

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
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Granted Appeal Summary

Case

JOHN D. CUMBERLAND v. BOARD OF SUPERVISORS OF MIDDLESEX COUNTY, ET AL.

(Record Number 230909)

From

The Court of Appeals of Virginia.

Counsel

Andrew G. Bury, Jr. and David A. Bury (Bury & Co.—Attorneys at Law) for appellant.

Heather W. Lewis (Middlesex County Attorney) and E. Stanley Murphy (Murphy Law Offices, PLC) for appellees.

Assignments of Error

1. The Court of Appeals of Virginia reversibly erred to affirm the decision of the trial court to dismiss Mr. Cumberland's petition for lack of standing under Va. Code § 15.2-2314 and to deny him his requested relief, because it refused to accept Mr. Cumberland's factual allegations as presumptively true; interpret those allegations in the light most favorable to Mr. Cumberland; and credit Mr. Cumberland with the unstated inferences from those allegations when concluding that Mr. Cumberland failed to allege a substantial risk that his harm will occur.
2. The Court of Appeals of Virginia reversibly erred to affirm the decision of the trial court to dismiss Mr. Cumberland's petition for lack of standing under Va. Code § 15.2-2314 and to deny him his requested relief, because it conflated the threshold standing inquiry with the merits of Mr. Cumberland's claim when determining that his alleged future harm was not "fairly traceable" to the BZA's land use decision.