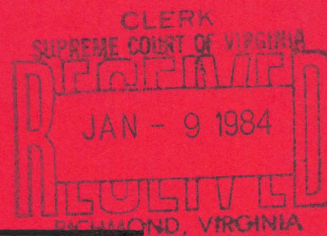


228 Va 235



IN THE
Supreme Court of Virginia
AT RICHMOND

RECORD NO. 830141

E. P. HEACOCK,

Appellant,

v.

COMMONWEALTH OF VIRGINIA,

Appellee.

JOINT APPENDIX

Robert G. Cabell, Jr., Esquire
C. Michael DeCamps
CABELL, PARIS, LOWENSTEIN
AND BAREFORD
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Richmond, VA 23219

Counsel for Appellant

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Attorney General
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Richmond, VA 23219

Counsel for Appellee

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¹These two show cause orders are not currently part of the record in this case. The lower Court Clerk erroneously placed them in the record of Commonwealth of Virginia v. Forrest P. Heacock (Record No. 822002), another case presently before this Court. Both sides in this case have filed petitions for a writ of certiorari to correct this error.

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³These documents are not currently part of the record in this case. The lower Court Clerk erroneously placed them in the record of Commonwealth of Virginia v. Forrest P. Heacock (Record No. 822002). Appellee has filed a petition for a writ of certiorari to correct this error. Appellant does not oppose this request.

COMMONWEALTH OF VIRGINIA:

To the Sheriff of the County of Chesterfield, or any Police Officer of said County of Chesterfield, Greeting:

Whereas, on the 22nd day of January, 1982, Forrest Perry Heacock, of 2812 Cicero Parkway, Chester, Virginia, and E. P. Heacock, of 12820 Percival St., Chester, 23831, surety, entered into and acknowledged a bond before Ed Allen, a Magistrate for Chesterfield County, Virginia, in the penal sum of \$5,000.00 (cash), conditioned upon the personal appearance of the said Forrest Perry Heacock, principal, before the Circuit Court of Chesterfield County on the 6th day of May, 1982, then and there to answer a certain felony (Conspiracy to distribute cocaine) charge; and, Whereas the said Forrest Perry Heacock, principal, appeared before the Circuit Court of Chesterfield County on March 23, 1982 on a bond revocation hearing for failure to keep the peace and be of good behavior, to-wit: Threaten witnesses; therefore violating the terms and conditions of his said bond.

These are, therefore, to Command You that you summon the said Forrest Perry Heacock, presently incarcerated in Chesterfield County Jail, and E. P. Heacock, of 12820 Percival Street, Chester, Virginia, 23831, surety, to appear before our Circuit Court of the County of Chesterfield, Virginia, at the Courthouse thereof on the 19th day of May, 1982, at 10:00 A.M. and show cause, if any they can, why said bond heretofore entered into should not be forfeited to the Commonwealth of Virginia.

And have then there this writ and make return how you have executed the same.

27th WITNESS, Lewis H. Vaden, Clerk of our said Court, this day of March, 1982.

[Signature]
Clerk of the Circuit Court of
Chesterfield County

Lewis H. Vaden, Clerk

[Signature]

RECEIVED AND FILED

MAR 31 1982

LEWIS H. VADEN, CLERK

BR

Executed in Chesterfield County, Virginia, by delivering a true copy of the within Summons to the within named Forrest Perry Hecock in person at usual place of abode in said County, this the 30 day of March 1982

E. L. WINGO, SHERIFF

Sheriff, Chesterfield County, Virginia

By *[Signature]* #307

[Signature] #307
Sheriff, Chesterfield County, Virginia

E. L. WINGO, SHERIFF

Executed in Chesterfield County, Virginia, by delivering a true copy of the within Summons to the within named E. P. Hecock in person at usual place of abode in said County, this the 30 day of April 1982

LEWIS H. VADEN, CLERK

MAY 3 1982

RECEIVED AND FILED

COMMONWEALTH OF VIRGINIA:

CHESTERFIELD
SHERIFF'S DEPT.
MAR 29 11 23 AM '82
RECEIVED

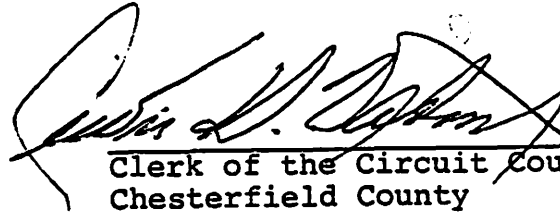
To the Sheriff of the County of Chesterfield, or any Police Officer of said County of Chesterfield, Greeting:

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And have then there this writ and make return how you have executed the same.

WITNESS, Lewis H. Vaden, Clerk of our said Court, this 27th day of March, 1982.


Clerk of the Circuit Court of
Chesterfield County

Executed in Chesterfield County, Virginia, by delivering a true copy of the within Summons to the within named E. L. Hecock in person at usual place of abode in said County, this the 30 day of April 1982

E. L. WINGO, SHERIFF

RECEIVED AND FILED

MAY 3 1982

LEWIS H. VADEN, CLERK

Sheriff, Chesterfield County, Virginia

By gob l. hie #302

BR
LEWIS H. VADEN, CLERK

MAR 31 1982

RECEIVED AND FILED

Executed in Chesterfield County, Virginia, by delivering a true copy of the within Summons to the within named Forrest Larry Hecock place of abode in said County, this the 30 day of April 1982
By gob l. hie
Sheriff, Chesterfield County, Virginia

COMMONWEALTH OF VIRGINIA:

CHESTERFIELD
SHERIFF'S DEPT.

MAR 29 11 23 AM '82

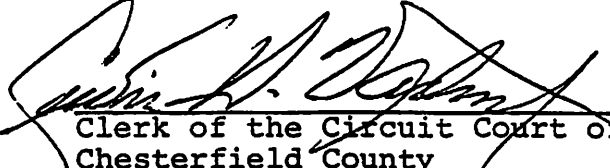
RECEIVED
To the Sheriff of the County of Chesterfield, or any Police
Officer of said County of Chesterfield, Greeting:

Whereas, on the 22nd day of January, 1982, Forrest
Perry Heacock, of 2812 Cicero Parkway, Chester, Virginia, and E.
P. Heacock, of 12820 Percival St., Chester, 23831, surety,
entered into and acknowledged a bond before Ed Allen, a
Magistrate for Chesterfield County, Virginia, in the penal sum of
\$30,000.00 (cash), conditioned upon the personal appearance of
the said Forrest Perry Heacock, principal, before the Circuit
Court of Chesterfield County on the 6th day of May, 1982, then
and there to answer a certain felony (murder) charge; and,
Whereas, the said Forrest Perry Heacock, Principal appeared
before the Circuit Court of Chesterfield County on March 23, 1982
on a bond revocation hearing for failure to keep the peace and be
of good behavior, to-wit: Threaten witnesses; therefore
violating the terms and conditions of his said bond.

These are, therefore, to Command You that you summon
the said Forrest Perry Heacock, presently incarcerated in
Chesterfield County Jail, and E. P. Heacock, of 12820 Percival
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And have then there this writ and make return how you
have executed the same.

27th WITNESS, Lewis H. Vaden, Clerk of our said Court, this
day of March, 1982.


Clerk of the Circuit Court of
Chesterfield County

RECEIVED AND FILED

MAR 31 1982

LEWIS H. VADEN, CLERK

Executed in Chesterfield County, Virginia, by delivering a true
copy of the within Summons to the within named
Ferret Perry Heacock in person at usual
place of abode in said County, this the 30 day of March 1982
E. L. WINGO, SHERIFF

Sheriff, Chesterfield County, Virginia
By [Signature]

LEWIS H. VADEN, CLERK

MAY 3 1982

RECEIVED AND FILED

E. L. WINGO, SHERIFF

Executed in Chesterfield County, Virginia, by delivering a true
copy of the within Summons to the within named
E. L. Heacock in person at usual
place of abode in said County, this the 30 day of April 1982

Sheriff, Chesterfield County, Virginia

By

[Signature] #307

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908 N. THOMPSON STREET
RICHMOND, VIRGINIA
PHONE 355-4335

1.

1 VIRGINIA:

2 IN THE CIRCUIT COURT FOR THE COUNTY OF CHESTERFIELD

3 - - - - -
4 COMMONWEALTH OF VIRGINIA :

5 vs. :

6 FORREST PERRY HEACOCK :
7 - - - - -

8 Transcript of testimony and other incidents when
9 heard on the 22nd day of March, 1982, before The Honorable
10 Ernest P. Gates, Judge.
11
12
13
14
15
16
17
18

19 APPEARANCES:

20 Charles R. Watson, Esquire
21 Commonwealth Attorney for the County of Chesterfield;

22 Bremner, Baber & Janus
23 701 East Franklin Street
24 Richmond, Virginia
25 By: Murray J. Janus, Esquire
and

Robert J. Rice, Esquire
Counsel for the defendant;

The defendant in person.

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2.

I N D E X

	Direct	Cross	Redirect
Stephen A. Fuller	4	8	19
C. G. Williams, Jr.	21 37	22 56	-- --
Clarence D. Green	24	26	--
Forrest Perry Heacock	29	33	--

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3.

1 March 22, 1982

2

3 THE COURT: Are we here on a motion for
4 bond revocation?

5 MR. WATSON: Yes, sir, Your Honor. The
6 facts show that after being indicted Mr. Heacock
7 appeared before this Court on three charges. Bonds
8 were set at 30,000 cash on the murder, \$5,000 on
9 conspiracy, and 5,000 on the distribution charge.

10 He posted bond and was released and
11 subsequent to that time he was arrested upon a
12 warrant in the General District Court for obstruction
13 of justice and threatening a witness with intention
14 to impede the administration of justice.

15 Bond was denied in the General District
16 Court based on the fact he was on bond in the
17 Circuit Court for this charge and that he was not
18 being of good behavior.

19 THE COURT: All right, sir.

20 MR. WATSON: At that time I told them I had
21 a motion in the Circuit Court to revoke bond.

22 THE COURT: You are not asking the bond be
23 forfeited; are you?

24 MR. WATSON: No, sir. I am asking -- It will
25 be the Commonwealth's position that we do not want

1 him bonded because he is a threat.

2 THE COURT: All right, sir. We will pro-
3 ceed to hear the evidence then.

4 MR. WATSON: Mr. Fuller.

5 NOTE: At this time the witness was sworn.

6
7 STEPHEN A. FULLER, a witness called by the
8 attorney for the Commonwealth, having first been duly sworn,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. WATSON:

12 Q Mr. Fuller, state your full name, please.

13 A Stephen A. Fuller.

14 Q And where do you reside currently?

15 A Right now in jail.

16 Q Chesterfield County Jail?

17 A Yes. No, Petersburg.

18 Q You are over there because we sent you over
19 there; is that correct?

20 A Right.

21 Q You were in Chesterfield County Jail.

22 A Yes.

23 Q And you were over there on three indict-
24 ments.

25 A Right.

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S. Fuller - Direct

5.

1 Q Charging you with murder, conspiracy, and
2 distribution of cocaine; is that correct?

3 A That is correct.

4 Q All right. Do you recall the events of
5 March 12 where you had occasion to have a conversation with
6 some detectives?

7 A Uh, yes, I do.

8 Q Was your attorney with you at that time?

9 A Yes, he was.

10 Q Who was your attorney?

11 A Uh, Andrew Wood.

12 Q All right. Drawing your attention to that
13 discussion, do you recall whether Mr. O'Shields asked you if
14 you had been under any threat?

15 A Yes, sir, I do.

16 Q What was your response as to that and
17 explain it for the Court?

18 A Yes, I was.

19 Q Who were you threatened by?

20 A Forrest Heacock.

21 Q Where were you when you were threatened?

22 A In the visiting area of the Chesterfield
23 jail.

24 Q And had he come to visit you?

25 A Yes.

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S. Fuller - Direct

6.

1 Q What was the substance of the threat?

2 A Well, the substance was that if I testified
3 that I would be taken care of and I took this to mean that I
4 would be killed.

5 Q Is there anyone else involved in this case -
6 not a witness that you know of?

7 A Uh, could you clarify that?

8 Q Do you know Bruce Collie?

9 A Yes, I do.

10 Q At that time did Mr.--

11 MR. JANUS: I object to the leading ques-
12 tion, Your Honor.

13 THE COURT: Yes. Sustained.

14 BY MR. WATSON: (Continuing)

15 Q Let's see. At that time state whether or
16 not Mr. Heacock mentioned anyone else's name.

17 A Yes, he did. He mentioned Bruce Collie.

18 Q What did he say, if anything, about Bruce
19 Collie?

20 A He mentioned that he had found Bruce and
21 that he had gotten it out of him that he had testified and
22 that he had been taken care of by people other than himself.

23 Q State whether or not the County of Charles
24 City comes to your mind.

25 A Yes, it does. He mentioned that in

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S. Fuller - Direct

7.

1 reference to Collie and myself.

2 Q In what way did he refer to it?

3 A He referred to it in that the same thing
4 would happen to me that happened out there.

5 Q What had happened out there?

6 A There were some people killed.

7 Q What type of people? Do you know?

8 A Uh, as far as I know they were witnesses -
9 from what I have read in the paper and on television.

10 Q During this conversation state whether or
11 not the use of code words was mentioned.

12 A Yes, it was. In fact he said, referring
13 to Forrest Heacock, all he had to do is make a phone call and
14 give somebody the code word.

15 Q For what?

16 A To have somebody taken care of.

17 Q Mr. Heacock was saying that?

18 A Yes.

19 MR. WATSON: Answer any questions counsel
20 may have.

21

22

23

24

25

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S. Fuller

8.

1 CROSS-EXAMINATION

2 BY MR. JANUS:

3 Q Mr. Fuller, how old are you?

4 A I am now 26 years old.

5 Q In the past you have been under psychiatric
6 treatment; is that correct?

7 A Approximately 10 years ago.

8 Q Have you ever been hospitalized?

9 A Uh, I was for a brief period of observation.

10 Q When was that?

11 A Approximately 10 years ago.

12 Q What hospital?

13 A Westbrook.

14 Q Have you received any psychiatric help
15 between that time and today?

16 A No, I haven't, other than I have been visited
17 by a doctor. In fact, I believe it is a medical doctor. I am
18 not really sure what kind of doctor he was.

19 Q What was the doctor's name?

20 A Dr. Bright.

21 Q He is a psychologist that specializes in
22 adolescent medicine; isn't he?

23 A I don't know.

24 Q George Bright?

25 A Yes.

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S. Fuller - Cross

9.

1 Q To your knowledge, have you been visited
2 and consulted with him?

3 MR. WATSON: I will object at this time.
4 This has nothing to do with the threat made at jail
5 by Mr. Heacock.

6 THE COURT: I think it would, if he can
7 prove that the man fabricated the story and has
8 hallucinations and things of that nature. Overrule
9 the objection.

10 BY MR. JANUS: (Continuing)

11 Q Have you consulted with or been visited by
12 any other psychiatrist, to your knowledge?

13 A No, I haven't.

14 Q Mr. Fuller, have you been, in the past, a
15 user of hard drugs? By that I mean cocaine.

16 A Yes, I have.

17 Q Have you ever injected it?

18 A Yes, I have.

19 Q Did you do it on a regular basis at one
20 time in your life?

21 A I wouldn't say it was really regular.
22 Every now and then, but I wouldn't say it was regular not
23 like addiction.

24 Q Have you ever been addicted?

25 A No.

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S. Fuller - Cross

10.

1 Q Have you ever gotten treatment for a drug
2 problem?

3 A I wouldn't really say it was treatment. I
4 was hospitalized one time at Westbrook, but that really
5 wouldn't--

6 Q Was that a time different than 10 years ago?

7 A That was the time.

8 Q Have you been hospitalized or gotten treat-
9 ment from a doctor on a drug related problem in the last
10 several years?

11 A No, I haven't.

12 Q Have you gotten treatment by any doctor
13 other than just medical treatment for stitches?

14 A No.

15 Q Have you ever been to a drug program such a
16 Jump Street or RUBICON?

17 A One time a long time ago. 10 or 12 years
18 ago I was in some kind of program for maybe a week or so for
19 smoking pot.

20 Q What was the name of that program?

21 A I don't know. It was out at Bon Air at the
22 Diagnostic Center.

23 Q Have you ever been convicted of a felony?

24 A Uh, I was in some trouble as a juvenile,
25 but never as an adult.

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S. Fuller - Cross

11.

1 Q Were you convicted of a felony as a
2 juvenile?

3 A I believe I was, yes.

4 Q Just one?

5 A I am not sure of the exact number.

6 Q Have you ever been convicted of a crime
7 involving moral turpitude such as lying, cheating, or steal-
8 ing? Shoplifting, bad checks, anything of that nature?

9 A No.

10 Q Now, sir, what other drugs have you used -
11 other than what you said, cocaine? Have you ever used LSD?

12 A Maybe once or twice.

13 Q How long ago was that?

14 A I really couldn't say. It has been quite
15 some time.

16 Q How about heroin?

17 A Never.

18 Q Ever any amphetamines?

19 A I have used speed on occasion.

20 Q Barbiturates?

21 A Uh, I may have used them once or twice.

22 Q Marijuana?

23 A Yes.

24 Q Hashish?

25 A Yes.

18

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S. Fuller - Cross

12.

1 Q Anything I have forgotten?

2 MR. WATSON: Objection, Your Honor. First
3 he is trying to prove he is crazy and now he wants
4 to prove he is a drug addict. He is in for
5 possession and distribution of drugs.

