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Clerk, Supreme Court of Appeals
Richmond, Va.

Record No. 6782

In the Supreme Court of Appeals of Virginia at Richmond

RUTH L. HARVEY

v.

COMMONWEALTH OF VIRGINIA

FROM THE CORPORATION COURT OF DANVILLE

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.

COMMONWEALTH OF VIRGINIA
OFFICE OF
THE ATTORNEY GENERAL
RICHMOND

August 21, 1968

COPY

Honorable M. G. Turner, Clerk
Supreme Court of Appeals of Virginia
Court-Library Building
Richmond, Virginia 23219

Dear Colonel Turner:

Re: Record No. 6786
Albert Wesley Farris, Jr.
v.
Commonwealth of Virginia

There is a typographical error in the Brief of the Commonwealth appearing on the seventh line from the bottom of page 19. Please strike out the word "influence" and insert in lieu thereof the word "inflame."

Sincerely yours,

D. Gardiner Tyler
Assistant Attorney General

DGT:lch

Copies to
Members of the Court of Appeals
Bernard J. Natkin, Esquire

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 6782

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Monday the 9th day of October, 1967.

RUTH L. HARVEY, Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA, Defendant in error.

From the Corporation Court of Danville
A. M. Aiken, Judge

Upon the petition of Ruth L. Harvey a writ of error and *supersedeas* is awarded her to a judgment rendered by the Corporation Court of Danville on the 20th day of December, 1966, in a prosecution by the Commonwealth against the said petitioner for a misdemeanor; but said *supersedeas,* however, is not to operate to discharge the petitioner from custody, if in custody, or to release her bond if out on bail.

RECORD

* * * * *

page 1 }

* * * * *

It appearing to the Court that Ruth L. Harvey, an attorney practicing law before the bar of this Court, and who is representing certain defendants charged with violating the temporary injunction and restaining order of this Court dated June 6, 1963, has misrepresented herself in the case of the Commonwealth of Virginia vs: Leonard Winston Holt, one of the persons charged with violating the temporary injunction and restraining order, the Court doth, therefore, summarily hold the said Ruth L. Harvey to be in contempt of this Court and doth fix her punishment at a fine of $25.00.

Therefore, it is considered by the Court that the said Ruth L. Harvey for the offense aforesaid forfeit and pay to the Commonwealth of Virginia the sum of $25.00, her fine by the Court ascertained as aforesaid and that she also pay the costs of this prosecution.

And the said defendant intimating her intention to apply to the Supreme Court of Appeals of Virginia for a writ of error and *supersedeas* to the judgment of the Court, it is, therefore, ORDERED and DIRECTED that the execution on the judgment be suspended for a period of 60 days. And the said defendant is allowed bond in the sum of $100.00.

Whereupon, the said Ruth L. Harvey is duly recognized in the sum of $100.00 for her appearance here before this Court on February 20, 1967 to answer for and concerning the offense of which she stands convicted and not to depart thence without leave of this Court until the matter is finally disposed of by a Court of competent jurisdiction.

Enter 12/20/66. A. M. A.

* * * * *

page 2 }

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EXCEPTIONS

* * * * *

Ruth L. Harvey, an Attorney practicing at the Bar of this Court, notes the following exceptions to the action of the Court taken on December 20, 1966, by which she was adjudged to be in contempt and ordered to pay a fine of $25.00.

FIRST EXCEPTION

There was no citation or other process referring to the matters which had transpired on some previous day or days and which were supposed to constitute contempt; the charge, trial and judgment having consisted of a colloquy on December 20, 1966, concerning certain representations made or suppose to have been made on some earlier day or days, which colloquy began with this remark by the Court:

"Miss Harvey, the Court is of the belief that you deceived the Court here about Leonard Holt",

included that further remarks by the Court

"You mislead the Court about representing him ***** and after hearing the witness, Mr. Womack, testify about it, I am satisfied that you were not frank with the Court about it."

and except for the notation of the appeal, concluded with this remark by the Court—

"The Court feels that you are in contempt of Court and fines you twenty-five dollars".

