

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the  
City of Richmond on Tuesday the 5th day of July, 2011.*

John Paul Turner, Appellant,

against Record No. 110197  
Court of Appeals No. 0066-11-3

Commonwealth of Virginia, Appellee.

From the Court of Appeals of Virginia

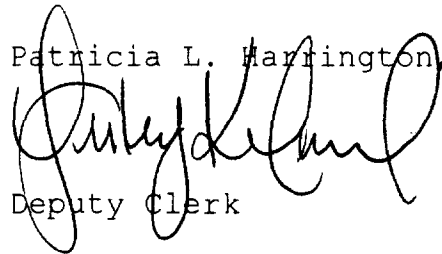
Upon review of the record in this case and consideration  
of the argument submitted in support of the granting of an appeal,  
the Court refuses the petition for appeal.

A Copy,

Teste:

Patricia L. Harrington, Clerk

By:

  
Deputy Clerk

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the  
City of Richmond on* Monday *the* 21st *day of* March, 2011.

John Paul Turner, Appellant,  
against Record No. 110197  
Court of Appeals No. 0066-11-3  
Commonwealth of Virginia, Appellee.

From the Court of Appeals of Virginia

On February 9, 2011 came the appellant, in proper person,  
and filed a motion seeking leave to file an "Anders" supplemental  
petition for appeal in this case.

Upon consideration whereof, the Court denies the  
appellant's motion.

A Copy,

Teste:

Patricia L. Harrington, Clerk

By:



Deputy Clerk

**VIRGINIA:**

*In the Court of Appeals of Virginia on* Friday *the* 28th  
*day of* January, 2011.

John Paul Turner,

Petitioner,

against

Record No. 0066-11-3

Commonwealth of Virginia,

Respondent.

Upon a Petition for a Writ of Actual Innocence

Before Judges Kelsey, Petty and Senior Judge Bumgardner

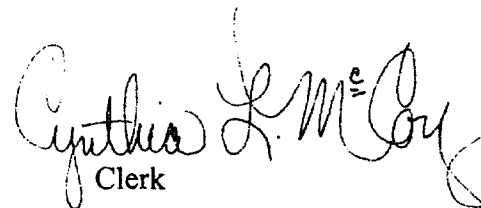
John Paul Turner petitions this Court for a writ of actual innocence pursuant to Chapter 19.3 of Title 19.2 of the Code of Virginia. He contends he is innocent of manufacturing marijuana, of which he was convicted in the Circuit Court of Augusta County on February 16, 1995.<sup>1</sup>

Code § 19.2-327.10 provides that “[o]nly one [petition for a writ of actual innocence] . . . based upon . . . [a] conviction may be filed by a petitioner.” By order dated February 12, 2009, this Court summarily dismissed Turner’s petition for a writ of actual innocence regarding the same conviction he challenges in his present petition. See Turner v. Commonwealth, No. 0172-09-3 (Va. Ct. App. Feb. 12, 2009). Turner’s present petition thus violates Code § 19.2-327.10.

Accordingly, Turner is not entitled to the writ and his petition is summarily dismissed.

A Copy,

Teste:

  
Clerk

<sup>1</sup> Turner also alleges he was convicted of manufacturing marijuana in Augusta County Circuit Court on January 22, 1997 and that he is innocent of that offense. Turner provides no evidence of such a conviction. Turner supplies a copy of an order of the Augusta County Circuit Court dated January 22, 1997, dismissing a “petition to reopen” filed by him. The January 22, 1997 order does not indicate Turner was convicted of an offense on that date. We do not consider whether Turner is entitled to a writ of actual innocence pertaining to a conviction he has not proven to exist.

**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

July 13, 2011

John P. Turner  
2237 Hankey Mt. Highway  
Churchville, VA 24421-2814

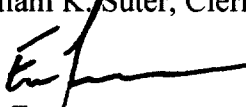
RE: USCA (DC) no. 11-5048  
USCA (4) no. 10-2417

Dear Mr. Turner:

The papers and orders were received on July 12, 2011. These papers fail to comply with the Rules of this Court and are herewith returned.

