

No. 160257

IN THE

SUPREME COURT OF THE UNITED STATES

Washington, D.C. 20543

Larry Williams #1137992 — PETITIONER
~~(Your Name)~~ - Pro se

VS.

Commonwealth of Virginia — RESPONDENT(S)
Appellee

ON PETITION FOR A WRIT OF CERTIORARI TO

On Appeal from the City of Richmond Circuit Court, Circuit Court Case Nos. CR14-F-4269-
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE) 00 and CR14-4270

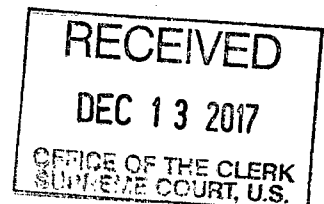
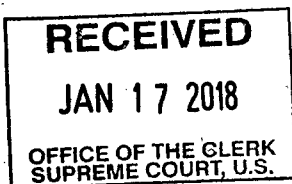
PETITION FOR WRIT OF CERTIORARI

Larry Williams #1137992
(Your Name)

Keen Mountain Correctional Center, State Route 629, P.O. Box 860
(Address)

Oakwood, VA. 24631
(City, State, Zip Code)

(Phone Number)



~~2017-12-13~~

QUESTION(S) PRESENTED

I. Do The Ends of Justice require this court to correct a manifest injustice and find that the Trial Judge erred as a matter of LAW by ~~violating~~ Williams' Due process Rights when he removed Williams, A mentally ill patient, from Central State Hospital, without conditions or a discharge plan, to serve his five-year Prison where Williams is currently not receiving mental health treatment or mental health medication, because as of 2017 the medication Bupropion is now banned in the Department of Correction, William is also serving this prison sentence with prisoners convicted of crimes then Williams has to go to Central State Hospital after the completion of his prison-sentence to serve a civil commitment there after instead of Remanding him immediately to the hospital and giving Williams credit toward his prison sentence while being treated in the hospital. (Ends of Justice in transcript of November 17, 2015 hearing at pp. 29-31, 34-36; Rule 5:25)

II. ~~The Virginia Supreme Court~~
Does The Virginia Supreme Court have to change their decision because their decision was based on the assumption that the petitioner would be able to receive adequate mental health treatment while in prison. Therefore, they concluded that the Ends of Justice exception did not apply, and relief was not warranted. However, it is clear that the petitioner has sought, and been denied, all mental health treatment while incarcerated in prison (see appendix B) Williams also has been housed in a double cell with prisoners convicted of crimes the entire time Williams has been in prison in violation of Virginia Code Section 37.2-832 (see appendix D)

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:

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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 A 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 Richmond, VA Circuit court appears at Appendix ^{unavailable} _____ 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 8-31-17.
A copy of that decision appears at Appendix A.

☐ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- Sixth Amendment and Article I, section 8
Due process protection "specific to criminal prosecutions"
- Fifth Amendment
No person "be deprived of life, liberty, or property, without due process of law".
- Fourteenth Amendment to the United States Constitution and the Virginia Constitution, Article 1)
Once it is determined that due process applies, the question remains what process is due."

Statement OF THE Case

STATEMENTS OF FACTS

Williams was charged with a July 8, 2014 felony third or subsequent offense of domestic assault and battery against his wife, Tameka Bond (hereafter referred to as "Bond"). He was also charged with an August 24, 2014 felony third or subsequent offense of domestic assault and battery and attempted murder against Bond. (Indictments).

At the October 22, 2014 hearing Williams moved the trial court to order competency and insanity evaluations which the Court ordered. (Tr. October 22, 2014 at pp. 2-3). Dr. Michelle Killough Nelson performed both evaluations. In her report dated January 5, 2015 she found that Williams was competent to stand trial. (Nelson Report January 5, 2015 at p. 5).

In her insanity report dated January 5, 2015 she summarized Williams' account of the offenses. As to the July 8, 2014, incident Williams related to her that his father called and wanted to come over, but he declined because Bond had to see her probation officer and did not want anybody in the house. Bond "went off" on not letting anyone in the house. He took

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their baby to her to change her diaper, but she hit him twice in the face. He grabbed her by the neck and "drew back" to scare her. Williams was upset, so he tried unsuccessfully to get the baby from Bond. He "gently laid" her back, took their child and walked away. She kept fighting him so he called his minister. She was yelling, and he was trying to leave. She tripped over the table, and told him he was going to jail. Williams then took their child upstairs and locked them in the bathroom. When he opened the bathroom door, she came at him. He did a "hip toss" in self-defense, and she fell into the closet. (Nelson Report at p.8).

