

SUMMARY

Brian David Hill, criminal case Defendant, and Appellant, pro se, hereby appeals to the Court of Appeals of Virginia from the final judgment of this Court by final order entered September 7, 2022 (attached thereto), denying Brian Hill's entitled:

1. Motion entitled: "MOTION FOR JUDGMENT OF ACQUITTAL OR NEW TRIAL PURSUANT TO RULE 3A:15 BASED UPON NEW EVIDENCE OF SUSPECT JACODY CASSELL OF BUSINESS ENTITY: THE CHIMNEY SWEEP WHO CAUSED CARBON MONOXIDE POISONING INTOXICATION OF CRIMINAL DEFENDANT WARRANTING NEW TRIAL OR ACQUITTAL", filed on September 6, 2022.

2. Motion entitled: "MOTION FOR JUDGMENT OF ACQUITTAL OR NEW TRIAL PURSUANT TO RULE 3A:15 BASED UPON NEW EVIDENCE WHICH DISPROVES THE ELEMENTS OF CHARGED CRIME BY PROSECUTION, EVIDENCE WARRANTING NEW TRIAL OR ACQUITTAL", filed on August 31, 2022.

The Order being appealed thereto and the attached email of the Hon. Ashby R. Pritchett, Clerk directly interpreting Judge Greer's order (since Judge Greer refuses to go into details of what exact four pending motions he denied, the Court

of Appeals of Virginia can order Judge Greer to clarify what exact four pending motions was denied in the appealed order. The two motions will be highlighted as to what was denied in this order.

There are no transcripts as there was no hearing over the denial of that motion. Also entitled “defendant's Motion for Judgment of Acquittal”.

Defendant/Appellant is also preserving all issues for appeal from all of the foregoing motions which were denied.

**PRESERVATION OF ISSUES FOR APPEAL RAISED IN MOTIONS
AND PRESERVATION OF ISSUES OF JUDGE GREER’S ORDER AND
IGNORING OF EVIDENCE, IGNORING OF WITNESSES, REFUSAL TO
ALLOW THE COMMONWEALTH ATTORNEY TO RESPOND**

However, Defendant made it clear in both of the most recent motions for new trial or judgment of acquittal that ignoring the evidence and ignoring the case law authorities was violating due process of law under the Fourteenth Amendment of the U.S. Constitution and the Constitution of Virginia, Article I., Section 8. Criminal prosecutions, and Section 11. Due process of law; obligation of contracts; taking or damaging of private property; prohibited discrimination; jury trial in civil cases. The judge filed his final order denying it all quickly without even requesting a response from the Commonwealth’s Attorney. Even federal Judge Thomas David Schroeder from the Middle District of North Carolina, as harsh and non-empathetic as he was, even he allowed the U.S. Attorney in almost all cases to respond to

Defendant's motions at least most of the time if not almost all cases of the federal case. Hon. Judge Giles Carter Greer didn't give the Commonwealth Attorney any order or time to respond to the new evidence, the case law authorities including the Tweet Standard and Odum standard. It is a slap in the face to rule no jurisdiction when the Supreme Court of Virginia had ruled countless times that submitting new admissible evidence which could not have been secured at the losing jury trial warrants new trials which further warrant reopening a closed criminal case conviction upon following the standards set by the Supreme Court of Virginia. New trials are possible when a defendant had not even plead guilty, and provides new evidence which follows the standards set by the Supreme Court of Virginia.

Since this Judge ignored the evidence, didn't even apply the standards of the Supreme Court of Virginia under *Commonwealth v. Tweed*, 264 Va. 524, 570 S.E.2d 797 (Va. 2002), (the "Tweed standard"), and *Odum v. Commonwealth*, 225 Va. 123, 301 S.E.2d 145 (Va. 1983), (the "Odum standard").

This Court did have jurisdiction for defendants who did not plead guilty but simply entered an Alford Plea or no guilty plea at all. Even new evidence warrants a new trial for those who were convicted if the evidence can change the outcome at a jury trial after the admissibility of new evidence is accepted and couldn't have been secured at the first trial where a defendant was convicted. Defendant is not wasting this Court's time when he has the case law showing that he is entitled to a

new trial if not a judgment of acquittal. He had disproven the elements of guilt and never entered a guilty plea agreement. He is still entitled to his rights and the burden of proof by Defendant disproving the elements of guilt had proven that Brian David Hill is in fact not guilty and should not have even been convicted. This is wrong, and this Court created a fundamental miscarriage of justice. Injustice, a fraud on the court, a fraud on the record, a fraud of facts, factual fraud. Whatever you wish to call it, this is fraud to convict an innocent man. It is fraud in the face of a justifiable evidence proving that the elements of guilt were incorrect and fraudulent. When facts of guilt are false, there is no guilt and conviction must be annulled, that is the matter of facts and is a matter of law. A court cannot sustain a non-factual judgment based on falsities, based on false facts by a corrupt prosecutor.

