

VIRGINIA:

IN THE COURT OF APPEALS

TERENCE JEROME RICHARDSON,

S/K/A

TERRENCE JEROME RICHARDSON,

Petitioner,

v.

Record No. 0361-21-2

COMMONWEALTH OF VIRGINIA,

Respondent.

MOTION TO STRIKE

COMES NOW the Commonwealth of Virginia, by her undersigned counsel, and moves this honorable Court to strike or otherwise disregard Petitioner's request that this Court "order the appearance of Mark Herring, the previous Attorney General, or his representatives to argue the position set forth in the Commonwealth's previously filed Answers."

1. On February 4, 2022, the Commonwealth filed a five-page letter detailing multiple reversals of the positions it previously advanced in its November 1, 2021 Answer.
2. The Commonwealth subsequently filed a motion for leave to file a supplemental brief and exhibits to develop its positions further.

3. On February 7, 2022, Petitioner filed a letter with the Clerk of the Court in which he encouraged the Court to deny the Commonwealth's motion for leave to file a supplemental brief and exhibits. In the same letter, Petitioner asked the Court to "order the appearance of Mark Herring, the previous Attorney General, or his representatives to argue the position set forth in the Commonwealth's previously filed Answers."

4. To the extent that the Court views Petitioner's request regarding former Attorney General Herring as a motion to disqualify the Office of the Attorney General from representing the Commonwealth of Virginia in this matter, or as a motion for the appointment of former Attorney General Herring or his representatives as *amici curiae*, the Commonwealth was not noticed of any such motion pursuant to Rule 5A:2(a)(1) of the Rules of the Supreme Court of Virginia. The Commonwealth moves this Court to strike or otherwise disregard Petitioner's request for failure to comply with Rule 5A:2(a)(1). Furthermore, there is no legal or factual basis upon which this Court should allow Petitioner to pick and choose which arguments the Commonwealth of Virginia advances in this matter, or which counsel represent the Commonwealth.

5. Pursuant to Rule 5A:2(a)(1) of the Rules of the Supreme Court of Virginia, the Commonwealth represents that it has contacted Petitioner's counsel requesting consent to the instant motion; Petitioner opposes the instant motion.

WHEREFORE, for the reasons stated, the Commonwealth, by her undersigned counsel, moves this Court to strike or disregard Petitioner's request for the appearance of former Attorney General Herring or his representatives, and for any other relief deemed appropriate by the Court in its discretion.

Respectfully submitted,

COMMONWEALTH OF VIRGINIA,
Respondent herein

JASON S. MIYARES,
Attorney General of Virginia

/s/ Brandon T. Wrobleski

By: _____
Counsel

Brandon T. Wrobleski
Special Assistant to the Attorney General for Investigations
Virginia State Bar No. 89697
bwrobleski@oag.state.va.us
Office of the Attorney General
202 North Ninth Street
Richmond, Virginia 23219
Phone (804) 786-2071
Fax (804) 371-0151

CERTIFICATE OF SERVICE

On February 15, 2022, a copy of the foregoing Motion to Strike was filed with the Clerk of this Court using the VACES system pursuant to Rules 1:17 and 5A:1(c), and contemporaneously emailed to Jarrett Adams, Esquire at jadams@jarrettadamslaw.com, and Michael HuYoung, Esquire, mhuyoung@barnesfamilylaw.com, counsel for petitioner.

/s/ Brandon T. Wrobleski

Brandon T. Wrobleski
Special Assistant to the Attorney General
for Investigations