As to the August 24, 2014 incident, Williams related to Dr. Nelson that after a lengthy debate about their relationship, Bond told him that she was going to a club and would be out all night. She told him to leave. Instead, he decided to lie down on the sofa hoping she would calm down. Bond told him she would call the police if he didn't leave. Williams said "Do whatever you want, just let me keep my daughter." She refused. Williams "blacked out", presumably because he was so upset. (Nelson

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Report at p.9). The next thing he remembered was Bond apologizing to him saying he could have his key back, she did not mean to get mad at him, and she loved him. He did not know what she was talking about. He saw her looking at her neck in the bathroom and told him "I couldn't breathe for 10 seconds." Williams asked her if he had attempted to kill her and she confirmed it. Bond told her neighbor he choked her. He took off, although he denied remembering that, and eventually came to while walking. Williams indicated to Dr. Nelson that this blackout was similar to others he has had, and every time he has one he chokes her. (Nelson Report at p.10).

Several days later, Williams sent Dr. Nelson a letter indicating that everything he told her during the interview was false. He was guilty of all of the charges, and he accepts whatever fate the Commonwealth feels he deserves. (Nelson Report at p.10). Dr. Nelson opined that to a reasonable degree of professional certainty Williams was legally sane at the time of the alleged offenses. (Nelson Report at p. 11). As a result of Dr. Nelson's finding, on January 8, 2015, the judge set the case for

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trial by jury on May 19, 2015 pursuant to Williams' request. (Tr. January 8, 2015 at p. 3).

On May 18, 2015 Williams appeared in court and pled guilty to the July 8, 2014 felony charge of domestic assault and battery (third offense) in violation of Sec. 18.2-57.2 of the Code of Virginia, as amended. Pursuant to agreement with the Commonwealth, Williams pled not guilty by reason of insanity to the August 24, 2014 felony charge of attempted murder in violation of Sec. 18.2-32/18.2-26 of the Code of Virginia, as amended and to domestic assault and battery (third offense) in violation of Sec. 18.2-57.2 of the Code of Virginia, as amended. (Tr. May 18, 2015 at pp 3-4).

After the trial court found that Williams had entered his pleas freely and voluntarily, the Commonwealth provided a summary of evidence. It offered three prior convictions of domestic assault and battery and a picture of Bond's injury. (Tr. May 18, 2015 at pp 13-14).

The Commonwealth described that on July 8, 2014 the parties argued about Williams not taking his medicine. Williams

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became upset, slammed Bond into a bedroom closet door and fled with their child. As a result, she had a laceration on her left forearm. She called 911 to report the incident. Later, Williams returned to the apartment. (Tr. May 15, 2015 at p. 15).

Pursuant to an agreement with the Commonwealth, Williams waived his preliminary hearing on the July 8 charge and was released on a personal recognizance bond with a condition not to contact Bond. (Tr. May 18, 2015 at p. 16).

The Commonwealth related that on August 24, 2014 Williams went to Bond's residence, became angry and choked her to the point she was losing consciousness and said "I should kill you." She reported this to a neighbor. Williams told the neighbor "I did, I tried to kill her." He fled the scene. (Tr. May 18, 2015 at p. 16). During recorded jail conversations, Williams on numerous occasions told Bond he had no recollection of what occurred that night. (Tr. May 18, 2015 at p. 16). Williams has had blackouts consistently since the late 1990's, and they have become more frequent since he was released from prison in 2013. (Tr. May 18, 2015 at p. 17).



The Court found Williams guilty of the July 8, 2014 domestic assault and battery. (Case number 14 F-3991). Pursuant to an agreement with the Commonwealth, the Court found Williams not guilty by reason of insanity of the August 24, 2014 charges. (Case numbers 14F – 4269 and 14F-4270). (Tr. May 18, 2015 at p. 18). Pursuant to Sec. 19.2-182.2 of the Code of Virginia, as amended, the Court ordered Williams to be placed into the temporary custody of the Commissioner of the Department of Behavioral Health and Development Services for evaluations to determine if Williams may be released with or without conditions or remain inpatient. (Tr. May 18, 2015 at pp. 18-19).

