

COMMONWEALTH OF VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

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CLERK OF COURTS  
CITY OF ALEXANDRIA

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COMMONWEALTH OF VIRGINIA )  
 )  
v. )  
 )  
JONATHAN NEIL SCRUGGS, )  
 Defendant. )  
\_\_\_\_\_ )

CF  
GM020250

**MEMORANDUM IN SUPPORT OF SENTENCING**

COMES NOW THE COMMONWEALTH and respectfully submits this memorandum to assist the Court in sentencing. The defendant stands before the Court having been tried and found guilty, by a jury of his peers, of one count of Simple Assault on a Police Officer - Felony.

It is the intended purpose of this memorandum to offer the Court some insight into this crime, beyond that presented at trial. This memorandum will address the defendant's poor candidacy for alternative sentencing, his history of continued hostile confrontation with law enforcement, and the thoughtful manner in which the jury considered the recommended sentence.

**1. The Defendant is a Poor Candidate for any Alternative to Incarceration.**

In February 1986, the defendant was convicted of statutory burglary. Prior to sentencing, a Pre-sentence Investigation Report was completed by Alexandria Probation and Parole. In that report, the defendant made the following 'Response to Crime':

"To Judge Haddock. If I could change things I will. I am very sorry for taking something that don't belong to me and it will never happen again under any circumstance. I will like Probation because I don't want to go to the Penitentiary for along time. It's not for me, and Probation will give a chance to start over and do right."

Pursuant to the entry of the Pre-sentence Report, the Court gave the defendant a chance to start over and do right, by suspending a substantial portion of the sentence conditioned upon compliance with the mandates of Adult Probation and Parole.

Now, sixteen years later, the defendant's own actions belie the notion that he ever intended to honor his promises to "start over" and "do right." In the intervening years, the defendant has been convicted of eight felonies, including a probation violation. His promise that it "would never happen again under any circumstance" was broken the year after he made it, when he was convicted in 1987 for Statutory Burglary. In 2000, the defendant's parole was revoked for numerous violations.

In 2001, the defendant's parole was again revoked. and he was placed into an intensive drug treatment program. The defendant successfully completed that program, but again tested positive for cocaine two days after being released from custody.

This robust history of an inability to comply with probation and parole, coupled with the defendant's compulsion for recidivism, render him an unacceptable candidate for any sentence other than incarceration.

## **2. The Defendant's History Reflects a Continued Hostility Towards Law Enforcement.**

Both prior to and after his arrest in this case, the defendant has exhibited an intense desire for violent confrontation whenever he has contact with law enforcement officers.

The pre-sentence report created after the defendant's 1986 conviction portrays the defendant's adjustment to jail as "poor" and notes that he incurred two infractions for yelling and abusive language towards jail staff. His criminal record shows a conviction for a misdemeanor attempt to obstruct justice in 1987, a 2000 felony assault and battery on police officer that was

amended to misdemeanor assault and battery and resulted in a conviction, and a 2001 conviction for Felony Assault and Battery on a Law Enforcement Officer.

While in the Alexandria jail on the current charge, both prior to and after trial, the defendant was involved in violent confrontations with the deputies who work the jail. The pre-sentence report notes that on 05-13-2002, the defendant cursed and threatened staff, and then urinated in a cup and threatened to throw it on the deputies. On 06-13-2002, the defendant began yelling from his cell and threw an unknown liquid on a Sheriff's Sergeant.

Two other altercations with jail staff did not make the pre-sentence report. On 07-18-2002, the defendant initiated an altercation with jail staff in which he made numerous threats to assault jail staff. On 08-07-2002, the defendant was asked to take down a towel covering a light in his cell. The defendant responded by vilely cursing the deputy, and ordering the deputy to perform sex acts upon him. When he was charged with more violations of jail rules, the defendant told the charging deputy "these charges are like souvenirs to me."

This lifetime history of confrontations and altercations with law enforcement are evidence that he is unable to conform his actions to comply with the law. Instead, the incidents outlined above illustrate a total disregard for authority and are ample of the defendant's intentions of assaulting law enforcement officers again, as soon as he is given the chance. The defendant's history should assure the Court that the jury's recommended sentence is appropriate in the instant case.

### **3. The Jury Thoughtfully Deliberated over the Defendant's Sentence.**

The Court may recall that at the sentencing portion of the defendant's trial, the Commonwealth made very little argument in reference to the defendant's sentence. Instead, the jury was provided with properly authenticated copies of the defendant's voluminous criminal

history.

The defense provided a comprehensive argument about the facts of the instant case and argued vociferously for the mandatory minimum of six months. The jury, after deliberating upon the sentence and upon sober reflection, rejected the defense argument and instead recommended a sentence of three years. This sentence fits squarely within the sentencing guidelines created by the Office of Probation and Parole. Therefore, the recommended sentence is appropriate and should not be overturned.

**CONCLUSION**

For the reasons stated above, and others to be adduced at a hearing on the matter, the Commonwealth respectfully prays the Court to follow the sentence recommended by the jury in the case at bar. It is also requested the Court impose a period of post-release supervision, pursuant to §19.2-195.2.

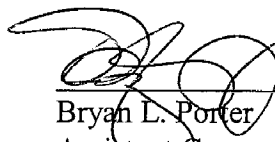
*Respectfully submitted,  
Commonwealth of Virginia*



Bryan L. Porter  
Attorney for the Commonwealth

**CERTIFICATE**

I hereby certify that a true and complete copy of this memorandum was delivered to Counsel for the Defendant, Mr. Paul Pepper, Esq., 132 N. Royal Street, #200, Alexandria, Virginia 22314, this 31<sup>st</sup> day of August, 2002.



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Bryan L. Porter  
Assistant Commonwealth's Attorney