



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

Shannon Dion
Director

Megan Peterson
Chief Deputy Director

Washington Building
1100 Bank Street
Richmond, Virginia 23219
(804) 786-4000
www.dcjs.virginia.gov

September 21, 2021

Mr. Paul L. Brothers IV
[REDACTED]
Montross, Virginia 22520

- Sent Via Certified Mail: 7020 2450 0000 1678 4596

Dear Mr. Brothers,

Pursuant to the provisions of §15.2-1708 (B) of the Code of Virginia and at your written request, on September 21, 2021, the Executive Committee of the Criminal Justice Services Board conducted a hearing, in person and via ZOOM, regarding your decertification as a law enforcement officer on June 30, 2021.

Upon hearing your testimony and reviewing all information and arguments presented, the Executive Committee reinstated your eligibility as a law-enforcement officer pursuant to § 15.2-1708(D) of the Code of Virginia.

If you have any questions about this notification, please feel free to contact David Cotter at (804) 225-4371.

Sincerely,

A handwritten signature in blue ink that reads "James Williams".

James Williams
Chair, Executive Committee
Criminal Justice Services Board

- c: Shannon Dion, Director (DCJS)
C. Balderson, Sheriff, Westmorland County Sheriff's Office
Catherina F. Hutchins, Senior Assistant Attorney General, Office of the Attorney General
Harvey Powers, Director, Division of Law Enforcement (DCJS)

State Mail Services (SMS) Metered Mail Card

(attach to each bundle of outgoing mail)

Mail Stop Code:	1	4	0	-	0	2	<i>A five digit number assigned by SMS.</i>
Agency Budget or Cost Code:	(12th Floor) 303004						<i>Internal tracking numbers agencies have submitted to SMS.</i>

If Agency Budget or Cost Code is blank the postage will be charged to the agency's default account. Mail will not be accepted without a complete Mail Stop Code.

Sender's Name: Banberger, J Number of Mail Pieces: 2

If nothing is checked, SMS will meter the mail in the most economical manner. See the SMS Mail Services Guide for descriptions of each service.

<input checked="" type="checkbox"/>	LETTER (Example - #10) x 2
<input type="checkbox"/>	FLAT (Example - 9x12, 10x13)

Date: 09/27/202 Phone: 225-4503

<input checked="" type="checkbox"/>	Certified Mail <small>(USPS Form 3800)</small>
<input checked="" type="checkbox"/>	Return Receipt <small>(USPS Form 3811)</small>

Please contact SMS if you have any questions:
 (804) 236-3592 • www.dgs.virginia.gov/SMS • StateMail@dgs.virginia.gov

REINSTATEMENT NTF

7020 2450 0000 1678 4800 SHERIFF BALDERSON, WESTMORELAND Co. SO

7020 2450 0000 1678 4596 PAUL BROTHERS IV

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Paul L. Brothers IV
[REDACTED]
Montross, Virginia 22520



9590 9402 6671 1060 5239 82

2. Article Number (Transfer from service label)

7020 2450 0000 1678 4596

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

Certified Mail

- A receipt (this portion)
- A unique identifier for your delivery.
- A record of delivery (inc signature) that is valid for a specified period.

Important Reminders

- You may purchase Car First-Class Mail® or Priority Mail® or Certified Mail® international mail.
- Insurance coverage is with Certified Mail service of Certified Mail service insurance coverage on certain Priority Mail items.
- For an additional fee, a endorsement on the mailpiece is required for the following services:
 - Return receipt service or delivery (including You can request a file electronic version. For complete PS Form 3811 Receipt, attach PS Form 3811)

PS Form 3800, April 20

Jonathan Banberger

From: Jonathan Banberger
Sent: Friday, October 8, 2021 1:38 PM
To: 'Andrew Meyer'
Cc: 'Erik Smith'
Subject: Hearing Update/ Paul Brothers

Good afternoon Mr. Meyer,

I hope this email finds you well. DCJS has sent a notification of Reinstatement to Mr. Brothers via US Postal Certified Mail. The letter was returned to us today as undelivered due to "No Mail Receptacle".

As required by VA Code 15.2-1708(E), notification must be sent to Mr. Brothers via US Certified Mail. Would you please verify the listed address or provide an updated address for Mr. Brothers.

Mr. Paul L. Brothers IV
[REDACTED]
Montross, Virginia 22520

I would like to send this notification document to Mr. Brothers as soon as possible.

