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RICHMOND, VIRGINIA

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

RECORD No. 6782

RUTH L. HARVEY,
Plaintiff-in-Error,

v.

COMMONWEALTH OF VIRGINIA,
Defendant-in-Error.

BRIEF AND APPENDIX OF PLAINTIFF-IN-ERROR

S. W. TUCKER
HILL, TUCKER & MARSH
214 East Clay Street
Richmond, Virginia 23219

J. L. WILLIAMS
216 North Ridge Street
Danville, Virginia 24541

JACK GREENBERG
JAMES M. NABRITT, III
10 Columbus Circle, Suite 2030
New York, New York 10019

Counsel for Plaintiff-in-Error

Appendix No. 1

EUGENE A. LINK
ATTORNEY & COUNSELLOR AT LAW
DANVILLE, VIRGINIA

MASONIC BUILDING

December 7, 1966

Miss Ruth Harvey, Attorney
453 South Main Street
Danville, Virginia

Dear Miss Harvey:

Re: Cases involving violation of restraining order and temporary injunction.

We have set down for trial all cases listed on Mr. Tucker's docket involving the following violations:

Cases 1 through 57 set for December 13, 1966.
Cases 58 through 134 set for December 14, 1966.
Cases 135 through 231 set for December 15, 1966.
Cases 232 through 333 set for December 16, 1966.
Cases 334 through 371 set for December 19, 1966.

The Honorable A. M. Aiken, Judge, has notified me that only the cases involving the temporary injunction will be tried in December. I have therefore set out above, the cases according to the docket, to be tried according to the above dates.

I am giving you this information so that you will be in position to notify your clients and have them in Court on the dates scheduled.

Yours very truly,

/s/ EUGENE A. LINK
Eugene A. Link, Attorney for the Commonwealth, for the City of Danville, Virginia.

EAL:dml
cc: Mr. Jerry L. Williams, Attorney
216 North Ridge Street
Danville, Virginia

EXCERPTS FROM TRANSCRIPT
Appendix No. 2

[TR. P. 1]

VIRGINIA:

IN THE CORPORATION COURT OF DANVILLE,

COMMONWEALTH OF VIRGINIA	)
	)
V.	)
	)
IRVIN CHRISTOPHER BETHEL,	)
LENDBURY BRADSHAW,	)
HARRISON BROWN, JR.,	)
JAMES COBB, JR.,	)
JOHN ROLAND COLEMAN,	)
LAWRENCE COLEMAN,	)
ELLIS NEWTON DODSON,	)
WILLIAM HAYWOOD INGRAM	)
ROBERT JAMES LEWIS,	)
MARGIE MABIN,	)
HILDRETH GLENNELL McGHEE,	)
ARCHIE LEE PETTY,	)
HARVEY LEWIS POTEAT,	)
LUVINIA PRITCHETT,	)

WILLIAM HOWARD SCOTT,	)
PERCY WALTERS,	)
RALPH FRANK WALTERS,	)
MELVIN WARNER,	)
GEORGE ALBERT WATKINS,	)
JAMES EDWARD WHIPPLE	)
VERNICE SMITH, and	)
JIMMY RAY HAIRSTON.	)

. . . . . .

The following constitutes a transcript of all of the oral testimony and other incidents of trial in the above-styled cause, before the Honorable A. M. Aiken, Judge of the Corporation Court of the City of Danville, on December 13th and 14th 1966, wherein each of the above-named defendants was tried on a charge of Violation of Temporary Injunction and Restraining Order, and which was electronically recorded.

[TR. P. 2]

PRESENT:

Eugene A. Link, Esq.,
Danville, Virginia,

James A. H. Ferguson, Esq.,
Danville, Virginia,

For the Commonwealth

Ruth L. Harvey, Esq.,
Danville, Virginia,

J. L. Williams, Esq.,
Danville, Virginia,

S. W. Tucker, Esq.,
Emporia, Virginia,

For the Defendants.

Each of the Defendants in person, with the exception of Jimmy Ray Hairston.

* * *

[TR. PP. 7-8]

CHAMBERS

* * * that a little. We have these cases set the 13th, that's today, the 14th, 15th, 16th and the 19th. We have them set for those days.

MR. LINK: I think we ought to go on through the rest of them and, of course, see if they get here. Some of them are on here two or three times. There are other people who are not on here. I notice too, Judge, these cases are not set on the docket according to . . . apparently the arrest date and not according to the offense date. So most of the relative dates we were going to try these cases, I believe was 1 through 57 on the 13th.

JUDGE AIKEN: They are the ones set for today.