Defendant has no choice but to request appeal of Judge Greer's final order. This cannot be acceptable to ignore case law authorities of the Supreme Court of Virginia, not even holding an evidentiary hearing.

Here are the facts and issues Defendant is preserving for appeal which were not already addressed in the denied motions:

1. Judge Greer did not hold an evidentiary hearing on both motions asking for new trial or judgment of acquittal. He did not address the issues raised by Commonwealth v. Tweed, 264 Va. 524, 570 S.E.2d 797 (Va.

2002), and *Odum v. Commonwealth*, 225 Va. 123, 301 S.E.2d 145 (Va. 1983). These standards are the law as set by the Supreme Court of Virginia and they were ignored by Judge Greer.

2. Judge Greer ignored all evidence and did not apply the standards necessary for asking a Circuit Court for a new trial by jury, pursuant to the standards set out by *Commonwealth v. Tweed*, 264 Va. 524, 570 S.E.2d 797 (Va. 2002), and *Odum v. Commonwealth*, 225 Va. 123, 301 S.E.2d 145 (Va. 1983).

3. Judge Greer continues asserting that he has no jurisdiction when he honestly cannot expect somebody to come up with new evidence (newly discovered evidence, evidence not previously admissible aka could not have been secured at trial) within 21 days after a final conviction or final judgment. New evidence 99% of the time if 100% cannot be produced or obtained 21 days after the final judgment or final conviction of a Court. Courts in any other State or Federal Courts have standards for giving a defendant a new trial by jury upon new evidence. Judge Greer's final order makes no sense, he acts like new evidence will never suffice and that his word is always final, that new evidence does not matter, that the standards set for new trials based on new evidence set by the Supreme Court of Virginia does not matter. We have standards set

by both the Supreme Court of the United States and by the Supreme Court of Virginia, they all have been ignored.

4. Rule 1:1 doesn't make any sense when new evidence has always overturned convictions, new evidence has always been a determining factor for requesting a new trial by jury in any Court of Law. No determination was even made, just denying those motions without a memorandum opinion explaining how the Odum standard and tweed standards do not apply somehow to Defendant's request for a new trial or judgment of acquittal.

5. New evidence if it disproves at least one element of guilt, one element of the entire criminal prosecution, for a defendant who has never plead guilty, Judge Greer knows Defendant never plead guilty, new evidence should always set aside or vacate a judgment of guilt aka a criminal conviction. Defendant's evidence may have disproven three elements of the crime, strong enough where a conviction should not have even existed. Defendant shouldn't have to pay legal fees for a crime he is innocent of, this is a travesty of justice. Miscarriage of justice.

6. Defendant even brought evidence of a suspect, named JaCody Cassell of a business known as The Chimney Sweep from Rocky Mount, Virginia, Franklin County of this Commonwealth. This suspect was

never questioned by Judge Greer, was never questioned by Martinsville Police, and was never questioned by the State Police. There had been no hearing in regards to this suspect who allegedly poisoned Brian David Hill, Defendant, and his mother Roberta Hill with carbon monoxide gas. That should be important, the one who came forth in response to Brian David Hill's complaint filed on May 17, 2022, and denied everything while he was proven to have lied in his denials because of the signed check of JaCody Cassell released by TRUIST Bank (formerly SunTrust Bank), lying to the Attorney General's office of Dispute Resolution Unit. That witness was ignored by Judge Greer, the proven lies, lies of JaCody Cassell the suspect, all of it was ignored by Judge Greer.

7. Even if scant evidence of proving carbon monoxide gas exposure (long term) and poisoning cannot establish evidence of involuntary intoxication because of cover up of laboratory tests ordered by Sovah Health Martinsville local hospital, Defendant was still not medically and psychologically cleared which disproves the main element of guilt, that culpability cannot be established without proving that the person had no drugs in his body when normally drug tests and alcohol tests are conducted of a criminal suspect. Even the officer Robert Jones

of Martinsville Police who charged Defendant admitted under oath that lab tests are normally done but he didn't have that.

