

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday, the 30th day of November, 2000.

Arnold Ainley Wright, III, Appellant,
against Record No. 001024
Court of Appeals No. 2306-98-2
Commonwealth of Virginia, Appellee.

Upon an appeal from a judgment rendered by the Court of Appeals of Virginia on the 4th day of April, 2000.

Upon consideration of the record, briefs, and argument of counsel, the Court is of opinion that the Attorney General's motion to dismiss should be granted.

The defendant's sole assignment of error is: "The Circuit Court erred when it subsequently sentenced the Appellant to Five (5) years when the same Court had previously imposed the same sentence on the condition that the Appellant serve Twelve (12) months in the County Jail."

The defendant abandoned the foregoing issue in the Court of Appeals of Virginia, Wright v. Commonwealth, 32 Va. App. 148, 154, 526 S.E.2d 784, 787 (2000), and he may not resurrect the issue here. Moreover, the defendant's arguments in this appeal, both on brief and orally, are not encompassed within the assignment of error. This Court considers only questions that are properly presented by an appropriate assignment of error.

Accordingly, and because the circuit court had jurisdiction to revoke defendant's suspended sentence at the June 25, 1998 revocation hearing, this appeal is hereby dismissed.

It is ordered that the Circuit Court of Chesterfield County allow counsel for the appellant a fee of \$725 for services rendered the appellant on this appeal, in addition to counsel's costs and necessary direct out-of-pocket expenses.

The Commonwealth shall recover of the appellant the amount paid court-appointed counsel to represent him in this proceeding, counsel's costs and necessary direct out-of-pocket expenses, and the costs in this Court and in the courts below.

This order shall be published in the Virginia Reports and shall be certified to the Court of Appeals of Virginia and to the Circuit Court of Chesterfield County.

A Copy,

Teste:

David B. Beach, Clerk

Costs due the Commonwealth
by appellant in Supreme
Court of Virginia:

Attorney's fee	\$725.00 plus costs and expenses
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Teste:

David B. Beach, Clerk