

Commonwealth's
Attorney
Gregory D. Underwood

Chief Deputy
Brent A. Johnson

Deputies
Paula M. Bruns
Philip G. Evans, II
Ramin Fatehi
Krista L. Fulton
Jill C. Harris
Patricia H. O'Boyle
Charlotte H. Purkey
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Director of
Communications
Amanda M. Howie

Comptroller
Betsy Powell

IT Administrator
Dmitry Rekitser

Victim/Witness Assistance
Program Director
Heather Fuss

COMMONWEALTH OF VIRGINIA



OFFICE OF THE NORFOLK COMMONWEALTH'S ATTORNEY

800 E. City Hall Avenue, Suite 600

Norfolk, Virginia 23510

Phone Number: (757) 664-4444

Fax Number: (757) 664-4445 or (757) 664-4447

Victim/Witness Assistance Program Phone Number: (757) 664-4850

Senior Assistants
Cynthia D. Collard
S. Catherine Dodson

Assistants
Shavaughn N. Banks
Katherine M. Beye
Zachary T. Burkholder
Mary E. Button
Kristin S. Fellers
Lindsey J. Fields
Julie L. Fink
Kathlyn W. Flora
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Jessica R. Klein
Oksana V. LaBounty
Shukita L. Massey
Diane S. Maydosz
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Anetra L. Roblason
Graham M. Stolle
Katherine A. Taylor
Gregory B. Turpin
Gordon C. Ufkes
David A. Vltto
Lily I. Wilder

March 1, 2019

The Honorable Jerrauld C. Jones
Chief Judge, Norfolk Circuit Court
150 St. Paul's Boulevard
Norfolk, VA 23510

The Honorable George E. Schaefer, III
Clerk, Norfolk Circuit Court
150 St. Paul's Boulevard
Norfolk, VA 23510

RE: Simple Possession of Marijuana Cases on Appeal

Dear Judge Jones and Mr. Schaefer:

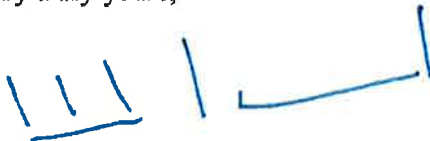
As the Court and this Office definitively share an interest in the fair and efficient administration of justice, I write today with an update for the Court regarding this Office's handling of the cases of simple possession of marijuana on appeal.

Effective today's date (March 1, 2019) and pursuant to the discretion vested in me by Virginia Code § 15.2-1627(B), this Office will cease prosecuting cases appealed from Norfolk General District Court to Norfolk Circuit Court in which the sole charge on appeal is the violation of Possession of Marijuana, Virginia Code § 18.2-250.1. Simply, this Office is no longer picking up these cases. In addition, for such cases currently set for trial in Norfolk Circuit Court, I am directing this Office's prosecutors to withdraw from representing the Commonwealth, again pursuant to Virginia Code 15.2-1627(B), with the exception of cases on appeal pursuant to Virginia Code § 16.1-232 and cases CR18002659-00, CR18002608-00, and CR18002647-00.

For these three cases, each scheduled for trial on June 4, 2019, I respectfully inform you I will be filing a petition for a writ of mandamus from the Virginia Supreme Court. Please know I fully appreciate that the Court's denials of this Office's Motions to Nolle Prosequi/Dismiss in the cases were made on a good faith basis and my initiation of this litigation is in the same vein. Seeking a decision from the Virginia Supreme Court regarding this legal disagreement is in keeping with our collective pursuit of justice and the appropriate separation of powers.

I certainly understand my decision to withdraw this Office from the cases of simple possession of marijuana on appeal, as the Virginia Code allows, now results in operational changes for the remaining involved parties – the Court, the Clerk’s Office, law enforcement (largely the Norfolk Police Department), and defense counsel. I stand ready to assist everyone with the logistical steps necessary. Please do not hesitate to contact me or Chief Deputy Commonwealth’s Attorney Brent Johnson if this Office can be of assistance.

Very truly yours,



Gregory D. Underwood
Commonwealth’s Attorney

GDU/amh

cc: Mr. Thomas E. Baldwin, Sr., Clerk, Norfolk General District Court
The Honorable Kenneth C. Alexander, Mayor
Chief Larry D. Boone, Norfolk Police Department
Mr. Michael G. Goldsmith, Deputy City Manager
Mr. Bernard A. Pishko, City Attorney