

Tuesday 1st

May, 2001.

Calvin Leon Hamlin, Appellant,  
against Record No. 1412-99-2  
Circuit Court No. CR-98-4171  
Commonwealth of Virginia, Appellee.

Upon a Rehearing En Banc

Before Chief Judge Fitzpatrick, Judges Benton, Willis, Elder, Bray,  
Annunziata, Bumgardner, Frank, Humphreys, Clements and Agee

Gregory W. Franklin, Assistant Public Defender  
(Office of the Public Defender, on brief), for  
appellant.

Marla Graff Decker, Assistant Attorney General  
(Mark L. Earley, Attorney General, on brief), for  
appellee.

By published opinion dated September 26, 2000, a divided  
panel of this Court affirmed the judgment of the trial court. See  
Hamlin v. Commonwealth, 33 Va. App. 494, 534 S.E.2d 363 (2000). We  
stayed the mandate of that decision and granted a rehearing en banc.

Upon rehearing en banc, it is ordered that the stay of the  
September 26, 2000 mandate is lifted, and the judgment of the trial  
court is affirmed for the reasons set forth in the majority panel  
opinion.

Judge Benton dissents for the reasons set forth in the  
panel dissent. See id. at 503-06, 534 S.E.2d at 367-68.

The Commonwealth shall recover of the appellant an additional fee of \$200 for services rendered by the Public Defender on the rehearing portion of this appeal, in addition to counsel's costs and necessary direct out-of-pocket expenses. This amount shall be added to the costs due the Commonwealth in the September 26, 2000 mandate.

This order shall be published and certified to the trial court.

A Copy,

Teste:

Cynthia McCoy, Clerk

By:

Deputy Clerk