6 THE COURT: I think it is proper.

7 BY MR. JANUS: (Continuing)

8 Q Any other drugs?

9 MR. WATSON: Leading.

10 MR. JANUS: It's cross-examination.

11 THE COURT: You have a right to lead on
12 cross-examination.

13 THE WITNESS: Not right offhand. I can't
14 think of any.

15 BY MR. JANUS: (Continuing)

16 Q Andrew W. Wood has been representing you on
17 the charges you are currently incarcerated for.

18 A Yes.

19 Q He was representing you on February 13.

20 A Yes.

21 Q How long have you been in jail?

22 A January 19, approximately.

23 Q Before February 13, 1982, had Forrest
24 Heacock come to visit you?

25 A I am not sure.

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S. Fuller - Cross

13.

1 Q Had he talked to you on the phone by you
2 calling him or--

3 A Before I was in jail?

4 Q No. Before that date, February 13.

5 A Yes, yes, yes. He did. We were in the
6 same tier.

7 Q I am saying: Did you call him on the
8 telephone at night any time before he came to visit you on
9 that day?

10 A No, I didn't call him.

11 Q When you call from the jail you have to
12 call collect for the person.

13 A Right.

14 Q And you don't remember having called him.
15 How about on the day of February 13? Do
16 you recall calling and asking him to come to see you?

17 A I may have on somebody else's call.

18 Q Could Audie Chaplin have called him and
19 you talked to him on his call?

20 A That is possible.

21 Q Prior to February 13, 1982, Forrest was a
22 friend of yours.

23 A More or less.

24 Q When he came to visit you on that date you
25 had not decided to be a witness for the Commonwealth; had you?

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S. Fuller - Cross

14.

1 A Uh, I was still more or less undecided.

2 Q You hadn't given a statement to the Common-
3 wealth at that time.

4 A No.

5 Q You had not worked out any kind of deal
6 with your attorney as to what you would get if you cooperated,
7 at that point; had you?

8 A No.

9 Q You were under the same charges as Forrest
10 Heacock was under on that date.

11 A Yes.

12 Q On that date he had seen Audie Chaplin before
13 he saw you in the jail.

14 A That is correct.

15 Q And you went and talked to Forrest.

16 A Right.

17 Q Didn't he ask if he could bring any racing
18 magazines? You told him you couldn't get anything but
19 religious literature.

20 A I don't seem to recall anything about that.

21 Q Did he talk on a personal nature such as:
22 Can I do anything for you? Take care of anything on the
23 outside for you?

24 A Uh, it seems like I asked if anybody was
25 messing up my name on the street. I don't recall anything

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S. Fuller - Cross

15.

1 else.

2 Q Now, sir, just by the way-- What size
3 person are you, Mr. Fuller? How tall are you?

4 A Approximately 6, 1.

5 Q What do you weigh?

6 A Approximately 165.

7 Q Now, sir, when did you first give a state-
8 ment? When did you first tell anyone you had been threatened
9 by Mr. Forrest Heacock on February 13, 1982?

10 A That would be when I talked to my attorney.

11 Q When was that?

12 A I don't really-- I couldn't give you an
13 exact date. Perhaps a couple of days later - to a week later.

14 Q The first time you gave any statement to an
15 investigator for the Commonwealth or anyone from Mr. Watson's
16 office or Mr. Watson was March 12, 1982; is that correct?

17 A I would assume it is. I am not real great
18 on approximate dates.

19 Q It would have been a Friday. Does that
20 refresh your memory?

21 A Yes.

22 Q You weren't scared by Forrest talking to you
23 at that time; were you?

24 A I would say I was.

25 Q But at that time you weren't a witness for

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S. Fuller - Cross

16.

1 the Commonwealth; were you?

2 A Well, I wasn't a witness, but I mean some-
3 body comes up and tells you I am liable to be killed - that is
4 enough to scare anyone.

5 Q He didn't say that. He said "taken care of"
6 didn't he?

7 A I think when he said "taken care of" he
8 mentioned Charles City. I was able to draw a conclusion.

9 Q How do you know Charles City?

10 A I read.

11 Q At no time was it mentioned the young boy
12 and wife were witnesses for the Commonwealth.

13 A They mentioned guns and notes on there.
14 You can put two and two together.

15 Q You cannot tell Judge Gates that they were
16 witnesses or informants for the Commonwealth; can you?

17 A No.

18 Q What kind of code word did he mention?

19 A He didn't.

20 Q Part of your arrangement with the Common-
21 wealth is that you will testify on behalf of the Commonwealth
22 in this hearing and any other hearing against Forrest Heacock;
23 is that correct?

24 A That is correct.

25 Q And tell us what the Commonwealth will do

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S. Fuller - Cross

17.

1 for you.

2 A Well, I know what my attorney has said.
3 Although there--

4 Q What is your understanding of what will be
5 done?

6 A My understanding is some of the charges
7 will be dropped.

8 Q The murder charge will be dropped; won't it?

9 A Right.

10 Q And you will get suspended sentences; aren't
11 you?

12 A Exactly.

13 Q You were facing a second degree murder
14 charge of 20 years plus two 40 year charges; weren't you?

15 A Uh-huh.

16 Q And you would walk away from this because
17 of the arrangement you have with the Commonwealth and get
18 zero time; is that correct?

19 A My impression.

20 Q Pretty good deal; don't you think, Stephen?

21 A No, not really a good deal because of the
22 people he is with. I believe he has pretty heavy connections.
23 I will not feel safe if and when I do walk away from this.

24 Q You were one of the connections and friends
25 before this happened; weren't you?

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S. Fuller - Cross

18.

- 1 A Yeah.
- 2 Q Audie Chaplin is one of his friends; isn't
- 3 he?
- 4 A Uh-huh.
- 5 Q Did you tell anyone in the jail you had
- 6 been threatened?
- 7 A Not to my knowledge.
- 8 Q Subsequent to the visit on March - or
- 9 February 13, excuse me, you called his home a couple more
- 10 times after that and talked to him; didn't you?
- 11 A I don't recall. I recall talking on one
- 12 of Audie Chaplin's calls. I don't recall ever calling him
- 13 myself personally.
- 14 Q You and Chaplin would have access to the
- 15 phone at the same time.
- 16 A Yes.
- 17 Q You had a friendly conversation with him
- 18 that time; didn't you?
- 19 A Yes.
- 20 Q There was no repercussion - no repeat of
- 21 any threats between that time and March 12; was there?
- 22 A Audie mentioned to me--
- 23 Q I am talking about to you, sir.
- 24 A Could you run that by me again?
- 25 Q Forrest Heacock, sitting to my right

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S. Fuller - Cross

19.

1 (indicating), didn't threaten you or say anything to you that
2 you took as a threat between February 13, 1982, and March 12,
3 1982; did he?

4 A Not that I can really recall.

5 Q Don't you think you would recall if some-
6 body threatened you?

7 A Yes, I do.

8 Q Did Audie Chaplin threaten you?

9 A He mentioned a couple of times that I knew
10 what would happen if I were to testify.

11 Q Nothing physical has happened to you.

12 A No.

13 Q No one else has threatened you saying that
14 Forrest told them to say certain things; have they?

15 A No.

16 MR. JANUS: I have no further questions.

17 THE COURT: Any questions?

18 MR. WATSON: Yes, I have a couple.

19

20 REDIRECT EXAMINATION

21 BY MR. WATSON:

22 Q But you were transferred to Petersburg jail;
23 is that correct?

24 A Yes, I was.

25 Q In talking with Mr. Wood was it your

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S. Fuller - Redirect

20.

1 understanding that whatever may end up in this case as it
2 relates to you that you were to have in-custody treatment at
3 some state institution for whatever problems you might have
4 regarding drugs and stuff?

5 A He mentioned several private institutions.

6 Q It is in-custody type and you were to stay
7 there as long as-- They were to inform the Court that you
8 were cured, more or less.

9 A That is correct.

10 MR. WATSON: I have no further questions.

11 THE COURT: You may step down.

12 Do you have any other evidence?

13 MR. WATSON: Yes, sir. I would like to
14 call Lieutenant Williams.

15 THE COURT: Come forward, Mr. Williams.

16 NOTE: At this time the witness was sworn.

17

18

19

20

21

22

23

24

25

1 C. G. WILLIAMS, JR., a witness called by the
2 attorney for the Commonwealth, having first been duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. WATSON:

6 Q Mr. Williams, state your name and occupa-
7 tion for the Court.

8 A Lieutenant C. G. Williams, Jr., Chesterfield
9 County Police Department in charge of vice division.

10 Q Are you familiar with the facts and cir-
11 cumstances of this case?

12 A Yes, sir, I am.

13 Q State whether or not you have, or anybody
14 in your division or the Police Department has, tried to
15 locate one Bruce Collie in the last several weeks.

16 A Yes, sir. About two weeks after the
17 special grand jury we attempted to locate him.

18 Q Have you been able to locate him?

19 A No, we have not been able to locate him yet.

20 Q State whether or not there has been a
21 concerted effort to locate him.

22 A Yes. In talking with parents, brother,
23 and local friends.

24 MR. WATSON: Answer any questions Mr. Janus
25 may have.

C. Williams, Jr.

22.

CROSS-EXAMINATION

BY MR. JANUS:

Q To the best of your knowledge an investigation based on telecommunications with law enforcement agencies throughout the country he is not found dead.

A No.

Q He has not been found wounded or shot or hurt in any way.

A He has not been found anywhere.

Q Under the Commonwealth's theory of the case and Collie's testimony he could very well be indicted as a co-conspirator.

MR. WATSON: Objection. All I put in mine was he able to find a certain individual.

MR. JANUS: I am trying to show that could very well be the reason that is why the gentleman left the jurisdiction.

THE COURT: I think it is proper.

THE WITNESS: Would you ask the question again?

BY MR. JANUS: (Continuing)

Q Under your theory Collie was at a party where cocaine was allegedly distributed; wasn't he, sir?

A Yes.

Q He could have been a co-conspirator because

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C. Williams, Jr. - Cross

23.

1 he was taking part in the activities; couldn't he, sir?

2 A Yes. He was a co-conspirator, but he
3 testified in the drug case at the special grand jury and,
4 therefore, could not be charged with it.

5 Q His statement couldn't be used against him;
6 isn't that correct?

7 A He could not be charged with a drug offense
8 because he testified in the special grand jury.

9 MR. JANUS: Okay. I have no further ques-
10 tions.

11 MR. WATSON: I have none, Your Honor.

12 THE COURT: Is that the Commonwealth's case?

13 MR. WATSON: That would be the Commonwealth's
14 case.

15 THE COURT: Commonwealth's case.

16 Do you have any evidence?

17 MR. JANUS: Yes, sir, very briefly.

18 NOTE: At this time the witness was sworn.
19
20
21
22
23
24
25

1 CLARENCE D. GREEN, a witness called by the
2 attorney for the defendant, having first been duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. JANUS:

6 Q What is your name?

7 A Clarence D. Green.

8 Q Mr. Green, back in February of 1982, where
9 were you residing?

10 A In Chesterfield jail.

11 Q In that connection, did you know someone
12 by the name of Stephen Fuller?

13 A Yes, I did. We were on the same tier
14 together.

15 Q Do you remember a day when Forrest Heacock
16 came to visit him?

17 A Yes.

18 Q Had Forrest visited anyone else before he
19 visited Stephen Fuller?

20 A Audie Chaplin.

21 Q Did Fuller say anything before he saw
22 Forrest Heacock?

23 A No.

24 Q When he came back, tell Judge Gates what he
25 said, if anything.

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C. Green - Direct

25.

- 1 A Only thing he said was Forrest offered to
2 put money in his canteen for him and help people fixing his
3 house up to sell it and Forrest offered to do little things
4 around his house if he wanted it done.
- 5 Q Did he ever tell you he had been threatened?
- 6 A No, he did not.
- 7 Q Did he act any differently when you saw him?
- 8 A No, he did not.
- 9 Q Could you tell His Honor whether or not you
10 heard him telephone Forrest Heacock or talk to Forrest
11 Heacock on the phone after this?
- 12 A Several times. He did call Mr. Heacock
13 after the 13th.
- 14 Q Did he ever tell you that he was afraid of
15 him?
- 16 A No, he did not.
- 17 Q Did he ever act in any way that would
18 indicate to you that he was?
- 19 A No, sir.
- 20 Q And how long were you in the Chesterfield
21 jail? Until just a few days ago?
- 22 A Yes, sir.
- 23 Q You don't know Forrest Heacock. He is not
24 a friend of yours; is he?
- 25 A No, sir.

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C. Green - Direct

26.

1 MR. JANUS: I have no further questions.

2

3 CROSS-EXAMINATION

4 BY MR. WATSON:

5 Q Mr. Green--

6 A Yes, sir.

7 Q When did you first know you were going to
8 appear today?

9 A Uhm, the day I got out really.

10 Q When was that?

11 A Last Thursday.

12 Q Last Thursday?

13 A Yes, sir.

14 Q About the 18th of March.

15 A Yes, sir.

16 Q How do you remember the specific days you
17 have testified to?

18 A Cause I be saying I didn't know Forrest
19 Heacock.

20 Q Who suggested this specific day when you
21 heard this evidence?

22 A After I had met Mr. Heacock I told him I
23 was on the tier.

24 Q On the what?

25 A On the tier with Mr. Chaplin and Mr. Fuller

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C. Green - Cross

27.

1 and he told he was going to mention it to his lawyer.

2 Q When was that?

3 A That was last Wednesday.

4 Q But how-- You were on the same tier as
5 Fuller. Is that what you mean?

6 A Yes, sir.

7 Q How can you remember everything that
8 happened that specific date - February 13?

9 A Because we weren't but six of us so you--

10 Q How do you know it was the 13th of
11 February? Did someone suggest it was the 13th?

12 A No, sir.

13 Q How do you remember?

14 A I was there.

15 Q Now, you say he made several phone calls.
16 You were right there with him when he made all of the tele-
17 phone calls.

18 A The telephone-- My cell is right in front
19 of the telephone.

20 Q How do you know who he called all of these
21 times?

22 A He always said "Forrest."

23 Q You were listening in on all of the phone
24 calls.

25 A Well, everybody can hear.

34

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C. Green - Cross

28.

- 1 Q Is that the only person he called?
- 2 A No. He called his lawyer several times.
- 3 Q Did he call anybody else?
- 4 A His aunt and uncle.
- 5 Q What are their names? What did he say?
- 6 "Hello aunt, is this you?"
- 7 A No. He told me he was going to call.
- 8 Q He told you all of the calls he made. What
- 9 were you in jail for?
- 10 A Unlawful possession.
- 11 Q Of what?
- 12 A Somebody's car.
- 13 Q Have you ever been convicted of a felony?
- 14 A No, sir.
- 15 Q Ever been convicted of an offense involving
- 16 moral turpitude - lying, cheating, or stealing?
- 17 A No, sir.
- 18 Q How did you get out of jail this time?
- 19 A I am out on bond.
- 20 Q Who got you out?
- 21 A My brother.
- 22 MR. WATSON: I have no further questions.
- 23 MR. JANUS: No redirect, Your Honor.
- 24 THE COURT: You may step down.
- 25 NOTE: At this time the defendant was sworn.

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29.

1 FORREST PERRY HEACOCK, the defendant called
2 as a witness in his own behalf, having first been duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. JANUS:

6 Q What is your name?

7 A Forrest Perry Heacock.

8 Q You, of course, are the defendant.

9 A Yes.

10 Q How old are you, Forrest?

11 A 24.

12 Q Directing your attention back to before
13 February 13, 1982, did you think Stephen Fuller was a friend
14 of yours?

15 A Yes.

16 Q How about Audie Chaplin?

17 A Yes.

18 Q Did you go visit Stephen Fuller February
19 13, 1982, in the Chesterfield County Jail?

20 A Yes, sir, I did.

21 Q Did you visit him before that date?

22 A Yes, sir, I believe so. I visited him
23 several times.

24 Q Did you visit him after that?

25 A Yes.

36

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F. Heacock - Direct

30.

1 Q Why did you go there?

2 A I felt sorry for him. He didn't have any
3 parents and I wanted to see if there was anything I could do
4 for him.

5 Q Did you make an offer to bring reading
6 matter?

7 A I have racing magazines and motorcycle
8 magazines because when I was in jail they were talking that
9 they would like something to read. We were always watching
10 that type of program on TV and that is when he told me he
11 couldn't have anything but religious magazines.

12 Q Before that, did he call you at home?

13 A Yes, sir.

14 Q When he calls is there a toll record?

15 A I believe it is a collect call from the
16 jail and I have to pay for the call at my house.

17 Q On February 13, 1982, did you threaten
18 Stephen Fuller?

19 A No, sir, I did not.

20 Q Did you tell him that he would be taken
21 care of?

22 A No, sir, I did not.

23 Q Did you know he would be a witness for the
24 Commonwealth on that date?

25 A No, sir, I did not.

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F. Heacock - Direct

31.

1 Q Was he charged with the same three offenses
2 you were on that date?

3 A Yes, sir, he was, to my knowledge.

4 Q After that date did he call you at home?

5 A Yes, sir.

6 Q On more than one occasion?

7 A Yes, sir.

8 Q At any time after that, did you ever
9 threaten him?

10 A No, sir.

11 Q Did you ever say, "I would have him taken
12 care of"?

13 A No, sir.

14 Q Now, sir, did you make any reference to
15 Charles City County or any people involved in Charles City
16 County when you visited him on February 13th?

