

Tuesday 19th

June, 2001.

Danzell Pannell, Appellant,
against Record No. 0274-00-4
Circuit Court No. CJ000001
Commonwealth of Virginia, Appellee.

Upon a Rehearing En Banc

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

Christopher R. K. Leibig for appellant.

Michael T. Judge, Assistant Attorney
General (Mark L. Earley, Attorney General,
on briefs), for appellee.

By opinion dated January 30, 2001, a panel of this Court
reversed the judgment of the trial court. See Pannell v.
Commonwealth, 34 Va. App. 287, 540 S.E.2d 527 (2001). Granting the
Commonwealth's petition for rehearing en banc, we stayed the mandate
of the panel decision.

Upon such rehearing en banc, the stay of this Court's
January 30, 2001 mandate is lifted and the judgment of the trial
court is reversed and the case is remanded to the trial court for the
reasons stated in the panel's majority opinion.

Chief Judge Fitzpatrick, Judges Benton, Willis, Elder,
Bray, Annunziata, Frank, Humphreys and Clements voted to reverse the

judgment of the trial court in accordance with the opinion of the panel.

Judge Bumgardner voted to affirm the judgment.

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

A Copy,

Teste:

Clerk