

Tuesday

22nd

April, 1997.

Phillip Deangelo Harris, Jr.,

Appellant,

against Record No. 1952-95-2
Circuit Court No. F-95-2158

Commonwealth of Virginia,

Appellee.

Upon a Rehearing En Banc

Before Judges Benton, Coleman, Willis, Elder, Bray,
Fitzpatrick, Annunziata and Overton

Patricia P. Nagel, Assistant Public Defender
(David J. Johnson, Public Defender, on
brief), for appellant.

Margaret Ann B. Walker, Assistant Attorney
General (James S. Gilmore, III, Attorney
General, on brief), for appellee.

In Harris v. Commonwealth, 23 Va. App. 311, 477 S.E.2d 1
(1996), a majority of a panel of the Court reversed the judgment of
the trial court. The Commonwealth's petition for rehearing en banc
was granted and heard on March 20, 1997. For the reasons stated in
the panel's majority opinion, the majority reverses the decision of
the trial court. Accordingly, the stay of this Court's October 15,
1996 mandate is lifted.

Judges Willis, Fitzpatrick and Overton would affirm the
judgment of the trial court for the reasons stated in the dissenting
opinion of the original panel decision.

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

A Copy,

Teste:

Cynthia L. McCoy, Clerk

By:

Deputy Clerk