IN THE

SUPREME COURT OF VIRGINIA

RECORD NO. 140966

RICHARD R. CADMUS JR.

APPELLANT

V.

CITY OF WINCHESTER INC ET AL.

APPELLEE

MOTION FOR RECONSIDERATION

COMES NOW, Richard R. Cadmus Jr.("Cadmus"), pro se, who is aggrieved by dismissal with prejudice, of his complaint by the Circuit Court of The City of Winchester. Cadmus moves this Honorable Court to reconsider its decision to refuse his petition for appeal pursuant to Virginia Supreme Court Rule 5:20(a) and accordingly, addresses the arguments in opposition by both,

the City of Winchester and Kevin Sanzenbacher as follows:

ISSUES PRESENTED BY APPELLEES IN OPPOSITION TO PETITIONER'S VIRGINIA SUPREME COURT APPEAL

1. DID CADMUS PERFECT HIS APPEAL?

Appellees contend that Cadmus did not perfect his appeal because he filed his petition for appeal on June 16th, 2014. The rule for filing in VSC Rule 5:17(a)(1) specifically states that not more than (3) months after the entry of an final order when the appeal is directly from the trial court. Cadmus' final order was March 14th, 2014 and the (3) month toll ended on June 14th 2014 which was a Saturday. Virginia Code § 1-210(B) specifies that the act may be brought on the next day that is not a Saturday, Sunday or legal holiday. Cadmus brought the act on the next business day, Monday June 16th, 2014, according to (Exhibit A) and therefore his petition is timely and properly perfected. Cadmus need not show any good cause for delay, file an explanation or ask the Court to grant him leave for an extension of time to file. Judkins first argument is therefore a nullity.

2. Should Cadmus' Motion for Leave to Amend and amended petition be granted instead of denied.

Judkins argues for the City of Winchester [*sic*]that Cadmus' Motion for Leave to Amend his petition is not well taken ***because*** the original petition is a nullity before the court[Motion in Opposition for Leave to Amend), . Cadmus

filed the original petition on June 16, 2014 at 7:34pm by mailing copies to the Virginia Supreme Court and to both appellees simultaneously at the Winchester VA Post Office. The Motion for Leave to Amend and the Amended Petition were drafted and emailed directly to Judkins and Fessier on July 19th, 2014 at 10:29pm (Exhibit B, Exhibit C)

The original Petition for Appeal most likely arrived First Class Mail USPS at the same time or after the electronic version of the Motion and Amended Petition arrived in both attorneys email accounts. Neither appellee was damaged and neither attorney for appellees argued that ***any*** [r]ights were prejudiced in their Motion or Opposition Brief. This Court should find that the Petition for Appeal is properly perfected and when conflated with the timing of receipt for each filing; that the amended petition should have been granted and considered prior to the Court's refusal of Cadmus' petition.

Judkins argues and accuses Cadmus of not complying with VSC Rule 5:4(a). Judkins states [sic] "He did not inform the opposing parties that he intended to file this motion, did not ascertain whether the opposing parties consented to the motion, and did not ascertain whether the opposing parties intended to oppose his motion. The Court should deny his motion for failure to comply with the Rule." Due to the absurdity of this argument, Cadmus never addressed it prior but a cursory inspection of Rule 5:4(a) exposes the error

Judkins argument as well as her factual misrepresentation by stating that she was never notified and that there is no certificate attached to the Motion.(See Motion for Leave to Amend, 06/23/14) In fact, Rule 5:4(a) states "For all motions in cases in which all parties are represented by counsel".....

Appellant("Cadmus") is not an attorney and is therefore not bound by the language in VSC Rule 5:4(a) which requires such statements concerning the negotiations of such motions and therefore Judkins argument should be discarded on the issue of this VSC Rule 5:4(a).

Finally, Judkins argues that Cadmus should not be allowed leave to amend the petition because he substantively changed the petition by including Fifth Amendment Rights and Notice violations. She emphasizes that these objections were not preserved in the trial court and because they were made at a ***late date*** that it is not in the furtherance of the ends of justice.