Kerrie Shrewsbury, M.D., filed a temporary custody evaluation dated August 17, 2015 with the trial court pursuant to Sec. 19.2 – 182.2 of the Code of Virginia, as amended. In her report, she related Williams' account of the August 24, 2014 offenses. Williams went inside Bond's residence. Bond told him she was going to leave him. She started hitting him, spitting on his face and saying his daughter might not be his daughter. He smacked her, but blacked out and did not remember events for a

while. Bond later told him he had choked her. (Shrewsbury Report at p. 4).

As to the July 8, 2014 offense, Williams related that when he was in the bedroom working, his father called and asked if he could come over. He declined. Bond became angry and hit him in the face, at which time, he grabbed her neck. He called his minister, and Bond continued to hit him. Williams then locked him and his daughter in the bathroom. When he opened the door, she was there so he did a "hip toss" in self-defense and she fell into the closet. (Shrewsbury Report at pp. 4-5).

Dr. Shrewsbury's impression was as follows: AXIS1 Mood Disorder, NOS, Cannabis Abuse; AXISII Personality Disorder, NOS with Narcissistic and Antisocial traits. She described the symptoms of Williams' personality disorder. He sees himself in a "consistently favorable light and is reluctant to acknowledge personal limitations." He does not accept responsibility for his behavior, lacks remorse for his actions and tends to have a grandiose self-worth. He disregards societal norms and lacks realistic long-term therapy to develop alternative interpersonal

skills and dialectal behavioral therapy to help him to develop tools to manage emotional distress. (Shrewsbury Report at p. 7).

Dr. Shrewsbury cites a long history of aggression. She writes that he "appears impulsive." He is "unable to use coping skills to manage the anger." She said he can function for long periods without aggression in a hospital setting. He will require an "extensive" period of time for the development of these coping skills. Long term therapy and development of healthy interpersonal skills are essential to changing "long standing patterns of behavior." (Shrewsbury Report at p. 7-8).

Other treatment Williams needs is ongoing education about legal consequences of escaping, since he has escaped in the past. He will benefit from substance abuse education. He must learn that he cannot possess a firearm, must take his medicine, must follow up with health care providers and receive ongoing vocational support to develop his work skills. (Shrewsbury Report at pp. 8-9).

Dr. Shrewsbury opined that Williams poses a moderate risk of future aggression because of his history of aggression, substance abuse history, personality structure and misconception of his role. Williams lacks coping skills to manage his irritability, impulsivity and mood instability. Others would be placed at risk if he were in a setting less structured than Central State Hospital. Dr. Shrewsbury concludes that Williams is mentally ill requiring inpatient hospitalization at the present time. Conditions cannot be managed adequately on an outpatient basis. (Shrewsbury Report at pp. 8-9).

Beth Arrendondo, Ph.D. filed a temporary custody evaluation dated August 12, 2015 with the trial court pursuant to Sec. 19.2-182.2 of the Code of Virginia, as amended. In her report she relates Williams' account of the August 24, 2014 offenses. He was accused of looking at another woman, so he went to his mother's house for several days before returning to Bond's house to try to work things out. Bond indicated she was going to be out all night, but refused to let him stay in the apartment or babysit his child. He should have left her residence

but got angry and lost it. His next memory was of Bond apologizing and his child crying. Bond told him she couldn't breathe for ten seconds. He said "so I tried to kill you, and she said "yes". (Arrendondo Report at p. 7).

Dr. Arrendondo cites the police report version. Williams came to the house "irate" because he was not supposed to be around Bond. He would not leave and took the home phone. She said she was leaving and he called her a "whore" and a "bitch". She begged him to stop and leave. Williams said "I should fucking kill you." While Bond was sitting on the sofa holding her infant, Williams choked her until she lay down and was unconscious for a few seconds. In order to prevent more choking she told him she was sorry, they could be together, and he did not have to leave. Bond then went on the porch and signaled to a neighbor to call the police. Williams told the neighbor: "I did, I tried to fucking kill her." (Arrendondo Report at pp. 7-8).