17 A No, sir. He made reference to me.

18 Q Did you know anything about Charles City
19 County?

20 A Not until I read up on it after he said
21 something to me.

22 Q What did he say?

23 A He said: Did you read the paper about
24 people in Charles City involved in drugs and cocaine. I
25 said: No. I hadn't heard anything about it.

38

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F. Heacock - Direct

32.

1 Q Had you heard anything about it?

2 A No, sir.

3 Q Now, sir, did you hear any complaint by
4 Stephen Fuller about coming to see you or visiting you
5 between February 13 and March 12, 1982?

6 A No, sir.

7 Q What was the first you knew you were
8 charged with threatening him?

9 A When they came to the house on March 13 -
10 I was picked up on March 12.

11 Q At that time did you know he would be a
12 witness for the Commonwealth?

13 A No.

14 Q Do you have any friends - other than
15 Audie Chaplin - in the Chesterfield County jail?

16 A No, sir, not to my knowledge.

17 Q Did you tell him you had friends that
18 could take care of people?

19 A No, sir.

20 Q Did you have any conversation about code
21 words?

22 A No, sir.

23 Q Who is Bruce Collie?

24 A Friend of mine.

33 25 Q Have you done any harm to him?

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F. Heacock - Direct

33.

1 A No, sir.

2 Q Have you threatened him?

3 A I haven't seen Bruce Collie.

4 Q Do you know where he is?

5 A No, sir, I do not.

6 Q Have you been arrested for any other
7 offenses since you have been out on bond?

8 A No, sir.

9 Q To the best of your ability and knowledge,
10 have you kept the terms of the bond?

11 A Yes, sir. I haven't gone anywhere. People
12 offered and told me about parties - even at my mother-in-law's
13 house - and I didn't go just because I didn't want to be out
14 in public.

15 MR. JANUS: Answer any questions Mr.
16 Watson may have.

17
18 CROSS-EXAMINATION

19 BY MR. WATSON:

20 Q When was the last time you talked to Bruce
21 Collie?

22 A I wouldn't have any idea.

23 Q Isn't it a fact it is right after you
24 testified for the special grand jury?

25 A No, sir. I am not sure. I might have.

40

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F. Heacock - Cross

34.

1 Yes, sir, I could have.

2 Q He told you everything he told them; didn't
3 he?

4 A No, sir, he didn't tell me. He didn't say
5 anything--

6 Q You don't have any idea where he is at
7 today.

8 A No, sir, I do not.

9 Q Isn't it a fact you told him you knew he
10 was coming to the grand jury and you told him to report back
11 to you after it was all over?

12 A No, sir, I don't believe so. I knew he was
13 coming to the grand jury just through some friends of mine,
14 that is all.

15 Q You knew all along in this whole case that
16 if anything was going to go wrong that Stephen Fuller was the
17 weak link; didn't you?

18 A No, sir.

19 Q Well, Sharon Dryden was the weak link;
20 wasn't she?

21 A No, sir. I am not sure--

22 MR. JANUS: I think we are getting far
23 afield going into individual witnesses.

24 THE WITNESS: I don't know the Dryden girl
25 well enough to--

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F. Heacock - Cross

35.

1 MR. WATSON: Wait until the Judge rules.

2 THE COURT: I think he can ask the ques-
3 tion. He is on cross-examination.

4 BY MR. WATSON: (Continuing)

5 Q You had actually made a bargain with all of
6 the people involved to blame it on Sharon; hadn't you?

7 A No, sir.

8 Q And the only weak link was Stephen Fuller.
9 If he broke, and you knew he was a weak link, you had been
10 had; hadn't you?

11 A No, sir.

12 Q You were buddies - drug dealers together;
13 is that right?

14 A I was an acquaintance through two friends
15 of his living in his house at that time.

16 Q You're not a drug dealer?

17 A No, sir.

18 Q Never dealt drugs before?

19 A No, sir.

20 MR. WATSON: Judge, may we have-- Excuse
21 me.

22 Make we take a ten minute recess?

23 MR. JANUS: I object to any further ques-
24 tions along this line of questioning. We are
25 dealing strictly with a bond revocation from the

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F. Heacock - Cross

36.

1 time he was bonded through today. Anything further
2 from that is not relevant to the issue before the
3 Court.

4 MR. WATSON: I went into the background
5 testing the credibility of your witness. He is on
6 the stand now and he just lied and I will prove it.

7 THE COURT: I think you should have the
8 opportunity to do that.

9 MR. WATSON: May we have a ten minute
10 recess while I go get a tape, Your Honor?

11 THE COURT: We will take a ten minute recess.

12 NOTE: At 2:45 p.m. a recess was taken
13 until 2:58 p.m. at which time the proceeding con-
14 tinued, viz:

15 MR. WATSON: May it please the Court, I have
16 no further questions of him at this time and ask the
17 Court that I reserve the right to recall him.

18 THE COURT: All right, sir.

19 MR. JANUS: Step down, Forrest.

20 MR. WATSON: Call Lieutenant Williams.

21 MR. JANUS: We can do it later. She would
22 be a witness to the telephone call she accepted
23 from Stephen Fuller. I proffer she has one toll
24 record and the other March telephone records are not
25 in from the telephone company.

1 With that the defendant rests his evidence.

2 THE COURT: All right.

3 MR. WATSON: Lieutenant Williams.

4 You have been sworn.

5 MR. WATSON: Yes.

6
7 C. G. WILLIAMS, JR., a witness called in
8 rebuttal by the attorney for the Commonwealth, having pre-
9 viously been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. WATSON:

12 Q What is that in your hand?

13 A A tape recorder and complaint sheet from
14 drug enforcement administration.

15 Q Has it got a cassette?

16 A Yes.

17 Q What is it about?

18 A Taped conversation between Special Agent
19 Burroughs and Forrest Perry Heacock.

20 Q Would you play it for the Court.

21 A Yes, sir, I would.

22 NOTE: The following is taken from the
23 tape.

24 MR. HEACOCK: Yeah.

25 FRIEND: Uh, could I speak to Forrest?

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C. Williams, Jr. - Direct

38.

1 MR. HEACOCK: Yeah, you got him.

2 FRIEND: Hey, this is, uh, Friend down in,
3 uh--

4 MR. HEACOCK: Right, right, right, right, I
5 got you. Hey, uh--

6 FRIEND: Hey, maybe you can tell me what,
7 uh, about what's going on.

8 MR. HEACOCK: Yeah, I can understand your
9 damn, uh, end of it, man, uh, the guy on my end is
10 the same way, you know. We're all scared shitless
11 about it. What it was see when he called the other
12 night and had 300 lined up we would be ready for him.
13 And he didn't get in touch with me for two days and
14 he went ahead and got a line on 75 of them for three
15 and a quarter, see.

16 FRIEND: Right.

17 MR. HEACOCK: And, uh, what it is right
18 now he, you know, just can't get off on them in time
19 to get everything back, you know.

20 FRIEND: Right.

21 MR. HEACOCK: And, uh--

22 FRIEND: Well,--

23 MR. HEACOCK: Things are kind of hot on
24 this end and he scared of you all including me
25 cause he didn't know how, you know, I met, uh, you

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39.

1 know, Sandy.

2 FRIEND: Right.

3 MR. HEACOCK: And, uh-- And from what
4 Sandy says, you know, you all are scared of us, you
5 know--

6 FRIEND: Uh-huh.

7 MR. HEACOCK: --from not knowing, you know,
8 how everything went.

9 FRIEND: Well, I, you know, I've known him
10 for a while and I, uh, you know, we trust each other
11 on that, uh, on that end. So, uh, the thing that,
12 uh, kind of concerns me is is what I'm going to do
13 with this, you know.

14 MR. HEACOCK: Yeah.

15 FRIEND: Uh, I don't, uh-- I thought that
16 was a good, uh, for this part of the country that
17 was a, uh, super, uh, price, uh, that I was giving
18 you there.

19 MR. HEACOCK: What I'd--

20 FRIEND: And really I'll tell you quite
21 honestly I can't, uh-- He told me that, uh, the
22 thing could, uh, result and develop into, uh, maybe,
23 you know, four or five, uh--

24 MR. HEACOCK: Right.

25 FRIEND: Four or five of those things a

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40.

1 month, you know.

2 MR. HEACOCK: Uh-huh.

3 FRIEND: That quantity and, uh, that's -
4 that's the reason that, uh, I just had in a couple
5 of a, you know, it was 25 key things just the way I
6 got them.

7 MR. HEACOCK: Right, right.

8 FRIEND: And I was just going to dump them
9 like that and--

10 MR. HEACOCK: Right.

11 FRIEND: Really I can't-- At that price
12 I really can't afford to let, uh, you know, a small
13 quantity like that go for just, you know-- Uh,
14 cause I have to buy a bunch of it to be able to do
15 it, you know.

16 MR. HEACOCK: Right, right, right, yeah.
17 I understand how that goes.

18 FRIEND: So anyway I, you know-- That's
19 where I'm at and I, I and I'm I'm here with it and,
20 uh--

21 MR. HEACOCK: That that's what I hate -
22 see cause I mean we always like to make a first
23 impression whoever we mess with, you know.

24 FRIEND: Well, you know, I-- I, you know--
25 I, I been called a lot of things, uh, but, but one

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41.

1 is not being unreasonable.

2 MR. HEACOCK: Right.

3 FRIEND: You know, and, and I I had to--
4 I have to do this myself and I had to-- I have to
5 start or I had to start, you know, and, uh, I I can
6 understand some things kind of getting out of hand.

7 MR. HEACOCK: Right. But I mean it
8 happens too many times to us and I know that other
9 people, you know, who are in it all the time don't
10 like to hear it, you know.

11 FRIEND: Well--

12 MR. HEACOCK: And I hate to have to, you
13 know, tell it to you like that, but see he was
14 supposed to get back with me at 5:00 that day and
15 see I could have told him then at 5:00 that, see,
16 that that's before I knew that he'd already gotten
17 75 of, you know, what I said.

18 FRIEND: Sure.

19 MR. HEACOCK: And it's, you know, just
20 average, you know.

21 FRIEND: Did what-- What did you, uh--
22 What did you, uh, have to, uh, pay for the--

23 MR. HEACOCK: Three and a quarter.

24 FRIEND: Yeah. Well, I can beat that.

25 MR. HEACOCK: Yeah. Well, I know-- We

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42.

1 know what you said, uh, after the 2 key, you know,
2 225 key bundles at 110 would that come out 272--

3 FRIEND: Something like that. Yeah, right.

4 MR. HEACOCK: 50. Something like that?

5 FRIEND: Yeah, right. I just-- I just
6 didn't want to, you know, because, again, this is
7 a first time thing. I want to equally as make it,
8 uh, you know, reasonable impression on you.

9 MR. HEACOCK: Right.

10 FRIEND: And I didn't want to - to bust
11 them open. You - you could do that yourself.

12 MR. HEACOCK: Right, right.

13 FRIEND: And, uh, that's the way I've got
14 them, uh. I will tell you what I, uh-- I don't
15 like to do it, but, uh, I don't want for us to come
16 up there and were fixing to leave and go over
17 towards, uh, well, Raleigh area.

18 MR. HEACOCK: Uh-hum.

19 FRIEND: And, uh, uh, I don't, uh, I don't,
20 uh, like to do this, but I'll tell you, uh, uh, if
21 we're going to come all the way there I'd - I'd
22 want you to, you know-- You're going to have to
23 have your act together.

24 MR. HEACOCK: Yeah.

25 FRIEND: You - you understand that?

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43.

1 MR. HEACOCK: Right, right. I know that.

2 FRIEND: Uh, I don't want to hang around
3 there and if we do this thing-- I, I, you know--

4 MR. HEACOCK: That's what I said I like to--

5 FRIEND: You, you, you come and-- You come
6 and you check it out and, uh, of course, you're
7 going to like it and I want you to have your thing
8 ready to go then.

9 MR. HEACOCK: Right. Cause--

10 FRIEND: I don't want one of these who
11 struck John things or--

12 MR. HEACOCK: Right. Cause, hey, when I
13 do it I like 15 minute thing and that's it.

14 FRIEND: Yep. Yeah, I agree. Okay. What
15 I-- What I'll do - and, and, uh, against my, my
16 good judgment really, I'll, uh, - I'll drop this
17 stuff over or down the road here where I'm going
18 with a friend.

19 MR. HEACOCK: Uh-hum.

20 FRIEND: Okay? Now I try to come this way,
21 uh, at least, you know, Carolina way, uh, twice a
22 month if I can.

23 MR. HEACOCK: Uh-huh.

24 FRIEND: Because this is home--

25 MR. HEACOCK: Uh-hum.

50

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44.

1 FRIEND: --you know, originally. Uh, I was
2 planning to come up next week on another - another
3 matter and I tell you, uh, if you, uh-- I don't
4 know what day, but you, uh, if you're going to have
5 your thing I'll check with, uh, Sandy because he's
6 going - he's going to have to come.

7 MR. HEACOCK: Right.

8 FRIEND: And, uh, I can, uh, I'm sure we
9 can come up one day next week and, uh, I'll just
10 have to call you and let you know when.

11 MR. HEACOCK: Right, all right.

12 FRIEND: And I - I'll stop and, uh, pick it
13 up or have somebody bring it up for me.

14 MR. HEACOCK: Right.

15 FRIEND: Which I'll probably do.

16 MR. HEACOCK: Okay.

17 FRIEND: And just come on. I'll come up
18 there then. Now will that give you time to get your--

19 MR. HEACOCK: That, that ought to give me
20 time, yeah. That-- Yeah.

21 FRIEND: Can you tell me "yes or no"
22 because, you know--

23 MR. HEACOCK: Well, I'd - I-- Yeah, I'd
24 say yes, you know, because, uh, he's almost got
25 enough to cover it right now.

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45.

1 FRIEND: Yeah. Well, you know-- I, you
2 know,-- I, you know, almost is is not quite enough
3 and--

4 MR. HEACOCK: That's what I mean. That's
5 what I say, you know--

6 FRIEND: Yeah.

7 MR. HEACOCK: We don't do no fronting
8 anyway.

9 FRIEND: Yeah. I know, but--

10 MR. HEACOCK: Not even to people we know
11 cause it just doesn't pay off in the end. Uh, you
12 know, somebody's always doing something wrong.

13 FRIEND: Well, with what he told me, uh,
14 true do we, uh, now, you know, I can't, uh-- I
15 wouldn't want to - do this thing if it was only
16 going, uh, be one of those every - every month or
17 so. Do you think if we could--

18 MR. HEACOCK: Well, I could - I could at
19 least say, uh, two - two to three times a month.

20 FRIEND: Okay. At least to start.

21 MR. HEACOCK: Right. Uh-hum, uh-hum.

22 FRIEND: All right. Well, we'll, uh -
23 we'll sit down and talk about that once we - once
24 we get up, uh, I think we could do it that way now.
25 I am, uh, he's never steered me wrong before.

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46.

1 MR. HEACOCK: Right. Uhm-uhm. We might
2 want to talk about a few other things on on the -
3 on the hook.

4 FRIEND: Well, yeah, we, we can. I, I got
5 something in mind that, uh, that is one real, uh,
6 fast down, uh, down south.

7 MR. HEACOCK: I think I know what you're
8 talking about.

9 FRIEND: Well, I don't know whether you do
10 or not. I'll tell you, uh, up here I never, uh,
11 mess with it that much, but it's, uh, uh, some of
12 that stuff that makes you - makes you go a little
13 bit faster, you know.

14 MR. HEACOCK: Oh, oh, that, oh.

15 FRIEND: And, uh, it's kind of hard to get
16 down those, uh--

17 MR. HEACOCK: Well, we don't-- We don't
18 really mess with nothing like that, but, uh--

19 FRIEND: Is that right?

20 MR. HEACOCK: Not really. Uh, you know,
21 other than just occasionally when you need it - do
22 a little bit.

23 FRIEND: Yeah. Well, I was talking to some
24 people down here at Carolina and they say that it is
25 a lot around here.

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47.

1 MR. HEACOCK: Well, a lot of people here go
2 wild on it, but, uh, we stay pretty - pretty
3 physically fit around here and stuff and, uh--
4 Usually about the only thing we're into is
5 occasionally we'll snowball.

6 FRIEND: Oh, yeah. Well, you know, there's
7 - there's, uh, - there's plenty of that down where--

8 MR. HEACOCK: Uhm-uhm. Cause, uh, we were
9 just talking to somebody about a month ago on, uh,
10 2.2 of that.

11 FRIEND: Yeah.

12 MR. HEACOCK: From right down in west area
13 of Florida.

14 FRIEND: What kind of - what kind of price
15 was they, uh--

16 MR. HEACOCK: 50 even.

17 FRIEND: 50 even?

18 MR. HEACOCK: Uhm-uhm.

19 FRIEND: I tell you that - that's, uh, -
20 that's pretty righteous.

21 MR. HEACOCK: Yeah. Well, that's the way
22 it's supposed to be. It's supposed to be straight
23 up too.

24 FRIEND: Well, well, it would be hard to
25 beat that. I-- I tell you I - I have--

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48.

1 MR. HEACOCK: The guy I've known him for
2 about 10 years lives right out there on the islands.

3 FRIEND: Yeah. I have dabbled in that, uh,
4 uh, occasionally, but, uh, I tell you when you count
5 to the risk versus the, you know, the profit this is
6 still the better thing.