Incorporating the above facts and arguments, Cadmus contends that it was not too late and that his petition was perfected timely and this Court should reconsider the timeliness of the petition as well as allowing the amended petition to be included for appellant review.

ERRORS IN JUDKINS RENDITION OF THE STATEMENT OF THE CASE

Judkins Opposition brief describes the original complaint which was filed in the Winchester City Court Clerk's office as not the same complaint which was

served on the City of Winchester and the Chief of Police. In fact, the original complaint is exactly what was served to the appellees. Cadmus juxtaposed a signatory page from multiple versions in a folder on his home computer. Nothing substantive changed and neither appellee complained of anything other than the clerical error on the signature page as well as the lack of a summons on the complaint.

Judkins gives an inaccurate representation of the dialogue between Cadmus and the Judge during the March 14th proceeding. Omitting substantive rhetoric between Cadmus and the Judge, appellee's council excluded the colloquy that brings context and meaning to dialogue. She left out line 1-9(page 21) of the March 14th 2014 hearing transcript which taken out of context may appear to go against Cadmus' contention yet in line 9, the Judge states “The affidavits – “” and not until Judkins opines on line 11-12 does the Judge appear to switch back from ruling on the affidavit to ruling on the whole hearing.

ERRORS IN APPELLEES STATEMENT OF FACTS

Judkins states on (Page 6, Paragraph 3) - “Cadmus did not produce any evidence that he attempted service of his complaint through the Sheriffs. This statement is irrelevant because the Winchester City Sheriff was a named party and likewise interested in the subject matter according to Va Code 8.01-293(A)

(3). She goes on to say, on page 4, that Cadmus specifically chose not to use the Sheriff because of the nature of his claim against Sanzenbacher. Again, this statement obfuscates the real issue and misrepresents the actual conflict which barred the City Sheriff and his agency from serving process in this specific circumstance. On page 7, Judkins states in the 2nd paragraph that [sic] Cadmus claims without evidentiary support, that he was unable to find any private process servers who would come to Winchester or serve the Chief of Police and that some failed to show up. In fact, this statement is false - there is an Affidavit of Truth in the Supreme Court Record which was admitted into evidence over Judkins objections where Cadmus was sworn by a Notary Public and certified that the affidavit was true. Judkins goes on to make comments in the same paragraph that [sic] "He presented no evidence, other than his own self-serving statements, that he attempted service any time prior to the dates identified below." Cadmus argues that Judkins had every opportunity to call Cadmus to the witness stand and cross examine his Affidavit of Truth, yet she chose not to call any witnesses or present any evidence that Cadmus, in fact, did not exercise due diligence in securing a service processor to Serve the appellees with the complaint and summons. Cadmus asks this Court to reconsider the refusal of his petition because he did defeat the presumption that "due diligence was not exercised" by the Court admitting the Affidavit into evidence over

Judkins objection and her refusal to call witnesses or put on any evidence that the Affidavit was false and anything less than the truth of the matter regarding due diligence.

APPELLEE'S ARGUMENTS

First Argument (A): On Page 8 of the Brief in Opposition, Judkins again makes the unfounded claim that Cadmus has not properly perfected his appeal. She continues to argue that VSC Rule 5:4(a) mandates that Cadmus must explain his delay in filing; that the Court has not granted him leave or an extension of time for such filing. She further states that, since Cadmus has not explained his delay in filing of the original petition and that this court has not granted him leave or an extension of time for such filing pursuant to VSC Rule 5:4, Cadmus' original petition is a nullity before this Court and that any relief requested should be denied for failure to comply with the rules.

