

Monday                      1st                      March, 2011.

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective May 2, 2011.

Amend Rule 1:8 to read as follows:

**Rule 1:8. Amendments.**

No amendments shall be made to any pleading after it is filed save by leave of court. Leave to amend shall be liberally granted in furtherance of the ends of justice. Unless otherwise provided by order of the court in a particular case, any written motion for leave to file an amended pleading shall be accompanied by a properly executed proposed amended pleading, in a form suitable for filing. If the motion is granted, the amended pleading accompanying the motion shall be deemed filed in the clerk's office as of the date of the court's order permitting such amendment. If the motion is granted in part, the court may provide for filing an amended pleading as the court may deem reasonable and proper. Where leave to amend is granted other than upon a written motion, whether on demurrer or oral motion or otherwise, the amended pleading shall be filed within 21 days after leave to amend is granted or in such time as the court may prescribe. In granting leave to amend, the court may make such provision for notice thereof and opportunity to make response as the court may deem reasonable and proper.

\*                      \*                      \*

Amend Rule 3:16 to read as follows:

**Rule 3:16. New Parties.**

A new party may be added, on motion of the plaintiff, by order of the court at any stage of the case as the ends of justice may require. The motion, accompanied by a properly executed proposed amended complaint, shall be served on the existing parties as required by Rule 1:12. If the motion is granted, the amended pleading accompanying the motion shall be deemed filed in the clerk's office as of the date of the court's order permitting such amendment and all the provisions of Rule 3:4 shall apply as to the new parties, but no writ tax, clerk's fee, or deposit for costs is required. All defendants shall file pleadings in response thereto as required by these Rules unless otherwise ordered by the court.

\* \* \*

Amend Rule 3A:10 to read as follows:

**Rule 3A:10. Trial Together of More Than One Accused or More Than One Offense.**

(a) *More than One Accused - Joinder of Defendants.* - On motion of the Commonwealth, for good cause shown, the court shall order persons charged with participating in contemporaneous and related acts or occurrences or in a series of acts or occurrences constituting an offense or offenses to be tried jointly unless such joint trial would constitute prejudice to a defendant.

\* \* \*

Add Rule 3A:14.1 to read as follows:

**Rule 3A:14.1 Confidentiality of Juror Personal Information.**

(a) *Motion for Order Regulating Disclosure of Jurors' Personal Information.* As provided in Code § 19.2-263.3, on motion of any party or its own motion, and only upon a finding of good cause sufficient to warrant departure from the norm of open proceedings, the court may issue an order which may include provisions:

(1) regulating the disclosure of the personal information of jurors or prospective jurors in a criminal trial. The court may limit or preclude dissemination of such information to particular persons, but in no event shall such information be denied to counsel for either party; and/or

(2) requiring that during the course of the trial, counsel for the parties, and the jurors themselves, shall refer to jurors by number and not by name.

Under this Rule, a finding of "*good cause*" includes, but is not limited to, a determination by the court in a particular case that if personal information of jurors or prospective jurors is disclosed there is a reasonable possibility of bribery, tampering, physical injury, harassment, intimidation of a juror, or any other material interference with the proper discharge of the jury's functions, such as a reasonably perceived threat to the jury's safety, well-being, or capacity to properly focus upon and perform its trial and deliberative duties.

(b) *Modification of Order.* An order under this Rule regulating the disclosure of personal information of the jurors in a criminal case may be modified by the court in the exercise of its discretion and for good cause shown, and such information may be disseminated to a person having a legitimate interest or

need for the information, with such restrictions upon its use and further dissemination as may be deemed appropriate by the court.

(c) *Personal Information.* For purposes of this Rule, "*personal information*" means any information collected by the court, clerk, or jury commissioner at any time, including but not limited to, a juror's name, age, occupation, home and business addresses, telephone numbers, email addresses, and any other identifying information that would assist another in locating or contacting the juror.

\* \* \*

Amend Rule 8:5 to read as follows:

**Rule 8:5. Court-Ordered Reports.**

Copies of all studies and reports pursuant to §§ 16.1-269.2, 16.1-273, 16.1-274, 16.1-275 and 63.2-1524, when received by the court shall be furnished by the court to counsel of record, and upon request shall be mailed to such counsel. Counsel of record shall return such reports to the clerk upon the conclusion of the hearing and shall not make copies of such report or amended report or any portion of either.

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**Rule 8:21. [Deleted]**

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Amend Appendix of Forms following Part Five to read as follows:

APPENDIX OF FORMS.

\* \* \*

12. Petition for a Writ of Actual Innocence Based on Biological Evidence

PETITION FOR A WRIT OF ACTUAL INNOCENCE

TO THE SUPREME COURT OF VIRGINIA

In re: \_\_\_\_\_  
(FULL NAME OF PETITIONER)

Record No. \_\_\_\_\_  
(TO BE SUPPLIED BY THE CLERK OF THE SUPREME COURT)

\_\_\_\_\_  
(PRISONER NO., IF APPLICABLE)

Circuit Court  
Case No.(s) \_\_\_\_\_

\_\_\_\_\_  
(PETITIONER'S ADDRESS)

Pursuant to the provisions of Chapter 19.2 of Title 19.2 of the Code of Virginia, I,

\_\_\_\_\_  
NAME OF PETITIONER

hereby petition this Court for a writ of actual innocence. In support of this petition, I state under oath that the following information is true:

1. On \_\_\_\_\_, I was convicted in the  
DATE

\_\_\_\_\_ Circuit Court of the following offense(s):  
NAME OF COURT

Description of Offense	Virginia Code Class of Felony	Plea
_____	_____	_____
_____	_____	_____
_____	_____	_____

[ ] ATTACHED ADDITIONAL SHEET(S)

2. I am innocent of the crime(s) for which I was convicted.

3. My claim of innocence is based upon the following human biological evidence and scientific testing:

\_\_\_\_\_

\_\_\_\_\_

[ ] ATTACHED ADDITIONAL SHEET(S)

4. Check one:

[ ] This evidence was not known or available to either me or my attorney at the time the conviction became final in the circuit court.