Such summary proceeding concerning the events of some previous day or days was a denial of due process of law in violation of Section 8 of the Constitution of Virginia and the 14th amendment to the Constitution of the United States.

page 3 }

SECOND EXCEPTION

There is no evidence showing misconduct by the attorney reflecting improperly on the dignity of the Court or otherwise embarrassing the Court or obstructing or tending to obstruct, prevent or embarrass the due administration of justice; neither is there evidence showing that the said attorney had deceived the Court or had a willful purpose of doing

so; and there is no evidence of any other act or omission on the part of said attorney which constitutes contempt.

THIRD EXCEPTION

The Court reached its conclusion on the basis of testimony of a witness given at a time when said attorney had not crossed examined and had no reason to cross examine with respect to the alleged contempt. Such procedure was a denial of confrontation contrary to Section 8 of the Constitution of Virginia and a denial of due process in violation of the 14th Amendment to the Constitution of the United States.

WHEREFORE, it is prayed that the judgment and order of this Court dated December 20, 1966, by which the said Ruth L. Harvey was convicted of contempt and fined therefor be reversed and set aside.

Filed in Clerk's Office Corporation Court, Danville, Virginia January 9th, 1967.

Attest:

RHODA F. STEPHENS, Deputy Clerk

* * * * *

page 4 }

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This day came the defendant in her proper person and by her attorney, S. W. Tucker, and the said defendant having filed with the Clerk of this Court on January 9, 1967, her written Exceptions to the Court's ruling of December 20, 1966, the Court doth take judicial notice of the same for purposes of the record and doth deny the Motion of the Defendant to reverse and set aside its Judgment of December 20, 1966, to which action of the Court the defendant, by counsel, excepts.

Enter 2/20/67. A. M. A.

* * * * *

page 5 }

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NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR

RUTH L. HARVEY, respondent gives notice that she will apply to the Supreme Court of Appeals of Virginia for a writ of error to the judgment of this Court entered December 20, 1966, whereby she was adjudged to be in contempt of court and ordered to forfeit twenty-five dollars.

The assignments of error are:

1. The court erred in finding that the respondent had a willful purpose of deceiving the court.
2. The court erred in finding that there was misconduct reflecting improperly on the dignity of the court or misconduct embarrassing the court or otherwise tending to obstruct, prevent or embarrass the due administration of justice.
3. The court erred and violated the Fourteenth Amendment requirements of due process by not giving the respondent notice of a charge or citation against her and a fair opportunity, with such charge or citation in mind, to cross examine the witness on whose testimony the court relied and to present evidence in her own defense.

Filed in Clerk's Office, Corporation Court, Danville, Virginia February 20th, 1967.

Attest:

JANE B. HAWKER, Deputy Clerk

* * * * *

page 1 }

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IN RE: COMMONWEALTH OF VIRGINIA
V.
IRVIN CHRISTOPHER BETHEL, ET ALS

The following constitutes a transcript of a portion of the proceedings in the above-styled cause, before the Honorable A. M. Aiken, Judge of the Corporation Court of the City of

Danville, on December 13th, 1966, wherein the defendants were tried on a charge of Violation of Temporary Injunction and Restraining Order, and which was electronically recorded.

* * * * *

page 2 } During the calling of the docket to ascertain which of the defendants were present and the whereabouts of the ones who were absent, the following occurred:

T. F. Tucker, Clerk of the Corporation Court of the City of Danville called the name of Leonard Winston Holt.

Miss Ruth L. Harvey, one of the Attorneys for the Defendants, answered: "Washington, D. C."

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page 3 }

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IN RE: COMMONWEALTH OF VIRGINIA
V.
SYLVESTER BURRELL, ET ALS

* * * * *

page 4 } Near the beginning of the trial while the names of the Defendants were being called to ascertain which of them were present, the following occurred:

Clerk: Leonard Winston Holt.

Miss Harvey: As I indicated to the Court, he would be here on the 20th—the people that write.

Clerk: Is he to be included in this particular trial today, Mr. Link?

Miss Harvey: We have no objection.

Mr. Link: Well, he's not here. I mean he's one of those who is out of town, I guess, in Washington I believe.

Miss Harvey: Uh huh.

Judge: I should think he would have to be here. You say you're expecting him here the 20th?

Miss Harvey: Yes, sir.