Best Regards,

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement
Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
Cell: (804) 551-3521
<https://www.dcjs.virginia.gov/>

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Visit us on Facebook: www.facebook.com/vadcjs and Flickr: www.flickr.com/photos/va_dcjs

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COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF CRIMINAL JUSTICE SERVICES
 1100 BANK STREET
 RICHMOND, VIRGINIA 23219



MAN



Mr. Paul L. Brothers IV
 NIXIE 231 DC 1 0010/05/21
 RETURN TO SENDER
 NO MAIL RECEIPTABLE
 UNABLE TO FORWARD
 NMP EC: 23219363929 *0292-02369-05-23
 23219363929

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Paul L. Brothers IV
 [REDACTED]
 Montross, Virginia 22520

9590 9402 6671 1060 5239 82

2. Article Number (Transfer from service label)
 7020 2450 0000 1678 4596

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Collect on Delivery Restricted Delivery	
<input type="checkbox"/> Insured Mail	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	

Jonathan Banberger

From: Andrew Meyer <ameyer@ameyerlaw.com> on behalf of Andrew Meyer
Sent: Friday, October 8, 2021 3:21 PM
To: Jonathan Banberger
Subject: Re: Hearing Update/ Paul Brothers

Categories: HIGH PRIORITY

Try this address:

[REDACTED]
Montross, VA 22520

Would you send me an electronic copy of that letter for my file? Thank you and have a good weekend....

Andy M

--

Andrew D. Meyer, Esq.
1205 West Main Street, Suite 204
Richmond, Virginia 23220
Phone: (804) 358-2909
Fax: (757) 257-0063
<http://www.ameyerlaw.com/>

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----- Reply Above -----
Good afternoon Mr. Meyer,

I hope this email finds you well. DCJS has sent a notification of Reinstatement to Mr. Brothers via US Postal Certified Mail. The letter was returned to us today as undelivered due to "No Mail Receptacle".

As required by VA Code 15.2-1708(E), notification must be sent to Mr. Brothers via US Certified Mail. Would you please verify the listed address or provide an updated address for Mr. Brothers.

Mr. Paul L. Brothers IV
[REDACTED]
Montross, Virginia 22520

I would like to send this notification document to Mr. Brothers as soon as possible.

Best Regards,

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement

Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
Cell: (804) 551-3521
<https://www.dcjs.virginia.gov/>

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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CRIMINAL JUSTICE SERVICES
1100 BANK STREET, 12TH FLOOR
RICHMOND, VIRGINIA 23219

CERTIFIED MAIL



7021 0950 0000 4626 0084
7021 0950 0000 4626 0084

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

OFFICIAL USE

For delivery information, visit our website at www.usps.com®

- Certified Mail fee \$ _____
- Extra Services & Fees (attach box, add fee as appropriate)
- Return Receipt (hardcopy) \$ _____
 - Return Receipt (electronic) \$ _____
 - Certified Mail Restricted Delivery \$ _____
 - Adult Signature Required \$ _____
 - Adult Signature Restricted Delivery \$ _____

Postmark
Here

Postage \$ _____

Total Postage and Fees \$ _____

Set: _____

Size _____

Qty _____

Mr. Paul Brothers IV
[Redacted]
Montross, VA 22520

PS Form 3800, April 2015 2501-2502-2503-2504

Instructions

Mr. Paul Brothers IV
[Redacted]
Montross, VA 22520

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Paul Brothers IV

Montross, VA 22520



9590 9402 6671 1060 5234 70

2. Article Number (Transfer from service label)

7021 0950 0000 4626 0084

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- | | |
|------------------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

Jonathan Banberger

From: Jonathan Banberger
Sent: Friday, October 8, 2021 1:38 PM
To: 'Andrew Meyer'
Cc: 'Erik Smith'
Subject: Hearing Update/ Paul Brothers

Good afternoon Mr. Meyer,

I hope this email finds you well. DCJS has sent a notification of Reinstatement to Mr. Brothers via US Postal Certified Mail. The letter was returned to us today as undelivered due to "No Mail Receptacle".

As required by VA Code 15.2-1708(E), notification must be sent to Mr. Brothers via US Certified Mail. Would you please verify the listed address or provide an updated address for Mr. Brothers.

Mr. Paul L. Brothers IV
[REDACTED]
Montross, Virginia 22520

I would like to send this notification document to Mr. Brothers as soon as possible.

Best Regards,

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement
Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
Cell: (804) 551-3521
<https://www.dcjs.virginia.gov/>

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Visit us on Facebook: www.facebook.com/vadcjs and Flickr: www.flickr.com/photos/va_dcjs

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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CRIMINAL JUSTICE SERVICES
1100 BANK STREET
RICHMOND, VIRGINIA 23219

CERTIFIED MAIL



7020 2450 0000 1678 4596

MEMO



Mr Paul L Brothers IV
NIXIE 231 DC 1 0010/05/22
RETURN TO SENDER
NO MAIL RECEIPTABLE
UNABLE TO FORWARD
NMP 80840132
EC: 20210103939 *0002-00008-01 25

PLEASE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																		
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. <p>1. Article Addressed to:</p> <p>Mr. Paul L. Brothers IV [REDACTED] Montross, Virginia 22520</p> <p>9590 9402 6671 1060 5239 82</p> <p>2. Article Number (Transfer from service label) 7020 2450 0000 1678 4596</p>	<p>A. Signature</p> <p>X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <table border="1"> <tr> <td>B. Received by (<i>Printed Name</i>)</td> <td>C. Date of Delivery</td> </tr> </table> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	B. Received by (<i>Printed Name</i>)	C. Date of Delivery	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Collect on Delivery Restricted Delivery		<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
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<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																		
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<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery																		
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™																		
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery																		
<input type="checkbox"/> Collect on Delivery Restricted Delivery																			
<input type="checkbox"/> Insured Mail																			
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																			

State Mail Services (SMS) Metered Mail Card

(attach to each bundle of outgoing mail)

Mail Stop Code:	1	4	0	-	0	2	A five digit number assigned by SMS.
Agency Budget or Cost Code:	(12th Floor) 303004						Internal tracking numbers agencies have submitted to SMS.

