

Friday, October 6, 2023

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To Whom it May Concern,

My name is David Annarelli. I am wrongfully convicted by a court that, under state statute, had no jurisdiction.

The charge was malicious wounding. I was in my own home, alone at night, during a mental health crisis – the result of a Traumatic Brain Injury and a lifetime of documented mental health issues. No crimes had been committed. I have no criminal history prior to the incident and no history of violence.

The following is a matter of record, supported by the state's own documents, including a hearing transcript. Dec 15 2016, where Officers Alicia Akers and Rusty Stanley admit to wrongdoing, based on unsubstantiated claims that were never investigated while TRAINING a deputy (see Virginia Supreme Court record no. 220446):

- Under VA Code 19.2-169.1 (E) there was no jurisdiction to proceed without an order declaring Competency to Stand Trial (which was never issued).
- Under VA Code 19.2-169.1 (C) the competency evaluation was incomplete due to the failure of prosecution and defense counsels to provide psychological records within 96 hours.
- Under VA Code 19.2-81.3 "police had no cause to pursue," I was home alone.
- Under VA Code 18.2-51.1 false charges were filed; where a Class 3 felony should have been reduced to a Class 6 felony or less, as per the evidence (no knowledge of intruders' identity). Instead, it was wrongly enhanced to a Class U felony (usually reserved for career criminals).
- Under VA Code 8.01-428(D) state documents show the prosecutor is guilty of fraud upon the court.
- Police, on the record, admit to entering the home by a backdoor and at night, a clear violation of the 4<sup>th</sup> Amendment.
- Police, on record, admit to not Mirandizing me, ignoring unambiguous invocations of silence, and repeated requests for an attorney. Then they coerced statements.
- Police, on record, admit to no "knock and announce" and that the home was "dark and quiet."
- Police, on record, admit to refusing to show ID, while hiding in the dark, in a fenced-in yard on private property

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- Police, on record, admit there was no emergency and no crimes committed, they turned off their emergency lights long before arriving, obscuring their unjustified intrusion.
- Police severely beat me, including at least six blows to the head (leaving me concussed for approximately 10 days). Video in custody, and booking timelines (photos) confirm.
- Prosecution knowingly used false witness statements, when in possession of photos that unequivocally disprove their statements.
- Prosecutor perjured himself on record, repeatedly. He also suppressed exonerating evidence.
- The Virginia Supreme Court has now, on record, refused to uphold state laws regarding questions of jurisdiction and the allowance of new medical/mental health evidence, prejudicing the case even more, and calling into question its position as a neutral arbiter of facts and law.

This is the short list. Every time I sift through over 2,000 pages of case file I find yet another notable discrepancy. I continue to report the issues and file pro se actions as I am able, all of which as mentioned is supported by the state's documents that prove I am unlawfully incarcerated...seven years and counting. Please spread this far and wide. If you are able to provide legal or media coverage, please contact me.

Please also see some of my additional writing at:

- *minutesbeforesex.com/wp/category/contributors/david-annarelli-va*
- [Prisonjournalismproject.org/our-writers/](https://prisonjournalismproject.org/our-writers/)
- [Prisonjournalismproject.org/2022/07/06/hopes-dreams-torment-incarcerated-virginia-man](https://prisonjournalismproject.org/2022/07/06/hopes-dreams-torment-incarcerated-virginia-man)
- [Prisonwriters.com/the-truth-about-cell-searches-in-a-virginia-prison](https://prisonwriters.com/the-truth-about-cell-searches-in-a-virginia-prison)
- [Prisonwriters.com/gang-task-force](https://prisonwriters.com/gang-task-force)
- [Scalawagmagazine.org/2023/06/musician-in-prison](https://scalawagmagazine.org/2023/06/musician-in-prison)
- [Wvtf.org/news/2023-01-19/Richmond-weighs-a-review-of-questionable-prison-sentences](https://wvtf.org/news/2023-01-19/Richmond-weighs-a-review-of-questionable-prison-sentences)
- <https://thejusticeartscoalition.org/portfolio/david-annarelli-va>
- One of my two studio albums
  - ❖ [Wheelchairfullofoldmen1.bandcamp.com/album/discordian-society-primordial-soup](https://wheelchairfullofoldmen1.bandcamp.com/album/discordian-society-primordial-soup)

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Wrongfully Convicted  
and the Illegitimate Courts

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The legitimacy of the United States Courts, both Federal and at the state level, is an issue of growing concern today. That the courts are in fact *not* legitimate seems to be proven out on a daily basis. A lack of accountability, gross disparities in sentencing, indictments and prosecutions based more on quotas than actual justice or truth, and a dangerously excessive number of people who are wrongfully convicted or outright innocent (there *is* a difference in the eyes of the law) and who are left with no recourse for relief. These are just a few examples of the overwhelming problems with our system in ruin, and it is on the last point—wrongful convictions—that I will add to the growing dissent and ire towards the courts, and the system as a whole. I also hope you, the reader, will spread this across every platform.