According to Dr. Arrendondo, the criteria for commitment is whether Williams has a mental illness and if so, his recent

adjustment. Dr. Arrendondo cites Williams' history of psychiatric hospitalizations. His previous diagnoses were Dysthymic Disorder; Adjustment Disorder; ADHD, Disruptive Mood desegregation Disorder; Cannabis Use Disorder; Other Specified Personality Disorder with prominent narcissistic and borderline personality traits; antisocial traits; mood disorder, NOS; and Cannabis Abuse. Williams was not compliant with outpatient medication, and his participation in recommended outpatient mental health treatment was limited. His current psychiatric symptoms include guilt/remorse: about his aggressive behavior toward Bond, hopelessness, periods of low mood and quick to anger. These symptoms are currently well-controlled by medicine. He has adjusted well to Central State Hospital. (Arrendondo Report at p. 10).

Dr. Arrendondo indicates that Williams has a diagnosis of Mood Disorder, NOS and meets the criteria for Personality Disorder, NOS at the present time. He is currently exhibiting antisocial and narcissistic personality traits, such as lack of responsibility for his actions, violent behavior, previous history of

unlawful behavior, and he has a favorable opinion of himself despite his circumstances. (Arrendondo Report at P. 10).

Dr. Arrendondo cites a number of risk factors for future aggression.

1. Aggression/Dangerousness to Others

She writes that Williams has demonstrated a pattern of aggressive and impulsive behaviors since adolescence which have caused three previous psychiatric hospitalizations. His relationship with Bond triggers his anger. At the time of her report Williams has pending charges for violating a protective order. Bond believes he will contact her once he is released from Central State Hospital. (Arrendondo Report at p. 11).

Factors that mitigate this risk are Williams' willingness to participate in treatment, active engagement in treatment and appropriate social behaviors. In the hospital he can learn coping strategies to manage his aggression and impulsivity participate in anger/stress management therapy

and develop more interpersonal skills. (Arrendondo Report at p. 11).

2. Personality Disorder Traits

Dr. Arrendondo says Williams exhibits traits of antisocial/narcissistic personality disorder. He says he is remorseful about his actions against his wife, but he does not take responsibility for his actions. The risk can be managed by giving him clear expectations that are reinforced by immediate sanctions for rule violations. She recommends that Williams participate in anger/stress management and individual psychotherapy. (Arrendondo Report at p. 11).

3. Family/Psychological Issues

She recommends conducting visitation with his child in Bond's absence and with supervision. This will mitigate the risk for violence. (Arrendondo Report at p. 12).

4. Non-violent Criminal Behavior

She recommends group therapy to give him insight into the consequences of illegal behavior. (Arrendondo Report at p. 12).

5. Weapons

Random searches should be conducted to make sure he does not have a weapon. (Arrendondo Report at p. 12).

6. Employment/Daytime Activity Issue upon Conditional Release

Williams should take educational, vocational and leisure activities during his hospitalization. (Arrendondo Report at p. 12).

7. Substance Abuse

Williams should participate in substance abuse groups and education within the hospital. He should be subject to random urine and other drug screens upon conditional release. (Arrendondo Report at p. 13).

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8. Escape

Williams should take an educational program to learn of the consequences for escaping. (Arrendondo Report at p. 13).

9. Suicide/Self Injury

He has a history of suicide attempts at the jail. Outside of jail he should continue with his mental health treatment. (Arrendondo Report at p.13).

10. Demographic/States Facts

He is of the male gender and at a young age.

Dr. Arrendondo opines that Williams is mentally ill and requires inpatient hospitalization at the present time. If he is not in the hospital, there is a significant risk of bodily harm to other persons and to himself. He currently cannot be adequately controlled on an outpatient basis. (Arrendondo Report at pp. 13-14).

Probation prepared a presentence report. Williams told probation about the July 8, 2014 incident. He said Bond attacked him, so he slammed her to get away. She was cut on her forearm. He went to her grandparents' house to tell them

that she had attacked him. When he returned to Bond's residence with Bishop Sharp, the police arrested him. The police said Bond told them that he picked her up and slammed her and left with their child because he wasn't taking his medicine. In a recorded jail conversation, Williams said she told me on July 29th that "she is 5 foot something, a hundred pounds and I am 6 foot something, 200 and some pounds and I could have taken her punches, I didn't 'have to do all that." (Presentence Report at p. 2). He reported that when he was seventeen years old, his brother was killed. In 1993 when he was age sixteen, he was shot. His father was an alcoholic and argumentative with his mother. He indicated that Bond is "bipolar, paranoid schizophrenic and manic depressive, so she would get him locked up for stuff that wasn't real." He has previous charges with Bond which he took so he could get out and take care of his family. He admits to smacking her during the third offense, and he regrets it. Bond lied and put a restraining order on him. He just wants visitation rights with his daughter. (Presentence Report at p. 5).



