARRIS ANTHONY NEWSOME through COUNSEL attempted to introduce into evidence a document the subject of which was the CERTIFIED TRANSFER history of the Appellant FROM the VIRGINIA DEPARTMENT OF CORRECTIONS. IT, July 12 AT 121-122. The document was PREPARED by Ms. JOYCE TIEDE, RESEARCH SPECIALIST, CENTRAL CRIMINAL RECORDS, VIRGINIA DEPARTMENT OF CORRECTIONS, WAS CERTIFIED by Ms. LULA V. JAMES, CUSTODIAN OF RECORDS AND NOTARIZED by CAROLYN W. MATHIAS, A Notary Public for the COMMONWEALTH. IT AT 122. The COMMONWEALTH objected to the admission of the document, claiming that they had NOT RECEIVED AN ALIBI NOTICE FROM "THIS ATTORNEY" OR THE REQUISITE NOTICE PURSUANT TO SUPREME COURT RULE 3A:11(c)(2). The COMMONWEALTH ACKNOWLEDGED the fact that previous defense COUNSEL had MADE the COMMONWEALTH AWARE of the fact that ALIBI EVIDENCE WAS GOING TO BE USED, AND THAT the COMMONWEALTH HAD RECEIVED A COPY of the TRANSFER history document FROM previous defense COUNSEL. The COMMONWEALTH ALSO ACKNOWLEDGED the fact that the TRANSFER history would EVIDENCE that JARRIS ANTHONY NEWSOME WAS INCARCERATED during the time period stated in the INDICTMENTS PERTAINING to INCIDENTS which ALLEGEDLY OCCURRED in 1995. Id AT 123. DEFENSE COUNSEL ARGUED that the COMMONWEALTH HAD NEVER to him objected to its introduction AND that previous defense COUNSEL had NOTICED the COMMONWEALTH of its intention to introduce the TRANSFER history document AS ALIBI EVIDENCE in a letter dated MARCH 8, 2011. Id AT 124. The TRIAL COURT sustained the COMMONWEALTH's objection AND the TRANSFER history document WAS NOT ALLOWED into EVIDENCE. Id.

List of Parties

All parties appear in the caption of the case on the cover page.

This petition is for a case initiated in the Virginia State Court.

Jurisdiction

28 U.S.C. § 1651(A)(b)

§ 1651(A) - The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a judge or justice of a court which has jurisdiction.

United States Supreme Court Rule 22 and 51(1) - if when denial is without prejudice a renewed application is made by a letter to the clerk, designating the justice to whom the application is to be directed and accompanied by 10 copies of the original application and proof of service.

Constitutional and Statutory Provisions involved Anti Terrorism and Effective Death Penalty Act (AEDPA) Code of Virginia 18.2-370.1, 18.2-67.2, 18.2-61

TO THE HONORABLE CHIEF JUSTICE JOHN G. ROBERTS JR.
OF THE UNITED STATES SUPREME COURT:

PRELIMINARY STATEMENT

THE PETITIONER IS PROCEEDING PRO-SE, AND PURSUANT TO ALL WRITS ACT 28 USC § 1651(A)(6) AND UNITED STATES SUPREME COURT RULE 22 PRESENTS THIS BRIEF IN SUPPORT OF A PETITION FOR WRIT OF MANDAMUS TO THE HONORABLE CHIEF JUSTICE JOHN G. ROBERTS JR.

PETITIONER SEEKS INTERVENTION BY THE CHIEF JUSTICE OF THIS COURT FOR THE PURPOSE OF COMPELLING THE COURTS OF THE COMMONWEALTH OF VIRGINIA AND THE LOWER FEDERAL COURTS TO ADJUDICATE HIS MOTION TO VACATE UNLAWFUL CONVICTION AND SENTENCE IN ACCORDANCE WITH CLEARLY ESTABLISHED LAW AS DETERMINED BY THE UNITED STATES SUPREME COURT AND IN A MANNER CONSISTENT WITH THE DICTATES OF THE ANTI-TERRORISM AND EFFECTIVE DEATH PENALTY ACT. PETITIONER FURTHER REPRESENTS RELIEF TO BE WARRANTED IN THE FORM OF MANDAMUS DUE TO EXCEPTIONAL CIRCUMSTANCES JUSTIFYING INTERVENTION BY THE CHIEF JUSTICE OF THIS HONORABLE COURT.

