

# SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING  
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## **Granted Appeal Summary**

### **Case**

COMMONWEALTH OF VIRGINIA v. JAMAR PAXTON  
(Record Number 240326)

### **From**

The Court of Appeals of Virginia.

### **Counsel**

Tanner M Russo (Office of the Attorney General) for appellant.

Kelsey Bulger (Indigent Defense Commission) for appellee.

### **Assignments of Error**

1. The Court of Appeals erred when it held that the trial court should have granted Paxton's first motion to suppress, holding that the interrogation never ceased after Paxton's invocation of his right to remain silent, the questioning detective did not scrupulously honor Paxton's invocation, and Paxton did not voluntarily reinitiate a generalized discussion of the investigation or charges. The Court of Appeals erred to the extent that it held that Paxton did not voluntarily, knowingly, or intelligently waive his Fifth Amendment rights, and to the extent that it held that Paxton's statements were involuntary.
2. The Court of Appeals erred by relying on *Overbey v. Commonwealth*, 65 Va. App. 636 (2015), and *Rashad v. Commonwealth*, 50 Va. App. 528 (2007), to review de novo whether Paxton reinitiated questioning because the accuracy of the transcribed police interview was undisputed. To the extent that those decisions require de novo review of reinitiation whenever the text of a transcribed police interview is undisputed, those decisions are erroneous and should be overruled.
4. The Court of Appeals erred by holding that any error in the admission at trial of Paxton's incriminating statements in the Commonwealth's case in chief was not harmless error.
5. The Court of Appeals erred in applying *Harrison v. United States*, 392 U.S. 219 (1968), and *Pearson v. Commonwealth*, 221 Va. 936 (1981), to hold that Paxton did not, under Virginia's same-evidence principle, waive any complaint about, or render harmless, any error in the admission of his incriminating statements at trial by testifying in his case in chief about the police

interview, his statements in the interview, and his version of events, which contradicted his statements in the interview. The Court of Appeals erroneously held that Paxton's failure to argue in the trial court that the admission of his incriminating statements compelled his trial testimony did not constitute a waiver of any Harrison-style claim.