You may seek review of a decision only by filing a timely petition for writ of certiorari. The papers you submitted are not construed to be a petition for writ of certiorari. Should you choose to file a petition for writ of certiorari, you must submit the petition within the 90 day time limit allowed under Rule 13 of the Rules of this Court. A Copy of the Rules of this Court and a sample petition for a writ of certiorari are enclosed.

Additionally, as the orders below appear to be different, you must submit separate petitions for each.

Sincerely,  
William K. Suter, Clerk  
By:   
Erik Fossum  
(202) 479-3392

Enclosures

Supplemental (1)

# VIRGINIA:

In the Court of Appeals of Virginia on Friday the 28th

day of January, 2011.

Memorial to Judge Wood

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John Paul Turner,

Petitioner,

against

Record No. 0066-11-3

<sup>1</sup> Turner also alleges he was convicted of manufacturing marijuana in Augusta County Circuit Court on January 22, 1997 and that he is innocent of that offense. Turner provides no evidence of such a conviction. Turner supplies a copy of an order of the Augusta County Circuit Court dated January 22, 1997, dismissing a "petition to reopen" filed by him. The January 22, 1997 order does not indicate Turner was convicted of an offense on that date. We do not consider whether Turner is entitled to a writ of actual innocence pertaining to a conviction he has not proven to exist.

Sunday, January 16, 2011 | *The News Leader*

## JUDGE WOOD DIES



Judge Thomas H. Wood, who served for 25 years in the 25th Circuit and primarily heard cases for Augusta County, died Friday night.

After battling lung cancer, Wood died of renal failure at University of Virginia Transitional Care Hospital, his daughter, Sally Wood, said.

Rupen Shah, chief deputy commonwealth's attorney of Augusta County, who spent about an hour with Wood and his family on Friday, described the judge as a mentor

In his personal life, Wood loved "steak, scotch and cigarettes," Shah said, though he quit smoking after being diagnosed with lung cancer.

Honorable Wood, my own presiding circuit court judge, was condemned to die by bad law is a conviction I have proved to exist. Alcohol (Scotch whiskey in his case) and cigarettes are legal, but Judge Wood died from lung cancer on January 14, 2011 at age 68 though he quit smoking after being diagnosed with it.

Others, too, have been given inadequate counsel and a conviction accompanied by a death sentence under the same bad law; or a life-long condemnation particularly where pertaining to a marijuana felony conviction and the for-life disenfranchisement of one's civil rights because of it.

Unlike health-destroying alcohol and cigarettes, however: As ruled by the Drug Enforcement Administration on September 6, 1998 in Docket No. 86-22, marijuana in its natural form is one of the safest therapeutically active substances known.

I pray that the Food and Drug Administration and the Veterans Administration will accept from me, particularly as a Veterans Medical Center-Salem (Virginia), retired U.S. Military TRICARE health coverage and 10 USC 1074(b) outpatient, any experimental data that marijuana smoke—when the marijuana is smoked in a water or wine bong and the smoke is swallowed rather than inhaled into the lungs—is less harmful than breathing in someone else's second-hand cigarette nicotine-tobacco smoke; and that any marijuana experimentation will bring spiritual atonement and absolution for us all including Judge Wood.

*John Paul "Pops" Turner* June 7-28-11

John Paul "Pops" Turner

HHUSA-MIP Awards Program  
2237 Hankey Mountain Hwy  
Churchville, VA 24471-2814  
PH. 540-337-8793

Attachment (1)-(1)

B, FAK

VIRGINIA: IN THE CIRCUIT COURT OF AUGUSTA COUNTY

JOHN PAUL TURNER

v.

COMMONWEALTH OF VIRGINIA, ET AL

RECEIVED  
JAN 29 1997  
CLERK OF CIRCUIT COURT  
RICHMOND, VIRGINIA

ORDER

The Court, having considered the various pleadings and documents filed by the petitioner, is of the opinion that this matter ought to be dismissed.

It is accordingly ORDERED that the Petition to reopen and the amendment be, and hereby are, dismissed.

It is further ORDERED that a copy of this Order be mailed to the petitioner.