PETITIONER REPRESENTS THERE TO HAVE BEEN MATERIAL LEGAL MATTERS OVERLOOKED BY ALL REVIEWING COURTS AND THAT THIS CASE INVOLVES ONE OR MORE QUESTIONS OF EXCEPTIONAL IMPORTANCE SPECIFICALLY, PETITIONER ADVANCES THE FOLLOWING ARGUMENTS:

(1) DID REFUSAL TO ALLOW JARRIS ATTORNEY NEWSOME CERTIFIED AND AUTHENTICATED COPY OF A TRANSFER HISTORY DOCUMENT SEVERELY HINDER HIS ABILITY TO PRESENT ALIBI EVIDENCE, THAT CLEARLY SHOWS THAT HE WAS INCARCERATED DURING THE TIME PERIOD OF APRIL, 1995 THROUGH OCTOBER 11, 1995; ONE OF THE TIME FRAME

in which it was alleged that he violated 18.2-370.1 AND 18.2-67.2 OF THE CODE OF VIRGINIA, MAKING IT IMPOSSIBLE FOR HIM TO RECEIVE A FAIR TRIAL. EXHIBIT 2, 3

(2) CAN TRIAL COURT MAINTAIN CONVICTIONS WHEN A MISCARriage OF JUSTICE HAS OCCURRED, BECAUSE JARRIS ALTONY NEWSOME WAS IN THE VIRGINIA DEPARTMENT OF CORRECTIONS IN THE TIME IN QUESTION?

(3) DID THE COMMONWEALTH INITIATE CRIMINAL PROCEEDINGS THAT THE COMMONWEALTH KNOW IS NOT SUPPORTED BY PROBABLE CAUSE?

(4) DID TRIAL COUNSEL ETHICAL BEHAVIOR MISCONDUCT RENDER INEFFECTIVE ASSISTANCE OF COUNSEL, WHEN COUNSEL ENGAGED IN CONDUCT DIRECTLY MISREPRESENTATION HIMSELF TO THE COURT, DISHONESTY, INTENTIONALLY AND KNOWINGLY CONCEAL MATERIAL FACT, WHICH INVOLVE A CORRUPTION OF THE TRUTH SEEKING FUNCTION OF THE TRIAL, MAKING IT IMPOSSIBLE FOR HIM TO RECEIVE A FAIR TRIAL?

(5) DID TRIAL COURT ERRED IN VIOLATING JARRIS ALTONY NEWSOME'S FIFTH AMENDMENT, DUE TO DOUBLE JEOPARDY OF MULTIPLE OFFENSES WITHIN ONE TIME PERIOD?

NO OTHER AVAILABLE SOURCES OF JUDICIAL POWER STATE OR FEDERAL WERE PASSED BY FOR THE PURPOSE OF SEEKING RELIEF BY RESORT TO USC 28, §1651(A),(B) AND UNITED STATES SUPREME COURT RULES (22) AND (51)(1).

Authorities AND ARGUMENT

1. Did REFUSAL to ALLOW DARRIS ALTONY NEWSOME CERTIFIED AND AUTHENTICATED COPY OF A TRANSFER history document SEVERELY hinder his ABILITY to PRESENT ALIBI EVIDENCE, THAT CLEARLY SHOWS THAT HE WAS INCARCERATED DURING THE TIME PERIOD OF April, 1995 THROUGH October 11, 1995; ONE OF THE TIME FRAME IN WHICH IT WAS ALLEGED THAT HE VIOLATED 18.2-370.1 AND 18.2-67.2 OF THE CODE OF VIRGINIA, MAKING IT IMPOSSIBLE FOR HIM TO RECEIVE A FAIR TRIAL? Exhibit 1 § 8.01-390 OF THE CODE OF VIRGINIA READS:

A. COPIES OF RECORDS OF THIS COMMONWEALTH, OF ANOTHER STATE, OF THE UNITED STATES OF ANOTHER COUNTRY OR OF ANY POLITICAL SUBDIVISION OR AGENCY OF THE SAME, OTHER THAN THOSE LOCATED IN A CLERK'S OFFICE OF A COURT SHALL BE RECEIVED AS PRIMA FACIE EVIDENCE PROVIDED THAT SUCH COPIES ARE AUTHENTICATED TO BE TRUE COPIES EITHER BY THE CUSTODIAN THEREOF OR BY THE PERSON TO WHOM THE CUSTODIAN REPORTS, IF THEY ARE DIFFERENT.

"UNDER [THE OFFICIAL WRITTEN DOCUMENTS] EXCEPTION, RECORDS AND REPORTS PREPARED BY PUBLIC OFFICIALS PURSUANT TO A DUTY IMPOSED BY STATUTE, OR REQUIRED BY THE NATURE OF THEIR OFFICE, ARE ADMISSIBLE AS PROOF OF THE FACTS STATED THEREIN."

TAYLOR V. MARITIME OVERSEAS CORP, 224 VA. 562, 565, 299 S.E. 340, 341, (1983).

VIRGINIA SUPREME COURT RULE 3A-11(C)(2) REQUIRES THE DEFENSE TO PROVIDE THE COMMONWEALTH WITH NOTICE OF AN ALIBI DEFENSE AND NOTICE OF THE DEFENDANT'S ALTERNATE LOCATION.

IN THE CASE AT BAR, DARRIS ALTONY NEWSOME ATTEMPTED TO introduce into evidence a document the subject of which was the CERTIFIED transfer history of DARRIS ALTONY NEWSOME FROM the VIRGINIA DEPARTMENT OF CORRECTIONS. TT, JULY 12 AT 121-122. THE document was prepared by Ms. JOYCE TIEDE, RESEARCH SPECIALIST, CENTRAL CRIMINAL RECORDS, VIRGINIA DEPARTMENT OF CORRECTIONS; WAS CERTIFIED by Ms. LULA V. JAMES, CUSTODIAN OF RECORDS AND NOTARIZED by CAROLYN W. MATHIAS, A NOTARY PUBLIC FOR THE COMMONWEALTH OF VIRGINIA, TT AT 122.