7 MR. HEACOCK: Yeah. It's more bulk in that.

8 FRIEND: You know that--

9 MR. HEACOCK: --but, uh--

10 FRIEND: Yeah, they--

11 MR. HEACOCK: They go a little lighter if
12 they get you.

13 FRIEND: Yeah, yeah. That's - that's the
14 problem is just getting it from Point A to Point B.

15 MR. HEACOCK: Right. Well, I don't plan
16 on getting it period, you know. The way I play,
17 you know, I just don't-- I just try to rule out
18 any chance of setup, you know.

19 FRIEND: Sure, well, that's--

20 MR. HEACOCK: Cause my life is worth more
21 than that. I got a-- I'm an engineer for the
22 railroad for the Chessie system and stuff and, uh,
23 you know, got a little family. Well, I got one
24 little small kind, you know, and I just don't have
25 any room in it for anything like that, you know.

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49.

1 FRIEND: Yeah. Well, you know, we all have
2 those kind of problems, but, you know, that's
3 another thing that I'm - I've got to consider in
4 this thing too. Well, you know, I don't want to go
5 into all of that so--

6 MR. HEACOCK: Great.

7 FRIEND: I tell you we got, uh, we got to
8 hit the road. We're running about an hour late
9 and--

10 MR. HEACOCK: All right. Well, I'm glad
11 he got you to call because he said that, you know,
12 you all were just hanging on the other end saying,
13 you know, this is--

14 FRIEND: Well, we, we were and I just, uh,
15 you know, - I just never all my, you know, dealings
16 with him we just never had any, uh - any quite like
17 this and I just--

18 MR. HEACOCK: Right.

19 FRIEND: Usually take his word - and, and,
20 uh, and - like I do anybody that I trust, but it
21 just got kind of out of hand and I just had to to
22 go ahead and do this, you know, and--

23 MR. HEACOCK: Right.

24 FRIEND: Reassure my partner, too.

25 MR. HEACOCK: Well, we can-- We normally

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50.

1 got the cake and the big bills right on hand.

2 FRIEND: Well, you know--

3 MR. HEACOCK: Like I said, we keep it that
4 way and, uh, he don't go for nothing like, you know,
5 when it-- When you get it it's all in line and we
6 usually take care of things real quick and get back
7 on the road.

8 FRIEND: All right. You-- I tell you what
9 I-- I got to, uh-- I'll call you or have him call
10 you, uh, I don't know Sunday or Monday - something
11 like that.

12 MR. HEACOCK: Uhm-uhm.

13 FRIEND: To, you know, to let you know
14 when we're going to be up that way.

15 MR. HEACOCK: Uhm-uhm. So you all aren't
16 coming into this area any at all then right?

17 FRIEND: No. Absolutely not.

18 MR. HEACOCK: Uhm.

19 FRIEND: I don't have any reason to. That's
20 the reason I want to try to get something, uh--

21 MR. HEACOCK: Right.

22 FRIEND: Something new going there.

23 MR. HEACOCK: Uhm-uhm.

24 FRIEND: But, uh, once we, uh-- I got to,
25 you know, make a couple of stops over in Raleigh-

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51.

1 Greensboro and, uh, we're going to be, uh, kind of
2 headed back, you know.

3 MR. HEACOCK: Uhm-uhm.

4 FRIEND: And, uh, so I have no reason to
5 come up there.

6 MR. HEACOCK: Uhm-uhm. What I was just
7 going to say like if you all were going by on the
8 interstate or something if, uh, if you threw me a
9 couple bags I could stick it under his nose and
10 make him hurry up. You know what I mean?

11 FRIEND: Yeah. Well, you know--

12 MR. HEACOCK: If you say it's-- If it's
13 like what you say it is--

14 FRIEND: Well, you know, that's, uh, uh--
15 I'm a long way from there, but I will - I will, you
16 know, have no problem with that, but I tell you I,
17 uh, once we come up I, uh, uh, way I'd want to do
18 this thing and it's going to have to be my way.

19 MR. HEACOCK: Right, right.

20 FRIEND: Uh, I don't-- Again, I'm not a--
21 I'm not, uh, unreasonable person. I just-- I just
22 want to look at it as it is right now for some damn
23 slap and grab--

24 MR. HEACOCK: That's right and I see what
25 I know--

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52.

1 FRIEND: --situation and I, I, and, you
2 know, and-- I don't go in for the damn, uh--

3 MR. HEACOCK: Rip-off thing.

4 FRIEND: --for the - for the guns and all
5 that cute crap.

6 MR. HEACOCK: Uhm-uhm.

7 FRIEND: And, uh, what I'd like to do is -
8 is, uh, the way we generally do it is just, uh, uh,
9 get us a motel and, uh, you come on over and, uh,
10 maybe bring some, uh, bring some help. Okay?

11 MR. HEACOCK: Uhm-uhm.

12 FRIEND: Bring your bucks. I want us just
13 to see it wherever, you know, is reasonable that
14 you do have it and you can go down or send the
15 other guy to, uh, either to the truck or maybe
16 another room or whatever - same room. Check out
17 the, uh, you know, those things and, uh, weigh
18 them and, uh, once you get everything, uh, you know,
19 you load up right there and, uh, I want my, uh,
20 end of it.

21 MR. HEACOCK: Uhm-uhm.

22 FRIEND: And I don't know how you can deal
23 more fair than that.

24 MR. HEACOCK: Uhm-uhm. So, I-- I don't
25 know. You like that motel, uh--

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53.

1 FRIEND: Well, not, you know, it-- Again,
2 if, if-- I don't know what's been going up there.
3 What's the heat like?

4 MR. HEACOCK: Well, I mean--

5 FRIEND: Now if, if, you know, a better
6 way that - that's just as good as that I, I'm willing
7 to talk with you.

8 MR. HEACOCK: Naw. See I mean-- I know
9 that you all are just as scared of us as we are of
10 you. See that's the main thing that worries me.

11 FRIEND: Well, if you got a better idea
12 let me hear it.

13 MR. HEACOCK: Well, I-- I don't right,
14 right as of now, uh. You know, it's just, uh, I'll
15 definitely, uh, you know, let you make sure we were
16 for real before we even, you know, talk anything.

17 FRIEND: Well, you know, I-- The only
18 thing I'm concerned is that, uh--

19 MR. HEACOCK: That we got our end.

20 FRIEND: If some damn-- Yeah. And I--
21 And the other thing I - I just, uh, you know, I
22 know you're going to want to, uh, to - to check out
23 the damn weight and everything.

24 MR. HEACOCK: Well--

25 FRIEND: And--

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54.

1 MR. HEACOCK: Well, it depends. Sometimes
2 we just take a, you know, look and make sure it's
3 all inside.

4 FRIEND: Well.

5 MR. HEACOCK: We don't usually, uh--
6 Lot of times, you know, if somebody, you know, you
7 think got a pretty good line on first thing is
8 going to do for us we, you know, we don't go all
9 through it.

10 FRIEND: Well, if you seen a, uh, million
11 of these damn, uh, those 25, uh, key--

12 MR. HEACOCK: Right.

13 FRIEND: --things you know what they look
14 like so--

15 MR. HEACOCK: Right. Uhm-hum.

16 FRIEND: You know that will - that will
17 take care of that. If you--

18 MR. HEACOCK: Right. The only thing we
19 check is just to see that they are not hollow, you
20 know.

21 FRIEND: Oh, well no problem there.

22 MR. HEACOCK: All right.

23 FRIEND: If that's what you want to do I
24 don't - I don't see we will have any problems at all.

25 MR. HEACOCK: Okay. All right.

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55.

1 FRIEND: So, uh, let us, uh - let us, uh,
2 kick this thing around and see what, uh, - see what
3 the old travelling going to look like next week and
4 I'll have him give you a buzz, uh, Sunday or Monday.

5 MR. HEACOCK: Right, right, all right and
6 I mean while I will be getting my act together good.

7 FRIEND: Okay. My man.

8 MR. HEACOCK: Cause I mean I hate to let
9 you off on this first thing like this.

10 FRIEND: Well, you know-- Again, I--

11 MR. HEACOCK: But if I could have got hold
12 to him at 5:00 - see when, and when, he called here
13 I was rushing out that day trying to hurry up and I
14 knew somebody that might take, you know, like 30 off
15 of his hands, you know.

16 FRIEND: Well, listen--

17 MR. HEACOCK: And--

18 FRIEND: --whatever. Listen. Don't,
19 don't-- Please, I'm telling you don't leave me
20 hanging cause I don't want to take the stuff south.

21 MR. HEACOCK: Right.

22 FRIEND: I mean after next, you know, next
23 week don't leave me hanging because you know, I'm
24 going to have to-- You understand the situation
25 there.

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56.

1 MR. HEACOCK: Right. I, I understand it's
2 no use bringing it if you can't do away with it
3 while it's up.

4 FRIEND: Well, okay. We'll give you a call.

5 MR. HEACOCK: All right. Appreciate it.

6 FRIEND: Be good.

7 MR. HEACOCK: All right. Bye.

8 FRIEND: Bye.

9 The preceding call was made to Forrest
10 Heacock at Richmond, Virginia, at number 748-3799.
11 The call is made on April 15, 1981, at 1:50 p.m.
12 This call is made by Special Agent Stanley E.
13 Burroughs from the Norfolk resident office.

14 MR. WATSON: Answer any questions--

15

16 CROSS-EXAMINATION

17 BY MR. JANUS:

18 Q Lieutenant, what that was all about was
19 Stan Burroughs was trying to sell marijuana to Forrest
20 Heacock; is that correct?

21 A That is correct.

22 Q As a result of that conversation no trans-
23 action ever took place.

24 A No, sir, no transaction took place.

25 Q No charges have been brought against him

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57.

1 for that conversation or sought after; have they?

2 A At present, no.

3 THE COURT: Is that all?

4 MR. JANUS: Yes.

5 THE COURT: Thank you, Mr. Williams.

6 Is that all, Mr. Watson?

7 MR. WATSON: Yes, sir. I don't care to
8 recall the witness. I will not call somebody that
9 is going to lie. Judge, you have heard him today.

10 Counsel tried to attack the credibility of
11 the Commonwealth's witness as to what happened.

12 You heard the defendant get up there and
13 lie in front of you. He committed perjury right
14 there (indicating). That (indicating) is the proof.

15 I ask that no bond be set, Judge.

16 THE COURT: Mr. Janus.

17 MR. JANUS: Your Honor, you have heard Mr.
18 Fuller testify. You have observed his demeanor.
19 We submit that with respect to what we have just
20 heard on the tape - frankly I am not sure what we
21 heard-- The Court heard it as well as counsel.

22 I'll submit it, Judge.

23 THE COURT: I will revoke his bond. He is
24 not subject to bond.

25 All right, sir. Is that all?

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VIRGINIA:

IN THE CIRCUIT COURT OF CHESTERFIELD COUNTY

COMMONWEALTH OF VIRGINIA

-vs-

FORREST PERRY HEACOCK

COPY

The complete TRANSCRIPT of the incidents of the above-styled case when heard, on July 20, 1982, before Honorable D. W. Murphey, Judge.

APPEARANCES:

Charles K. Watson, Esquire, Commonwealth's Attorney for Chesterfield County, Virginia.

Cabell, Paris, Lowenstein & Bareford, 523 East Main Street, Richmond, Virginia; by: Robert G. Cabell, Jr., Esquire, counsel for Mr. E. P. Heacock.

1 MR. WATSON: Forrest Heacock.

2 THE CLERK: This is on a rule.

3 MR. WATSON: Judge, it's Mr. Heacock that
4 had posted the bond, and this hearing is against
5 him, not the defendant. Is that right?

6 MR. CABELL: That's my understanding.

7 THE COURT: Is he here?

8 MR. CABELL: Yes, sir.

9 MR. WATSON: Mr. Heacock.

10 THE COURT: Well, this Show Cause, then,
11 won't even be in this file, will it?

12 THE CLERK: Yes, sir.

13 THE COURT: You find it.

14 Mr. Watson, suppose you go ahead and make
15 your remarks while we are finding the papers.

16 MR. WATSON: Judge, Mr. Heacock posted a
17 bond in the amount of \$40,000.00 for his son,
18 Forrest Perry Heacock. Subsequent to that time,
19 he was brought into this Court on a Show Cause why
20 the bond should not be revoked, and the Court
21 revoked it because he had threatened some witnesses
22 in this case. Judge Gates heard the evidence, Mr.
23 Heacock testified himself--that is, the defendant--
24 and Judge Gates revoked his bond.

25 Mr. Heacock is here today to Show Cause

1 why that \$40,000.00 should not be forfeited to the
2 State because of the misbehavior of his son,
3 Forrest Perry Heacock, and I might also add, Your
4 Honor--may I approach the bench? I have a copy of
5 a seizure warrant issued by the Eastern District
6 of Virginia, Richmond Division, wherein--

7 MR. CABELL: Judge, I have an objection
8 to this. This has no relevance in this matter.
9 That's a separate proceeding in the Federal District
10 Court.

11 THE COURT: Does it effect this bond?

12 MR. WATSON: Yes, sir, it does.

13 MR. CABELL: It could effect the bond.
14 I think this Court comes ahead of it.

15 THE COURT: I'm sure we come ahead of it.
16 What is this, an attachment by the seizure warrant?

17 MR. WATSON: Yes, sir, but the facts
18 listed therein certainly would have a bearing on
19 what this Court does.

20 MR. CABELL: No, sir. I would strongly
21 object to the Court's having that matter before it.

22 THE COURT: All right. I don't need
23 that.

24 MR. WATSON: Your Honor, it would be
25 shown that Mr. Heacock posted \$40,000.00, \$20,000.00

1 of which he withdrew from a personal savings account.

2 MR. CABELL: Your Honor, we are going to
3 object to any evidence about anything except the
4 fact that he posted a bond in the form of one check.

5 MR. WATSON: I would recommend that we
6 give the check back to him. If you don't want it,
7 I will withdraw it.

8 MR. CABELL: Well, it was one check. We
9 will take the whole check.

10 THE COURT: Are you sure you don't want
11 to talk with Mr. Watson a little bit before we go
12 forward with this?

13 MR. CABELL: The first time I talked with
14 Mr. Watson it turned up in an Affidavit in another
15 Court. I don't believe I do. No disrespect to the
16 Court.

17 THE COURT: All right.

18 MR. WATSON: I didn't catch that.

19 MR. CABELL: I said, the last time I
20 spoke with you about the matter it turned up in
21 an Affidavit in another Court, and I said that I
22 don't think anything will come of our talking.

23 MR. WATSON: Oh. Well, the Commonwealth
24 would move to forfeit the entire bond, Your Honor,
25 \$40,000.00.

1 MR. CABELL: If Your Honor please, the
2 respondent, Mr. E. P. Heacock, would ask the Court
3 not to forfeit any of the bond based on the follow-
4 ing: Number 1, the original bond was executed to
5 assure the appearance of the defendant, Forrest
6 Heacock, for trial.

7 THE COURT: And, to keep the peace.

8 MR. CABELL: Yes, sir, and to keep the
9 peace.

10 There was a bond revocation hearing.
11 We have a transcript of that. This was on March
12 22nd, 1982 before Judge Gates.

13 There was no notice served on Mr. Heacock,
14 the father of Forrest Heacock. He was not a party
15 to the proceeding, and at the outset Mr. Watson was
16 asked by the Court, "You are not asking that the
17 bond be forfeited, are you?", and, Mr. Watson said,
18 "No, sir, I am asking--it will be the Commonwealth's
19 position that we do not want him bonded because
20 he is a threat."

21 Based on that, we would argue that the
22 Commonwealth is now estopped to attempt to forfeit
23 the bond.

24 And, thirdly, we would argue that there
25 has been no showing that Mr. Forrest Heacock did

1 not keep the peace. There was a charge brought
2 against him of threatening a witness--or, threat-
3 ening a Commonwealth's witness, is what I think
4 was the charge--and, on the motion of the Common-
5 wealth the matter was not prosecuted, and Mr.
6 Rice is here in Court, and I think his testimony
7 will be at that time that it was represented to
8 the Court that the charge--no other charges would
9 be pursued against Mr. Heacock. So, other than
10 being nolle prossed, it is, in effect, something
11 that should not be revived.

12 THE COURT: To save me from going through
13 this, Mr. Watson, is it true in the first place
14 that at the hearing the bondsman was not notified
15 and was not here?

16 MR. WATSON: No, sir, because it's two
17 different things. One is a revocation hearing and
18 one is a rule on the bond that was a revocation
19 hearing only.

20 THE COURT: That's the first step before
21 you revoke the bond.

22 MR. WATSON: Right.

23 THE COURT: I'm asking you--

24 MR. WATSON: Mr. Heacock was in the
25 Courtroom.

1 THE COURT: But, he was not served with
2 the papers and took no part in the proceedings.

3 MR. WATSON: No, sir.

4 THE COURT: Is it true the charges were
5 nolle prossed of threatening a witness?

6 MR. WATSON: I'll take Mr. Rice's word
7 for it.

8 THE COURT: May I see the transcript?

9 MR. CABELL: Yes, sir.

10 THE COURT: Do you remember the page?

11 MR. CABELL: Yes, sir, the first page.

12 THE COURT: The first page.

13 MR. WATSON: Judge, if that case was
14 nolle prossed, it wasn't in connection with any
15 plea agreement or anything like that.

16 THE COURT: I know. I'm not talking about
17 that.

18 MR. WATSON: And, at the time we had that
19 hearing, we did not at that time desire to, in that
20 hearing, go forward with the forfeiture proceeding,
21 because we had to contact the federal authorities.
22 first. It wasn't meant to be a forfeiture hearing.