Response: Incorporating the previous arguments made in page five and six of this motion for reconsideration, Cadmus' petition is filed timely. All of Judkins assertions surrounding VSC Rule violations are not grounded in the facts or the law according to Va Code 1-210. The mandatory element of Rule 5:5(a) only applies during days that the Virginia Supreme Court is actually open. All other days such as Saturday, Sunday and legal holidays are controlled by Va Code 1-210. This court should reconsider that Cadmus' petition is timely filed and

therefore his Motion for leave to amend should be granted and included into the Virginia Supreme Court record for consideration

First Argument (B): Judkins argues that Judge Kendrick was authorized to hear this matter. On page 10 of the Brief in Opposition she states that:

> (a) Judge Kendrick had been identified as the assigned judge since January 2014.
> (b) Cadmus had the opportunity to learn the the identity of the judge by contacting the Circuit Court Clerk's office.
> (c) Cadmus had the opportunity of asking the the assigned Sheriff's Deputy prior to the hearing.

Judkins opines, further, that because none of this was done – any objection to Judge Kendrick's [sic]assignment to the case came too late.

Response: Cadmus maintains that Kendrick may have been identified by the Clerk and he probably was known to the courthouse personnel, however, the Clerk's office bares the burden of proving that Cadmus was notified of who was being designated to preside over his case just like Cadmus was immediately notified when Judge Wetsel disqualified himself in this case. Cadmus had no issues getting notification when the sitting Judge recused himself as he was hand delivered Judge Wetsel's order notorized on the same day it was placed into the court file. In the alternative, Chief Judge Wilson's designation order was never sent to Cadmus contrary to the purported terms of the order which instructed the Clerk to notify Cadmus and certify the notice into the record. According to the record, now, there is an order placed into the file which

Cadmus only saw after the hearing on March 14, 2014 – after Kendrick had met ex-parte with the City and Sanzenbacher for scheduling outside the presense of Cadmus. Without a signed and properly dated designation order in the file, Cadmus was unable to raise a formidable defense or opposition argument. The presumption that the order was timely filed by the Chief Judge is defeated by its miraculous appearance in the courtfile after the first hearing on February 7th , 2014 where again Cadmus was improperly notified of a hearing at the wrong time and therefore a purported scheduling hearing took place without Cadmus present. The City of Winchester bares the burden to prove that there is a timely filed Judge Designation Order in Case #12-608. This court should reconsider that the record does not reflect that a proper and timely filed designation order authorizing Judge Kendrick to preside over Cadmus' lawsuit is present in the file. In the alternative, there is an order that purports to assign Judge Kendrick which is in violation of Va Code. 17.1-105(B). This court should reconsider its decision to accept the designation order(Ord. 179, No filing date) lawfully authorizing Judge Kendrick to hear any matter that pertains to Cadmus and his civil lawsuit against the City of Winchester and Kevin Sanzenbacher because it is void ab initio with no legal enforceability. The court should also reconsider that Cadmus could not timely raise his objection or file a motion for disqualification because of the absence of any order in the file leading up to

March 14th, 2014. The Court and the Clerk breached its duty of notification and subsequently memorialized its own breach by the silence of the court record on this matter. Cadmus asks this court to reconsider any technical violation regarding the preservation of objections by viewing the technicality in terms of his Constitutional Rights and the Due Process Clause. If the Clerk and the Court fail to notify litigants when:

> (1) Copies of complaints for service are deficient – Rule 3:4(c)(1).
> (2) Judges have been designated – (Ord. 179, No filing date)
> (3) Orders telling the Clerk to notify litigants and certify it in the file or absent from the record.(Ord. 179, No filing date)
> (4) When venue has been switched from the City to the County while no transfer of the court file or record on the docket is in existence. (Motion Exhibits, 206,207,208,210, 04/03/14)

And the Circuit Clerk additionally fails to notify the Virginia Supreme Court Chief Justice when:

> (1) all the judges in a "court of record" recuse themselves on any matter. - Va. Code 17.1-105(B).