THIS document was in compliance with all of the provisions of § 8.01-390 of the Code of Virginia, in that the DEPARTMENT OF CORRECTIONS is an AGENCY of the COMMONWEALTH of VIRGINIA and that its RECORDS ARE, THEREFORE A RECORD of the COMMONWEALTH. THE document WAS ACCOMPANIED by an AFFIDAVIT which WAS signed by an OFFICER DEEMED to HAVE CUSTODY of such an OFFICIAL RECORD, which CONFIRMED that the ATTACHED RECORDS WERE TRUE AND ACCURATE COPIES of all the INCARCERATION AND TRANSFER RECORDS that ARE KEPT UNDER HER CUSTODY AND PERTAINED to DARRIS ALTONY NEWSOME. (CERTIFIED AND AUTHENTICATED). Id.

THE COMMONWEALTH ACKNOWLEDGED THE FACT THAT PREVIOUS DEFENSE COUNSEL HAD MADE THE COMMONWEALTH AWARE OF THE FACT THAT ALIBI EVIDENCE WAS GOING TO BE USED (FIRST IN OPEN COURT AT THE MOTION FOR CONTINUANCE ON JANUARY 11, 2011), MOTION TRANSCRIPT, JANUARY 11, 2011 AT 3; AND THAT THE COMMONWEALTH HAD RECEIVED A COPY of the transfer history document FROM PREVIOUS DEFENSE COUNSEL. Id. DEFENSE COUNSEL ARGUED THAT PREVIOUS DEFENSE COUNSEL HAD NOTICED THE COMMONWEALTH of its INTENTION to introduce that transfer history document AS ALIBI EVIDENCE IN A

LETTER DATED MARCH 8, 2011, AND THAT THE COMMONWEALTH HAD NEVER OBJECTED TO ITS INTRODUCTION TO CURRENT DEFENSE COUNSEL. TT AT 124.

THE COMMONWEALTH ALSO ACKNOWLEDGED THAT THE TRANSFER HISTORY DOCUMENT WOULD EVIDENCE THAT DARRIS ALTONY NEWSOME WAS INCARCERATED DURING THE TIME PERIOD STATED IN THE INDICTMENTS PERTAINING TO INCIDENTS WHICH ALLEGEDLY OCCURRED IN 1995. Id AT 123.

THE KNOWLEDGE OF THE COMMONWEALTH OF THE DOCUMENT'S EXISTENCE AND CONTENT AND ITS FAILURE TO OBJECT TO ITS INTRODUCTION PRIOR TO TRIAL; THE REFUSAL OF THE TRIAL COURT TO ADMIT THE DOCUMENT INTO EVIDENCE PROHIBITED DARRIS ALTONY NEWSOME FROM ADEQUATELY PRESENTING ALIBI EVIDENCE, PREVENTED HIM FROM RECEIVING A FAIR TRIAL.

DARRIS ALTONY NEWSOME ARGUE THAT THE DOCUMENT WAS ADMISSIBLE, BECAUSE CONSIDERING THE COMPLIANCE OF THE TRANSFER HISTORY DOCUMENT WITH ALL OF THE PROVISIONS OF 8.01-390 OF THE CODE OF VIRGINIA IN THAT THE DEPARTMENT OF CORRECTIONS IS AN AGENCY OF THE COMMONWEALTH OF VIRGINIA, AND THAT ITS RECORDS ARE THEREFORE, A RECORD OF THE COMMONWEALTH, WHICH CONFIRMED THAT THE ATTACHED RECORD WERE TRUE AND ACCURATE COPIES OF ALL INCARCERATION AND TRANSFER RECORDS THAT ARE KEPT UNDER HER CUSTODY AND PERTAINED TO DARRIS ALTONY NEWSOME.

Authorities AND ARGUMENT

2. CAN TRIAL COURT MAINTAIN CONVICTIONS, WHEN A MISCARriage OF JUSTICE HAS OCCURRED, BECAUSE JARRIS ALTONY NEWSOME WAS IN THE VIRGINIA DEPARTMENT OF CORRECTIONS IN THE TIME IN QUESTION?

RULE 5A:18 ALLOWS EXCEPTIONS FOR GOOD CAUSE OR TO MEET THE ENDS OF JUSTICE. IN ORDER TO AVAIL ONESELF OF THE EXCEPTION, A DEFENDANT MUST AFFIRMATIVELY SHOW THAT A MISCARriage OF JUSTICE HAS OCCURRED, NOT THAT A MISCARriage MIGHT HAVE OCCURRED.

ANNIKA HAYNES WORTH WAS BORN ON OCTOBER 11, 1985. THESE INCIDENTS OCCURRED BETWEEN APRIL 1, 1995 THROUGH OCTOBER 11, 1995. ANNIKA FIRST REPORTED THESE INCIDENTS TO THE POLICE IN JULY OF 2010.

