

October 3, 2000

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Re: Jack Enic Clark  
v. Commonwealth of Virginia  
Record No. 1425-97-4

Gentlemen and Ms. Oyster:

I am enclosing to you a copy of an order entered by this Court in the above-referenced case on October 3, 2000. The Court has directed that this order be published in the appropriate volumes. I appreciate your cooperation in ensuring that publication is accomplished.

NOTE TO WEST PUBLISHING: THE COURT HAS DIRECTED THAT THIS ORDER BE PUBLISHED IN THE SAME ADVANCE REPORTS THAT CONTAIN THE OPINIONS DATED OCTOBER 3, 2000. THIS ORDER IS NOT TO BE WITHHELD FROM PUBLICATION IN THAT ADVANCE REPORT FOR ANY REASON.

Sincerely,

Marty K. P. Ring  
Deputy Clerk

Enclosure  
MKPR:mfr

Tuesday 3rd

October, 2000.

Jack Enic Clark, Appellant,  
against Record No. 1425-97-4  
Circuit Court Nos. 90834 and 90836  
Commonwealth of Virginia, Appellee.

Upon a Rehearing En Banc

Before Chief Judge Fitzpatrick, Judges Benton, Coleman,  
Elder, Bray, Bumgardner, Humphreys and Senior Judge Cole

Peter D. Greenspun (Peter D. Greenspun &  
Associates, P.C., on brief), for appellant.

John H. McLees, Jr., Senior Assistant  
Attorney General (Mark L. Earley,  
Attorney General, on brief), for appellee.

On November 30, 1999, a panel of this Court reversed  
and remanded the convictions of Jack Enic Clark for sodomy and  
statutory rape. See Clark v. Commonwealth, 31 Va. App. 96, 521  
S.E.2d 313 (1999). We granted the Commonwealth's petition for  
rehearing  
en banc.

Upon rehearing en banc, the judgment of the trial court  
is affirmed without opinion by an evenly divided Court.  
Accordingly, the opinion previously rendered by a panel of this  
Court on

November 30, 1999 is withdrawn and the mandate entered on that date is vacated. The appellant shall pay to the Commonwealth of Virginia thirty dollars damages.

Chief Judge Fitzpatrick, Judges Coleman, Bumgardner and Humphreys voted to affirm said judgment.

Judges Benton, Elder, Bray and Senior Judge Cole voted to reversed the judgment of the trial court.

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

A Copy,

Teste:

Cynthia L. McCoy, Clerk

By:

Deputy Clerk