Mr. Link: We'll put the evidence in on him.

Miss Harvey: That's what I thought you were going to do.

Judge: Do you want to put the evidence in on him?

Mr. Ferguson: What they said if your Honor please, there's a possibility that later on when they are brought in they may stipulate that the evidence that had been heard on this occasion can be used with reference to his matter.

page 5 } Judge: All right.

Mr. Ferguson: That is a decision that we would make at that time.

Clerk: But his name will not be included as a defendant today in this particular case?

Mr. Ferguson: No.

Miss Harvey: That's right.

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page 6 }

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IN RE: COMMONWEALTH OF VIRGINIA
V.
JOSEPH BOWE, ET ALS

* * * * *

page 7 } During the course of the proceedings Walter Link, one of the defendants, came before the Court and the following occurred:

The Court: Walter Link?

Walter Link: Yes, sir.

The Court: You are charged with Violation of the Injunction of this Court on June the 15th, 1963. Do you plead guilty or not guilty?

Walter Link: Guilty.

The Court: This man pleads guilty. Now you have made up your mind that you want to plead guilty?

Walter Link: Yes, sir.

The Court: What did you say?

Walter Link: Yes, I was told—I mean, I haven't had any chance to talk to any one because—

Eugene Link: Do you have an attorney?

Walter Link: I mean I didn't have—

The Court: Do you have a lawyer now?

Walter Link: What's this?

The Court: You have the right to be here today. Have you got a lawyer?

Walter Link: What they told me, they said, they would appoint a lawyer, you understand, so—

The Court: Well, nobody appoints a lawyer in a case like this.

Walter Link: I realize that.

The Court: Have you employed a lawyer?

page 8 } Walter Link: I don't have no lawyer at the present time.

The Court: Mr. Link, Mr. Ferguson, this man has no lawyer and he wants to plead guilty. What recommendation do you have?

Mr. Ferguson: I think maybe, if your Honor please, that since he's pled guilty if his Honor wants to, I believe it's up to his Honor about questioning him about perhaps maybe whether he's contrite about it and whether he has any feelings of remorse or anything of that nature.

The Court: Well, do you want to question him? Do you and Mr. Link want to ask him any questions? How do you feel about this thing? Are you sorry you got messed up in this?

Walter Link: I'm not sorry I got messed up in it 'cause there was a reason behind it I think. So I'm not sorry at all I got messed up in it.

The Court: You're not sorry?

Walter Link: No.

The Court: Are you pleading guilty because you are guilty? Is that it?

Walter Link: I mean towards the violating the City's Ordinance or either violating an injunction I plead guilty on that because at the time I suppose there was

page 9 } some kind of City Injunction that someone must have written up, so toward violating, which I did violate. So that is the only thing I'm pleading guilty to.

The Court: You did violate it but you don't have any regrets about it?

Walter Link: Don't have any regrets about it at all.

The Court: You don't?

Mr. Ferguson: I have no recommendation, sir.

The Court: In accordance with your plea of guilty the Court sentences you to ten days on the City Farm, eight days of which are suspended on your good behavior for four years after your release from the City Farm, and a fine of $20.00. Case No. 83.

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page 10 }

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IN RE: COMMONWEALTH OF VIRGINIA
V.
EVERETTE BRUCE, JR., ET ALS

* * * * *

page 11 } During the calling of the Docket at the beginning of the trial to ascertain which of the defendants were present and the whereabouts of the ones who were absent, the following occurred:

Miss Margaret Edmunds, Chief Deputy Clerk of the Corporation Court of Danville: No. 51, Leonard Winston Holt.
Miss Harvey: He is not here.

Following a conference in Chambers, where the Court and all Counsel were present, the following occurred in Open Court:

Mr. Ferguson: If your Honor please, we have reached an agreement with Counsel on both sides, that the ones that we identified in previous testimony, they would stipulate the testimony. Now the first one is Everett Bruce, Jr.—

During the calling of the names of the defendants in this case, the following occurred:

Mr. Ferguson: The next one is Number 51, and before you put anything down, this is Leonard Winston Holt. They announced that they, at least at this time they do not represent him, so we will have to try him in a few minutes.
The Court: All right.