23 MR. CABELL: Your Honor, the Commonwealth
24 keeps referring to the federal authorities, and this
25 is a proceeding by the Clerk of this Court with

1 regard to showing cause why the bond should not
2 be forfeited for failure to keep the conditions of
3 the bond, that of failure to appear and keep the
4 peace.

5 Now, what may happen in the federal court,
6 or what has happened--

7 THE COURT: I'm not paying any attention
8 to what happened in federal court.

9 MR. WATSON: And, Judge Gates found that
10 he had violated conditions of his parole by
11 threatening a witness. There was evidence put on
12 to that effect, and to several other things.

13 MR. CABELL: Your Honor--

14 THE COURT: He didn't try him on that
15 charge.

16 MR. WATSON: Pardon?

17 THE COURT: He didn't try him on that
18 charge, it was nolle prossed.

19 MR. WATSON: He was brought here to have
20 the bond revoked because he threatened--

21 THE COURT: That's right, he revoked the
22 bond, but he did not find him guilty of threatening
23 a witness, because he didn't try him on the charge.

24 MR. WATSON: He found there was probable
25 cause to believe that he did, Your Honor.

1 THE COURT: All right.

2 MR. WATSON: And, the Commonwealth can
3 reinstitute that at any time.

4 THE COURT: Probable cause is not beyond
5 a reasonable doubt, Mr. Watson.

6 MR. WATSON: If Your Honor please, I have
7 the transcript of that trial where Mr. Fuller
8 testified that he was threatened, if you would like
9 to see it.

10 MR. CAPELL: The Judge has it before him
11 now.

12 THE COURT: I have it, and I am reading
13 it now. All the Court says--"I will revoke his
14 bond; he is not subject to bond". He didn't make
15 any other finding at all. And, when the Court
16 asked you "You are not asking the bond to be for-
17 feited, are you?", you said, "No, sir, it will be the
18 Commonwealth's position that we do not want him
19 bonded--" Is that correct?

20 MR. WATSON: (no answer)

21 THE COURT: When you have a bond revoca-
22 tion hearing without a Show Cause on the bondsman
23 you are in effect deciding the case against the
24 bondsman if you revoke it without giving him any
25 chance to have anything to say or take any part in

1 the proceedings. In other words, the minute Judge
2 Gates ruled that the bond was revoked he had to do
3 it because of his behavior.

4 MR. WATSON: Yes, sir.

5 THE COURT: Then he had in effect revoked
6 the bond or forfeited the bond, and yet the man who
7 would lose the bond was not a party to the proceed-
8 ing.

9 MR. WATSON: Well, Judge, he was present,
10 but the Commonwealth would argue--

11 THE COURT: He wasn't a party to the
12 proceeding.

13 MR. WATSON: Yes, sir, and that's why we
14 had a separate hearing for a forfeiture. That was
15 a revocation on the defendant so that he would be
16 remanded to the jail.

17 THE COURT: What I am asking you is why
18 didn't you have both hearings together and give
19 everybody who was involved a chance to be heard?

20 MR. WATSON: Judge, we didn't think it
21 was proper at that particular moment.

22 THE COURT: So, you don't think it's
23 proper to take this man's \$40,000.00 without letting
24 him be heard from.

25 MR. WATSON: That's why he is here today,

1 sir.

2 THE COURT: But, the case was decided by
3 Judge Gates whenever that hearing was.

4 MR. WATSON: Judge Gates decided that the
5 defendant had not abided by the rules of his bond;
6 therefore, the bond was revoked and he was remanded
7 to jail.

8 Now, there is a separate proceeding for
9 a forfeiture hearing which we are trying to hold
10 today, and he is a party to it today.

11 THE COURT: And, I think that Judge
12 Gates thought it should have been held that day,
13 because he asked you point blank if you were asking
14 for a forfeiture of the bond.

15 MR. WATSON: And, we weren't at that time,
16 Your Honor, because I was under the impression it
17 had to be in a separate hearing.

18 THE COURT: I don't think I can get this
19 through to you--I'm trying--but this was decided the
20 minute that bond was revoked. Mr. Heacock was
21 subject to losing his bond the minute Judge Gates
22 revoked that bond, and yet he had not been a party
23 to the proceedings, he had no chance to defend
24 himself, he had no chance to tell why he shouldn't
25 lose it, but you elected to hold off and not bring

1 him into this case at that time, so he couldn't
2 help himself, and then after the case had been
3 decided, after the bond had been revoked and the
4 Judge decided that he wasn't being of good behavior,
5 then you bring this man in and say, all right,
6 the Judge has already ruled, we've just got you
7 here today to tell you you can't have your money
8 back.

9 MR. WATSON: Judge, even if he were here
10 on a bond revocation hearing that the defendant
11 committed a crime or did not live up to the rules
12 of his suspended sentence or bond, he would have
13 nothing to say in that particular matter.

14 THE COURT: He would still have his day
15 in Court.

16 MR. WATSON: Which is today.

17 THE COURT: I'm not going to rule on this
18 this morning, I want to do a little research. I
19 think he was entitled to be here before. Perhaps
20 I am wrong, but there is a whole lot of money
21 involved, and I want a chance to look into it.

22 If you have anything you would like for
23 me know about it, I would be glad to accept a memo--

24 MR. CAPELL: All right, sir.

25 THE COURT: --if there is anything you

1 know of that would help, but I'm going to do some
2 research on it. I'm going to continue it generally
3 to the next term of Court.

4 MR. CABELL: Judge--

5 THE COURT: To grand jury day.

6 MR. CABELL: Judge--

7 MR. WATSON: 9/20, Your Honor.

8 THE COURT: And, I will make a decision
9 between then and now--I'm not going to wait that
10 long--but I just have to have a date to carry it
11 to, and I will let you know something as soon as
12 possible.

13 MR. CABELL: All right, sir. Thank you.

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15
16 HEARING CONCLUDED
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1 VIRGINIA:

2 IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

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6 -----
7 COMMONWEALTH OF VIRGINIA :
8 :
9 -vs- :
10 :
11 FORREST PERRY BEACOCK :
12 ----- :
13

14
15 TRANSCRIPT of the forfeiture hearing, when held
16 on October 1, 1982, before the Honorable D. W. Murphey, Judge.

17
18 APPEARANCES:

19 CHARLES WATSON, ESQ., Commonwealth's Attorney for the County
20 of Chesterfield;

21 ROBERT G. CABELL, JR., ESQ., and C. MICHAEL DECAMPS, ESQ.,
22 Cabell, Paris, Lowenstein & Bareford, 523 E. Main Street,
Richmond, Virginia 23219; counsel for surety.

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2.

1 MR. WATSON: We are here today on a rule
2 on a bond. The sureties are here, I think Mr. and
3 Mrs. Heacock.

4 MR. CABELL: Mr. Heacock.

5 MR. WATSON: I notice he is not up to
6 counsel table.

7 MR. CABELL: I brought Forrest Heacock.
8 I do not represent him, nor have I ever talked with
9 him.

10 MR. WATSON: He is here in case he may have
11 something to say.

12 THE COURT: Let him have a seat to the
13 side and make room for Mr. Heacock, if he wants to
14 come up.

15 MR. CABELL: Referring to the transcript
16 from last time on page 12, the Court said he wanted
17 to rule on a matter of whether or not the Common-
18 wealth was entitled to go forward, based on the fact
19 that Mr. Heacock, the surety, had not been given
20 any notice or opportunity to be heard and has not been
21 available to cross-examine anybody.

22 THE COURT: Well, I have done enough
23 research to have a fair opinion of that, but I
24 would like to hear anything you would like to say.
25 In the meantime, I will hear what you have to say,

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3.

1 Mr. Watson.

2 MR. WATSON: May it please the Court.
3 Counsel alleged that the Commonwealth was estopped,
4 but for some reason, in going forward with the
5 forfeiture hearing. As the Court fully realizes
6 the bond revocation hearing is one type of judicial
7 hearing. A forfeiture hearing is another. At the
8 time Mr. Heacock was brought in that was a bond
9 revocation hearing. At that time Judge Gates asked
10 if I wanted it forfeited and I said no because I
11 didn't intend to forfeit at that time. That time
12 was to take care of the bond revocation and set
13 up the bond forfeiture hearing for forfeiture.
14 They are two distinct hearings as far as the
15 Commonwealth is concerned, Your Honor, and I would
16 ask the Court to take judicial notice of the bond
17 revocation. I have a copy of it where Judge Gates,
18 in fact, did revoke his bond on that day. The only
19 reason we are here today is to show cause why the
20 bond itself should not be forfeited.

21 MR. CABELL: That would be very well and good
22 but there is a transcript on which that order is
23 based. That is in the Court's file. The whole
24 point is that Mr. Heacock was not made a party to
25 that.

1 THE COURT: How would you have suggested
2 he be made a party to a criminal proceeding to
3 revoke the bond?

4 MR. CABELL: It is quasi civil in the
5 aspect of actual forfeiture.

6 THE COURT: I think what your problem is,
7 and I must confess it was my problem when I first
8 made the statement, mixing a forfeiture with a
9 revocation. We revoked the bond and took into
10 custody the person who is under bond. But, the
11 bond stands for two things: his appearance and his
12 good behavior. It was revoked for failure to be of
13 good behavior. As a result of that it made the
14 surety on the bond subject to liability for the
15 face value of the bond, but he has to be given the
16 opportunity to be heard on that and that's why this
17 hearing was set.

18 MR. CABELL: And, he has a right to cross-
19 examine parties or the parties that testified on
20 the revocation. I cite to the Court a United States
21 Supreme Court case from 1979, Robinson against
22 Hanrahan, 409 U.S. 38, which is a forfeiture pro-
23 ceeding and the defendant, or the surety was in
24 jail at the time and the notice of the forfeiture
25 proceeding was served at his home. He did not

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5.

1 receive notice of it. The Supreme Court ruled that
2 any forfeiture based on that proceeding was a
3 nullity because he had a right to be present to
4 participate in the proceeding.

5 THE COURT: You say the defendant was in
6 jail, not the surety?

7 MR. CABELL: The surety was in jail.
8 It's on a matter of notice, Your Honor, we are
9 talking about.

10 THE COURT: We've got the case here. I
11 can take a look at it.

12 MR. WATSON: What's the cite?

13 MR. CABELL: 409 U.S. 38. But the whole
14 point is, Your Honor, that this man has never had
15 an opportunity to cross-examine.

16 THE COURT: There is no way in a criminal
17 proceeding against his son that he can cross-examine
18 witnesses on anything, that I know of.

19 MR. CABELL: But, it wasn't a criminal
20 proceeding, the bond forfeiture.

21 THE COURT: There is no way in a bond
22 forfeiture, he not being a party, can cross-examine
23 witnesses, no way that I know of.

24 MR. CABELL: So, that I am not wasting my
25 time and the Commonwealth's, will we have the

1 opportunity to cross-examine?

2 THE COURT: To cross-examine who?

3 MR. CABELL: The person who was the
4 complaining witness.

5 THE COURT: You mean I have got to go
6 behind Judge Gates' decision to see whether or not
7 he should have revoked the bond?

8 MR. CABELL: Yes, sir.

9 THE COURT: No, sir. All I have got to do
10 is know that that bond was legally revoked.

11 MR. CABELL: I must confess that I am
12 surprised because the Court last time--

13 THE COURT: The only thing I ever told,
14 there was a question in my mind and I have thought
15 it out carefully. I have read it. I have done what
16 I can do. I am convinced, unless you can show me
17 differently, possibly with this case, that he had
18 no standing in that other proceeding whatsoever.

19 MR. CABELL: When I read the transcript
20 it appears just the opposite of that. I respect-
21 fully say to the Court--

22 THE COURT: What's in the transcript that
23 says he has any standing in the bond revocation?

24 MR. CABELL: If the Court would just
25 wait a minute.

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THE COURT: Which one? What page?

MR. CABELL: The last hearing.

THE COURT: My transcript--

MR. CABELL: Dated July 20, 1982.

THE COURT: I have got a March transcript.

MR. CABELL: I mailed it to you. It was
in the file this morning. Not the entire transcript.
It's only about 14 pages.

THE COURT: It could have come in the mail
this morning.

MR. CABELL: It was mailed to you under
a cover letter of at least three weeks ago. I have
got the cover letter here. It's attached to our
letter in the file. The letter is dated September
8.

MR. DECAMPS: The letter is dated
September 8 on top of the file.

THE COURT: I have got that.

MR. DECAMPS: There is an attachment to
that letter which is a photocopy of the transcript.

THE COURT: I asked you if it wasn't a
photocopy. I was looking for a red folder.

MR. CABELL: I would be glad to give you
this.

THE COURT: That is before Judge Gates.

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8.

1 MR. CABELL: This is the one dated July 20,
2 1982.

3 THE COURT: A copy I have attached to
4 your letter. It is here. Judge Gates, on March
5 22. Here is your letter of September 8th, is what
6 you said was in the file this morning, the
7 transcript of Judge Gates' hearing.

8 MR. CABELL: Here is the transcript, if
9 I may offer this to the Court.

10 THE COURT: You didn't read everything I
11 said. I said I am going to rule on this this
12 morning. I want to go do a little research.

13 MR. CABELL: And we sent a memorandum
14 back.

15 THE COURT: Perhaps I am wrong. There is
16 a whole lot of money involved and I want to take
17 a chance to look into it.

18 MR. CABELL: Yes, sir.

19
20 NOTE: At this point a brief recess is
21 taken, at the conclusion of which the hearing
22 continues as follows:

23
24 THE COURT: That's what I have done. I
25 don't deny I did this. I couldn't find any way

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9.

1 that he could be made a party to those proceedings
2 and given an opportunity whatsoever to examine
3 witnesses.

4 MR. CABELL: Just a simple summons.

5 THE COURT: That allows him to come to
6 counsel table and act as an attorney?

7 MR. CABELL: I would certainly think he
8 would have a right to participate in the proceeding
9 if it is his money.

10 THE COURT: His money wasn't forfeited.
11 That's what we are deciding today. That's what
12 you continue to confuse. They are two separate
13 hearings.

14 MR. CABELL: Judge, that forfeiture
15 proceeding cannot be-- that revocation proceeding
16 determination cannot be the basis for the forfeiture.

17 THE COURT: I don't have to take his bond
18 today. We have got a hearing to decide what I am
19 going to do. You say I can't decide that issue
20 because they didn't have him here during the other
21 proceeding.

22 MR. CABELL: They told the Court they
23 weren't going to forfeit.

24 THE COURT: He couldn't have forfeited
25 it that day to save his life. Your client wasn't

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10.

1 notified the matter was coming up. He was probably
2 served with papers later and he did get notice
3 after that hearing. Now, in your case, what you
4 have read to me, I would like to go see it.

5 MR. CABELL: I have others I would like for
6 the Court to read.

7 THE COURT: If that case says what you say
8 it does in the same context there is no need to
9 look at any others.

10 MR. CABELL: I have a case decided last
11 month in the Fourth Circuit that bars on the
12 collateral estoppel aspect of whether or not the
13 judge in the criminal case can act as any sort of
14 collateral estoppel in the bond forfeiture.

15 THE COURT: Do you have a copy of that
16 latter case?

17 MR. CABELL: Yes, sir.

18 MR. WATSON: In the meantime, I also submit
19 for the Court's information Rispin and Exum v.
20 Commonwealth, 218 Va. 753, which sets forth the
21 Court's discretion in matters of this type.

22 THE COURT: In your case the man was in
23 the business of selling guns. He was acquitted.
24 You certainly can't sit around and forfeit the guns
25 for being illegal.

1 MR. CABELL: The Commonwealth nol
2 proessed the case.

3 THE COURT: I am not going to bemean Judge
4 Gates' decision after hearing all the evidence that
5 the bond should be revoked.

6 MR. CABELL: We're certainly not going to
7 argue the fact it should have been revoked. That's
8 not the problem. I think we are entitled to have
9 an evidentiary hearing on that same evidence as to
10 the forfeiture since he wasn't privileged to be a
11 party to that proceeeding.

12 MR. WATSON: He was not required to be a
13 party.

14 MR. CABELL: You can just take a man's
15 money without a hearing.

16 MR. WATSON: That's what today is.

17 THE COURT: The facts are simply this as
18 a matter of record in this file, that Mr. Heacock
19 went on this bond for his son. The terms of that
20 bond were that he be of good behavior and appear in
21 court on certain dates. Judge Gates heard a
22 hearing to determine whether he was of good behavior
23 or not and determined that he wasn't, so he revoked
24 the bond and put him in jail. Today, I am holding
25 a hearing to determine whether or not the fact he

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1 was on this bond, and the accused didn't carry out
2 the terms of the bond, whether the bond should be
3 forfeited. I have got the Court record to show
4 that he was found by Judge Gates not to have been
5 of good behavior.

6 MR. CABELL: We weren't a party to that,
7 Judge.

8 THE COURT: That's right.

9 MR. CABELL: You can't use that, respect-
10 fully.

11 THE COURT: That's why the bond couldn't
12 have been forfeited that morning because you were
13 not a party to it. I don't know of any way in the
14 world a surety on a bond can come and sit at counsel
15 table and cross-examine witnesses. I just don't.
16 I don't think that case has any bearing whatsoever
17 on the issue here this morning.

18 MR. CABELL: Judge, would the Commonwealth
19 then have to put on evidence to show that the bond
20 should be forfeited, as opposed to revoked, so
21 we would have an opportunity to cross-examine each
22 witness?

23 THE COURT: The only thing this Commonwealth
24 is required to do is to show, just as they do in
25 all forfeiture proceedings on bonds that the accused

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13.