The Virginia Supreme Court should reconsider how many procedural violations are acceptable and whether or not any of them were "harmless". Cadmus asserts that every one of the due process violations above prejudiced his *Constitutional Rights to Grieve* and subsequently have his full and fair hearing on the merits of his case. The most basic and fundamental element of his Due Process Rights is "Notification". The Circuit Court and the Clerk had a

Constitutional duty to make Cadmus fully aware of the changes in the process which were instituted by the Judge and the Clerk; wherefore the record is absolutely silent on this issue meaning [no] memorialized document that would lead a finder of fact to the conclusion that Cadmus was properly put on notice of (1) the additional copies of his complaint that were required or (2) who the Judge was going to be or (3) that the process used to designate Judge Kendrick was fatally flawed and with no legal force - until after the hearing on March 14, 2014, when Cadmus discovered the Chief Judge's Order which had been placed, untimely into the file.

This Court should reconsider that the purported designation order which Cadmus argues is **void ab initio;** in arguendo, was not placed into the file prior to the first hearing and was not in the file until (at the very least) days prior to the March 14th, 2014 hearing; that the City and Sanzenbacher bore the burden to prove that it was which they failed to produce a timestamped copy of the purported order effectively invalidating Judge Kendrick's authority to hear this matter. A document placed into the file with a 'ENTERED' stamp is not sufficient to reflect the date that the order was placed into the file and should not be relied on by this Court as evidence of a timely filing prior to February 7th, 2014 which was the date of the first scheduling hearing wherefore Cadmus was circumvented from attending do to the Clerk's mixing up the scheduling times.

Second Argument (B): Judkins claims that Judge Kendrick did not err in denying Cadmus' motion for recusal. She goes on to state on page ten of the opposition brief that Cadmus failed to meet his burden of proving that Judge Kendrick was, in fact, bias and that he did not properly preserve his rights by objecting to Judge Kendrick sitting on the bench in Frederick County Circuit Court on March 14, 2014. She mentions that Cadmus proffered some of the highlights of why Kendrick should recuse himself and Kendrick considered the proffer and subsequently rejected Cadmus' arguments.

Response: Judkins is correct when she claims on page eleven of the opposition brief(line 8,9) that Cadmus' mere assertion that it was improper is insufficient. Cadmus concedes to that notion but rejects the premise which is that Cadmus was properly notified of which Judge would be presiding over his case and that a timely and legally filed designation order was sitting in the court file for Case # 12-608. Cadmus asks this Court to reconsider that he could not properly prepare himself to make a well reasoned objection and put on evidence in opposition to Judge Kendrick being designated for: (1) his bias and (2) his intimate knowledge and experience with legal matters directly related to the lawsuit at hand and (3) Kendrick's inappropriate, offensive and derogatory comments towards Cadmus during his criminal trial where witnesses all heard Kendrick make oppressive and derogatory statements towards Cadmus which

leaned towards convicting Cadmus prematurely. Only with proper notice by the Circuit Court Clerk, could Cadmus prepare a well reasoned Motion for Judge Kendrick to disqualify himself. Regardless, that Cadmus did not know the Judges name when ushered into the wrong venue on March 14, 2014; the fact that Cadmus did not object or ask the Judge his name is irrelevant at this point because his Due Process Rights and the Clerk's duty to [Notice] Cadmus of what Judge was presiding over his case(in a timely manor) had already been breached and reversible error and irreparable harm attached.

Cadmus argues that procedural due process violation arises not upon the occurrence of a deprivation but rather the failure of due process in connection with the deprivation. Therefore, to determine whether a constitutional violation has occurred, it is necessary to ask what process the State provided, and whether it was constitutionally adequate. Rather than a meticulous examination of the minutiae of the state's procedural rubric, procedural due process is simply a guarantee that there is notice and an opportunity to be heard. Snider Int'l Corp. v. Town of Forest Heights, 739 F.3d 140 (4th Cir. 2014)