* * * * *

page 12 } Further in the course of the proceedings the following occurred:

The Court: All right now, you say that you want to proceed to try Leonard W. Holt?
Mr. Ferguson: Yes, sir. Do you want him to be tried before you sentence these others, sir? We will be glad to do it, sir. It won't take but a few minutes.

The Court: Yes. Now, Miss Harvey and Mr. Williams, you told me several days ago here in Court that you did represent Leonard Holt. Why is it now you say you do not?

Mr. Williams: May it please the Court, I think your Honor knows Mr. Holt and—

The Court: Yes, I—

Mr. Williams: have met up with him. Mr. Holt is, of course, an attorney at law. Mr. Holt left here with these cases and he did not tell us very definitely that we were representing him. Now we have been representing all of the people who were in the demonstrations who have been in touch with us. Now Mr. Holt has not been directly in touch with us.

The Court: Now where did you get the idea that you did represent Holt, because you told me that?

page 13 } Mr. Williams: Because we were under the impression that all of the demonstrators that we were representing until we got in touch with them. Now we have not been able and we have with the representation we had we have been seeing them and talking to them again on representation and we have not gotten in touch with Mr. Holt. Now on the basis of what we first said, that we are representing all of the demonstrators—now for those who might have wanted some other counsel or had other counsel, now we have just come to the point that we could not *stiuplate* in all fairness to Mr. Holt, to The Court and to ourselves, we could not stipulate anything as far as Mr. Holt is concerned, because we couldn't get in touch with him again to verify the fact that we were still representing him.

The Court: All right. You do not represent him now?

Mr. Williams: No, sir.

Miss Harvey: If your Honor please. There's one other statement that I would like to make. Mr. Holt does not know that he is supposed to be here. I think that we should put in our statement—

page 14 } The Court: Why did you tell me that he was going to be here on the 20th?

Miss Harvey: We had called and left a message with his —some of his people. And they said, we'll have him here on the 20th.

The Court: Well, you told me positively yourself that he would be here on the 20th.

Miss Harvey: That's right, and that was what they told me. That he would be here on the 20th. And that is what I represented to the Court.

The Court: Are you trying to raise the point that he hasn't been notified now?

Hester Womack

Miss Harvey: Well, I am saying that—now I cannot say that really, because I will tell you what the people at his house repeated to me, that he would be here on the 20th, and that's what I told the Court. So that's why I wanted to be absolutely fair and frank with the Court. I have never mislead the Court, and I just wanted to make sure that the Court understood what the situation was.

HESTER WOMACK, THE NEXT Witness called on behalf of the Commonwealth, having been duly sworn, testified as follows:

DIRECT EXAMINATION

page 15 } By Mr. Ferguson:

Q. What is your name?

A. Hester Womack.

Q. Mr. Womack, did you have occasion to go on a bond for Leonard Winston Holt?

A. I did.

Q. Are you still on that bond?

A. Yes.

Q. Have you notified him to be here?

A. We have.

Q. Will you tell me how you notified him?

A. I notified the office of our attorney and told them to get in touch with him.

Q. You notified Mr. Holt?

A. That's right.

Q. Did you talk with him?

A. Through the office of our attorney.

Q. Through your attorney?

A. Uh huh.

Q. Who is your attorney?

A. Mrs. Ruth Harvey.

Q. Tell me what you did.

A. I told them to be sure to tell Mr. Holt to be here on the date he was supposed to be summoned.

Q. Have you received any communication from Mr. Holt?

page 16 } A. Somebody said that he is supposed to be in London, England. But I learned today that he is in Puerto Rico, I believe.

The Court: Where?

A. In Puerto Rico.

Hester Womack

The Court: Puerto Rico?

A. That's right. And we still tried to contact him there.
Q. Well, did you—after you found out that—when did you find out that he hadn't been notified, or did you find that out?
A. Oh, when the first case was supposed to come up. That's been about, I guess two weeks ago.
Q. Did you make any effort to come down here to the Court and tell the Court that you were unable to find him.
A. I was contacting my attorney, yes.
Q. But you didn't come down here?
A. No. I didn't.