1 did not live up to the terms of the bond and was
2 found guilty by some court. If I gave a man a
3 suspended sentence here in this Court and he goes
4 over to Richmond and is accused of burglary and I
5 bring him back to show cause why his bond shouldn't
6 be revoked. I don't have to try the Richmond burglary
7 case over again, with all the witnesses to see if
8 I would have convicted him had I been sitting on the
9 bench in Richmond, you do it on the record. The
10 record is all it takes. This is the same type of
11 proceeding, except nobody goes to jail in this one.

12 MR. CABELL: Your Honor, after the
13 revocation hearing was held Mr. Heacock attempted
14 to go to the Clerk's office to get his money. At
15 that time he was not permitted to do so. There
16 was nothing filed or anything and this was back, I
17 believe, in February, was it not? And, either himself
18 or through counsel a number of times tried to get the
19 money before there was any notice of this filed. He
20 has lost the interest now on \$40,000 since last
21 February.

22 THE COURT: I expect he has. That's one
23 of the risks when you put up a bond.

24 MR. CABELL: Then the Commonwealth, in
25 the revocation says it is not going to forfeit the

1 bond?

2 THE COURT: Mr. Cabell, that's the way
3 you read it. Already, three times he is saying
4 no, sir. I am not here for forfeiture. If he
5 concluded it he would have had to say Mr. Heacock
6 isn't here so I can't forfeit the bond. He has not
7 been summoned. We have got to go through that
8 procedure some other time, not here now.

9 MR. WATSON: Judge, if they had tried to
10 retrieve that bond I am sure there was a lien from
11 the United States government. All they would have
12 had to do was come to the Judge or the Commonwealth
13 Attorney's office, except being a lien on it, or
14 a paper filed or forfeiture hearing.

15 MR. CABELL: I would have witnesses and
16 they will testify that there was no lien at that
17 time.

18 THE COURT: Did you come to this Court and
19 ask it be returned to you?

20 MR. CABELL: At that time I went to see
21 Mr. Watson.

22 THE COURT: He doesn't handle orders in
23 this Court. You could come to me and ask for an
24 order to refund that money with no lien on it. Mr.
25 Watson hadn't filed anything here to keep it.

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THE DEFENDANT: I would like to ask a question, if I can?

THE COURT: No, sir.

MR. CABELL: Judge, I have a Supreme Court case I think is directly at point. It held a judgment of criminal prosecution, whether a conviction or acquittal, does not establish a subsequent civil action. It is the truth of the facts on which it is rendered. Eagle, Star.

THE COURT: What's the cite?

MR. CABELL: 149 Va. 82.

THE COURT: What was that U.S. cite you had?

MR. WATSON: 409 U.S. 38.

THE COURT: All right, Sheriff, we will take a short recess. Let me take a look at these.

NOTE: At this point a brief recess is taken, at the conclusion of which the hearing continues as follows:

THE COURT: I don't see anything to be gained by going over the same facts again and again. I think the bond can properly be forfeited on a proper motion.

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RICHMOND, VIRGINIA
PHONE 355-4335

16.

1 MR. WATSON: At this time the Commonwealth
2 moves to forfeit \$20,000 of the \$40,000 bond.

3 THE COURT: All right, sir. I grant the
4 motion and stay the execution of that to give you
5 an opportunity to do what I feel would be done.

6 MR. CABELL: I would note my exception
7 to the Courts' ruling. For the record I would also
8 ask that the Court order the total amount be
9 placed in a savings account at this time.

10 MR. WATSON: There is a federal lien for
11 \$20,000. I don't see how the Court can do that.

12 THE COURT: Do you know of any reason why it
13 can't?

14 MR. WATSON: No, sir. I know of none.

15 THE COURT: I think it should be. In
16 fact, I would have granted that motion three months
17 ago. Would you draw that immediately so the Clerk
18 can get it in a savings account.

19 MR. CABELL: Judge, for the record, just
20 so we have our bookkeeping in order, the Court has
21 received transcripts of the revocation hearing and
22 of the last hearing. Your Honor, I would ask they--

23 THE COURT: Unless you brought me that last
24 hearing in this Court I don't have it.

25 MR. CABELL: Judge, there is something

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17.

1 wrong with the mail. I personally put it in the
2 mailbox. There has been a problem before and Mr.
3 Watson had to deliver your previous letter.

4 MR. WATSON: The Commonwealth didn't
5 receive a copy either of the last one.

6 MR. CABELL: The September 8 letter?

7 THE COURT: I got the letter. That was
8 the transcript that was affixed was a photostat
9 copy and copy of Judge Gates' hearing, not mine.

10 MR. CABELL: At this time would you accept
11 this transcript?

12 THE COURT: Yes.

13 MR. CABELL: I also make a proffer just
14 for the record of a cashier's check receipt from
15 Mr. Heacock from Southern Bank in the amount of
16 \$40,000, payable to Ed Allen, Magistrate.

17 MR. WATSON: To what purpose, Your Honor?

18 THE COURT: He can tell me now.

19 MR. CABELL: The Court has a copy of the
20 check, or the file should reflect the copy of the
21 check being received.

22 THE COURT: It will be stipulated Mr.
23 Heacock put up \$40,000 with the magistrate.

24 MR. CABELL: In the form of a check.

25 THE COURT: In the form of a check. I

1 don't think there is any question about that.

2 MR. CABELL: All right, sir.

3 THE COURT: All right, sir.

4 MR. CABELL: Can we get the \$20,000 that
5 hasn't been forfeited?

6 THE COURT: I think there is a lien on that.

7 MR. CABELL: A lien on the \$20,000 we are
8 fighting about? I thought--

9 THE COURT: It's \$40,000, \$20,000 of it
10 you got a lien on. I have ordered \$20,000
11 forfeited. That takes care of \$40,000, doesn't it?

12 MR. CABELL: All right, sir, if a lien is
13 there. I don't know. I haven't been into that.

14 MR. WATSON: I have a copy of the seizure
15 warrant, Your Honor. It amounts to \$20,000 and I am
16 sure because of the grounds alleged therein that it
17 is not part and parcel of \$20,000. Mr. Heacock
18 withdrew that from that stock company. It is the
19 other \$20,000.

20 MR. CABELL: There is no evidence of all
21 of that.

22 THE COURT: I am not going into that at
23 all. The only thing I am saying the federal
24 government put a lien on \$20,000 and I forfeited
25 \$20,000. We certainly aren't going to say that is

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19.

1 the same \$20,000, and we give you back the other.
2 That is not simple math.

3 MR. CABELL: In effect, the Court
4 forfeited the whole \$40,000.

5 THE COURT: No. The federal government
6 has put a lien on it. I don't know if they are
7 going to forfeit or not. Did you have other
8 conversations with them, Mr. Watson?

9 MR. CABELL: Believe me he has.

10 MR. WATSON: I am glad counsel knows more
11 than I do. I haven't talked to them lately. They
12 intend to call Mr. Heacock to the federal grand
13 jury.

14 MR. CABELL: He has been called.

15 MR. WATSON: A second time because the first
16 time he refused to answer, as I understand it.

17 THE COURT: Really, I didn't mean to
18 bring out all this with that question. I just
19 wanted to know whether you knew they were going to
20 forfeit the money. You don't know if they plan to
21 collect it or not?

22 MR. WATSON: I think they are waiting to
23 see what happens in this Court.
24
25

ORDER

On the 1st day of October, 1982, came the Commonwealth, by counsel, and E. P. Heacock in person, represented by Robert G. Cabell, Jr., upon reasonable notice to all parties, and upon evidence heard it appears that on the 22nd day of January, 1982, Forrest Perry Heacock was admitted to bail by an officer authorized by Law so to do, instead of entering into a recognizance with surety, did give his personal recognizance and deposited, or cause to be deposited for him, in cash a sum of \$40,000.00.

And it appearing that on the 22nd day of March, 1982 upon a bond revocation hearing that Forrest Perry Heacock failed to perform the conditions thereof, whereupon it was found that defendant had threatened a jail inmate who was to appear as a witness against defendant and being a criminal violation, remanded defendant to custody.

And it further appearing that on the 1st day of October, 1982 that E. P. Heacock and Forrest Perry Heacock appeared to show cause if any they could why said recognizance or any part thereof should not be forfeited, and having failed to present any evidence the Court doth forfeit the sum of \$20,000.00 of such cash recognizance.

And whereby the United States of America has a seizure warrant under 21 U.S.C. Section 881 (a) upon \$20,000.00, and counsel having indicated an appeal of said forfeiture and made a request to place the \$40,000.00 in an interest

bearing account, the Court doth hereby ORDER the Clerk of the Circuit Court to place the forfeited cash recognizance in an interest bearing account in an authorized bank pending said appeal.

The Court further ORDERS that the transcript of the bond revocation hearing held in this matter on the 22nd day of March, 1982, which transcript has heretofore been filed with the Clerk of this Court, be made a part of the record in the instant proceedings. The Court further ORDERS that the transcript of the hearing held in this matter on July 20, 1982, which transcript was filed with the Clerk of this Court during the hearing conducted in this matter on October 1, 1982, also be made a part of the record in this case.

The Court further ORDERS that the transcript of the hearing held on October 1, 1982, which transcript has heretofore been filed with the Clerk of this Court, be made a part of the record in the instant proceedings in accordance with the Rules of the Supreme Court of Virginia.

The Court further ORDERS that a copy of this Order be mailed to counsel of record for the Commonwealth of Virginia, E. P. Heacock, and Forrest Perry Heacock, the principal herein.

ENTER:

Judge

a COPY. TESTE.

I ask for this:

Lewis H. Vaden, Clerk

Charles R. Watson
Commonwealth's Attorney
County of Chesterfield
Chesterfield, Virginia 23832

By K. Hartley
Deputy Clerk

Seen and Objected to:

Robert G. Cabell, Jr.
Robert G. Cabell, Jr.
Counsel for E. P. Heacock

Virginia:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

the 19th day of May, 1982

COMMONWEALTH

vs. Upon Indictments for felonies. Murder - 2nd Degree, #1
Possess And Distribute Cocaine #2
Conspire To Distribute Cocaine #3

BOND FORFEITURE

FORREST PERRY HEACOCK

This day came the Attorney for the Commonwealth and Mike Camp, attorney for E. P. Heacock, surety for the defendant, Forrest Perry Heacock, appearing before this Court to determine why the bond in this matter should not be forfeited to the Commonwealth.

Whereupon, counsel for E. P. Heacock, surety, requested a continuance of this bond forfeiture to July 20, 1982, which request was granted, and this matter is continued to July 20, 1982.

S/Ernest P. Gates
Ernest P. Gates, Judge

a COPY, TESTE;

Lewis H. Vaden, Clerk

By H. Hartley
Deputy Clerk

File

Law Offices
Cabell, Paris, Lowenstein & Baneford

523 East Main Street
Richmond, Virginia 23219
Telephone (804) 643-9066

July 26, 1982

Leonard A. Paris
Charles P. Brouss
Robert S. Cabell, Jr.
Marshall L. Lowenstein
Patrick M. Connelley, Jr.
D. Wayne O'Regan, P.C.
William L. Jeffries, Jr.
Charles E. Samuels
C. Michael DeComps
Harvey A. Goodman
C. Thomas Etzel
A. Conrad Baneford
J. William White, Jr.

George B. White (1906-1961)
Raymond H. Dupuy (1899-1973)
Richard M. Dunn, Jr. (1928-1980)

Hon. D. W. Murphey, Judge
Twelfth Judicial Circuit
Chesterfield Courthouse
Chesterfield, Virginia 23832

Re: Commonwealth v. Forrest P. Heacock
Bond Forfeiture Hearing originally set for July 20, 1982 and continued to
September Term Day

Dear Judge Murphey:

At your request, I am writing to furnish additional authority in support of the defendant's position in the captioned matter. As you will recall the salient facts are that Forrest Heacock was charged with murder, possession and distribution of cocaine, and conspiracy to distribute the same. On January 22, 1982, my client, E. P. Heacock, the father of Forrest Heacock, posted a \$40,000.00 cash bond for his son pending his son's trial that was scheduled for May 6, 1982.

Subsequently on March 12, 1982, Chesterfield County Police again arrested Forrest Heacock for allegedly threatening a witness. After notice to Forrest Heacock a bond revocation hearing was conducted before Judge Gates on March 22, 1982. At that hearing the following colloquy took place between Judge Gates and the Commonwealth's Attorney:

THE COURT: You are not asking the bond be forfeited; are you?

MR. WATSON: No Sir. I am asking — It will be the Commonwealth's position that we do not want him bonded because he is a threat.

THE COURT: All right, sir. We will proceed to hear the evidence then.

No notice of the bond revocation hearing was given to E. P. Heacock, the surety. Although E. P. Heacock attended this hearing, he was not afforded the opportunity to participate. At the conclusion of the hearing Judge Gates revoked Forrest Heacock's bond and remanded him to jail.

Notwithstanding its prior assertion to the contrary, on March 27, 1982 the Commonwealth issued a showcause order directed to Forrest and E. P. Heacock to appear on May 19, 1982 and show cause why the aforesaid bond should not be forfeited for alleged

Hon. D. W. Murphey, Judge
July 26, 1982
Page Two

breach by the principal of the condition of the bond that he keep the peace and be of good behavior. This showcause order was immediately served on Forrest Heacock but no service was attempted on E. P. Heacock until after E. P. Heacock's counsel inquired of the Clerk's Office on April 27, 1982 concerning any pending forfeiture proceedings. At that time Deputy Clerk Karen Hartley was informed that E. P. Heacock had never been served with any notice of an attempted forfeiture proceeding and shortly thereafter E. P. Heacock was served on April 30, 1982.

On May 17, 1982, counsel for E. P. Heacock appeared in regards to the showcause order and continued the matter to July 20, 1982. On June 23, 1982 the Commonwealth nolle prossed the charge against Forrest Heacock of threatening a witness. At the time the Assistant Commonwealth's Attorney informed the Judge that the charge of threatening a witness would never be rebrought against Forrest Heacock.

On July 20, 1982, the parties appeared again concerning the Commonwealth's request for bond forfeiture. After hearing the Commonwealth's opening statement, the undersigned informed the Court of the previously recited events. The undersigned then moved the Court to dismiss the forfeiture on grounds of estoppel, insufficient notice and lack of opportunity to be heard, and because the criminal charge of threatening a witness had been adjudicated with a voluntary dismissal by the Commonwealth. After hearing the undersigned's opening statement, and without hearing any evidence, the Court took this matter under consideration and carried it over to Term Day in September with the understanding that a decision would be reached prior to then on the motion to dismiss.

One hundred years ago, the Supreme Court of Virginia said that property cannot be forfeited by the Commonwealth without affording the party asserting title thereto a judicial hearing after due notice. Boggs v. Commonwealth, 76 Va. 989 (1882). More recently the United States Supreme Court has noted that forfeiture proceedings cannot be had where the State made no effort to provide notice reasonably calculated to apprise the property owner of the pendency of the forfeiture proceedings. Robinson v. Hanrahan, 409 U.S. 38 (1972). An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated under all circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Mullane v. Central Hanover Bank & Trust Company, 339 U.S. 306 (1950).

In the instant case, it is uncontroverted that E. P. Heacock was not afforded the opportunity to call, confront and cross-examine witnesses at his son's bond revocation hearing. By proceeding forward without permitting the surety an opportunity to be heard and after stating its intention not to seek forfeiture, the Commonwealth is now estopped from pursuing forfeiture.

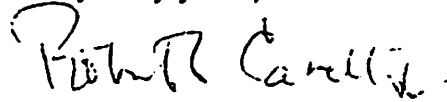
Moreover even if the Commonwealth were permitted to go forward with this bond forfeiture proceeding, it cannot rely on any prior adjudication made during the bond revocation hearing. To permit this would be to allow the doctrine of collateral estoppel to be used offensively where mutuality of parties does not exist. The Supreme Court of Virginia has recently rejected the use of collateral estoppel in this manner. Norfolk and Western Railway v. Bailey Lumber Co., 221 Va. 638 (1980); see also Eagle, Star and British Dominions Insurance Co. v. Heller, 149 Va. 82 (1927). Stated another way, since E. P. Heacock was not a party to the bond revocation hearing, if the Commonwealth is permitted

Hon. D. W. Murphey, Judge
July 26, 1982
Page Three

to go forward with the forfeiture proceedings, the Commonwealth must assume the burden of going forward and demonstrating grounds for the forfeiture.

Finally the equities of the situation dictate that this proceeding should be dismissed. E. P. Heacock has not had the benefit of his \$40,000.00 since March 12, 1982 when Forrest Heacock was remanded to the Chesterfield County Jail. In todays world of high interest rates, the loss of this interest alone has been punishment enough. For all the above reasons, E. P. Heacock would urge this Court to dismiss this forfeiture proceeding.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert G. Cabell, Jr.", written in a cursive style.

Robert G. Cabell, Jr.

RGCjr:jsa

cc: Charles Watson, Commonwealth's Attorney
E. P. Heacock

**Chesterfield
City of Colonial Heights**
JUDGES CHAMBERS

(804)
748-1333

CHESTERFIELD, VIRGINIA 23832

August 11, 1982

ERNEST A. GATES
JUDGE
D. W. MURPHEY
JUDGE
JOHN P. DAFRON, JR.
JUDGE

Mr. Robert G. Cabell, Jr.
Attorney at Law
523 East Main Street
Richmond, Virginia 23219

Re: Commonwealth
v.
Forrest P. Heacock

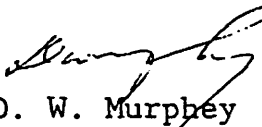
Dear Mr. Cabell:

Mr. Watson has been kind enough to furnish me with a copy of your letter of July 26th which was addressed to me but apparently mailed to Mr. Watson. In reading this letter it appears that you are confusing a bond revocation hearing with a bond forfeiture hearing.