As to his mental health, Williams reported that he was diagnosed with attention deficit disorder, severe mood swings, depression and bipolar. Now he has been diagnosed with personality disorder and depression. He has previously been hospitalized at Charter Westbrook, Tucker's Pavilion and Medical College of Virginia. Also, he received treatment at Richmond Behavioral Health Authority. Further, he has not used illegal drugs since December 2012. (Presentence Report at p. 8).

The presentence report lists Williams' extensive criminal history as eight (8) felony convictions, ten (10) misdemeanor convictions, seven (7) felony probation violations and two traffic infractions. There was a protective order violation and three (3) felony probation violations pending in other courts. Fourteen (14) other offenses were either nolle prossed or dismissed. (Presentence Report at p. 10.)

The sentencing guideline range was one year and eleven months to five years and seven months. The range midpoint was three years and nine months. (Presentence Report at p. 10).

At the sentencing hearing on November 17, 2016, Bond testified that she was married on May 13, 2013, and the incidents of physical abuse by Williams began shortly thereafter. She was the victim of all five domestic assault and battery charges. During the July 8, 2014 incident she received a deep gash on her forearm and a gash on her finger. (Tr. November 17, 2015 at p.7).

As a result of the abuse, she got a protective order, but Williams contacted frequently. He would call sixty to seventy times in a row from Central State Hospital. Bond changed her number and address. Now he calls her grandparents. Bond has been receiving counseling. She is in fear of him and doesn't know that she will ever be safe from him. (Tr. November 17, 2015 at pp. 8-10).

Bond read her victim impact statement. She has been involved in a life of "control, deceit and manipulation". When she was four months pregnant, he dragged her up the stairs. Williams wouldn't let her leave, took the phone away, head butted her, hit her in the mouth, called her derogatory names

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and threatened to kill her. He twice attempted to take her life. He stalked and harassed her. If she tried to get away, Williams would find her. While detained he would call her phone over sixty times in a given night. She said the protective order doesn't matter to him. (Tr. November 17, 2015 at pp. 10-13).

She testified that she is protective of her little girl. Her trust level has changed. Being in public makes her nervous. Her mind is constantly racing. She loses sleep and doesn't eat. She prays that Williams will finally be "held accountable for his actions". (Tr. November 17, 2015 at pp 13-14).

On cross-examination, Bond admitted that she didn't leave him and that he "may have expressed that he loves his daughter." She acknowledged that she has been diagnosed with depression. She did not take her medicine. She knew in July of 2014 that Williams was mentally ill. She didn't bring any phone records to corroborate the calls she claims to have received from Williams. (Tr. November 17, 2015 at pp. 15-19).

Williams offered his certificates of achievement from Central State for stress management, handling hassle, medication

education, substance abuse and contribution. (Tr. November 17, 2015 at p. 21).

At the sentencing hearing, the Commonwealth argued that in the presentence report, Dr. Arrendondo's report and Dr. Shrewsbury's report, Williams gave three separate explanations for the July 8, 2014 incident. Dr. Arrendondo's report quotes Dr. Nelson as saying "defendant's blackouts seemed more opportunistic in nature than protective of psychic trauma." Dr. Nelson then said she received a letter from Williams several days after his interview saying "Everything I told you during the interview yesterday was false." (Tr. November 17, 2015 at p. 24). The Commonwealth adds that it would never have agreed to the not guilty by reason of insanity adjudication if it had known about this letter. (Tr. November 17, 2015 at p. 24).

The Commonwealth explained that Williams has a violent nature, a history of not acting responsibly for his actions, has an extensive adult criminal history, and gets out in the community and causes severe physical and emotional trauma to Ms. Bond. He continuously violates the protective order, and the doctors

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say he's a danger to Bond and the community. The Commonwealth asked the trial judge to sentence Williams to five years for the July 8, 2014 offense followed by a commitment to Central State Hospital for the August 24, 2014 offenses. (Tr. November 17, 2015 at pp. 25 – 28).

In closing argument, Williams cites Dr. Arrendondo's and Dr. Shrewsbury's reports that indicate that he is mentally ill and their recommendations to treat Williams for future aggression in a controlled setting. (Tr. November 17, 2015 at pp. 39-30).