ON THE 12TH DAY OF JULY, 2011 JARRIS ALTONY NEWSOME, WAS TRIED BY A JURY BEFORE THE HONORABLE BONNIE L. JONES, JUDGE OF THE CIRCUIT COURT FOR THE CITY OF HAMPTON, ON ONE COUNT OF KNOWINGLY AND INTENTIONALLY AND WITH LASCIVIOUS INTENT, SEXUALLY ABUSING A CHILD UNDER THE AGE OF 18 YEARS OF AGE TO WHOM HE WAS NOT LEGALLY MARRIED, WHILE MAINTAINING A CUSTODIAL OR SUPERVISORY RELATIONSHIP OVER SUCH A CHILD, IN VIOLATION OF 18.2-370.1 OF THE CODE OF VIRGINIA BETWEEN THE DATE OF APRIL 1, 1995 THROUGH OCTOBER 11, 1995; EXHIBIT 2 - ON ONE COUNT OF UNLAWFULLY AND FELONIOUSLY PENETRATING THE LABIA MAJORA OR ANUS OF A CHILD UNDER THE AGE OF THIRTEEN YEARS WITH AN OBJECT OTHER THAN FOR A BONA FIDE MEDICAL PURPOSE, IN VIOLATION OF 18.2-67.2 OF THE CODE

OF VIRGINIA BETWEEN THE DATES OF APRIL 1, 1995 THROUGH OCTOBER 11, 1995; EXHIBIT 3

DURING TRIAL DIRECT EXAMINATION OF ANNIKA HAYNESWORTH'S TESTIMONY;

QUESTION: OKAY, AND DID SOMETHING UNUSUAL HAPPEN IN YOUR RELATIONSHIP WITH YOUR FATHER BETWEEN THE AGES OF NINE AND A HALF AND TEN?

ANSWER: YES, I WAS RAPED BY MY FATHER. QUESTION: TELL ME YOUR

DATE OF BIRTH? ANSWER: 10-11-85. EXHIBIT 4 CROSS EXAMINATION OF

ANNIKA'S TESTIMONY; QUESTION: MS. HAYNESWORTH DO YOU RECALL THE FIRST ---

LET ME BACK UP START AGAIN. YOU MENTIONED THAT THIS FIRST INCIDENT OCCURRED WHEN YOU WERE NINE AND A HALF TO TEN YEARS OLD, IS THAT CORRECT?

ANSWER: YES. QUESTION: AND AGAIN WITH YOUR BIRTHDAY BEING OCTOBER 11TH

OF 1985 THAT WOULD PUT IT THE DATE RANGE OF SOMEWHERE BETWEEN

APRIL 1ST OF 1995 TO OCTOBER 11TH OF 1995, IS THAT CORRECT? ANSWER:

I DON'T KNOW, I KNOW I WAS NINE AND A HALF OR TEN. NINE AND A HALF

TEN. TRIAL TRANSCRIPT AT 119-121, AND 126. EXHIBIT 5, 6, 7, 8

BEFORE TESTIFYING A WITNESS MUST TAKE AN OATH OR AFFIRMATION TO TESTIFY

TRUTHFULLY. DURING OR BEFORE DARRIS ALTONY NEWSOME'S TRIAL ANNIKA

HAYNESWORTH WAS OBVIOUSLY DEEMED TO BE CREDITABLE AND FIT FOR

TRIAL BY THE COURT AS WELL AS THE COMMONWEALTH. BEING THAT ANNIKA

WAS DEEMED COMPETENT TO TESTIFY AGAINST DARRIS ALTONY NEWSOME

AND SWORE TO TELL THE TRUTH UNDER OATH. WE MUST TAKE ANNIKA

HAYNESWORTH AT HER WORD. IN HER OWN WORDS ANNIKA HAYNESWORTH

STATED THAT SHE WAS RAPED BY MY FATHER BETWEEN THE AGES OF

NINE AND A HALF AND TEN.

ANNIKA DESCRIBED IN DETAIL WHAT SHE ALLEGED TO HAPPEN, BUT

TRUE EVIDENCE SHOWS DARRIS ALTONY NEWSOME'S CERTIFIED AND

AUTHENTICATED TRANSFER HISTORY DOCUMENT FROM THE VIRGINIA

DEPARTMENT OF CORRECTIONS CLEARLY SHOWS DARRIS ANTHONY NEWSOME WAS INCARCERATED IN THE DEPARTMENT OF CORRECTIONS FROM APRIL 14, 1993 THROUGH DECEMBER 28, 1995. THEREFORE, DARRIS ANTHONY NEWSOME COULD NOT HAVE COMMITTED THE CHARGED OFFENSES AGAINST ANNIE HAYNESWORTH. EXHIBIT 1

THE ONLY EVIDENCE AVAILABLE WAS THE WORD REPROBATE WHOSE ALLEGATIONS CLEAR ALIGN WITH MY TIME OF INCARCERATION.

