

Emails — Filing a Petition outside of §19.2-327.1

J. email August 11

Von: Bryan J. < >

Datum: 11. August 2022 um 22:44:33 MESZ

An: Jens Soering < >

Betreff: Request

Jens:

As far as I know, besides Va. Code 19.2-327.1 and habeas litigation, there are no other avenues for a convicted felony to pursue additional DNA testing. As far as a second or subsequent habeas petition, I do not know of anyone who has succeeded in Virginia's federal courts on such a petition. As you may be aware, Schlup v. Delo allows habeas litigants to overcome procedural bars, but they must show a compelling case of actual innocence.

Bryan J.

Bryan J. J., LLC, *Attorney at Law*

Charlottesville, VA ———

(434) ——— telephone

(434) ——— facsimile

Nance email August 17

Von: Wes Nance < >

Datum: 17. August 2022 um 16:25:40 MESZ

An: Jens Soering < >

Betreff: RE:

Hmm,

It is an interesting question to consider. Some of it delves into the philosophies of individual judges and their interpretation of the limits of what they can and cannot do in their position. Ultimately, however, I think we inevitably end up in the same position as before.

I think you have the ability to file a petition in regards to anything associated with your case, you immediately clear the bar in reference to standing as a defendant in the case. Once again filing a petition, and being successful with such a petition, are two very different things.

Originally I was going to say that a court could accept such a petition filed outside the framework of 327.1, but it would still likely look to 327.1 to determine if such a petition should be granted.

However, there is a much more basic issue facing the court than that. As I was writing I recalled that trial courts are divested of jurisdiction in a case 60 days after a defendant is transferred to the department of corrections. Thus, the Circuit Court of Bedford County (regardless of which judge) no longer had any jurisdiction on your case after you were transported to the DOC. At that time it was immediately after transport, it is now 60 days after that transfer.

After the 60 days have past, I believe that the trial court only has authority over a case as specifically provided to it by the General Assembly. Here the only power that I'm aware of, is exclusively provided by 327.1. Thus, you are welcome to file any petition you like, but I think a Judge legally is limited to considering a petition under 327.1.

There may be other post-conviction remedies that I am not thinking of but it's the only one I can think of as I write this.

I hope that this is of assistance in providing clarity.

W. and Northup email chain concluding August 25

Anfang der weitergeleiteten Nachricht:

Von: "Northup, Stephen A." < >
Datum: 25. August 2022 um 21:43:09 OESZ
An: Bruce W. < >
Betreff: **Aw: Jens Soering**

Thanks for your reply. When I did not hear back from you, I guessed you were out of town when I wrote.

In their correspondence with Mr. Soering, Ms. Stuart and Ms. Ryan have not stated a basis for their assertion that he can request testing without proceeding under the statute mentioned in my email to you. They have simply told him that you say he can do that. Because I do not believe he can do so, I asked you for the basis of what you have told them, assuming you have in fact told them that. If you do not wish to tell me the basis of your alleged opinion, I will assume my understanding of the law on the issue of testing is correct.

Stephen A. Northup
Retired Partner

Direct: ——— | Mobile: ——— | Internal: ———
stephen.northup@———

On August 25, 2022 at 2:34:56 PM EDT, Bruce W. < > wrote:

Dear Mr. Northup,

Please accept my apologies for not replying sooner to your email of August 10. I have been out of town for much of the interim.

As to the subject of your inquiry, Ms. Stuart and Ms. Ryan prefer to let their correspondence with Mr. Soering speak for itself.

Best wishes.

Bruce W.

Bruce R. W., Jr.

——- PLLC

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Charlottesville VA ——-

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——- fax

——- direct

From: "Northup, Stephen A." < >

Date: Wednesday, August 10, 2022 at 12:18 PM

To: Bruce W. < >

Cc: Steve Rosenfield < >

Subject: Jens Soering

Dear Mr. W.:

As I believe you may know, together with Steve Rosenfield, I have represented Jens Soering for the last few years in connection with efforts to exonerate him of responsibility for the

murders of the Haysoms many years ago and with efforts to have him released from prison by the Virginia Parole Board.

Recently an issue has arisen concerning the possibility of requesting DNA testing of items of evidence from the Haysom case that remain in the custody of Bedford County. I understand that podcasters named Courteney Stuart and Rachel Ryan have informed Mr. Soering that he can request such DNA testing by a means other than a petition pursuant to Section 19.2-327.1 of the Code of Virginia. I also understand that Ms. Stuart and Ms. Evans have cited you to support their position that Mr. Soering can make such a request.

I am not aware of any basis outside of Section 19.2-327.1 for Mr. Soering to request the DNA testing in question. If in fact you believe there is such a basis, I would be grateful if you could tell me what it is.

Many thanks.

Stephen A. Northup
Retired Partner

Direct: _____ | Mobile: _____ | Internal: _____
stephen.northup@_____