I am wrongfully convicted. Using *strictly* the state's own documents, laws, and statutes, this is proven *unequivocally* and *with zero doubt*. It took me 5 years to discover these documents, hidden by the Virginia Commonwealth Attorney Mr. William Eric Branscom, as well as several attorneys—Mr. Michael Sobey and Mr. Joseph Flood—who claimed they were defending me. In the case of Mr. Branscom, as a Commonwealth Attorney, he openly and repeatedly lied to every court he entered, contradicting the truth and evidence he had in his possession. He did so for political gain and to cover up the gross misconduct of the Floyd County Sheriffs. These documents are a matter of public record now. In the case of my “defense” attorneys, Mr. Sobey and Mr. Flood, these documents were hidden among the 2,000+ pages of case file. Either they did not exercise due diligence or they deliberately ignored evidence that exonerates me in every way.

In this instance, the legitimacy of the courts is a direct threat to the freedom of approximately 4,000 people. That is the number—20%—that surveys suggest are, in Virginia, wrongfully convicted or innocent (PEW Charitable Trust Survey). In my case, and likely all of those 4,000 other cases, the Virginia Supreme Court is the main culprit, though by extension every court below it must therefore be considered as well.

I put before the Virginia Supreme Court, record no. 220446, the following evidence (again, this is all state documents, laws, and statutes):

- That under state statute, the local court had no jurisdiction.
- That the local court based decisions on flawed psychological evaluations. These were flawed based on failures by both Mr. Branscom and Mr. Sobey to provide the evaluation team with information regarding 30 years of psychological records.
- That Mr. Branscom *lied to the court* repeatedly, claiming that alcohol was involved as a means of undermining a mental-health defense and to cover up police who admitted errors.
- Mr. Sobey did nothing to object to or expose the lies. Both had a copy of a report of a blood test from the VA State Police Forensics Lab stating explicitly “Ethanol: NONE DETECTED.” In fact, I was stone-cold sober.
- That no crimes had been committed and no emergency existed. Police had no cause to come to my house.
- That police willfully obfuscated their identities: no emergency lights on their cars, arriving in the dark of night. Police admit this on record. The police also admit to entering a fenced-in yard, deliberately *not knocking on the front door*, and sneaking around the house in the dark to the back yard. Remember, I did not commit a single crime, a fact that is also admitted to on record by police. These acts alone constitute a major violation of state and federal constitutional guarantees, as well as a number of policy and procedure violations. To put it bluntly, *the police did everything wrong!*
- Police, on record, told very different accounts of the situation, and in fact Officer Rusty Stanley not only contradicted his other officers, Alicia Akers specifically, but Mr. Stanley also acknowledged that it was too dark for him to identify his fellow officers and that he never identified himself when he kicked open a door to a private home and opened fire on a man who

had committed not a single crime...I'm told that I am lucky to be alive...7 years of torture and abuse leads me to doubt that assessment.

- Virginia State Police Special Agent Austin refused to provide a lawyer even though it was repeatedly requested. He continued to interrogate me even though silence was invoked. He so brazenly violated this most basic of rights that he actually bragged about it in his police-action report. Fifty minutes later he was coercing a "full confession" before a magistrate on a video arraignment at 2:50AM. Totally illegal, improper, and wholly inadmissible. Police also admit to never Mirandizing me. (Prosecutor Mr. Branscom put this before a grand jury and at every hearing tainted the entire cases and voided an already-voiced plea that has also been coerced under threat.)
- Video from an interior police car shows that I didn't have a single physical injury. By 5AM that night I arrived at the local jail having been so severely beaten that the intake nurse could write only "covered in bruises." It is worth noting that this is all documented with videos and photos, yet the Virginia Supreme Court *refused* to allow this evidence. Every office in the state of Virginia has likewise refused to investigate the incident. (It was later reported that a jail guard, Sgt. Nowers, beat me on four separate occasions during 7 months of solitary confinement that was followed by 10 months in Special Housing. This is a widely recognized form of torture.)
- Prosecution, Mr. Branscom, again was so desperate to give the appearance of an ambush on his admittedly unidentified officers (in dark uniforms, in the dark) that he employed an often-used "jailhouse snitch," Mr. William Lewis. There was never any opportunity to depose the "witness," let alone challenge his claims. Also, photographs of the house prove that the witness was false. Mr. Branscom was aware of all of this, but he was determined to put as much provably false information before the court as he was able.