In the instant case, Cadmus asks this Court to reconsider that the Winchester City Circuit Clerk failed to follow the express mandate from the purported order of the Chief Judge, Thomas Wilson(Ord. 179, No filing date) which directed him to notify Cadmus of the order and the Judge whom was

purportedly assigned to preside over his case. Judkins and Fessier argue that Cadmus' mounted his defense too late and therefore he forwent his rights to be heard because he did not raise his objections in the courtroom during the March 14, 2014 hearing. At that point, Cadmus' Due Process rights had already been violated and any issues of timing and preserving objections on the part of Cadmus are moot because he was not properly put on notice of who the Judge was purportedly to be. Any arguments which the City of Winchester and Sanzenbacher raise which surround Cadmus' timing should be reconsidered and rejected by this Court. Cadmus asks that it reconsider his Constitutional Rights to Due Process and Notice before it rejects any arguments based on harmless technicalities in the record.

Third Argument (B): Judkins asserts that the order appointing Judge Kendrick carried legal force and effect. She claims that Cadmus is incorrect about the procedural posture and effects of the Blanket Order on page eleven of the opposition brief(bottom of page). She concedes that Section 17.1-106(A)(i) allows the Supreme Court to designate a retired judge to hear a specific case for the duration of the case. She states that it refers to Va. Code. 17.1-105, which requires the Supreme Court to designate a judge or retired judge “to preside at trial” in the event that the local judge deems it improper to preside over the case. See Va. Code 17.1-105(B). She also states that 17.1-106(A)(ii) allows

the Supreme Court to authorize any retired judges to "perform for a period of time not to exceed ninety days at any one time, such judicial duties in any court of record as the Chief Justice shall deem in the public interest for the expeditious disposition of the business of the courts of record."

Judkins argues that the Blanket Order was entered pursuant to 17.1-106 yet it quotes the language from subparagraph(ii) of 17.1-106(A). She reasons that "the order specifically authorizes the identifed retired judges "to perform such judicial duties as may be assigned to them in the respective Judicial Circuits...."; that the order identified Judge Kendrick as an approved judge for the Twenty Sixth Judicial Circuit from which this appeal was taken. Id.; The appointment was for 90 days, which includes the period of relevant activity in this case. Id. At 14. Therefore, by the Blanket Order, this Court authorized Judge Kendrick to perform any duties assigned to him. Lastly, Judkins concedes that even if the Chief Judge did not have authority to assign Judge Kendrick to the case for its entire duration because that authority is only vested in the Supreme Court pursuant to 17.105(B) and 17.106(A)(i) See Pet. 23-25. Even if that were true, Judkins argues that there was no harm because Judge Kendrick never exceeded the scope of his authority.

Response: For the sake of argument, the Court should reconsider the purpose of Va. Code 17.1-105(B), 17.1-106 and compare it to 19.2-153. Clearly, the

General Assembly designed 17.1-106(A) (I) and (II) with specific intent which is further carved out in Va. Code 17.1-105(B). Judkins argument that Judge Kendrick had authority vested in the him by the Chief Judge's order is without merit because the Blanket Order indicates that there are other instances where the provisions of the Supreme Court which may need to be invoked as is prescribed by law. Circumstances where Circuit Court Judges recuse themselves is one of those instances that requires further provisions by the Supreme Court Chief Justice. Inspecting this statute further, its clear that subparagraph(i) in 17.1-106(A) is purposed for “known” cases whereby the “recusal” or “disqualification' group is 'typed' as a “known” case. Subparagraph (ii) expressly deals in periods of time and for the sole purpose of the expeditious disposition of the docket. These case are “unknown” to the Judge and where [all] cases are to be disposed of within the prescribed time period. If the Chief Justice of the Supreme Court intended a Blanket Order to be sufficient for the granting of authority to hear specific cases, Cadmus argues that the order would have included subparagraph (I). The sweeping public policy behind this legislation by the General Assembly to distinguish between the types of cases, Cadmus argues are for the purpose of enforcing a check and balance over the Judicial Circuits; eleviating any appearance of impropriety; and ensuring a fundamental right for all citizens to fare trials overseen by unbias judges.