8. Judge Greer never held any evidentiary hearing for any of the motions for judgment of acquittal. Not the one filed on August 31, 2022 about disproving the Commonwealth Attorney's elements of the original criminal charge and prosecution. Didn't hold an evidentiary hearing over suspect JaCody Cassell or his company The Chimney Sweep employee who allegedly poisoned Brian David Hill with carbon monoxide gas filed on September 6, 2022, and not the earlier new trial or judgment of acquittal motions. None of them were ever held to an evidentiary hearing and no briefing orders ever entered, no orders requesting a response from Glen Andrew Hall, Esq. the corrupt Commonwealth of Virginia.

9. The judge never examined the legal standards for new trial and never determined if those standards ever applied to any of Defendant's motions for new trial and Defendant's motions for judgment of acquittal. Never accepted Defendant asserting Virginia Rules of the Sup. Ct. 3A:15 which is a valid rule. He acts like Defendant had waived every right and is barred from any and every remedy. That doesn't make any sense. None of it makes any sense. Even people who plead guilty can ask for a new trial upon new evidence disproving guilt. Even the organization of The

Innocence Project had proven in Courts all over America that innocent men and women plead guilty to crimes they are not guilty of. Defendant never plead guilty, he only withdrawn appeal. He is being treated worse than somebody who pleads guilty. He is being treated worse than somebody entering an Alford plea. New evidence does not get barred by an earlier judgment. Criminal courts all over America allow final judgments to be disturbed when new evidence is brought to the table and examined by the prosecution.

10. Because new evidence was ignored, case law was ignored, common sense was ignored, the Defendant preserves these issues for appeal and documents them here in this NOTICE OF APPEAL.

11. Because an evidentiary hearing was avoided and ignored, the Defendant preserves these issues for appeal and documents them here in this NOTICE OF APPEAL. The Judge also did not subpoena the witnesses like Dr. Brant Hinchman and JaCody Cassell of The Chimney Sweep. He clearly could have ascertained that the witness to support Defendant's motion for new trial or judgment of acquittal filed on September 31, 2022 was Dr. Brant Hinchman on not factually completing all medical checks while falsely having Officer Robert Jones of Martinsville Police Department declaring that Brian David Hill was

medically and psychologically cleared. NO HE WASN'T MEDICALLY CLEARED. JaCody Cassell clearly could have been subpoenaed and compelled by the Court to testify as a witness to bring resolution to the motion asking for new trial to determine if all criteria standards was met as set by the Supreme Court of Virginia regarding motions for new trial based on new evidence which could not have been previously secured at trial.

12. Because new witness material to the guilt or innocence of Brian David Hill, material to poisoning of Brian David Hill with carbon monoxide gas poisoning, was all entirely ignored, the Defendant preserves these issues for appeal and documents them here in this NOTICE OF APPEAL.

13. The Defendant asserts in this NOTICE OF APPEAL that all issues previously preserved for appeal in the foregoing denied motions in the FINAL ORDER, be preserved further for the decision to be appealable.

14. The new issues preserved for appeal after the wrongful denial of motions is what Defendant is raising regarding the Judge ignoring all evidence, refusing an evidentiary hearing, refusing to apply any legal standards set by the Court of Appeals of Virginia and Supreme Court of

Virginia, the Defendant preserves these issues for appeal and documents them here in this NOTICE OF APPEAL.

15. The Defendant was entitled to a response from the Commonwealth Attorney Glen Andrew Hall. He violated court orders and got away with it without ever being charged with CONTEMPT OF COURT. He got away with destroying evidence and then gets away with Brian Hill not being medically cleared because ordered lab tests, lab examinations, were deleted from the chart. A cover up, no medical clearing is possible without the ordered lab tests. This is ridiculous.

16. The Defendant had brought forth clear and convincing evidence that disproves the elements of the alleged guilt charged on September 21, 2018. No evidentiary hearing, no response ordered from the Commonwealth Attorney, the Defendant preserves these issues for appeal and documents them here in this NOTICE OF APPEAL.