The Court: You told your attorney?
A. Yes, sir.
The Court: And that's Miss Ruth Harvey.
A. That's right.
The Court: And what did Miss Ruth Harvey say?
A. That they would try to contact him.
The Court: Did she acknowledge to you that she was representing Mr. Holt?
A. What did you say, Judge.
The Court: Did she acknowledge that she was
page 17 } representing Mr. Holt?
A. That's right.

Q. Do you know whether or not Mr. Holt has an office in Washington?
A. No. I don't. The last time (one word not audible) was in Washington, we tried to contact him then. I tried to contact him before this, because I knew him personal see. But I couldn't get no—couldn't contact him, so I told Miss Harvey and when the date was set I told her to be sure to try to get him here because I was on his bond. I kept mentioning that day after day, see. So she was contacted.
Q. You said that before these were set you tried to contact him?
A. Yeah. Uh huh.
Q. When was that?
A. I guess it was when we were talking about getting the case back. I mean that the case might come up.
Q. Uh huh.
A. That we tried then to get people back here. That was before the case ever was set. We met.
Q. How did you go about contacting him on that occasion?

Hester Womack

A. Well, I tried to contact him at Washington.

Q. How?

A. Through some people I knew, and they say
page 18 } he was in Washington, and—

Q. Did you call the people by phone?

A. No. Some people I knew here.

Q. Did you call them by telephone?

A. No. Some people I knew here who were in Washington.

Q. Some people here who went to Washington?

A. Yeah.

Q. Did they go by to see him?

A. No. They said they thought he was in Washington. They had seen him. And then after that, after we met and tried to get together so that we could contact all those who were out of town and when we heard that the case got up there and I contacted Mrs. Harvey and told her to be sure to try to contact him, because I knew she had his name, had it somewhere.

Q. He was supposed to be here on the 13th? You knew that didn't you?

A. I didn't know it was going to be on the 13th. I just knew I told Miss Harvey to contact—

Q. Well, you know that it is the duty of the bondsman to get these people in, don't you?

A. Well, I thought since the—

Q. You know that. Don't you, sir?

A. Well, I didn't know it was the duty of the bondsman. I thought it was the duty of my attorney to notify—

Q. In other words, you knew it was either up
page 19 } to you or your attorney if you hired an attorney
to try to get him here?

A. That's true. I thought so.

Q. And you knew he was not here on the 13th?

A. I haven't seen him on the 13th.

Q. It's obvious he wasn't here.

A. I haven't seen him. I wish he was here.

Q. And you said you had difficulty locating him some months ago?

A. Yeah, I mean, you couldn't—you know—I think somebody said he traveled a lot, see. And I learned—

Q. And you continued to stay on his bond even after you had had difficulty locating him several months ago?

A. Well, I had faith that he would be here. Hopeful, that's all.

Q. All right, sir. But you know for a fact he's not here this morning?

Hester Womack

A. Yeah. I haven't seen him no where.
Q. I think that's all I care to ask him.

The Court: Any questions you care to ask him?
Mr. Williams: No.
Miss Harvey: No.
Mr. Ferguson: One other question.

Q. Now you said you told your lawyers—
A. Beg your pardon?
page 20 } Q. You said you told your lawyers to contact him?
A. Yes.
Q. What did your lawyers tell you?
A. Well they was trying to contact him. And we've been still trying to contact him. They—we learned—
Q. Did they ever tell you they contacted him?
A. Yes. And they learned that he was in England. London, somewhere over there.
Q. Is that what they told—
A. And I know I can't go way to London and get him.
Q. They told you that he was in London?
A. That's right.
Q. When did they tell you that?
A. Uh—last week wasn't it, Miss Harvey? We learned that he was in London. Well, somebody told me he was in London.
Q. Well, did Miss Harvey tell you he was in London?
A. Well, it came by I thought Miss Harvey told me he was in London.
Q. Well who told you?
A. I don't know now, but somebody told me he was in London, England.
Q. And this was last week and you can't remember who told you?
A. That's right.
Q. How much is this bond you are on?
page 21 } A. I think it's $500.00.
Q. Does that concern you at all?
A. One Dollar concerns me, because I work hard to get it.
Q. It looks like you'd remember a week as to who told you he was in London.
A. Mr. Ferguson, we, all in the case, we had confidence in the people who took part in the—
Q. I know that you did and I know you wouldn't have gone the bond unless you had confidence they would come.