Williams addressed the numerous categories in which he could be treated at Central State Hospital as follows:

1. Aggression to Others: Williams must learn adoptive coping skills. Bond is his trigger. Williams argued he was not going to learn this in jail.
2. Personality Disorder: Williams is narcissistic and has trouble taking responsibility for his actions. He needs anger management, stress management and dialectical behavior therapy. Williams argued that he was not going to learn this in jail.

3. Medication Compliance: In order to ensure that Williams is medication compliant, he should take regular blood tests.
 4. Criminal History: In order to ensure that Williams stays out of trouble, he should take group therapy where he must discuss the consequences of his behavior.
 5. Weapons: In order to ensure that Williams does not have a firearm, he should be subject to random searches.
 6. Work: Williams must develop vocational skills.
 7. Substance Abuse: Williams must participate in group therapy to prevent him from using illegal drugs.
 8. Escape: In order to ensure that Williams does not escape, he must be educated about the consequences of escape.
- (Tr. November 17, 2015 at pp. 30-32).

Williams pointed out to the trial judge that he had cooperated at Central State Hospital during his stay with the exception of a few recent problems that caused him to drop down a level.

(Tr. November 17, 2015 at p. 33).

Williams referred to Dr. Arrendondo's report in which she diagnosed him with a personality disorder. He further argued

that if he is punished with prison time, he is being punished for having a mental illness. Williams asked the trial judge to commit him to Central State Hospital, since prior lengthy prison sentences have not corrected his behavior because he is mentally ill. (Tr. November 17, 2015 pp. 34-36).

Trial court imposed a five-year sentence on the July 8, 2014 domestic assault and battery, to be served in the Department of Corrections (14-F-399) with a subsequent commitment to Central State Hospital on the August 24, 2014 attempted murder and domestic assault and battery (14-F-4269 and 14-F-4270) (Tr. January 17, 2015 at p. 42).

REASONS FOR GRANTING THE PETITION

The Ends of Justice Require this Court to correct a manifest ~~in~~justice and find that the trial judge erred as a matter of Law by violating Williams' Due process rights when he removed Williams, a mentally ill patient, from Central State Hospital, without Conditions or a Discharge plan, To serve his five year prison sentence were Williams is currently not mental health treatment or Mental Health medication, because as of 2017 the Bupropion is now banned in the Department of Corrections, Williams' is also serving this prison sentence with prisoners convicted of crimes then Williams has to go to Central State Hospital after the completion of his prison sentence to serve a Civil Commitment there after instead of remanding him immediately to the hospital and giving Williams credit toward his prison sentence while being treated in the Central State Hospital. Appendix "D" shows proof that the Department of Corrections does not care that Williams is mentally ill and ~~has~~ him in a double cell in violation of Code of Virginia section 37.2-832. Appendix "B" and Appendix "C" shows proof that Williams is not receiving mental health treatment. And now as of 2017 Williams has been ~~been~~ taken off of his mental health medication. And Williams is not receiving the mental health treat that Williams was receiving while he was at Central State -

HOSPITAL. (Ends of Justice in transcript of November 17, 2015 hearing at pp. 29-31, 34-36; Rule 5:25).

On appeal, constitutional arguments are questions of law that this Court reviews de novo. Shivaee v. Commonwealth of Virginia, 270 Va. 112, 119, 613 S.E. 2d 570, 574 (citing Wilby v. Gostel, 265 Va. 437, 440, 578 S.E. 2d 796, 798 (2003)); and Eure v. Norfolk Shipbuilding & Drydock Corp., 263 Va. 624, 631, 561 S.E.2d 663, 667 (2002).

"Civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protections." Addington v. Texas, 441 U.S. 418, 425, 99 S.Ct. 1804, 60 L. Ed.2d 323 (1979). Due process protections of the Sixth Amendment and Article I, Section 8 of the Virginia Constitution are "specific to criminal prosecutions". The procedural due process guarantee of the Fifth Amendment that no person "be deprived of life, liberty, or property, without due process of law" applies in civil proceedings under the Sexually Violent Predator Act. Hood v. Commonwealth, 280 Va. 526, 539, 701 S.E.2d 421, 428 (2010). The due process clauses of the Federal and Virginia Constitutions

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provide that no person shall be deprived of life, liberty or property without due process of law. (Fourteenth Amendment to the United States Constitution and the Virginia Constitution, Article 1). "Once it is determined that due process applies, the question remains what process is due." Morrissey v. Brewer, 408 U.S. 471, 481, 92 S.Ct. 2593, 2600, 33 L.Ed.2d 484 (1972).