17. Last but not least, the Defendant made the effort as a nice guy, as a team player, to request a response from Glen Andrew Hall, the Commonwealth Attorney regarding the last two motions for new trial or judgment of acquittal. Based on JaCody Cassell the suspect and the evidence Defendant was not medically cleared. How could he be when lab tests were ordered around the time of his arrest or detainment then

deleted from the chart then was arrested without explanation why the lab tests ordered were to be deleted from the medical chart?????? Judge Greer never wanted a response from the other side, acts as though Defendant must be deprived of every constitutional right under the color of law, in sheer violation of 18 U.S. Code § 242 - Deprivation of rights under color of law. Defendant sits on a criminal record for a crime he is proven not guilty of, and the Judge just ignored everything and denied everything. Ignored the rules of the Supreme Court of Virginia, ignored the new evidence, ignored Virginia Code, and ignored everything. The Defendant preserves these issues for appeal and documents them here in this NOTICE OF APPEAL.

This appeal is being filed in good faith as it doesn't make sense for a Court to punish a criminal Defendant who has disproven multiple elements of the charged crime, shown that he may have multiple defenses to his criminal charge, but instead it is all ignored and they pushed to have his Federal Supervised Release revoked in 2019 and have Defendant pay legal fees but not give him the Due Process legal right under the U.S. Constitution and Virginia Constitution to challenge the wrongful conviction based on newly admissible evidence that wasn't admissible in 2019 at the time Defendant had withdrawn his appeal. None of this makes any sense. Even people who plead guilty can have it overturned on new evidence if it is

strong enough on a factual basis, not just simply a reasonable doubt but factual evidence. No guilty plea was entered, Judge Greer knows that. None of this is right, none of this is moral. This is a complete miscarriage of justice without a doubt against an innocent man. This is NOT MORAL, This is not the way criminal defendants should be treated in any court of law.

Respectfully submitted with the Court, This the 19th day of September, 2022.

Brian D. Hill
Signed

Brian D. Hill

Brian D. Hill
Defendant

Former news reporter of U.S.W.G.O. Alternative News
Ally of Q

310 Forest Street, Apartment 2
Martinsville, Virginia 24112
(276) 790-3505

U.S.W.G.O.

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com



CERTIFICATE OF SERVICE, CERTIFICATE OF FILING

I hereby certify that a true and accurate copy of the foregoing NOTICE OF APPEAL was faxed or emailed/transmitted by my Assistant Roberta Hill at rbhill67@comcast.net (due to Probation Conditions of not being allowed to use the Internet) or delivered this 4th day of September, 2022, to the following parties:

The undersigned certifies as follows:

1. The name and address of the Appellant is:
 Brian David Hill – Ally of Q and Attorney Lin Wood
 Family/Friend site: JusticeForUSWGO.wordpress.com or JusticeForUSWGO.NL
 310 Forest Street, Apartment 2
 Martinsville, Virginia 24112

2. Appellant is not represented by counsel at this time.

3. The names of Appellees is:
 Commonwealth of Virginia
 City of Martinsville

4. The name, address, and telephone number of counsel for appellees' is:
 G. Andrew Hall
 Martinsville Commonwealth's Attorney
 55 W. Church Street
 Martinsville, VA 24112
 (276) 403-5470

5. A copy of this Notice of Appeal has been electronically transmitted by Roberta Hill (electronic filing representative) via email to the Martinsville Circuit Court Clerk's Office, to opposing counsel, and electronically filed by Roberta Hill (electronic filing representative) through the Court's VACES system to the Clerk of the Court of Appeals of Virginia, all on September 19, 2022.

The following parties with fax numbers and email addresses of the parties are listed herein:

Glen Andrew Hall, Esq. Commonwealth Attorney's Office for the City of Martinsville 55 West Church Street P.O. Box 1311 Martinsville, Virginia 24114/24112	Hon. Ashby R. Pritchett, Clerk of the Court Circuit Court for the City of Martinsville Phone: 276-403-5106 Fax: 276-403-5232
--	---

Attorney for the Commonwealth Phone: (276) 403-5470 Fax: (276) 403-5478 Email: ahall@ci.martinsville.va.us	55 West Church Street, Room 205 P.O. Box 1206 Martinsville, VA 24114 Email: apritchett@vacourts.gov
--	---

The reason why Brian David Hill must use such a representative to serve such pleading with the Clerk on his behalf is because Brian is currently still under the conditions of Supervised Release for the U.S. District Court barring internet usage without permission. Brian's Probation Officer is aware of Roberta Hill using her email for conducting court business concerning Brian Hill or court business with the Probation Office in regards to Brian David Hill. Therefore Roberta Hill is filing the pleading on Brian's behalf for official court business. Brian has authorized her to file the pleading. All exhibits or any exhibits with anything printed from any internet based service was printed and researched by Roberta Hill.