But I'm not asking you that now. I'm merely asking you why you can't remember who told you less than a week ago—

A. Well, I don't know. There's so much things going on somebody saying this and that—

Q. Well, you said Miss Harvey did, now she shook her head and now you say you're not sure.

A. Well, I thought it came from her office. Somebody told me. I don't know whether it came from her office *of* not. But I know Miss Harvey is my attorney and she been contacting because her secretary been trying to get these demonstrators—those people who are here—

Q. All right.

A. And I left it to her office to get them here.

Q. Well, let's look at it this way. If it had been somebody other than Miss Harvey or someone in her office that told you the man was in London, I'm sure you would have

page 22 } gone to your lawyer and talked it over with her, wouldn't you?

A. I think I mentioned it to you didn't I, Miss Harvey? Somebody, I mentioned it to you or Mr. Williams one, because it was somebody in the group, that somebody said he was in London, England. Somebody told me—

Q. You're not answering my question, so that's all I care to ask you.

A. I would like to answer your question again if you could rephrase your question. Let me answer it.

Q. I'll rephrase it. If someone other than a representative of Miss Harvey's office or Mr. Williams' office told you that this individual, Leonard Winston Holt, was in Washington—I mean was in London, you certainly would have informed your lawyer, wouldn't you and discussed it with her because it was important that you get the man here?

A. Well, yes, I would.

Q. Did you?

A. Well, I think I told somebody, I don't know whether it was Miss Harvey or not, that he was—that somebody said that he was in London, England. If I've got any money involved in anybody, I'm going to sure try to find out can I get the person here.

Q. It appears to me that you're not very concerned—

A. I am concerned.

page 22-A } Q. You can't even remember who you talked to a week ago.

A. I am concerned, Mr. Ferguson. I am concerned about the money I got up for him, see. And I'm still concerned.

Hester Womack

And if I can get a, if the Court grants me, I'm going to try to get him here, give him a certain time if I can. That's all I can do.

Q. Do you know why at first when I first asked you a question, you were real sure that Miss Harvey had told you and now you're not?

A. Well, I thought Miss Harvey—of course, she is my attorney. I was certain that she told me, but since she said, I can't say she did, see.

Q. If she says "no", then you're not sure? But if she said "yes", you would have been sure? All right.

The Court: Any questions further?

Mr. Ferguson: No, sir.

* * * * *

page 23-A } After Court had been reconvened following the lunch recess, the following occurred:

The Court: Miss Harvey, the Court cannot release you from the representation of Mr. Leonard Holt. You announced earlier in these proceedings that you were representing him and the Court cannot excuse you.

Miss Harvey: All right, sir.

The Court: I expect you to represent him.

Mr. Williams: There's no use of putting on any other evidence. He's been identified.

The Court: What did you say?

Mr. Williams: I said, I don't think there's any need of taking up the Court's time. We will stipulate as to him if she's still on it. He's already been identified.

Mr. Ferguson: It's satisfactory with the prosecution if they want to stipulate it. We have identified Lynn Holt as being out there on the night of the 13th and was one of them in the conference that talked to Chief McCain about getting them off the steps and then they went back and refused to do so.

The Court: Very well, let's stipulate to this.

Miss Harvey: Yes. We'll stipulate as to that.

The Court: All right.

page 23-B } Mr. Ferguson: And we will further stipulate that the same objections and the same exceptions to the rulings of the Court and the motions and so forth will appy to Mr. Holt.

Miss Harvey: Yes.
The Court: All right.
Mr. Ferguson: We need to go no further with this.
Mr. Williams: That's right.
The Court: Case No. 51.
Mr. Ferguson: Yes, sir, and of course he's not here and we request the bond to be forfeited.
The Court: All right. We will forfeit the bond and suppose we call him and then call his surety.
Mr. Williams: His surety was here. I don't think he's here now.
The Court: Yes, he was.
Mr. Williams: He's not here at the present time.
The Court: All right. Just call Holt.
City Sergeant: He doesn't answer.
Mr. Ferguson: If your Honor please, there's one further matter involving a young man by the name of Morton, that we're checking on something right now—I mean Mabin, excuse me, Mabin, and I think the young man wants to get on the witness stand.
The Court: Let's finish with Holt first.
Mr. Ferguson: All right, sir.

page 23-C } The Court: The Court finds Mr. Holt guilty of violating the Court's injunction as of June, 13th 1963, and imposes a fine of $50.00 and sentences him to two months on the City Farm, one month of which will be suspended on his good behavior for five years and conditioned on his paying the fine and costs.

