

Tuesday 9th

April, 1996.

Delano Leroy Graves, Appellant,  
against Record No. 0089-94-1  
Circuit Court Nos. 25606-93, 25608-93 and  
25609-93  
Commonwealth of Virginia, Appellee.

Upon Rehearing En Banc

Before Chief Judge Moon, Judges Baker, Benton, Coleman,  
Willis, Elder, Bray, Fitzpatrick, Annunziata and Overton

Willard M. Robinson, Jr., for appellant.

Robert B. Beasley, Jr., Assistant Attorney General  
(James S. Gilmore, III, Attorney General, on  
brief), for appellee.

In Graves v. Commonwealth, 21 Va. App. 161, 462 S.E.2d 902  
(1995), a panel of this Court reversed the judgment of the trial court  
and remanded this case for further proceedings. On motion of the  
Commonwealth, we stayed the mandate of that decision and granted  
rehearing en banc.

Upon rehearing en banc, the judgment of the trial court is  
reversed for the reasons set forth in the majority panel opinion, the  
stay of this Court's October 17, 1995 mandate is lifted, and this case  
is remanded to the trial court for further proceedings, if the  
Commonwealth be so advised.

Judges Coleman, Elder, Fitzpatrick and Annunziata dissent  
for the reasons set forth in the panel dissent.

It is ordered that the trial court allow counsel for the appellant an additional \$200 for services rendered the appellant on the rehearing portion of this appeal, in addition to counsel's costs and necessary direct out-of-pocket expenses.

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

A Copy,

Teste:

Cynthia L. McCoy, Clerk

By:

Deputy Clerk