1 dominion and control is the problem.
2 THE COURT: The problem I have with that
3 argument that you say is federal case law, but the
4 problem with that argument is in any case you
5 could have a convicted felon driving the vehicle,
6 owning the vehicle, in the seat with a weapon
7 immediately beside him in plain view readily
8 accessible sitting there, and all you have to do
9 is have a passenger who has never been convicted
10 of a felony who comes to court and says it was my
11 weapon. And I just can't believe that's the law.
12 The law is that it does not have to be
13 exclusive possession. In order to convict
14 somebody you have to show that the defendant was
15 aware of the presence and the character of the
16 firearm and that it was subject to his dominion
17 and control.
18 In this case we have a console immediately
19 adjacent to the defendant. We have a weapon
20 that's in the console in plain view, open console.
21 The weapon is immediately adjacent to his right
22 leg. It is clear to the Court that this weapon
23 was subject to his dominion and control. It is
24 clear that he was aware of the presence and the
25 character of that firearm. That's sufficient to

1 find him guilty of the charge.
2 MR. MOORE: I think the part about the
3 subject to, once she says it's hers he is not
4 subject to the control.
5 THE COURT: Well, the Court has to judge
6 the credibility of the witnesses and base it on
7 the facts and circumstances. He's not charged
8 with owning the weapon. That is not the charge.
9 The charge is not that he owned the weapon. The
10 charge is that he possessed it or exercised
11 dominion and control of the weapon. He was aware
12 of the character and presence of it. It was
13 certainly subject to his dominion and control, and
14 that's sufficient.
15 Stand up, sir.
16 The Court finds you guilty as charged in
17 the indictment in that on or about July 27, 2007
18 in Cumberland County that you did unlawfully and
19 feloniously, knowingly and intentionally possess
20 or transport a firearm after having been convicted
21 of a felony in violation of Section 18.2-308.2 of
22 the Code of Virginia.
23 We also have the other charge which he
24 entered a plea of guilty to and that is driving on
25 suspended charge. I take it you have gone over