On March 22, 1982, Judge Gates conducted a bond revocation hearing in which your client, E. P. Heacock, was not a party. Judge Gates decided at that time that the bond should be revoked and it was so done.

The matter which I am now hearing is a bond forfeiture hearing which was originally set for July 20, 1982, and carried over to term day in September. At that time you will be permitted on behalf of your client to produce any evidence which you care to produce to show why the bond should not be forfeited.

Yours very truly,


D. W. Murphey
Judge

DWM/wgwc

c: Charles R. Watson
Commonwealth's Attorney
Chesterfield County Courthouse
P. O. Box 25
Chesterfield, Virginia 23832

Jif

Law Offices
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J. William White, Jr.

523 East Main Street
Richmond, Virginia 23219
Telephone (804) 643-9066

September 8, 1982

George B. White (1906-1961)
Raymond H. Dupuy (1899-1973)
Richard M. Dunn, Jr. (1928-1980)

Hon. D. W. Murphey, Judge
Twelfth Judicial Circuit
Chesterfield Courthouse
Chesterfield, Virginia 23832

Re: Commonwealth v. Forrest P. Heacock
Bond Forfeiture Hearing originally set for July 20, 1982 and continued to
September Term Day

Dear Judge Murphey:

I received your letter of August 11, 1982 concerning the above captioned matter. When considering this letter in light of your comments made at the hearing on July 20, 1982, I am now a little confused as to the posture of this case. For your convenience, I am enclosing a copy of this letter, a copy of the transcript of the hearing conducted on July 20, 1982, and also a copy of a relevant portion of the transcript of the bond revocation hearing conducted before Judge Gates on March 22, 1982.

As you will recall, on July 20, 1982 you expressed some doubts as to whether the Commonwealth could proceed with a bond forfeiture against my client, E. P. Heacock, the surety, since he was not a party at the bond revocation hearing. Perhaps I was confused, but when I left this hearing on July 20, 1982, I understood that you were going to look into the question of whether the Commonwealth was estopped from bringing the bond forfeiture hearing at all. I understood you to say that you would let counsel have a ruling on this question before term day in September.

Following this hearing, I sent you a letter dated July 26, 1982 (a copy of which is enclosed) which you indicated in your letter of August 11, 1982 was apparently mailed to Mr. Watson. You further indicated that a copy of that letter was turned over to you by Mr. Watson. You did not indicate in that letter any ruling with regard to the issue of whether the Commonwealth is estopped from proceeding with the bond forfeiture hearing. Obviously if the Commonwealth is estopped, it is not necessary for either side to present further evidence in this matter.

It was my assumption that if the Court should decide that the Commonwealth is estopped from proceeding with the bond forfeiture hearing that the bond forfeiture request would be dismissed and the bond returned to Mr. Heacock. On the other hand, if the Court

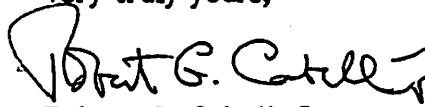
Hon. D. W. Murphey, Judge
September 8, 1982
Page Two

should decide that the Commonwealth is not estopped from proceeding with the bond forfeiture hearing, I assumed that another date would be set for a hearing on the bond forfeiture proceeding. You suggested in your letter of August 11, 1982 that on term day in September I will be permitted on behalf of my client to produce any evidence to show why the bond should not be forfeited.

Since that time, Mr. Watson has informed me that this hearing has been moved to October 1, 1982. It is my position, however, that since my client was not a party to the bond revocation proceeding, that the Commonwealth has the burden of going forward in the bond forfeiture proceeding. Otherwise the burden of showing that the bond should be forfeited would be shifted from the Commonwealth to my client to show why the bond should not be forfeited. This, of course, would mean that my client would never be permitted the opportunity to confront and cross-examine the witnesses presented by the Commonwealth supporting the Commonwealth's position that the bond should be forfeited.

Again, I apologize to the Court for any confusion that has resulted in this matter. However it was my understanding that the Court would rule on the issue of estoppel before setting any further hearing. Should this issue be ruled in the Commonwealth's favor, then it is our position that the Commonwealth has the burden of going forward with the bond forfeiture hearing and after the Commonwealth has presented its case, Mr. Heacock will welcome the opportunity to present evidence in his behalf. Thank you for your attention to this matter.

Very truly yours,



Robert G. Cabell, Jr.

RGCjr:jsa

cc: Charles Watson, Commonwealth's Attorney

RECEIVED

SEP 9 1982

CHESTERFIELD CIRCUIT COURT
JUDGES CHAMBERS

Virginia:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

the 20th day of January, 1982

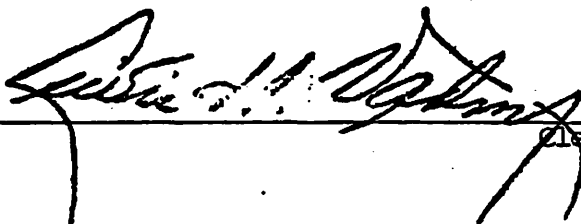
COMMONWEALTH

vs. Upon Indictments for Felonies. Murder, #1
Possess and Distribute Cocaine, #2
Conspire to Distribute Cocaine, #3

FORREST PERRY HEACOCK

This day came the attorney for the Commonwealth, and the defendant, charged with the above felonies, appearing before this Court on a bond hearing. The Court doth set bond at Thirty Thousand Dollars (\$30,000.00) cash on the charge of Murder, and Five Thousand Dollars (\$5,000.00) cash or Ten Thousand Dollar (\$10,000.00) real estate on each of the remaining two charges.

A: Copy, Teste:


Clerk

CIRCUIT COURT
 GENERAL ☐ J & DR DISTRICT COURT

C 778381

County/City Charlottesville VIRGINIA L-22, 1982 FILE NO. _____

COUNT OF Forrest Terry Hyacok NYK-789K

RECEIVED OF E.D. Hyacok 12820 PENNSYLVANIA ST. PHOTON, VA

110	State Fines		132	CICF		519	Support Payment	
201	Local Fines		120	C.A. Atty. State				
112	Trial Fees		217	C.A. Atty. Local				
113	Bail Fees		125	Weighing Fees				
305	Filing Fees		128	Liq. Damages				
118	Summons Fees		219	Law Library				
133	Blood Test Fees		502	Bonds	<u>30000 00</u>			
						Total Received	<u>30000 00</u>	

I hereby certify this to be the Official Receipt Form authorized
 by the Commonwealth of Virginia. Receipt in any other form shall not be valid against
 the Commonwealth of Virginia.



Eel With magister
 Collecting Officer Title

☐ Partial Payment
☐ Prepayment

Form DC-7

CONDITIONS OF RELEASE AND RECOGNIZANCE

VA. CODE ANN. § 19.2-123, 19.2-258

The Accused promises to appear before the Chesterfield

- ☒ General District Court (☐ Criminal Division ☐ Traffic Division)
☐ Juvenile and Domestic Relations District Court ☒ Circuit Court

10100 Ironbridge Rd., Chesterfield, Va.
 (STREET ADDRESS OF COURT)

March 15, 1982 10:00AM to answer the following charge(s) against the accused.
 DATE AND TIME
Murder (☐ continued on back)

The Accused further promises to appear to answer for the offenses for which he may be charged at all times and places and before any court or judge to which this case may be rescheduled, continued, transferred, certified or appealed. The Accused promises not to depart the Commonwealth of Virginia without leave of such court or judge, to keep the peace and be of good behavior until final disposition of this case.

OTHER CONDITIONS ON REVERSE SIDE

I, the Accused, hereby promise to fulfill faithfully the conditions given above

Forrest P. Heacock
 XXX ACCUSED

WARNING: Failure to fulfill the terms conditions above or any violation thereof may result in your arrest and forfeiture of the bond on the lower portion of this page (if applicable). Failure to appear may result in your being tried and convicted in your absence. Failure to appear is a separate offense. If bonded to appear in circuit court on a misdemeanor charge, failure to appear constitutes waiver of trial by jury.

☐ The accused is released into the custody of the person/organization named below, on the condition that said custodian make all reasonable effort to ensure that the accused fulfill the conditions given above, and that any violation by or disappearance of the accused be promptly reported to the court.

NAME OF CUSTODIAN

ADDRESS

SIGNATURE OF CUSTODIAN

BOND The Accused, and Surety(ies) (if any), each hereby acknowledges himself, his heirs and assigns indebted to the Commonwealth of Virginia for ☒ City or Locality named above in the sum of \$ 30,000.00

☐ UNSECURED SECURED by: ☒ CASH DEPOSIT ☐ SURETY BOND ☐ REAL PROPERTY located at

(and if secured by real property, the undersigned, having demonstrated to the officer taking this bond the nature of their interest in the property, also make oath that the equity of the undersigned in the property equals or exceeds the amount of this bond). The undersigned each waives all benefit of homestead exemptions as to this debt and further covenants jointly and severally that none of them shall permit or cause title to or possession of the property pledged to secure this bond to be transferred in any manner to any degree or encumbered to the extent of this obligation. The above terms of the conditions of Release and Recognizance are hereby incorporated by reference.

If the Accused shall faithfully fulfill the conditions of release and recognizance given above, this debt is to be void; otherwise this debt is to remain in full force and effect until declared void by a Court of competent jurisdiction.

E. P. Heacock (SEAL) SURETY
Forrest P. Heacock (SEAL) ACCUSED

HEARING DATE FILE NO.
 TD 3-15-82 10:00AM

CONDITIONS OF RELEASE, RECOGNIZANCE, AND BOND

Forrest Terry Heacock
 ACCUSED

2812 Cicero Pkwy

Chester, Va. TEL. NO. 748-3799
 RETURNABLE TO:

Chesterfield

- ☐ General District Court (CRIMINAL)
☐ General District Court (TRAFFIC)
☐ Juvenile & Domestic Relations District Court
☒ Circuit Court

DATE RECEIVED <u>30,000.00</u>	DATE DISBURSED/DISCHARGED <u>1-22-82</u>
BOND AMOUNT <u>\$30,000.00</u>	RECEIPT NO. (IF CASH DEPOSIT) <u>C778381</u>

ADMITTANCE TO BAIL: The promise to fulfill the conditions of release, and the bond, if any, were subscribed and sworn to before me this day. The Accused is ordered released pursuant to the terms within.

E. P. Heacock
☐ CLERK ☒ MAGISTRATE ☐ JUDGE

Jan 22, 1982 11:53 AM
 DATE AND TIME

SURETY: Name(s), address(es), and if corporate surety, name(s) of authorized agent(s).

Cash bond posted by:

E. P. Heacock
12820 Percival St.
Chester, Va. 23831

748-7894

RECEIVED AND FILED

\$30,000.00 ck.
 JAN 25 1982

CAPIAS AND SHOW CAUSE ORDER ON BOND REVOCATION

Return
3/19/82

It appearing to the Court that on January 20, 1982, the defendant, Forrest Perry Heacock, appeared before this Court on a bond hearing, at which time bond was set on each charge as follows: Murder-\$30,000 cash; Conspiracy-\$5,000 cash or \$10,000 real estate; Possession and Distribution of Cocaine \$5,000 cash or \$10,000 real estate.

It appearing to the Court that one of the conditions of bond has been violated in that the defendant was arrested on 12 March 1982 on a charge of threatening and intimidating witnesses with intent to impede the administration of justice, said witnesses being material to the case against defendant, it is ORDERED that the said Forrest Perry Heacock be brought before this Court on March 22, 1982 at 2:00 P.M. to show cause, if any he can, why the bond previously set should not be revoked and the defendant be detained in the Chesterfield County Jail until called for by this Court.

A certified copy of this Order shall be sufficient authorization in the premises for the Sheriff or other officer to detain and produce the said Forrest Perry Heacock before this Court to be dealt with as provided by law.

ENTER: 3.17.82

Ernest R. Hale

Judge

A COPY, TESTE;

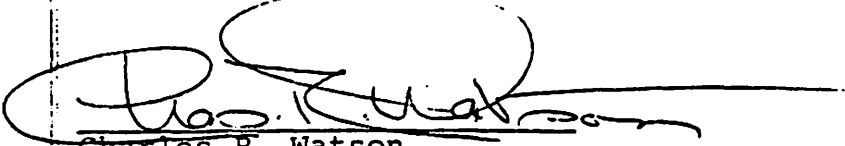
Lewis H. Vaden, Clerk

By *B. Hartley*

Deputy Clerk

RECEIVED
MAR 18 1 02 PM '82
SHERIFF'S DEPT.
CHESTERFIELD

I ask for this:



Charles R. Watson
Commonwealth's Attorney
County of Chesterfield
Chesterfield, Virginia 23832

C E R T I F I C A T E

I hereby certify that I mailed a true and correct copy of the foregoing Capias and Show Cause Order to Murray Janus, Esquire, Counsel for Defendant, 701 E. Franklin Street, Richmond, Virginia, 23207, this the 16th day of March, 1982.



Charles R. Watson

Virginia:

IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

the 22nd day of March, 19 82

COMMONWEALTH

vs.

FORREST PERRY HEACOCK

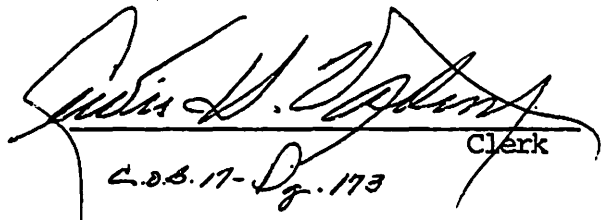
MOTION

Whereupon the Attorney for the Commonwealth made a Motion for Bond ^{HE} ~~IN THIS MATTER~~
~~to BE REVOKED~~
~~Reduction~~, whereupon the said defendant has a charge in the General District
Court where bond is denied and the said defendant has threatened a jail inmate
and the Court doth revoke said bond and the Court doth remand the said
defendant to custody.

The Court certifies that at all times during the motion ^{HEARING} of this case the
defendant was personally present and his attorney was likewise personally
present and capably represented the defendant.

This motion reported by Carole Terrier of Crane-Snead and Associates,
Court Reporters.

A Copy, Teste:


Clerk
C.D.B. 17- Dg. 173

Law Offices

Cabell, Paris, Lowenstein & Bareford

*523 East Main Street
Richmond, Virginia 23219
Telephone (804) 643-9066*

*Leonard A. Paris
Charles P. Remus
Robert G. Cabell, Jr.
Marshall L. Lowenstein
Patrick M. Crowling, Jr.
D. Wayne O'Bryen, P. C.
William L. Jeffries, Jr.
Charles E. Samuels
C. Michael DeCamps
Harvey A. Goodman
C. Thomas Ebel
A. Conrad Bareford*

*George B. White (1906-1961)
Raymond H. Dupuy (1899-1973)
Richard M. Dunn, Jr. (1928-1980)*

May 5, 1982

Lewis H. Vaden, Clerk
Chesterfield Circuit Court
P. O. Box 125
Chesterfield, Virginia 23832

Re: Commonwealth v. Forrest P. Heacock
Bond Forfeiture Hearing

Dear Mr. Vaden:

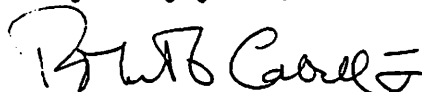
On behalf of E. P. Heacock, the surety in the captioned matter, please issue subpoenas for the following witnesses to testify at the hearing in this matter scheduled for May 19, 1982 at 10:00 a.m.:

Clarence D. Green
103 Mardick Road
Richmond, Virginia
(City of Richmond)

Forrest Perry Heacock
Chesterfield County Jail
Chesterfield, Virginia
(County of Chesterfield)

Thank you for your attention to this matter.

Very truly yours,


Robert G. Cabell, Jr.

RGCjr:jsa

RECEIVED AND FILED


MAY 6 1982

LEWIS H. VADEN, CLERK



The Commonwealth of Virginia,

To the Sheriff of the County Chesterfield, Greeting:

WE COMMAND YOU THAT YOU SUMMON
Forrest P. Heacock, Chesterfield County Jail

to appear before the Judge of our Circuit Court of the County of Chesterfield at the Courthouse
thereof, on the 19th day of May, 1982 at 10:00 o'clock A. M.
to testify and the truth to say on behalf of the DEFENDANT, in a certain matter of
controversy in our said Court before the said Judge depending and undetermined between

COMMONWEALTH

, Plaintiff

and BOND FORFEITURE HEARING
FORREST P. HEACOCK

, Defendant

And have then there this writ.

Witness, LEWIS H. VADEN, Clerk of our said Court, at the Courthouse, the 6th
day of May, 1982, and in the 206th year of the Commonwealth.

LEWIS H. VADEN, Clerk

By Constance A. Duck, Deputy Clerk

MAY 6 11 30 AM '82
RECEIVED
SHERIFFS DEPT
CHESTERFIELD

Executed in Chesterfield County, Virginia, by delivering a true
copy of the within known to the within named

Forrest P. Heacock in person at usual
place of ~~work~~ in said County, this the 19th day of May 1982

E. L. WINGO, SHERIFF

Sheriff, Chesterfield County, Virginia

By R. E. Phillips

COMMONWEALTH

VS. }

SUBPOENA
FOR
WITNESS

FORREST P. HEACOCK

Chesterfield Circuit Court the

19th day of May 1982
10:00 A.M.

