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June 5, 2012

**VIA HAND DELIVERY**  
The Honorable Llezelle Dugger, Clerk  
Circuit Court of Charlottesville  
315 East High Street  
Charlottesville, Virginia 22901

Re: Commonwealth v. George Huguely

Dear Ms. Dugger:

Please find enclosed for filing Defendant's Supplemental Motion to Set Aside the Verdict and For a New Trial, in the above-referenced matter.

Please do not hesitate to call me if you have any questions or concerns.

Thank you.

Sincerely,



Rhonda Quagliana

RQ/amy  
Enclosure

Cc: Warner D. Chapman, Esquire (with enclosures) (by hand delivery)  
Francis McQ. Lawrence, Esquire

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*Rec'd 6/5/12*

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF  
CHARLOTTESVILLE

COMMONWEALTH OF VIRGINIA

v.

Case No. 11-102

GEORGE HUGUELY,

Defendant.

**SUPPLEMENTAL MOTION TO SET ASIDE THE VERDICT AND FOR A  
NEW TRIAL**

The defendant, George Huguely ("Mr. Huguely"), by counsel, pursuant to Rule 3A:15 of the Rules of the Supreme Court of Virginia, for his Supplemental Motion to Set Aside the Verdict and For a New Trial, states the following:

1. Following the conclusion of the criminal case against Mr. Huguely, Yeardey Love's mother, Sharon Love and her sister, Lexie Love ("the Loves"), filed a civil claim against Mr. Huguely in a wrongful death suit, and also filed such claims against the University of Virginia and other individual defendants.

2. Prior to the filing, on April 19, 2012, a hearing was held in the Charlottesville Circuit Court to determine the status of exhibits and trial materials and the Court heard a motion filed on behalf of the Loves as intervenors, seeking access to those materials for purposes of preparing the civil suits.

3. At that hearing, the Loves' civil attorney, Mahlon G. ("Bud") Funk, made reference to a longstanding relationship with the City of Charlottesville Commonwealth's Attorney's office.

FILED

2012 JUN -5 A 11: 04

CIRCUIT COURT CLERK'S OFFICE  
CHARLOTTESVILLE, VA  
LLEZELLE A. GUYTON, CLERK  
BY [Signature]  
DEPUTY CLERK

4. During the criminal prosecution, Mr. Huguely had not been made aware that the Loves had engaged any particular civil lawyers, were specifically preparing to sue Mr. Huguely or the other defendants, or that their civil attorney was having contact with the Commonwealth's Attorney, Mr. Warner Davies Chapman ("Mr. Chapman").

5. Following the April 19, 2012 hearing, on May 18, 2012, Mr. Huguely's counsel sent a letter to Mr. Chapman, seeking clarification on those subjects.

6. On the date of the filing of his Motion to Set Aside the Verdict and For a New Trial, Mr. Huguely received additional information from Mr. Chapman raising concerns about materials required to be disclosed pursuant to Brady v. Maryland, 373 U.S. 83 (1963).

7. The due process clause of the United States Constitution provides that failure to disclose exculpatory evidence may require a reversal where the evidence is material to either guilt or punishment. Lowe v. Commonwealth, 218 Va. 670, 679 (1977), cert. denied, 435 U.S. 930 (1979).

8. Under Brady, exculpatory evidence includes evidence that impeaches the credibility of a prosecution witness. Corell v. Commonwealth, 232 Va. 452, 465 (1987). For example, "the failure of the prosecutor to inform defendant of [a potential] civil suit" of which the prosecution was aware may violate Brady and require a new trial. People v. Wallert, 98 A.D.2d 47, 50 (N.Y. App. Div. 1983).

9. On January 30, 2012, Mr. Chapman had sent a letter (“the Brady letter”) to defense counsel, advising counsel that both Sharon and Lexie Love would be witnesses at Mr. Huguely’s trial.

10. Concerning any potential civil claims, he further disclosed in the January 30, 2012 letter only that a “potential cause of action may be available to either or both the Loves under the circumstances.”

11. There was no disclosure concerning the fact that the Loves had actually retained civil attorneys, that their civil attorneys had been in contact since at least August 2011 with Mr. Chapman, and that a civil lawsuit was clearly anticipated and steps were being taken to prepare and file a civil claim against Mr. Huguely and others.

12. In fact, the reasonable conclusion drawn from the January 30, 2012 letter is that no specific action was being taken by the Loves or on their behalf in the civil realm, otherwise Mr. Chapman’s letter presumably would have disclosed any developments relating to the civil litigation.

13. Following the hearing on April 19, 2012 in which the Love’s civil attorney referenced a long standing, on-going relationship with Mr. Chapman, on May 18, 2012 counsel for Mr. Huguely sent to Mr. Chapman a letter requesting that he disclose what information he had about the status of the civil claim during the criminal prosecution.

14. The disclosure letter indicates that Mr. Chapman had more information than he disclosed in the January 30, 2012 Brady letter.

15. The information about the status of the civil claims was material to impeach the two prosecution witnesses, Sharon and Lexie Love, especially in the penalty phase of the trial. Indeed, the prosecution may well have known not only that a civil suit was in the works, but that the civil suit included allegations fundamentally inconsistent with the prosecution's theory -- namely allegations that Ms. Love's death was an accident.

16. Mr. Huguely's counsel had no ability to investigate the extent to which other witnesses may have been influenced by having received information from either the Loves or the Loves' attorneys that a civil claim was actively being developed.

17. These were not matters that the defense could have discovered through reasonable independent investigation.

18. A hearing is needed to determine the scope of any Brady violation.

WHEREFORE the defendant, George Huguely, respectfully moves the Court to set aside the verdict, and to grant him all other relief the Court deems proper and appropriate.

GEORGE HUGUELY

By Counsel

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Counsel for George Huguely, V

**CERTIFICATE**

I hereby certify that a true and exact copy of the foregoing was sent by hand delivery this 5th day of June, 2012 to:

Warner D. Chapman  
Charlottesville Commonwealth  
Attorney's Office  
P. O. Box 911  
Charlottesville, Virginia 22902

  
Rhonda Quagliana