MR. LINK: Then I found out now, I've got twelve cases that were in this other group from 69 through 134 that should have been on the 13th because that was the offense date rather than the arrest date. And Mr. Tucker has them listed on his docket. He's got them listed on the arrest date.

MR. T. F. TUCKER: Well, that's the only date we had. That's the only way we could do it because at the time we issued . . . if you'll look at the papers, there was nothing on there that we could tell or foresee that the offense date would play such an important part in scheduling these cases.

MISS HARVEY: And I might say, of course, Mr. Link had a rather difficult time getting these cases together and so that as soon as we could get his list for the scheduling of the dates it was very difficult for us to notify all of these people.

JUDGE AIKEN: I can see that. I think there are some difficulties on both sides.

MISS HARVEY: He had difficulties and through him getting the dates late to us, then it threw us late trying to get word to the people.

MR. LINK: Yes, I had a whole lot of trouble.

JUDGE AIKEN: I realize that there are difficulties on both sides and I want to be as fair as I can with both sides. I want to be as lenient as we can, reasonably, with these people that are on the bonds, Mrs. Hughes and some of the others here. I want to give them every reasonable opportunity to get the defendants here that they are tied up on.

JUDGE AIKEN: Jerry, have you any idea how long it would take you to get the out-of-town clients here, like those who live in Washington and New York, and one of them in Iowa?

MR. WILLIAMS: Yes, sir. Well, we could see how the court is going to run say after the 28th, the 29th or somewhere. I think that would give us plenty of time to get them all here.

JUDGE AIKEN: It ought not to take that long to get * * *

* * *

Appendix No. 3

[TR. P. 10]

CHAMBERS

* * * would be a duplication of evidence if we don't try them on the 10th and the 13th and the 15th. We'll be trying them in groups.

JUDGE AIKEN: Well, I think we can try some of them out there today and get rid of them.

MR. LINK: But you've got to go back and summons everybody that you summoned this morning, or practically everybody, in order to come back with the 10th again. And the same would happen with the 13th too. And I don't know about these other cases, how many that are missing on the 14th.

JUDGE AIKEN: How much time are we going to need to try these out-of-town people? Are they going to plead guilty? They are not going to plead guilty? Well, then it might take some time. What are these out here today going to do? Are they going to plead guilty? They're not going to express any penitence or any regrets for violating the Court's orders?

MISS HARVEY: Well, the way you put it, Judge.

MR. WILLIAMS: They're going to do all that. They're going to express all of that. But I mean we have to go through with the . . . Of course, it's a point that we . . .

MR. S. W. TUCKER: We want to try one case.

MR. WILLIAMS: . . . will make it the trial, won't we?

JUDGE AIKEN: You want to try one case?

* * *

[TR. PP. 212-213]

FERGUSON—ARGUMENT

* * * in any manner or apologized to this Court. And I'll say one further thing and I'll sit down. Courts since there have been courts in this world prior to the birth of Christ have always had powers to summarily punish for the disobedience of his orders. As long as there has been a history of law and order in this world, Courts have had that power. It's historic, and without it a Court could not enforce its decrees. If people could with impunity . . . for example, if you ordered me to do a certain thing and I could flaunt that completely without any of your powers to punish me for the wilful disobedience of some order, you might as well not be sitting on the bench. And by "you" I mean in the person of you any Judge in this land. We must live under rules and regulations and without them we live in a law of the jungle. And I see no apologetic countenance on any of these individuals or any comment from anybody that "We're sorry for what we did," or "we apologize if we made a mistake." And for that reason I certainly have no recommendations of leniency involved in these individuals who caused open riots in our community in 1963.

JUDGE AIKEN: All right. We've got to wind this matter up. The Court is considerably disappointed about these defendants. As Mr. Ferguson pointed out, not a single defendant has expressed any regret for disobeying the Court's orders. Not a single lawyer representing these defendants has expressed any regret about it that I recall. They are not willing to say that they were mistaken

and misguided in doing what they did, and maybe they don't think so. I don't know. I am disappointed too in the attitude of some of the leaders of this movement, especially the ministers. Now I don't think it ought to be held against Reverend McGhee that he started to pray out there. That's all right. What I am disappointed in about Reverend McGhee is that I know that he is an intelligent man and he is a minister; and the Court thinks that he ought to have been advising the people that he was leading there that night to obey the Court's order rather than leading them in demonstrations But this Court is not going to be very hard on Reverend McGhee. The Court feels that it is its duty to uphold the dignity and self-respect of this Court. And when this Court makes an order, it's got to be obeyed and anybody who violates it has got to pay some penalty for it even though it may be small.

Whereupon the Court found each of the following defendants guilty of violating the Court's injunction as of June the 10th, 1963 and fines and sentences to confinement were imposed as * * *

* * *