Judkins points out that even if Judge Kendrick's order is a violation and the sole authority rested in the Supreme Court, there was no harm because Judge Kendrick did not exceed his authority under the Blanket Order.

Cadmus asks this court to reconsider that Judkins has conflated the elements of authority with that of subject matter jurisdiction which tends to obfuscate the actual issue. In the alternative, Judge Kendrick may have operated within the scope of his subject matter jurisdiction but he definitely exceeded the scope of his authority based on the aforementioned Va. Code. 17.1-105(B) and 17.1-106(A)(i). The court should reconsider that any issue of harm is moot at this point and the legal force behind the designation order issued by Chief Judge Thomas Wilson carries no authority and likewise any ruling that Judge Kendrick made in Cadmus v. City of Winchester et al is void ab initio and a nullity from the start.

First Argument (D): Should the Circuit Court have quashed the service of process and dismissed the case for failure to serve the defendants within one year of the filing of the lawsuit? (Opposition brief, p15, 07/07/14) . Judkins explicitly uses Dennis v. Jones Va. 12, 19, 393 S.E.2d 390, 393(1990) which rules that diligence is a **factual inquiry.** She opines and then asserts what Cadmus should or should not do on page 15 in order to have cured any issue of due diligence but no where in the Transcript on March 14, 2014 or again on April

3, 2014 during the Motion to Vacate and reconsider or in the record [at all] did Judkins attack or refute the sworn affidavit by Cadmus which was admitted into evidence over her objection on March 14, 2014. Judkins had every opportunity to put on witnesses to refute the sworn affidavit. She could have put Cadmus on the stand and attack his own testimony expressed in his sworn affidavit. Judkins failed to present any line of questioning, witnesses or further evidence into the record that refuted the sworn affidavit of Cadmus regarding his diligence to pursue Service of Process throughout the year. In fact, the appellees are silent in the record on this matter yet Cadmus' sworn affidavit is properly admitted into the record howbeit Cadmus asks this court to reconsider that Judge Kendrick abused his discretion when ruling in spite of that court record. This court should reconsider that Judge Kendrick either thought that every statement Cadmus made under his sworn affidavit was a lie, completely non-probative or Judge Kendrick never read the sworn affidavit at all; furthering the argument in either scenerio that the Judge was and is bias towards Cadmus and should be disqualified.

On page 16 of the opposition brief, Judkins states that “These same arguments were presented to the circuit court and were rejected for good reason. The Court did not find his testimony or arguments compelling, or indicative of the painstaking prudence expected of someone acting with due

diligence.

RESPONSE: Cadmus never testified on March 14, 2014 and the affidavit was admitted into evidence over Judkins objection. Cadmus concurs that the court didnt find Cadmus and his affidavit compelling but distinguishes the reasoning for it not being compelling. The court should reconsider that Judge Kendrick was bias against Cadmus and his plight against the local government and law enforcement. He oppressed Cadmus by his rulings which were not only unfair, contrary to the law but were also prejudice to Cadmus procedural and substantive due process rights.

Judkins further argues on page 16 at the bottom of the page that "Cadmus failed to even seek out service for nearly a year and his late decision to use a private process server instead of utilizing the City Sheriff did not evidence "due diligence" is erroneous and contrary to the law and the record.

RESPONSE: Evidenced by the court record, Cadmus' affidavit supports his due diligence and that he did not, in fact, wait until a year had run before he [decided] to procure a private process server. Judkins conjecture is not supported in the record and this court should reconsider that Judkins argument [over and over] that "because Cadmus did not procure the City Sheriff – that there is not evidence of due diligence." As Cadmus argued his petition orally on August 27th, 2014, he reinforced the fact that the provisions of 8.01-293 bar him

from procuring the City Sheriff as a means to serve process in this matter because he is named in the original lawsuit and an interested party. Va. Code 8.01-293(A)(2) states "*Any person of age 18 years or older and who is not a party or otherwise interested in the subject matter in controversy."* is qualifed to serve process. Lenny Milholland, the previous Sheriff and his office, were disqualified as a matter of fact and law.