ENTER:

*M. Wood*

DATE: January 22, 1997

A True and Correct Copy.

Teste: *Margaret R. Hunter* Dep  
Clerk

C 24 468 391  
Turner, John Paul

### **What We Decided**

Your pension payments were granted effective April 1, 2000, the date we initially granted you entitlement to this benefit.

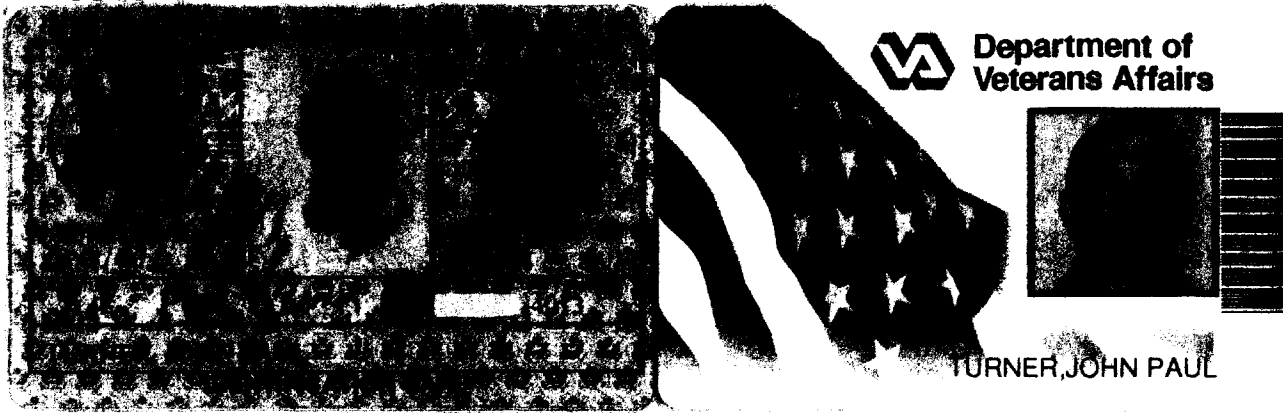
Per 38 CFR 3.666 disability pension payments are subject to discontinuance when a veteran is incarcerated for more than 60 days for a felony or a misdemeanor. We have verified with Augusta County Jail and Middle River Regional Jail that you were remanded in their custody on March 3, 2003 where you served a 180-day sentence for two counts of contributing to the delinquency of a minor. As a result, we have terminated your pension payments effective May 3, 2003, the 61<sup>st</sup> day of incarceration following the date of your felony conviction. Your benefits were resumed effective June 1, 2003, the date you were released from jail.

We enclosed a VA Form 21-8768, "Disability Pension Award Attachment" which explains important factors concerning your benefits.

### **Evidence Used to Decide Your Claim**

In making our decision, we used the following evidence:

- Documents from the Virginia Circuit Court of Augusta County received on December 18, 2008
- Notification letter dated February 2, 2010
- VA Forms 21-0516-1, Improved Pension Eligibility Verification Report (Veteran With No Children), received on November 2, 2010
- VA Form 21-8416, Medical Expense Report, received on November 2, 2010
- Summary of earnings received on November 2, 2010



**Decision Review Officer Decision  
January 15, 2010**

**INTRODUCTION**

The records reflect that you are a veteran of the Vietnam Era and Peacetime. You served in the Navy from October 16, 1967 to December 4, 1968, from May 31, 1970 to August 28, 1970, from June 6, 1971 to August 4, 1971, from June 3, 1972 to August 31, 1972, from November 28, 1976 to May 28, 1977 and from July 11, 1977 to May 17, 1978.