Miss Harvey: If your Honor please, we make the motion that the judgment of this—the execution of the judgment be suspended until we can make an application to the Supreme Court of Appeals.
Mr. Ferguson: How much would the bond be on this one, if your Honor please?
The Court: It would be $1,000.00.
Miss Harvey: Yes, sir.

* * * * *

page 24 } At the conclusion of the proceedings the following occurred:

The Court: Miss Harvey, the Court is of the belief that you've deceived the Court here about Leonard Holt.
Miss Harvey: Judge, I reported to the Court the information that I had—that I have, as far as his appearance here today. Now, I have my secretary in court, who has the

person who contacted all of these persons, because it was physically impossible for me to do so.

The Court: Yes.

Miss Harvey: And she talked with his family and she was given the understanding that he'd be here the 20th, and this I reported to the Court.

The Court: You misled the Court about representing him.

Miss Harvey: At the time—

The Court: And after hearing the witness, Mr. Womack, testify about it, I'm satisfied you were not frank with the Court about it.

Miss Harvey: If your Honor please, at the time Mr. Holt left here he—that was three years ago, he indicated to me that I was to handle the case. Now maybe I was being too frank, because he told me at that time in as much as I had not had direct contact with him before, you know, since page 25 } this time, that I had only the intimation from his family, then I felt that it was better to be frank with the Court and, you know, say that I was not representing him; because this was three years ago. And I had not had contact with him in between that time except through members of his family. And I was trying to be absolutely frank with the Judge to let him know what went on in between.

The Court: I don't think you were frank with the Court. The Court feels that you are in contempt of court and fines you $25.00.

Miss Harvey: If your Honor please, I would like to note an appeal. I don't know of anything else to do.

The Court: All right.

Miss Harvey: Because I was doing the best that I could.

The Court: All right. You can note an appeal.

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IN RE: COMMONWEALTH OF VIRGINIA
v.
RUTH L. HARVEY

ADDITIONAL STATEMENT OF FACTS

During the early part of December, 1966, a conference was held in the judge's chambers to discuss generally the procedure to be used in trying cases for contempt arising out of a restraining order entered by the court in June of 1963. At that time Miss Ruth Harvey requested the court to set

dates for the trial of college students involved during their Christmas vacations so that it would not be necessary for the students to lose any time from their college classes. This the court agreed to do. Similarly, a discussion was had with reference to those persons charged who were not residing within the State of Virginia. There was no agreement that any of those who were not students and lived outside the state of Virginia would be carried forward to a later date.

During the discussion the name of Leonard Winston Holt, one of the defendants, came up for discussion. The court and counsel for the Commonwealth and City asked Miss Harvey if she represented Mr. Holt and she informed the court that she did. It was suggested by Mr. James A. H. Ferguson, counsel for the City, that Holt probably would not appear for trial and Miss Harvey replied that he would appear.

On or about December 13, 1966, Leonard Winston Holt's case came on to be heard, and Mr. Holt failed to appear. Miss Harvey requested of the court that the matter be carried over to December 20, 1966 and at that time she would have Mr. Holt in court. She again informed the court that she represented Mr. Holt.

On the 20th of December, 1966, Mr. Holt failed to appear and at that time Miss Harvey informed the court that she did not represent Mr. Holt.

On more than one occasion during the month of December, 1966, Miss Harvey unequivocably stated to the court that she represented Mr. Holt and stated to the court that she had —contacted him as to the date he was to appear in court. However, on the morning that Miss Harvey stated to the court that she no longer represented Mr. Holt, she stated that she had not been in personal contact with him and had no idea where he could be found.

* * * * *

A Copy—Teste:

Howard G. Turner, Clerk

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