[ ] This evidence was known at the time the conviction became final in the circuit court, but was not tested because \_\_\_\_\_

[ ] ATTACHED ADDITIONAL SHEET(S)

5. This evidence was tested pursuant to the provisions of Virginia

Code § 19.2-327.1 and the results were obtained by me or my attorney on \_\_\_\_\_ .

DATE

This petition is filed within sixty days of obtaining those results and those test results are filed with this petition. Attached is a copy of the notice of the test results from the Department of Forensic Science.

6. The scientific evidence described in paragraph number 4 above will prove that no rational trier of fact could have found me to be guilty beyond a reasonable doubt of the charge described above because

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[ ] ATTACHED ADDITIONAL SHEET(S)

7. Check box if applicable and provide any additional information.

[ ] My conviction became final after June 30, 1996, and the scientific evidence described in paragraph number 4 above was not available for testing under Virginia Code § 9.1-1104 because:

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[ ] ATTACHED ADDITIONAL SHEET(S)

8. This petition contains all relevant allegations of fact known to me at this time and all previous records, applications, petitions, appeals, and dispositions relating to this matter are attached. In support of this petition, the following documents are attached:

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[ ] ATTACHED ADDITIONAL SHEET(S)

9. I understand that this petition must contain all relevant allegations of fact that are known to me at this time. I understand that it must include all previous records, applications, petitions, appeals, and their dispositions related to this conviction, as well as a copy of any test results of the scientific evidence described above. I understand that if this petition is not complete, this Court may dismiss the petition or return the petition to me pending the completion of such form. I understand that I am responsible for all statements contained in this petition. I understand that any knowingly or willfully made false statement shall be a ground for prosecution and conviction of perjury as provided in Virginia Code § 18.2-434. I understand that this Court shall not accept this petition unless it is accompanied by a duly executed return of service verifying that a copy of this petition and all attachments have been served on the attorney for the Commonwealth of the jurisdiction where the conviction occurred and on the Attorney General of Virginia.

10. Check box if claiming in forma pauperis status and seeking to file this petition without payment of fees.

I claim in forma pauperis status and I request that this Court accept this petition without the payment of filing fees. I affirm under oath that I am eligible for in forma pauperis status and I have attached the completed affidavit to this effect.

Based on the above, I petition this Court pursuant to the provisions of Chapter 19.2 of Title 19.2 of the Code of Virginia for a writ of actual innocence.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF PETITIONER

<b>FOR NOTARY PUBLIC'S USE ONLY:</b>	
State of ..... [ ] City [ ] County of .....	
Acknowledged, subscribed and sworn to before me this ..... day of ., 20 .....	
..... NOTARY REGISTRATION NUMBER	_____ NOTARY PUBLIC (My commission expires: .....)

**AFFIDAVIT IN FORMA PAUPERIS**

The petitioner, \_\_\_\_\_, being duly sworn, says,

1. I am unable to pay for counsel to prosecute this action;

2. My assets amount to a total of \$ \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF PETITIONER

**FOR NOTARY PUBLIC'S USE ONLY:**

State of ..... [ ] City [ ] County of .....

Acknowledged, subscribed and sworn to before me this ..... day of . ,  
20 .....

.....  
NOTARY REGISTRATION NUMBER

\_\_\_\_\_  
NOTARY PUBLIC  
(My commission expires: ..... )

Amend Appendix of Forms following Part Five and Part Five A to read as follows:

**APPENDIX OF FORMS.**

\* \* \*

**6. Additional Bond Required by Appellate Court on Appeal From Circuit Court.**

KNOW ALL MEN BY THESE PRESENTS, That we,  
\_\_\_\_\_, principal, and  
\_\_\_\_\_, surety, are held  
and firmly bound unto \_\_\_\_\_  
appellee(s)  
in the sum of \_\_\_\_\_  
to the payment of which we bind ourselves, our heirs, successors  
personal representatives and assigns, jointly and severally,  
firmly by these presents.

The condition of this obligation is such that:

Whereas the (Supreme Court of Virginia) (Court of Appeals  
of Virginia) on the \_\_\_\_\_ day of \_\_\_\_\_,  
required additional bond on this appeal from a judgment rendered  
against \_\_\_\_\_ by the Circuit Court of \_\_\_\_\_,  
appellant(s)

on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, such

additional bond to be filed in the clerk's office of the Circuit

Court of \_\_\_\_\_ in the  
penalty of \_\_\_\_\_, and  
with the following additional requirements: \_\_\_\_\_

\_\_\_\_\_,  
within fifteen (15) days of the date of the order requiring  
additional bond, with condition as the law directs;

Now, therefore, if \_\_\_\_\_  
appellant(s)

shall perform and satisfy said judgment or the part thereof  
proceedings on which are stayed, in case such judgment or such  
part be affirmed in whole or in part, and shall pay all actual  
damages incurred in consequence of the suspension, then this  
obligation shall be void, otherwise to remain in full force and  
virtue.

A Copy,

Teste:

Clerk