All of this, and more, is based strictly on the state's own documents. In fact, when I started to put the pieces together—after two Virginia defense attorneys sold me up the river—I started to file formal complaints to the Virginia Attorney General, Floyd County Circuit Court, Mr. William Eric Branscom, the Virginia State Bar, Mr. Michael Sobey, and the United States Department of Justice. The only response I received—through 10 separate formal complaints—was from the Virginia Bar, which *refused* to investigate Prosecutorial Misconduct, even though the evidence was state documents and plainly obvious. Furthermore, Mr. William Eric Branscom, under state and federal law, as well as the Virginia Bar Code of Ethics, was *bound by duty* to recall the case and make every effort to correct the record and the injustice created by the errors. Likewise, the local court in Floyd had the power to compel such action where Mr. Branscom didn't fulfill his obligations willingly. The same applies to those higher offices listed, yet not a single finger was lifted.

Through all of this, I am filing every Pro Se action, writ, and motion that might help me get back into court. I am blowing through 40 stamps each week—and sometimes more—sending letters to anyone and everyone. One hundred and forty Virginia Assembly members, over 100 different lawyers, dozens of legal-aid groups, innocence projects, everyone. Celebrities, activists, and advocates as well. Well over 2,000 letters each year and none of them were getting me anywhere. If I had actually been shot or, even better, had I died, everyone would have been interested, but because I did *not* die (a further embarrassment on top of police misconduct) no one has the least bit of interest in my story, or in justice.

As I mentioned earlier, there is an extensive mental-health record in my case. There is also a Severe Traumatic Brain Injury in my record, one so severe that an expert in the field pointed out that it has a 50%-60% mortality rate. Specifically, a bilateral hematoma, intracranial bleeding, axon retraction, and possible axon disruption—the literal tearing of brain tissue. These are among those things that should have been at the fore of the case but were obfuscated. More to the point is this: every day the TV and news and social media are talking about mental health and proper care. I can tell you, from experience, that beyond the media's talking no one cares or pays these things any mind. The NFL altering its concussion protocols and hiring new specialists, for TBI-related injuries are in the news cycles for weeks, several times—not one person looked my way. Given the endless efforts I've put forward daily, it is all too easy to say "the system is illegitimate."

It took me years to figure out how to get my case back before a court. The institutional attorneys at Pocahontas State Correctional Center both told me it wasn't possible. Really?! With a stack of state documents proving my innocence and proving an excessive malfeasance on the part of the Virginia Commonwealth Attorney, there is no mechanism for justice in this state? What country is this? I have all of this and half a dozen recent changes in law that directly impact my case and I am *still* being told there is no way back into court? That is correct, and numerous aid groups and attorneys refused to even make the attempt. This as I am pushing every legal angle I can find...there's a reason, of course, and it's the simple fact that, in Virginia at least, all that

matters is that a bed was filled to feed the prison economy. Research into other state's laws and conversations with those in the legal profession outside Virginia seem to confirm this. Enter a total stranger.

Among my letter-writing is the media. Every news outlet, from local to national, trying to expose this injustice. If you think your larger papers and news outlets are state-run, essentially you are correct. It becomes that much more obvious after the system gets its claws into you. Those local small papers, county by county, are not so state-controlled, and one of them (though they never published my letter) put me in contact with a law student. She helped me get back into court. This was at the same time that two other attorneys (John Albanes of the National Association Criminal Defense Attorneys and Katherine Jensen of the Virginia Redemption Project) were busy doing two things:

- filing a falsified pardon request and
- repeatedly ignoring me, their client.

As always, I documented the entire affair. I also pushed to replace them (four times because they simply ignored everything I said).