DARRIS ANTHONY NEWSOME ARGUE HE IS BEING ILLEGAL DETAIN, DUE TO A MISCARRIAGE OF JUSTICE HAS OCCURRED, AND ARGUE THE HONORABLE CHIEF JUSTICE JOHN G. ROBERTS JR. TO INVOKE THE EXCEPTIONS TO RULE 5A:18 TO MEET THE ENDS OF JUSTICE.

WHEN A PROSECUTOR KNOWS OF CLEAR AND CONVINCING EVIDENCE ESTABLISHING THAT A DEFENDANT IN THE PROSECUTOR'S JURISDICTION WAS CONVICTED OF AN OFFENSE THAT THE DEFENDANT DID NOT COMMIT, THE PROSECUTOR SHALL SEEK TO REMEDY THE CONVICTIONS.

Authorities And Argument

3. Did the Commonwealth initiate criminal proceedings that the Commonwealth knew is not supported by probable cause?

Rule 3.8 defines "special" ethical duties applicable to prosecutors.

The rule provides that prosecutors shall: refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause.

False evidence in the hands of the Commonwealth may be innocently incorrect, but if the Commonwealth knew or should have known of the falsity, the rules of Mooney are implicated. The rule of Mooney requires reversal, because the false information affected the judgment of the jury. Even if the Commonwealth did not know of the falsity at the time evidence was introduced, the failure to correct it upon awareness thereafter, is an error to deliberate use.

In the case at bar on October 18, 2010 preliminary hearing Annika Haynesworth's testimony under oath direct examination; Question: Okay, and this first incident you talked about, do you know what year that was? Answer: I don't know the year off hand, but I know that I was nine and a half. Question: Okay. Now, how do you remember that you were nine and a half? Answer: Ten, because I remember I was going to have a birthday. The birthday came afterwards. Question: How do you remember it was your tenth birthday? Answer: I started my cycle, like around about that time. Question: Around about that time? Answer: Uh-huh. Question: What do you mean? Answer: I started my menstrual cycle. Question: When? Answer: Right before my tenth birthday. Preliminary hearing at 24-25, exhibit 9, 10 AFTER

DIRECT EXAMINATION AND CROSS EXAMINATION OF ANNKA

HAYNESWORTH TESTIMONY THE COMMONWEALTH MOTION THE COURT
IN REGARD TO THE YEAR. THE COURT: WHAT CHANGES DO YOU WANT?

COMMONWEALTH: THE JULY 1, 1998 TO SEPTEMBER 1, 1998 SHOULD BE

APRIL 1, 1995 TO OCTOBER 1, 1995. THE COURT: LET'S SEE, ALL MATTERS
INVOLVING A.H. INVOLVE DATES IN 1998, AMENDED THEM TO 1995 SAME
SPECIFIC DATES OTHER THAN JUST CHANGING 1998 TO 1995? COMMONWEALTH:

YES SIR. THE COURT: I'M AMENDING ALL THE 1998 OFFENSE DATES TO
1995. COMMONWEALTH: THAT WOULD BE THE COMMONWEALTH'S CASE

ON PROBABLE CAUSE. EXHIBIT 11

UNFORTUNATELY, PROBABLE CAUSE IS IMPOSSIBLE. "TRUE EVIDENCE"
REVEALED BY THE HAMPTON COURT RECORD, CRIMINAL INFORMATION
NETWORK, AND VIRGINIA DEPARTMENT OF CORRECTIONS REFLECT THAT
DARRIS ANTHONY NEWSOME WAS INCARCERATED SPECIFICALLY BETWEEN
APRIL 14, 1993 THROUGH DECEMBER 28, 1995. EXHIBIT 1

COMMONWEALTH LACKED PROBABLE CAUSE TO INITIATE CRIMINAL
CHARGES / PROCEEDING AND ACTING AS AN OFFICER OF THE COURT IN
FAILING TO WITHDRAW ARREST WARRANTS AFTER LEARNING THAT NO
CRIME HAD BEEN COMMITTED BY DARRIS ANTHONY NEWSOME.

FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION STIPULATE
THAT "NO WARRANT" SHALL ISSUE, BUT UPON PROBABLE CAUSE.

THE EVIDENCE IS INSUFFICIENT TO SUSTAIN THE VERDICT. DARRIS
ANTHONY NEWSOME HAVE CONVICTIONS, BUT WAS IN THE VIRGINIA
DEPARTMENT OF CORRECTIONS, AND IS BEING ILLEGAL DETAIN.

Authorities AND ARGUMENT

4. Did trial counsel ethical behavior misconduct render ineffective assistance of counsel, when counsel engaged in conduct directly misrepresentation himself to the court, dishonesty, intentionally and knowingly conceal material fact, which involve a corruption of the truth seeking function of the trial, making it impossible for him to receive a fair trial?

The American Bar Association's Model Rules of Professional Conduct of ethical behavior apply equally to all attorneys.

The Sixth Amendment guarantees the right to effective assistance of counsel in criminal prosecution. To obtain reversal of a conviction, the defendant must prove that counsel's performance fell below an objective standard of reasonableness, and that counsel's deficient performance prejudiced the defendant, resulting in an unreliable or fundamentally unfair outcome in the proceeding.