ARGUMENT (E): Judkins states that the Circuit Court was correct to deny Cadmus' motion for nonsuit because the motion did not comply with Va. Code 8.01-277(B) and was otherwise too late. (Opposition brief, p17, 07/07/14) She compares 8.01-277(B) with 8.01-380 to make an attempt at harmonizing both statutes and understanding why 8.01-277(B) has a 'caveat' that allows litigants to take a nonsuit after a ruling and prior to the entry of an order.

Response: Judkins falls short in her attempt to harmonize the meaning of the statutes by implying 8.01-380 controlled 8.01-277(B) on Page 20 of the opposition brief when she quoted Khanna v. Dominion Bank of Northern Virginia, N.A. 237 Va. 242, 245, 377 S.E.2d 378, 380(1989) "It would be absurd to hold that a claimaint could suffer a nonsuit as a matter of right after a court had decided the claim." . In fact, it is not absurd because Va. Code 8.01-277(B) carves out an added protection for litigants who specifically are in jeopardy of having their service of process quashed and case dismissed with prejudice.

Cadmus reasoned that he would argue the “motion to quash” and then prior to the Motion to Dismiss - File his prepared Non-suit order with the court as a last resort to preserve his rights in the event of an adverse outcome. The March 14, 2014 Transcripts are clear on this issue where Judkins failed to provide the whole context of the exchange between Cadmus, the Judge and Judkins as he attempted to file his motion for a Non-Suit. Judkins also misrepresented the situtuation where Cadmus was standing at the litigation table with a purposed Non-Suit order as he was moving the Court to Non-suit. This court should reconsider, further, that in open court; the taking of a nonsuit is a two step process. First, a party must move the court to Non-suit; and Second, the party must submit a purposed order to the Clerk (whom is sitting directly beside the Judge) to be filed in the respective case. [The court should take Judicial Notice that the “File” is in the courtroom during the proceeding]. Less the granting of the Motion, there can be no order filed, subsequently and for the City of Winchester and Judkins to build a four page argument surrounding the word [file] not only obfuscates the primary issue but detracts from the premise of the Va Code. Since the Judge denied Cadmus' motion to Non-Suit, he was therefore, unable to force his order on the court – the simple fact is that Judge Kendrick erred by not granting the Motion and subsequent order that would have been immediately [filed] The Court should reconsider that Cadmus did timely move

the court with a purposed order in hand and recongnize that a non-suit is a two step process which begins with a Motion and ends with a signed Order. Cadmus asks this court to reconsider, in the alternative, that at the very least – he preserved his statutory rights to non-suit his case. If this court finds absolutely nothing else, please reconsider that Cadmus has stated a sufficient basis for reversal of the circuit court's ruling on this issue.

CONCLUSION

In conclusion, Judkins erroneous statements and misinformation which has all been addressed extensively in this Motion for reconsideration including: (1) The last minute service of process (2) The clerical error on the signature page of the complaint. (3) Utilizing a Sheriff whom is disqualified for service of process per 8.01-293. (4) The designation order as well as (5) Kendrick's authority under that order and lastly (6) the Non-suit of Cadmus' lawsuit.

Dismissal of this case was a result of a combination of decisions and dynamics which Cadmus was for the most part not in control of nor had any duty to control. This court should reconsider granting this appeal by Cadmus so that the issues regarding improper designations of retired judges, the Constitutional violations and this unique Non-suit can be properly developed and fleshed out on appeal.

Respectfully Submitted,
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CERTIFICATE

I certify that the following people were electronically copied via email on this Motion for Reconsideration on 10/01/2014.

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Signed by: _____

Date: ___/___/___