So this law student, whom I will leave anonymous, helps me put together a second habeas corpus and files it with the Virginia Supreme Court. That was April through July of last year (2022). It contained everything mentioned in this article and more. There is evidence of fraud upon the court now, because so many instances of prosecutorial misconduct and malfeasance cannot be written off as "coincidence" or simple error. Legitimacy of the courts and overwhelming evidence.

The Virginia Supreme Court, right out of the gate, showed its true colors when it denied my attempt to amend y initial complaint. As a matter of course and accepted procedure, everyone is granted a single amendment; it's just accepted. As a pro se litigant and prisoner, I am recognized as given wider leeway because of my lack of knowledge regarding law and procedure. As you will see, the Virginia Supreme Court cares not for the "rules." As an example of this—and a very clear and questionable double standard—the counsel for the state, Ms. Virginia Theisen, put a false record before the court. She claimed, when called out on this fact, that it was incomplete because a previous habeas corpus was in appeal at the 4<sup>th</sup> Circuit. Shortly—and conveniently enough—after that the 4<sup>th</sup> Circuit Court of Appeals summarily dismissed that case, and Ms. Theisen put in a "motion to substitute" her previous incomplete record. How very suspicious, and even more so because Ms. Theisen of the VA Attorney General's office was the same attorney who challenged the first habeas corpus. She had the full record all along, but she wanted to pull a fast one. This is *on record*, and so is the fact that the Virginia Supreme Court allowed it. I did not object because the record contains a transcript where police admit all wrongdoing. I did note all of the suspicious goings-on, and I also noted that this was being allowed while the VA Supreme Court was denying me a commonly granted single amendment.

The Virginia Supreme Court went even further in violating its own rules and mandates. The VA General Assembly passed into law the requirement for mental-health records—especially if they exist prior to an incident—to be entered into the court record and reviewed. A specialist in traumatic brain injuries (TBIs), Dr. Ralph Brown, who had over 5,000 TBIs, put together a full updated review of my injury that included new science. By law and statutes, the Virginia Supreme Court was and is *bound to admit that evidence*. On record they openly refused, not only violating state law, but also ignoring their own rules regarding new evidence.

The Virginia Supreme Court also, repeatedly, ignored Motion(s) to Appoint Counsel. Under Virginia law, prisoners are considered "disabled" and at a disadvantage and therefore warrant the request being granted. Sometimes the court provides a guardian ad litem, essentially a legal aid and spokesperson. In this instance, the VA Supreme Court simply ignored the motions, and these were among several that they never rules on. This is, of course, prejudicial, but then again anyone who looks at this record (#220446) will see nothing but prejudicial behavior by both the court and Ms. Theisen. What else can be said about a court and Attorney General senior assistant who go out of their way to aid in the injustice when faced with clear evidence that state employees—police and commonwealth attorneys—have committed wrongdoing and fraud upon the court?

Aside from the obvious evidence, which any good-hearted American would immediately respond to with a sense of righteous demand for the law to be corrected, there was the question of "timely filing," procedural bar. New evidence or clear evidence that it could not have been reasonably discovered...I had to file a complaint with the VA bar compelling my attorneys to provide my case file in its entirety. *Everything* was unknown to me, and so much of it was new evidence that had *never* been put before the court; also, both intrinsic fraud and fraud upon the court are exempted.

The Virginia Supreme Court, having been presented with clear and obvious evidence of police wrongdoing, prosecutorial misconduct, and fraud upon the court, had an obligation to uphold justice. Instead, the court openly and repeatedly violated state laws and statutes and its own rules of the court. Ms. Theisen and the Attorney General's office were willful participants, deliberately aiding in these violations and ignoring their duty as well. The courts, the entire system, are illegitimate and serve no use to American society other than to disenfranchise. There are thousands of cases like this in Virginia and tens of thousands nationwide—and it is getting worse with each passing day.

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Other pieces by David at:

- [Minutesbeforesix.com/wp/category/david-annarelli-va](https://minutesbeforesix.com/wp/category/david-annarelli-va)
- [Prisonjournalismproject.org/our-writers](https://prisonjournalismproject.org/our-writers)
- [Prisonwriters.com/the-truth-about-cell-searches-in-a-virginia-prison](https://prisonwriters.com/the-truth-about-cell-searches-in-a-virginia-prison)
- [prisonwriters.com/gang-task-force](https://prisonwriters.com/gang-task-force)
- [scalawagmagazine.org/2023/06/musician-in-prison](https://scalawagmagazine.org/2023/06/musician-in-prison)
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