Section 19.2-182.3 of the Code of Virginia, as amended, states as follows: "At the conclusion of the hearing, the court shall commit the acquittee if he finds that he has a mental illness or intellectual disability and is in need of inpatient hospitalization ... If the court finds that he is not in need of inpatient hospitalization but meets the criteria for conditions he must be released with conditions." The court cannot release an insanity acquittee without conditions unless the hospital staff and the community service board jointly prepare a discharge treatment plan that has to be first approved by the court. Section 19.2-182.3(4) of the Code of Virginia, as amended. Section 19.2-169.6(F) of the Code of Virginia, as

amended, allows a court to credit court ordered inpatient hospitalization time to a prison/jail sentence. Section 37.2-832 of the Code of Virginia, as amended, states that "in no case shall any sheriff or jailer confine any person with mental illness in a cell or room with prisoners charged with or convicted of crimes."

At the sentencing hearing, Williams argued that he was found to be mentally ill by two different experts; therefore, he argued that giving him prison time would amount to punishing a person for having a mental illness. (November 17, 2015 hearing at Tr. 29, 35). He asked the trial judge to commit him to Central State Hospital, so he could receive the treatment he needed. (November 17, 2015 hearing at Tr. 35-36). The trial court, however, imposed a five-year prison sentence to be served first in the Department of Corrections with a subsequent commitment to Central State Hospital. (November 17, 2015 hearing at Tr. 42).

Williams does not complain that he received the statutory maximum or a civil commitment; rather, he

complains of the way he has to serve it given his diagnosed mental illness by two experts. Williams argues that the trial judge violated Section 19.2-182.3 of the Code of Virginia, as amended, by removing him from the hospital and placing him in prison without treatment, conditions or a discharge plan. Williams further argues that the trial judge violated Section 37.2-832 of the Code of Virginia, as amended, by placing him in prison with prisoners convicted of crimes. Both of these violations deprived him of his due process rights. The process due to him was to commit him directly to inpatient hospitalization to receive treatment recommended by Dr. Arrendondo and Dr. Shrewsbury, not to mix him with a prison population where he is placed in danger because of his mental illness. Section 37.2-832 of the Code of Virginia, as amended, specifically states that placing a mentally ill person in prison cannot be done. To do so is clearly against the will of the Virginia General Assembly.

Williams argues that the ends of justice require this Court to correct the manifest injustice caused by the trial judge's

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abuse of discretion and due process violation by remanding his case to the trial court with an order to commit him to Central State Hospital immediately with credit for time served to be given toward his criminal sentence pursuant to 19.2-169.6(F) of the Code of Virginia, as amended, during his hospitalization. Once Central State Hospital recommends that Williams is ready to be released during a review pursuant to Section 19.2-182.6 of the Code of Virginia, as amended, or an annual review pursuant to Section 19.2-182.5 of the Code of Virginia, as amended, Williams can be ordered to complete his criminal sentence at the Department of Corrections if he has not done so. If he has completed his criminal sentence, then the court can order that Williams be discharged with conditions and a proper discharge plan, if necessary.

Williams argues that the error is so clear, material and substantial and contrary to fundamental notions of justice that to permit it to pass uncorrected would seriously undermine the integrity of the judicial system. Brown v. Commonwealth of Virginia, 8 Va. App. 126, 380 S.E.2d 8 (1989).

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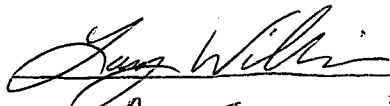
CONCLUSION

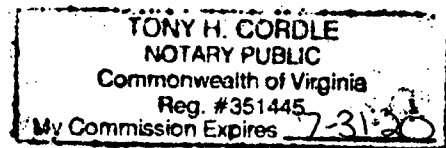
The ends of justice require this Court to grant this petition so it may remand this case for a new sentencing with directives to send Williams to Central State Hospital or a similar mental health facility immediately and to grant him credit for time in the hospital toward his five-year prison sentence.

Respectfully submitted,

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The above Notary Public is not party to this action.


Offender Initials