

**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.**

**OPPOSITION TO THE COMMONWEALTH OF VIRGINIA’S  
MOTION TO STRIKE**

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TERENCE JEROME RICHARDSON, S/K/A TERRENCE JEROME RICHARDSON (“Mr. Richardson” or “Petitioner”) opposes the Commonwealth of Virginia’s (“the Commonwealth’s” or “Respondent’s”) motion to strike or otherwise disregard the Respondent’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,” for the following reasons:

1. The Commonwealth’s motion to strike should be denied as procedurally invalid and also on the merits.
2. First and foremost, the Commonwealth is engaging in unnecessary motion practice. The Commonwealth has incorrectly interpreted Petitioner’s February 7, 2022 Letter (“February 7 Letter”) with the Court in response to the Commonwealth’s February

4, 2022 Letter (“February 4 Letter”) 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*.” (See Respondent’s Motion to Strike, ¶ 4). The February 7 Letter is an appropriate letter response to a letter submitted by the Commonwealth.

3. Second, the Commonwealth should not be permitted to have its cake and eat it too. If the Commonwealth unnecessarily interprets the Petitioner’s February 7 Letter as a motion, then, the Petitioner and this Court should also interpret the Commonwealth’s February 4 Letter as an improperly filed motion for supplemental briefing and/or supplemental briefing.

4. If interpreting the Commonwealth’s February 4 Letter as a motion for supplemental briefing, the Petitioner would argue that the Commonwealth’s motion was filed in violation of Rule 5A:2 of the Rules of the Virginia Supreme Court requiring the Commonwealth to make a statement to the other party of its intent to file the motion, because it did not inform Petitioner of its intent to file the motion for supplemental briefing.

5. Interpreting the February 4 Letter as a supplemental briefing in and of itself, the Petitioner argues that the Court should disregard it because the supplemental briefing would not aid in the resolution of the matter. *See In re Carpitcher*, 47 Va. App. 513 (2006) (the Court of Appeals denied the request to file supplemental briefing because “neither additional briefing or oral arguments would aid in the resolution of [the] case.”). The parties have had the opportunity to fully brief the matter, as there is a filed petition and

answer on file with the Court. The February 4 Letter and any purported supplemental briefing would only obfuscate the issues at hand.

6. Note that the Attorney General's Office under Mr. Miyares made a decision to fire the entire former Conviction Integrity Unit ("CIU"), and it is now dealing with the ramifications of that decision. Petitioner should not suffer as a result of Mr. Miyares' political decision to terminate the staff members who worked on the extensive investigation and the Commonwealth's Answer filed with the Court.

7. Finally, Petitioner's February 7 Letter should not be incorrectly interpreted, as the Commonwealth has done, as a motion to disqualify the Office of the Attorney General from representing the Commonwealth in this matter or as a motion for appointment of former Attorney General Herring or his representatives as *amici curiae*. (See Commonwealth's Motion to Strike, ¶ 4).

8. Petitioner made no request to disqualify the Office of Attorney General from representing the Commonwealth, but if the Office of the Attorney General is volunteering to disqualify itself, perhaps that would be an appropriate course of action. As is evident by its course of action and filings with the Court, the Commonwealth is engaging in politics with Mr. Richardson's life, first by surreptitiously requesting more time to review the file in advance of the previously scheduled February 8, 2022 hearing date while simultaneously having enough time to review the file and reverse its position in its February 4 Letter, which was filed well in advance of the February 8, 2022 hearing date. This is clearly causing erosion of the public trust in the judicial system. See *In re Asbestos Cases*, 514 F. Supp. 914 (E.D. Va., 1981); *In re Chantilly Const. Corp.*, 39 B.R. 466 (1984).

9. Petitioner, in its February 7 2022 Letter, also did not move the Court to appoint the former Attorney General Herring or his representatives be appointed as *amici curiae*. As mentioned above, former Attorney General Herring and the former staff members of the CIU, which were terminated by the current administration, are in the best position to argue the position set forth in the filed Answer, which set forth the position of the Commonwealth prior to the current Attorney General's decision to play politics with Mr. Richardson's life. Accordingly, the former Attorney General and/or his representatives should argue the position set forth in the filed answer.

WHEREFORE, for the reasons stated, the Petitioner requests that the Commonwealth's motion to strike or disregard be denied as improper and for any other relief deemed appropriate by the Court in its discretion.

Respectfully submitted,  
TERENCE JEROME RICHARDSON  
*Petitioner*

By: \_\_\_\_\_/s/\_\_\_\_\_  
Jarrett Adams, Esquire (N.Y. LIC # 5455712)  
*Lead Counsel*

By: \_\_\_\_\_/s/\_\_\_\_\_  
Michael HuYoung, Esquire (VSB # 22095)  
*Local Counsel*

**CERTIFICATE OF SERVICE**

On this 16<sup>th</sup> day of February, 2022, a copy of the foregoing Opposition to the Commonwealth of Virginia’s 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 the Theophani K. Stamos, Special Counsel to the Attorney General for Cold Cases, Investigations, and Actual Innocence, [tstamos@oag.state.va.us](mailto:tstamos@oag.state.va.us); Brandon T. Wroblewski, Special Assistance to the Attorney General for Investigations, [bwroblewski@oag.state.va.us](mailto:bwroblewski@oag.state.va.us); and the Office of the Attorney General for Virginia, [oagcriminallitigation@oag.state.va.us](mailto:oagcriminallitigation@oag.state.va.us), counsels for the Commonwealth of Virginia.

\_\_\_\_\_/s/\_\_\_\_\_  
Jarrett Adams, Esquire

\_\_\_\_\_/s/\_\_\_\_\_  
Michael HuYoung, Esquire