DARRIS ALTONY NEWSOME admits that I was not incarcerated when ANNKA alleged the next incidents two (2) years later. ANNKA was eighteen (18) years old when I found out ANNKA was my daughter. ANNKA was twenty-six (26) years old at the time of DARRIS ALTONY NEWSOME trial. Trial counsel improperly treated ANNKA testimony as truth rather than her version of disputed events.

In the case at bar on July 12, 2011 during jury trial cross examination of ANNKA's testimony under oath: Question: you mentioned that you didn't realize that DARRIS NEWSOME was your father until you were about eight and that you knew through DNA test that he was your father for sure when you were about twelve.

is that correct? ANSWER: ELEVEN OR TWELVE. IT WAS ONE OF THEM. QUESTION: NOW YOUR DATE OF BIRTH IS 10-11-1985. CORRECT? ANSWER: Uh-huh. QUESTION: AND ELEVEN OR TWELVE THAT WOULD MAKE IT ABOUT 1997, IS THAT CORRECT? ANSWER: I DON'T KNOW. QUESTION: ELEVEN OR TWELVE, SO IT WOULD BE LIKE '96, '97 WHEN YOU WERE ELEVEN OR TWELVE? ANSWER: I DON'T KNOW. I KNOW I WAS ELEVEN OR TWELVE WHEN ME AND MY MOM AND HIM WENT TO DO A DNA TEST. QUESTION: OKAY WOULD IT SURPRISE YOU IF I WERE TO TELL YOU THAT THE DATE THAT ACTUALLY OCCURRED, THAT DNA TEST WAS SOME TIME SHORTLY BEFORE MARCH 27th OF 2003. ANSWER: I DON'T KNOW 2003? QUESTION: 2003. LET ME SHOW COUNSEL? MS. MAW: JUDGE, THE COMMONWEALTH'S POSITION IS THERE IS A MUTUAL DISCOVERY ORDER IN PLACE AND NOW THE DEFENSE HAS GIVEN ME SOME TYPE OF SUMMONS TO MR. NEWSOME REGARDING A DNA TEST, WHICH YOU DON'T KNOW WHO THIS IS IN RELATION TO. THE COURT: MAY I SEE IT? MR. ALLEN: AND YOUR HONOR THAT FROM IDR COURT THEY ACTUALLY DON'T HAVE HIS FILE. THEY'VE LOST IT. THE COURT: HOW DO I KNOW IT APPLIES TO THIS PERSON? MR. ALLEN: I BELIEVE IT HAS HER NAME ON IT, IF I'M NOT MISTAKEN. THE COURT: I DIDN'T SEE IT. THE COURT: ALRIGHT MOTION TO STRIKE IS GRANTED. TRIAL TRANSCRIPT AT 116-119, EXHIBIT 5, 12-17. ORDER FOR DISCOVERY AND INSPECTION WAS ENTERED 8th DAY OF JULY, 2011. EXHIBIT 18 ORDER DETERMINING PARENTAGE DNA TEST WAS IN THE ORDER FOR DISCOVERY, WHICH WAS AVAILABLE PRIOR TO JUDGMENT, BUT TRIAL COUNSEL FAILED TO INTRODUCE DOCUMENT INTO EVIDENCE, WHICH CAUSE AN UNJUST AND UNFAIR TRIAL. EXHIBIT 19

DURING TRIAL MR. ALLEN (TRIAL COUNSEL) ENGAGE IN CONDUCT DIRECT MISREPRESENTATION HIMSELF IN COURT WHEN MR. ALLEN TOLD THE HONORABLE TRIAL JUDGE THAT THEY ACTUALLY DON'T HAVE HIS FILE. THEY'VE

lost it. Counsel had access to all court documents from JDR Court pertaining to DARRIS ALTONY NEWSOME. ORDER DETERMINING PARENTAGE DNA test clearly shows that the test was order in 2003 AND NOT ORDER IN 1997 AS ANNIKA TESTIFIED IT WAS DONE.

TRIAL COUNSEL INTENTIONALLY AND KNOWINGLY CONCEAL THIS INFORMATION AT TRIAL, TO KEEP THE JURY FROM LEARNING THE TRUE FACTS THAT FULLY CORROBORATED DARRIS ALTONY NEWSOME'S STATEMENT THAT HE DID NOT KNOW ANNIKA WAS HIS DAUGHTER UNTIL 2003 WHEN I BECAME A PART OF HER LIFE AT EIGHTEEN (18) YEARS OLD, NOT ELEVEN OR TWELVE AS ANNIKA TESTIFIED AT TRIAL.

TRIAL COUNSEL PLACE HIS REPRESENTATION BELOW THE STANDARD AS REQUIRE OF COUNSEL. THE LACK OF DESIRE TO TELL THE TRUTH IS DEFICIENT PERFORMANCE.