1 & 1 to Sheriff of Chfd
No Sheriff fee required

RECEIVED AND FILED

MAY 10 1982

LEWIS H. VADEN, CLERK

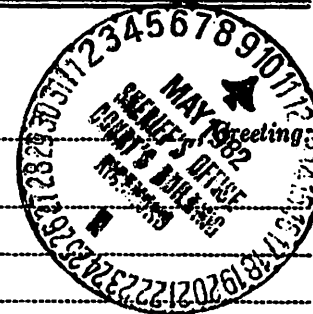
SL

2220

The Commonwealth of Virginia,

To the Sheriff of the City of Richmond

WE COMMAND YOU THAT YOU SUMMON
Clarence D. Green, 103 Mardick Road, Richmond



to appear before the Judge of our Circuit Court of the County of Chesterfield at the Courthouse thereof, on the 19th day of May, 1982 at 10:00 o'clock A. M. to testify and the truth to say on behalf of the FORREST P. HEACOCK, in a certain matter of controversy in our said Court before the said Judge depending and undetermined between —

COMMONWEALTH, Plaintiff
and
FORREST P. HEACOCK, Defendant

And have then there this writ.

Witness, LEWIS H. VADEN, Clerk of our said Court, at the Courthouse, the 6th day of May, 1982, and in the 206th year of the Commonwealth.

LEWIS H. VADEN, Clerk

By *Clarence D. Green*, Deputy Clerk

Clarence D. Green

COMMONWEALTH

VS. }

SUBPOENA
FOR
WITNESS

FORREST P. HEACOCK

Chesterfield Circuit Court the

19th day of May 1982
10:00 A.M.

1 & 1 to sheriff of Richmond
No sheriff fee required

RECEIVED AND FILED

MAY 17 1982

LEWIS H. VADEN, CLERK
CR

Neither Clarence D. Green
nor his/her wife/husband, nor any person who is a
member of his/her family and above the age of six-
teen years could be found at his/her usual place of
abode on the following date, so the within process
was executed by me within the City of Richmond,
Virginia, by leaving a true copy thereof posted at
the front door of such place of abode on the

12th day of May 1982

Andrew J. Winston, Sheriff

By: Robert J. Winston

Deputy Sheriff

Law Offices
Cabell, Paris, Lowenstein & Banford

523 East Main Street
Richmond, Virginia 23219
Telephone (804) 643-9066

Leonard A. Paris
Charles P. Reemus
Robert G. Cabell, Jr.
Marshall L. Lowenstein
Patrick M. Casalingo, Jr.
D. Wayne O'Bryan, P.C.
William L. Jeffries, Jr.
Charles E. Samuels
C. Michael De Camps
Harvey A. Goodman
C. Thomas Edet
A. Conrad Banford
J. William White, Jr.

July 12, 1982

George B. White (1906-1961)
Raymond H. Dugan (1899-1975)
Richard M. Dumas, Jr. (1928-1980)

Lewis H. Vaden, Clerk
Chesterfield Circuit Court
P. O. Box 125
Chesterfield, Virginia 23832

Re: Commonwealth v. Forrest P. Heacock
Bond Forfeiture Hearing

Dear Mr. Vaden:

On behalf of E. P. Heacock, the surety in the captioned matter, please issue subpoenas for the following witnesses to testify at the hearing in this matter scheduled for July 20, 1982 at 10:00 a.m.:

Clarence D. Green
103 Mardick Road
Richmond, Virginia (City of Richmond)

Forrest Perry Heacock
Chesterfield County Jail
Chesterfield, Virginia (County of Chesterfield)

Thank you for your prompt attention to this matter.

Very truly yours,

RGC

Robert G. Cabell, Jr.

RGCjr:jsa

7/13/82

called for sheriff's fee

RECEIVED AND FILED

WS 7/14/82
JUL 13 1982

LEWIS H. VADEN, CLERK

118

Neither Clarence D. Green
nor his/her wife/husband, nor any person who is a
member of his/her family and above the age of six-
teen years could be found at his/her usual place of
abode on the following date, so the within process
was executed by me within the City of Richmond,
Virginia, by leaving a true copy thereof posted at
the front door of such place of abode on the
16 day of July 1982

Andrew J. Winston, Sheriff

By:

R. Winston

Deputy Sheriff

Commonwealth

VS. }
SUBPOENA
FOR
WITNESS

Forrest P. Heacock
(Robert G. Cabell, Jr., Atty.)

Chesterfield Circuit Court the

20th day of July 1982
10:00 A.M.

1 & 1 to the Sheriff of
the City of Richmond

\$2.00 Sheriff's fee attached

RECEIVED AND FILED

JUL 20 1982

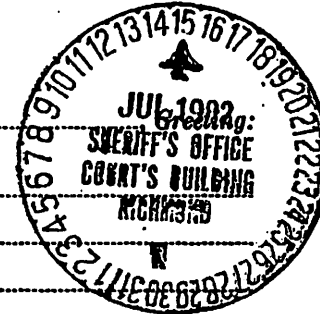
LEWIS H. VADEN, CLERK
OR

Revised

The Commonwealth of Virginia,

To the _____ Sheriff of the _____ City _____ of Richmond

WE COMMAND YOU THAT YOU SUMMON Short call
Clarence D. Green, 103 Mardick Road, Richmond, VA



to appear before the Judge of our Circuit Court of the County of Chesterfield at the Courthouse thereof, on the 20th day of July, 19 82 at 10:00 o'clock A. M. to testify and the truth to say on behalf of the defendant, in a certain matter of controversy in our said Court before the said Judge depending and undetermined between _____

Commonwealth, Plaintiff
and _____
Forrest P. Heacock, Defendant

And have then there this writ.

Witness, LEWIS H. VADEN, Clerk of our said Court, at the Courthouse, the 13th day of July, 19 82, and in the 207th year of the Commonwealth.

LEWIS H. VADEN, Clerk

By Karen B. Hartley Deputy Clerk

CONDITIONS OF RELEASE AND RECOGNIZANCE

VA. CODE ANN. § 19.2-123.19.2-258

The Accused promises to appear before the

Chesterfield
CITY OR COUNTY

- ☐ General District Court (☐ Criminal Division ☐ Traffic Division)
☐ Juvenile and Domestic Relations District Court ☒ Circuit Court

10100 Ironbridge Rd. Chesterfield, Va.
(STREET ADDRESS OF COURT)

March 15, 1982 10:00AM
DATE AND TIME

to answer the following charge(s) against the accused.

consp. -to distribute cocaine

(☐ continued on back)

The Accused further promises to appear to answer for the offenses for which he may be charged at all times and places and before any court or judge to which this case may be rescheduled, continued, transferred, certified or appealed. The Accused promises not to depart the Commonwealth of Virginia without leave of such court or judge, to keep the peace and be of good behavior until final disposition of this case.

OTHER CONDITIONS ON REVERSE SIDE

I, the Accused, hereby promise to fulfill faithfully the conditions given above

XXX

Forrest P. Heacock
ACCUSED

WARNING: Failure to fulfill the terms conditions above or any violation thereof may result in your arrest and forfeiture of the bond on the lower portion of this page (if applicable). Failure to appear may result in your being tried and convicted in your absence. Failure to appear is a separate offense. If bonded to appear in circuit court on a misdemeanor charge, failure to appear constitutes waiver of trial by jury.

☐ The accused is released into the custody of the person/organization named below, on the condition that said custodian make all reasonable effort to ensure that the accused fulfill the conditions given above, and that any violation by or disappearance of the accused be promptly reported to the court.

NAME OF CUSTODIAN

ADDRESS

SIGNATURE OF CUSTODIAN

BOND The Accused, and Surety(ies) (if any), each hereby acknowledges himself, his heirs and assigns indebted to Commonwealth of Virginia for ☒ City or Locality named above in the sum of \$ 5000.00

☐ UNSECURED SECURED by: ☒ CASH DEPOSIT ☐ SURETY BOND ☐ REAL PROPERTY located at

(and if secured by real property, the undersigned, having demonstrated to the officer taking this bond the nature of their interest in the property, also make oath that the equity of the undersigned in the property equals or exceeds the amount of this bond). The undersigned each waives all benefit of homestead exemptions as to this debt and further covenants jointly and severally that none of them shall permit or cause title to or possession of the property pledged to secure this bond to be transferred in any manner to any degree or entumbered to the extent of this obligation. The above terms of the conditions of Release and Recognizance are hereby incorporated by reference.

If the Accused shall faithfully fulfill the conditions of release and recognizance given above, this debt is to be void; otherwise this debt is to remain in full force and effect until declared void by a Court of competent jurisdiction.

XXX

E. P. Heacock
(SEAL)
SURETY

SURETY

XXX

Forrest P. Heacock
(SEAL)
ACCUSED

HEARING DATE

FILE NO.

TD 3-15-82 10:00AM

CONDITIONS OF RELEASE, RECOGNIZANCE, AND BOND

Forrest, Terry Heacock
ACCUSED

2812 Cicero Pkwy

Chester, Va.

748-3799

RETURNABLE TO:

Chesterfield

- ☐ General District Court (CRIMINAL)
☐ General District Court (TRAFFIC)
☐ Juvenile & Domestic Relations District Court
☒ Circuit Court

DATE RECEIVED	DATE DISBURSED/DISCHARGED
1-22-82	1-22-82
BOND AMOUNT	RECEIPT NO. (IF CASH DEPOSIT)
\$ 5000.00	C778383

ADMITTANCE TO BAIL: The promise to fulfill the conditions of release, and the bond, if any, were subscribed and sworn to before me this day. The Accused is ordered released pursuant to the terms within.

☐ CLERK ☒ MAGISTRATE ☐ JUDGE

Jan 22, 1982 11:52AM
DATE AND TIME

SURETY: Name(s), address(es), and if corporate surety, name(s) of authorized agent(s).

Cash bond posted by:

E. P. Heacock

12820 Percival St.

Chester, Va. 23831

748-7894

Accot Court
☒ GENERAL ☐ J & DR DISTRICT COURT C 7783
 County/City Christiansburg, VIRGINIA 1-22, 1982 FILE NO. _____
 ACCOUNT OF Forrest Terry Hancock
 RECEIVED OF E.P. Hancock 12820 Principal St Christiansburg

110	State Fines		132	CICF		519	Support Payment	
201	Local Fines		120	C.A. Atty-State				
112	Trial Fees		217	C.A. Atty-Local				
113	Bail Fees		125	Weighing Fees				
305	Filing Fees		126	Liq. Damages				
118	Summons Fees		219	Law Library				
133	Blood Test Fees		502	Bonds	5000.00			
Total Received							5000.00	

I hereby certify this to be the Official Receipt Form authorized by law. Receipt in any other form shall not be valid against the Commonwealth of Virginia.



E. P. Hancock
 Collecting Officer Title
☐ Partial Payment
☐ Prepayment

Form DC-7

RECEIVED AND FILED
 \$5000.00 ch.
 JAN 25 1982

LEWIS H. VADEN, CLERK
 DR

CONDITIONS OF RELEASE AND RECOGNIZANCE

VA. CODE ANN. §19.2-123, 19.2-258

The Accused promises to appear before the

Chesterfield
CITY OR COUNTY

- ☐ General District Court (☐ Criminal Division ☐ Traffic Division)
☐ Juvenile and Domestic Relations District Court ☒ Circuit Court

10100 Ironbridge Rd., Chesterfield, Va.
(STREET ADDRESS OF COURT)

March 15, 1982 10:00AM
DATE AND TIME

to answer the following charge(s) against the accused.

Possession & distribute Cocaine

(☐ continued on back)

The Accused further promises to appear to answer for the offenses for which he may be charged at all times and places and before any court or judge to which this case may be rescheduled, continued, transferred, certified or appealed. The Accused promises not to depart the Commonwealth of Virginia without leave of such court or judge, to keep the peace and be of good behavior until final disposition of this case.

OTHER CONDITIONS ON REVERSE SIDE

I, the Accused, hereby promise to fulfill faithfully the conditions given above

XX *Forrest P. Heacock*
ACCUSED

WARNING: Failure to fulfill the terms conditions above or any violation thereof may result in your arrest and forfeiture of the bond on the lower portion of this page (if applicable). Failure to appear may result in your being tried and convicted in your absence. Failure to appear is a separate offense. If bonded to appear in circuit court on a misdemeanor charge, failure to appear constitutes waiver of trial by jury.

☐ The accused is released into the custody of the person/organization named below, on the condition that said custodian make all reasonable effort to ensure that the accused fulfill the conditions given above, and that any violation by or disappearance of the accused be promptly reported to the court.

NAME OF CUSTODIAN

ADDRESS

SIGNATURE OF CUSTODIAN

BOND The Accused, and Surety(ies) (if any), each hereby acknowledges himself, his heirs and assigns indebted to Commonwealth of Virginia for ☒ City or Locality named above in the sum of \$ 5000.00

☐ UNSECURED ☒ SECURED by ☒ CASH DEPOSIT ☐ SURETY BOND ☐ REAL PROPERTY located at

(and if secured by real property, the undersigned, having demonstrated to the officer taking this bond the nature of their interest in the property, also make oath that the equity of the undersigned in the property equals or exceeds the amount of this bond). The undersigned each waives all benefit of homestead exemptions as to this debt and further covenants jointly and severally that none of them shall permit or cause title to or possession of the property pledged to secure this bond to be transferred in any manner to any degree or encumbered to the extent of this obligation. The above terms of the conditions of Release and Recognizance are hereby incorporated by reference.

If the Accused shall faithfully fulfill the conditions of release and recognizance given above, this debt is to be void; otherwise this debt is to remain in full force and effect until declared void by a Court of competent jurisdiction.

XX *E. P. Heacock*
SURETY

XX *Forrest P. Heacock*
ACCUSED

HEARING DATE

FILE NO.

TD3-15-82 10:00AM

CONDITIONS OF RELEASE, RECOGNIZANCE, AND BOND

Forrest Terry Heacock
ACCUSED

2812 Cicero Pkwy

Chester, Va. 748-3799

RETURNABLE TO:

Chesterfield

- ☐ General District Court (CRIMINAL)
☐ General District Court (TRAFFIC)
☐ Juvenile & Domestic Relations District Court
☒ Circuit Court

DATE RECEIVED

DATE DISBURSED/DISCHARGED

1-22-82

1-22-82

BOND AMOUNT

RECEIPT NO. (IF CASH DEPOSIT)

\$5000.00

C 778382

ADMITTANCE TO BAIL: The promise to fulfill the conditions of release, and the bond, if any, were subscribed and sworn to before me this day. The Accused is ordered released pursuant to the terms within

☐ CLERK ☒ MAGISTRATE ☐ JUDGE

Jan 22, 1982 11:52 AM
DATE AND TIME

SURETY: Name(s), address(es), and if corporate surety, name(s) of authorized agent(s).

Cash bond posted by:

E. P. Heacock
12820 Percival St.
Chester, Va. 23831

748-7894

Circuit Court

☒ GENERAL ☐ J & DR DISTRICT COURT

C 778382

County/City Photo-Trip, VIRGINIA 1-22, 1982 FILE NO. _____

ACCOUNT OF Forrest Turner Hupcock 748.7894

RECEIVED OF E.P. Hupcock, 12820 Principal St. Chv. Va

110	State Fines		132	CICF		519	Support Payment	
201	Local Fines		120	C.A. Atty.-State				
112	Trial Fees		217	C.A. Atty.-Local				
113	Bail Fees		125	Weighing Fees				
305	Filing Fees		126	Liq. Damages				
118	Summons Fees		219	Law Library				
133	Blood Test Fees		502	Bonds	5000.00			

I hereby certify this to be the Official Receipt Form authorized by law. Receipt in any other form shall not be valid against the Commonwealth of Virginia.

Total Received 5000.00



David M. Magistral
Collecting Officer Title

☐ Partial Payment
☐ Prepayment

Form DC-7

RECEIVED AND FILED

\$5000.00 ck

JAN 25 1982

LEWIS H. VADEN, CLERK
BR

ASSIGNMENTS OF ERROR

Pursuant to Rule 5:21 of the Rules of the Supreme Court of Virginia, the appellant assigns the following as errors:

1. The Court erred in forfeiting twenty thousand dollars of the surety's recognizance for failure of the principal to keep the peace and be of good behavior by allegedly threatening a witness since the same criminal charge of threatening a witness brought against the principal was dismissed by the Commonwealth.
2. The Court erred in applying the doctrine of collateral estoppel offensively by forfeiting part of the surety's recognizance solely on the result reached in a prior bond revocation proceeding to which the surety was not a party and during which the principal's bond was ordered revoked.
3. The Court erred in applying Virginia Code §19.2-143 by forfeiting part of the surety's recognizance solely upon the result reached in a prior bond revocation proceeding during which the principal's bond was ordered revoked.
4. The Court violated petitioner's rights to due process and confrontation by forfeiting part of the surety's recognizance solely upon the result reached in a prior bond revocation proceeding and without requiring the Commonwealth to present any evidence supporting the requested bond forfeiture.
5. The Court abused its discretion when it forfeited twenty thousand dollars of the surety's recognizance solely upon the result reached in a prior bond revocation hearing and when the Commonwealth failed to demonstrate that it suffered any loss or inconvenience as a result of the principal's alleged default of the conditions of the recognizance.

CERTIFICATE OF SERVICE

I hereby certify that I have mailed, postage prepaid, three copies of the foregoing Joint Appendix, on this 9th day of January, 1984 to Donald R. Curry, Assistant Attorney General, Supreme Court Building, 101 North 8th Street, Richmond, Virginia 23219.