

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
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Granted Appeal Summary

Case

NOLAN MARCUS FORNESS, II v. COMMONWEALTH OF VIRGINIA
(Record Number 210893)

From

The Circuit Court of Arlington County; D. Fiore, II, Judge.

Counsel

Alan J. Cilman for appellant.

Madeline E. Allen (Office of the Commonwealth's Attorney) for appellee.

Assignments of Error

1. The trial court erred in denying the Petition for Expungement in a case wherein the petitioner was charged with a felony DUI after having been previously convicted of a felony DUI, even though there was no prior conviction, because the stated purpose of the expungement statute. Code of Virginia, 1950, as amended, § 19.2-392.1 and the case law require expungement.
2. The trial court erred in denying the Petition for Expungement in a case wherein the petitioner was charged with a felony DUI after having been previously convicted of a felony DUI, even though there was no prior conviction in that Commonwealth's claim that a DWI 2nd within 10 years is a lesser included offense for DUI after a prior DUI felony conviction is without merit.
3. The trial court erred in finding no manifest injustice because reporting a felony conviction that never happened, that was never charged, and was never tried is *ipso facto* a manifest injustice.
4. The trial court erred in finding no manifest injustice because the seriousness of the charge and the reported false conviction coupled with the showing of Forness' work circumstances established manifest injustice.