TRIAL COUNSEL IS AN OFFICER OF THE LEGAL SYSTEM AND SHOULD CONFORM TO THE REQUIREMENT OF THE LAW. EVERY LAWYER IS RESPONSIBLE FOR OBSERVANCE OF THE RULES OF PROFESSIONAL CONDUCT. MR. ALLEN FAILED HIS ETHICAL DUTIES, WHICH PREJUDICE DARRIS ALTONY NEWSOME AT TRIAL.

THERE IS A REASONABLE PROBABILITY THAT, BUT FOR COUNSEL UNPROFESSIONAL CONDUCT THE RESULT OF THE PROCEEDING WOULD HAVE BEEN DIFFERENT. THE OUTCOME WOULD HAVE BEEN DIFFERENT ALSO HAD THE DOCUMENT BEEN PRESENTED TO THE JURY, WHICH UNDERMINED THE CONFIDENCE IN THE OUTCOME.

ANNIKA HAYNESWORTH WAS CHARGE WITH DID UNLAWFULLY IN VIOLATION OF SECTION 18.2-461 OF THE CODE OF VIRGINIA; KNOWINGLY GIVE A FALSE REPORT AS TO THE COMMISSION OF A CRIME TO A LAW ENFORCEMENT OFFICIAL WITH THE INTENT TO MISLEAD. EXHIBIT 20, 21

Authorities And Argument

5. Did TRIAL COURT ERRED IN VIOLATING JARRIS ALTONY NEWSOME'S FIFTH AMENDMENT, DUE TO DOUBLE JEOPARDY OF MULTIPLE OFFENSES WITHIN ONE TIME PERIOD?

DOUBLE JEOPARDY BARS SUCCESSIVE PROSECUTION FOR GREATER AND LESSER INCLUDED OFFENSES, LESSER INCLUDED OFFENSE IS ONE THAT DOES NOT REQUIRE PROOF OF ELEMENTS BEYOND THOSE REQUIRED BY THE GREATER OFFENSE. IN MODERN LEGAL PRACTICE PROSECUTORS ALLEGE MULTIPLE OFFENSES FROM A SINGLE CRIMINAL TRANSACTION.

ACCORDING TO THE COURT OF APPEALS RULING IN CLINEBELL, THE COMMONWEALTH IN THE CASE WAS ALLOWED TO AMENDED THE RANGE OF DATES DURING WHICH THE OFFENSES OF STATUTORY RAPE WERE ALLEGED TO HAVE OCCURRED TO AVOID A DOUBLE JEOPARDY PROBLEM SO THAT MR. CLINEBELL COULD BE TRIED AND CONVICTED OF NO MORE THAN ONE OFFENSE COMMITTED WITHIN THE PERIOD COVERED BY ANY ONE INDICTMENT, REGARDLESS OF WHETHER THERE WAS PROOF OF A NUMBER OF SIMILAR INCIDENTS WITHIN A PARTICULAR PERIOD.

IN THE CASE AT BAR ON JULY 12TH 2011, JARRIS ALTONY NEWSOME WAS TRIED AND CONVICTED BY A JURY WITH THE DATE RANGE CHARGED IN CR10-1010-061 (IN VIOLATION OF 18.2-370.1) DATE RANGE OF APRIL 1, 1995 THROUGH OCTOBER 11, 1995; DATE RANGE CHARGED IN CR10-1010-065 (IN VIOLATION OF 18.2-67.2) DATE RANGE OF APRIL 1, 1995 THROUGH OCTOBER 11, 1995, WHICH VIOLATES THE COURT OF APPEALS RULING IN CLINEBELL. EXHIBIT 2, 3 DATE RANGE CHARGED IN CR10-1010-063 (IN VIOLATION OF 18.2-370.1) DATE RANGE OF AUGUST 15, 1997 THROUGH OCTOBER 1, 1997; DATE RANGE CHARGED IN CR10-1010-064 (IN VIOLATION

of 18.2-61) date RANGE of August 15, 1997 through October 1, 1997,
which violates the Court of Appeals ruling in CLINEBELL. Exhibit 22, 23
DATE RANGE charged in CR10-1010-062 (in violation of 18.2-61) DATE
RANGE of April 1, 1997 through September 1, 1997; DATE RANGE charged
in CR10-1010-066 (in violation of 18.2-67.2) DATE RANGE of April 1, 1997
through September 1, 1997, which violates the Court of Appeals
ruling in CLINEBELL. Exhibit 24, 25

DARRIS ALTONY NEWSOME ARGUE that double JEOPARDY protection
APPLIES to EVERY indictment, and the UNITED STATES CONSTITUTION
AMENDMENT V APPLIES not only to LIFE OR LIMB, but ALSO imprisonment.
DARRIS ALTONY NEWSOME HEREBY MOVES this HONORABLE CHIEF
JUSTICE JOHN G. ROBERTS JR. to dismiss THREE of the SIX CHARGES
Alleged to HAVE OCCURRED within a PARTICULAR PERIOD, per the RULE
articulated by the VIRGINIA COURT of APPEALS in CLINEBELL v
COMMONWEALTH, 3 VA. App. 362, S.E. 2d 676 (1986) PERTAINING to
DOUBLE JEOPARDY.

don't have his file. They've lost it. TRIAL COUNSEL INTENTIONALLY
AND KNOWINGLY CONCEAL THIS INFORMATION AT TRIAL TO KEEP THE JURY
FROM LEARNING THE TRUE FACTS, THAT JARRIS ALTONY NEWSOME FILE
WAS NOT LOST AS HE TOLD THE COURT, 8) BUT FOR COUNSEL UNPROFESSIONAL
CONDUCT THE RESULT OF THE PROCEEDING WOULD HAVE BEEN DIFFERENT, 9)
I AM BEING ILLEGAL DETAIN.