That should satisfy the Certificate of Service regarding letters/pleadings. If the Court wishes to contact the filer over any issues or concerns, please feel free to contact the filer Brian David Hill directly by telephone or by mailing. They can also contact c / o Roberta Hill at rbhill67@comcast.net and request that she forward the message and any documents or attachments to Brian David Hill to view offline for his review.

Brian D. Hill

Signed

Brian D. Hill
 Brian D. Hill
 Defendant

Former news reporter of U.S.W.G.O. Alternative News
 Ally of Q

310 Forest Street, Apartment 2
 Martinsville, Virginia 24112
 (276) 790-3505

JusticeForUSWGO.NL or JusticeForUSWGO.wordpress.com



INDEX FOR COURT OF APPEALS OF VIRGINIA

1. ORDER from Hon. Giles Carter Greer (Judge), dated September 7, 2022
2. INTERPRETATION OF ORDER from Hon. Ashby R. Pritchett (Clerk)
dated September 13, 2022 (Printed email from Clerk)

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF MARTINSVILLE

COMMONWEALTH OF VIRGINIA

v.

ORDER
Case No. CR19000009-00

BRIAN DAVID HILL

UPON CONSIDERATION of the defendant's Motion for Judgment of Acquittal or New Trial, it is ORDERED that said motion is hereby DENIED on the ground of lack of jurisdiction.

ENTER: This 7th day of September, 2022.



Judge

Endorsement is dispensed with – Rule 1:13



Subject: RE: Judge Greer's order
From: Ashby Pritchett <apritchett@vacourts.gov>
Date: 9/13/2022, 10:47 AM
To: Roberta Hill <rbhill67@justiceforuswgo.nl>

Mrs. Hill,

Terry from my Office will be sending you a copy of Judge Greer's order, and copies of the amended Table of contents of the Motions filed by Brian with the Court of Appeals.

Judge Greer's Order denying Brian's motions doesn't end Brian's case with the Court of Appeals. Judge Greer's Order only declares that the Martinsville Circuit Court doesn't have jurisdiction (power to act) on Brian's motions. Everything Brian has filed has been sent to the Virginia Court of Appeals, who will make the judicial decision on his motions.

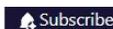
Ashby Pritchett, Clerk
Martinsville Circuit Court

Judge

From: Roberta Hill <rbhill67@justiceforuswgo.nl>
Sent: Monday, September 12, 2022 3:57 PM
To: Ashby Pritchett <apritchett@vacourts.gov>; Hon. Ashby R. Pritchett, Clerk of the Court <APritchett@courts.state.va.us>
Subject: Judge Greer's order
Importance: High

EXTERNAL EMAIL

THIS MESSAGE ORIGINATED FROM AN EXTERNAL ADDRESS. USE CAUTION CLICKING ON ANY LINKS OR DOWNLOADING ANY ATTACHMENTS

Martinsville Circuit Court [\(details\)](#)


Case #: CR19000009-00

Defendant: HILL, BRIAN DAVID

Pleadings/Orders							
Seq. #	Date	Type	Party	Judge	Book & Page	Instrument	Remarks
158	09/08/2022	OTHER	TTM				TABLE OF CONTENTS-APPEALED
157	09/08/2022	OTHER	TTM				DIGITAL APPELATE REC SUBMT
156	09/07/2022	FINAL ORDER	ARP				<u>DENY MOTION LACK JURISDICT</u>
155	09/06/2022	MOTION	ARP				MJ NEW EVID J CASSELL
154	09/06/2022	MOTION	ARP				REQUEST CA RESPOND TO MJ
153	08/31/2022	OTHER	ARP				LITIGATION HOLD LETTER
152	08/31/2022	MOTION	ARP				JUDGMT OR ACQUITTAL OR TRL

Hon. Ashby Pritchett,

It said on Virginia's OCIS system that my son Brian David Hill's motion or last two motions for judgment of acquittal and possibly the motions asking for the Commonwealth's response were denied on September 7, 2022. Assuming that is what the order was about. The OCIS system said that order was dated as to being Wednesday of last week, but my son checked the mail today and still has not received Judge Greer's order. He received your transmittal document paper mailed on the 9th of September but has not received a copy of Judge Greer's order.

He needs the order to understand what he should put in his notice of appeal he plans on filing.

I tried to send this message through xFinity but it is not working at the moment, so I am sending this message through my alternate email.

Please send a copy of the order for my son to review or he can call your office to arrange faxing it to him.

Thanks,
Roberta Hill