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Record No. 6261

In the
Supreme Court of Appeals of Virginia
at Richmond

JAMES H. CONNER, JR.

v.

COMMONWEALTH OF VIRGINIA

FROM THE CORPORATION COURT OF THE CITY OF LYNCHBURG

RULE 5:12 BRIEFS

§5. **NUMBER OF COPIES.** Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. **SIZE AND TYPE.** Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

IN THE
Supreme Court of Appeals of Virginia

AT RICHMOND.

Record No. 6261

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Thursday the 14th day of October, 1965.

JAMES H. CONNER, JR.,

Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA,

Defendant in error.

From the Corporation Court of the City of Lynchburg
O. Raymond Cundiff, Judge

Upon the petition of James H. Conner, Jr., a writ of error and *supersedeas* in awarded him to a judgment rendered by the Corporation Court of the City of Lynchburg on the 11th day of December, 1964 (Forgery, No. 1), in a prosecution by the Commonwealth against the said petitioner for a felony; but said *supersedeas*, however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

RECORD

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VIRGINIA: At Lynchburg Corporation Court, March 2, 1964.

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This day came the Commonwealth's attorney, and the said James H. Conner, Jr., who stand indicted of forgery, and who prior to being indicted therefor had a preliminary hearing on said charge, appeared in court in his own proper person in custody of the jailor of this court, and said accused also appeared by Floyd C. Jennings, Jr., his attorney previously employed, and the accused in his own proper person and by his attorney asked that this case be tried on this day, and the Commonwealth's attorney consented thereto.

Thereupon the accused being duly arraigned, in his own proper person pleaded guilty to the indictment, after consultation with and advice of his said attorney, and the court being of the opinion that the accused fully understood the nature and effect of his said plea, proceeded to hear and determine the case without the intervention of a jury, and having heard the evidence and argument of counsel, the court doth find the accused guilty of forgery, as charged in the indictment, and doth ascertain and fix his punishment at confinement in the penitentiary of this Commonwealth for two years.

Thereupon it being demanded of the accused if anything for himself he had or knew to say why the court should not proceed to pronounce judgment against him according to law, and nothing being offered or alleged in delay thereof, it is considered by the court that the accused, the said James H. Conner, Jr., be confined in the penitentiary of this Commonwealth for the aforesaid term of two years, to be computed from the date of this judgment, but deducting therefrom 24 days spent by the accused in jail awaiting trial, and that he pay the costs of this prosecution.

And it is ordered that the city sergeant of this city, upon a proper warrant from the lawful authorities of said penitentiary, do deliver the body of the said James H. Conner, Jr., who has been present in his own proper person at all time throughout the trial of this case, to the duly authorized agent of the superintendent of said penitentiary, to be conveyed hence to said institution, therein to be confined and treated

in the manner directed by law.

page 11] On motion of the accused, and upon the recommendation of the Commonwealth's attorney, and it appearing compatible with the public interest, the court doth order that execution of the aforesaid sentence to the penitentiary be suspended upon condition that the said accused serve four months in jail, be of good behavior in all respects for the term of two years from this date, and be and he is hereby placed on probation under the general supervision of the state probation and parole officer of this court, to report to the said probation and parole officer as and when he shall reasonably require and direct, to obey such reasonable rules and regulations as the said probation and parole officer shall prescribe for him, and not to leave the jurisdiction of this court without the permission of said probation and parole officer, during the term of two years aforesaid, and shall pay said costs, and shall make restitution for the money obtained by him as shown in cases 1, 2, 3, & 4, for forgery.

And the prisoner is remanded to jail.

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Virginia : At Lynchburg Corporation Court, December 11, 1964.