Conclusion

THE EVIDENCE PRESENTED BY THE COMMONWEALTH, AGAINST DARRIS ALTONY NEWSOME IN THIS CASE, CONSISTED SOLELY OF THE UNCORROBORATED ACCUSATIONS OF THE ALLEGED VICTIM. THERE WAS NO PHYSICAL EVIDENCE, NO DNA EVIDENCE AND NO EYEWITNESS TESTIMONY, THEREBY MAKING THE CREDIBILITY OF THE ALLEGED VICTIM OF THE UTMOST IMPORTANCE.

AS DISCUSSED ABOVE, DARRIS ALTONY NEWSOME WAS DEPRIVED OF HIS RIGHT TO RECEIVE A FAIR TRIAL DUE TO TRIAL COUNSEL FAILURE TO GIVE THE COMMONWEALTH NOTICE OF ALIBI, MISCARRIAGE OF JUSTICE HAS OCCURRED, BECAUSE I HAD CONVICTIONS, BUT WAS IN THE VIRGINIA DEPARTMENT OF CORRECTIONS, THE COMMONWEALTH INITIATE CRIMINAL PROCEEDINGS WITHOUT PROBABLE CAUSE, AND TRIAL COUNSEL ENGAGED IN CONDUCT MIS REPRESENTATION HIMSELF TO THE COURT.

TRIAL COURT ALSO ERRED WHEN IT FAILED TO SUSTAIN THE DEFENSE'S MOTION TO STRIKE, THE EVIDENCE AND HIS POST-CONVICTION MOTION TO SET ASIDE THE VERDICT.

DUE TO THE ABOVE CITED ERRORS, DARRIS ALTONY NEWSOME RESPECTFULLY REQUESTS THAT THE HONORABLE CHIEF JUSTICE JOHN G. ROBERTS JR. GRANT HIS PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS.

CERTIFICATE OF MAILING
FOR SELF-REPRESENTED (PRO-SE) PETITIONER

PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS

DARRIS ALTONY NEWSOME #1067717 AM petitioning The Supreme Court of The United States The Honorable Chief Justice John G. Roberts Jr.,

I CERTIFY the following:

I. I AM NOT REPRESENTED BY COUNSEL FOR THE FILING OF THIS PETITION;

II. A TRUE AND ACCURATE COPY OF THE PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS, AND ALL ATTACHMENTS HAVE BEEN SENT BY MAIL ON July 29, 2022 to the COMMONWEALTH'S ATTORNEY FOR City of HAMPTON the jurisdiction where the convictions OCCURRED, WHOSE NAME AND ADDRESS ARE: OFFICE OF COMMONWEALTH'S ATTORNEY, 236 N. KING STREET, HAMPTON VIRGINIA 23669.

III. A TRUE AND ACCURATE COPY OF THE PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS, AND ALL ATTACHMENTS HAVE BEEN SENT BY MAIL ON July 29, 2022 to THE COURT OF APPEALS OF VIRGINIA AT THE FOLLOWING ADDRESS: COURT OF APPEALS OF VIRGINIA, 109 NORTH EIGHTH STREET, RICHMOND, VIRGINIA 23219-2305

IV. A TRUE AND ACCURATE COPY OF THE PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS, AND ALL ATTACHMENTS HAVE BEEN SENT BY MAIL ON July 29, 2022 to THE SUPREME COURT OF VIRGINIA AT THE FOLLOWING ADDRESS: SUPREME COURT OF VIRGINIA, 100 NORTH 9th

STREET 5th FLOOR, RICHMOND, VIRGINIA 23219

IV. A TRUE AND ACCURATE COPY OF THE PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS, AND ALL ATTACHMENTS HAVE BEEN SENT BY MAIL ON July 29, 2022, TO UNITED STATES DISTRICT COURT EASTERN DISTRICT OF VIRGINIA AT THE FOLLOWING ADDRESS: UNITED STATES DISTRICT COURT EASTERN DISTRICT OF VIRGINIA, 401 COURTHOUSE SQUARE, ALEXANDRIA, VIRGINIA 22314; AND

VI. A TRUE AND ACCURATE COPY OF THE PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS, AND ALL ATTACHMENTS HAVE BEEN SENT BY MAIL ON July 29, 2022, TO UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT AT THE FOLLOWING ADDRESS: UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, 1100 EAST MAIN STREET, SUITE 501, RICHMOND, VIRGINIA 23219

July 29, 2022
DATE

Jarvis Alton Newsome
SIGNATURE OF PETITIONER