Results from your mental health exam established a clinical diagnosis of psychotic disorder, not otherwise specified. The psychologist reviewed your records and noted you have a rather complicated psychiatric history with numerous examples of long, rambling, disjointed statements and a self-imposed diagnosis of "existential neurosis". You have a limited work history and a history of several significant legal problems resulting in jail time. Currently you work on a Christmas tree farm that you inherited from your parents and live by yourself in a trailer on the property. (in a camper)

During the exam, you had difficulty giving concise answers and reported a history of very limited social relationships. Your affect was broad and mood was quite euthymic. There was evidence of significant impairment of thought processing and communication. Thinking and speech were tangential and circumstantial with loose associations. You denied having hallucinations but did believe you have the ability to predict things. You minimized any significant paranoia although admitted to some paranoid thoughts. The psychologist felt you were capable of managing your own benefits but you are likely unable to be gainfully employed due to significant thought disorder, odd behaviors and beliefs consistent with a psychotic process, and inability to adequately socially interact.

**Entitlement to nonservice-connected pension from VA effective March 6, 2000.**

You are unable to secure and follow a substantially gainful occupation due to disability. Records show you are 60 years old, have a level of education reported as finishing college, and last worked full-time when you were in the Navy. Since then, you have worked part-time for the Post Office for a year and also been self-employed and worked on your tree farm. The evidence shows you are disabled due to your disabilities of psychotic disorder and hypertension. (likely to be permanent)

**My service-connected and March 15, 2009 effective pension from Navy is for my over 42 years of active and reserve Navy Duty. (42 years, 3 months and 15 days.)**

Attachment (3)





# COMMONWEALTH of VIRGINIA

*Secretary of the Commonwealth*

POST OFFICE BOX 2454

RICHMOND, VIRGINIA 23218-2454

December 13, 2010

Mr. John Paul Turner  
2237 Hankey Mountain Highway  
Churchville, VA 24421-2814

Dear Mr. Turner:

I am writing with regard to your petition for a pardon.

You may submit another petition for the Governor's consideration following a two year waiting period from the date that your petition was denied. You will be able to ask for another pardon in December 2011.

If you would like the proper restoration of civil rights form, please respond to this office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Hennig', with a long horizontal line extending to the right.

Greg Hennig,  
Extradition and Clemency

Attachment (5)

CLERK'S OFFICE

SUPREME COURT OF VIRGINIA

In Ref: John Paul "Pops" Turner, Record No. 110197

In Re: Appeals to Supreme Court of Virginia (eff. 7/1/10)

Dear Appellant:

You are being provided with the following information in response to the notice of appeal that you recently filed with this Court. Please read this information carefully as the time limits, including the filing of the notice of appeal with the Court of Appeals and payment of the filing fee, are mandatory and a failure to follow such requirements will result in the dismissal of your appeal.

In order to appeal a **criminal case from the Court of Appeals of Virginia** to the Supreme Court, among other requirements, the appealing party or his/her attorney must take the following jurisdictional steps:

**Rule 5:17. Petition for Appeal.**

(h) *Procedure for an Anders appeal.* If counsel for appellant finds appellant's appeal to be without merit, counsel must comply with the requirements of *Anders v. California*, 386 U.S. 738 (1967), and *Brown v. Warden of Virginia State Penitentiary*, 238 Va. 551, 385 S.E.2d 587 (1989). In compliance therewith, counsel is required to file (1) a petition for appeal which refers to anything in the record which might arguably support the appeal and which demonstrates to this Court counsel's conscientious examination of the merits of the appeal; (2) a motion for leave to withdraw as counsel; and (3) a motion for an extension of time to allow the appellant to file a supplemental petition for appeal. The petition for appeal and the motion for leave to withdraw as counsel should specifically cite to *Anders*. All three pleadings must be served on opposing counsel and upon the client and must contain a certificate providing evidence of such service. This Court will rule upon the motion for extension of time upon its receipt, but will not rule on the motion to withdraw until this Court considers the case in its entirety, including any supplemental petition for appeal that may be filed.

**Veterans Administration, John P. Turner, File No. 24 468 391**

An "Anders" is similar to the **Benefit of the Doubt Doctrine of Title 38 of the Code of Federal Regulations for veterans.**

2237 Hankey MT HWY  
Churchville, VA 24421-2814



RECEIVED

AUG 6 1991

USDC Clerk's Office  
Mail Room

Clerk  
U.S. District Court for the Western  
District of Virginia  
P.O. Box 1234  
Roanoke, VA 24006