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It appearing that on the 2nd day of March, 1964, said accused was convicted in this court of forgery, and his punishment fixed at two years in the penitentiary of this Commonwealth, with execution suspended upon condition that said accused be of good behavior in all respects for the term of two years, and he was placed on probation under the usual terms and conditions; and on motion of the Commonwealth's attorney that said accused has violated the terms and conditions of said suspension and probation, a rule and *capias* were issued against said accused, requiring him to show cause, if any he can, why said suspension and probation should not be revoked; and this day came the Commonwealth's attorney, and said accused appeared in Court in his own proper person in custody of the jailor of this court, and said accused also appeared by Joseph R. Johnson, Jr., his attorney heretofore appointed by the court to represent said accused upon the charge of violating the terms and conditions of his suspension and probation, and the evidence and argument of counsel being heard, and the court being satisfied that said accused has violated the

terms and conditions of said suspension and probation, doth order that said suspension and probation be revoked, and said accused shall serve the original sentence in this case. Said accused is entitled to no credit for time spent in jail awaiting a hearing on said rule and *capias*.

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NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR

Notice is hereby given, pursuant to Rule 5:1, Section 4, of the Rules of the Supreme Court of Appeals of Virginia, that James H. Conner, Jr., the defendant above mentioned, hereby appeals to the Supreme Court of Appeals of Virginia from the final judgment entered in the cause of *Commonwealth of Virginia v. James H. Conner, Jr.*, (Forgery—No. 1) on the 11th day of December, 1964.

Pursuant to the aforesaid Rules, the said defendant makes the following assignments of error, and alleges that the Court in revoking the suspended sentence previously imposed in this cause erred as follows:

(1). In directing that the penitentiary sentence imposed in this cause shall run consecutively with the penitentiary sentence imposed in the cause styled *Commonwealth of Virginia v. James H. Conner, Jr.* (Forgery—No. 2) when by the terms of the original orders of conviction said sentences were stated to run concurrently.

JOSEPH R. JOHNSON, JR.
Attorney for the Defendant,
JAMES H. CONNER, JR.

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Filed: Feb. 3, 1965, GEO. W. MARTIN, Clerk.

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STIPULATION OF FACTS.

The undersigned attorney for the defendant and the attorney for the Commonwealth in the above styled proceeding, hereby stipulate, certify and agree to the following brief statement of facts in the above styled proceeding:

On the 2nd day of March, 1964, in the Lynchburg Corporation Court, James H. Conner, Jr. was convicted of four separate felony charges, each of said felony charges being a charge of forgery, and on each of said indictments the said James H. Conner, Jr. was sentenced to confinement in the penitentiary of this Commonwealth for a term of two years; and, further, each and all of the conviction orders entered by the Court stated that the two year sentence would be computed from the date of the judgment. The Court further ordered, however, that each of these four sentences would be suspended upon certain terms and conditions.

Further, during the December, 1964, term of this Court, the said James H. Conner, Jr. was brought before the Lynchburg Corporation Court on a charge of violating the terms and conditions of his aforesaid suspended sentences, in each and all of the four cases, and the Court being satisfied that the accused had violated the terms and conditions of his said suspended sentences, did order that two of the suspended sentences be revoked and that the accused should serve the original sentence of two years in each of two of
 page 22 } the aforesaid forgery convictions, namely, Forgery No. 1 and Forgery No. 2. The suspension and probation of the accused in regards to the other two previous convictions of forgery, namely, Forgery No. 3 and Forgery No. 4, were not revoked by the Court.

True copies of the original orders of conviction in each of the four forgery charges are filed with the papers in this proceeding and made a part of the record and copies of each of the orders of conviction in the violation of probation charges on both Forgery No. 1 and Forgery No. 2 are filed with the papers in this cause and made a part of the record.

Respectfully submitted:
 JOSEPH R. JOHNSON, JR.
 Attorney for the Defendant,
 JAMES H. CONNER, JR.

ROYSTON JESTER, III
 Attorney for the Commonwealth

Filed: March 31, 1965 GEO W. MARTIN, Clerk.

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A Copy—Teste:

H. G. TURNER, Clerk.

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