If Agency Budget or Cost Code is blank the postage will be charged to the agency's default account. Mail will not be accepted without a complete Mail Stop Code.

Sender's Name: BANBERGER, J Number of Mail Pieces: 1

If nothing is checked, SMS will meter the mail in the most economical manner. See the SMS Mail Services Guide for descriptions of each service.

<input type="checkbox"/>	LETTER (Example - #10)
<input checked="" type="checkbox"/>	FLAT (Example - 9x12, 10x13)

Date: 10/13/2021 Phone: 54513

<input checked="" type="checkbox"/>	Certified Mail (USPS Form 3800)	x 1
<input checked="" type="checkbox"/>	Return Receipt (USPS Form 3811)	

Please contact SMS if you have any questions:
(804) 236-3592 • www.dgs.virginia.gov/SMS • StateMail@dgs.virginia.gov

7021 0950 0000 4626 0084

BROTHERS_REINSTATE NOTICE-2ND ATTEMPT



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

Shannon Dion
Director

Megan Peterson
Chief Deputy Director

Washington Building
1100 Bank Street
Richmond, Virginia 23219
(804) 786-4000
www.dcjs.virginia.gov

September 21, 2021

Sheriff C. Balderson
Westmoreland County Sheriff's Office
99 Court Square
P.O. Box 305
Montross, VA. 22520

Dear Sheriff Balderson,

Please find the enclosed agency file copy of documents providing notification of reinstatement as a law-enforcement officer to the following individual:

- Mr. Paul J. Brothers IV

If you have any questions, please feel free to contact me at (804) 225-4503 or via email at (jonathan.banberger@dcjs.virginia.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Banberger", with a long horizontal line extending to the right.

Jon Banberger
Decertification Coordinator
Law Enforcement Division
Virginia Department of Criminal Justice Service

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Sheriff C. Balderson
Westmoreland County Sheriff's Office
99 Court Square
P.O. Box 305
Montross, VA. 22520

2. Article Number
(Transfer from)

7020 2450 0000 1678 4800

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

Certified Mails

- A receipt (this portion of)
- A unique identifier for you
- Electronic verification of delivery.
- A record of delivery (and signature) that is retained for a specified period.

Important Reminders:

- You may purchase Certified Mail, First-Class Mail, First-Class Mail® service or Priority Mail® service if Certified Mail service is International mail
- Insurance covers mail with Certified Mail
- Insurance coverage of Certified Mail is certain Priority Mail
- For an additional fee, endorsement on the following services:
 - Return receipt service
 - Return receipt (electronic version)
- You can request a complete PS Form Receipt; attach PS

PS Form 3800, April

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Sheriff C. Balderson
Westmoreland County Sheriff's Office
99 Court Square
P.O. Box 305
Montross, VA. 22520

2. Article Number
(Transfer from)

7020 2450 0000 1678 4800

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x *Hannah Markis* Agent Addressee

B. Received by (Printed Name)

Hannah Markis

C. Date of Delivery

10-6-21

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

Jonathan Banberger

From: Jonathan Banberger
Sent: Monday, September 27, 2021 11:39 AM
To: 'Dion, Shannon'; Harvey Powers
Cc: Erik Smith; 'Cotter, David'; 'Hutchins, Catherina'
Subject: Notification for File: Decertification REINSTATEMENT- Brothers IV, Paul
Attachments: Sheriff's Notification_ Reinstatement Notification_ Brothers.pdf; Brothers_ Reinstatement NTF Final_ SIGNED.pdf

Good morning,

For your file reference, Mr. Paul Brothers IV has been reinstated by the Executive Committee of the CJSB, pursuant to Va. Code 15.2-1708, effective September 21, 2021.

A written notification has been sent to Mr. Brothers, with copy to Sheriff C. Balderson, Westmoreland County Sheriff's Office, has been sent via US Postal Certified Mail.

Copies attached.

The TREX Database notations have also been updated to reflect the reinstatement.

Please let me know if you have any additional questions.

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement
Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
Cell: (804) 551-3521
<https://www.dcjs.virginia.gov/>

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Visit us on Facebook: www.facebook.com/vadcjs and Flickr: www.flickr.com/photos/va_dcjs

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Virginia Department of Criminal Justice Services

Criminal Justice Services Board

Executive Committee

DECERTIFICATION APPEAL HEARING

Mr. Paul Brothers IV

September 21, 2021

	CODE OF VIRGINIA
	NOTIFICATION FROM WESTMORELAND COUNTY SHERIFF'S OFFICE AND SUPPORTING DOCUMENTATION
3	DECERTIFICATION NOTIFICATION TO MR BROTHERS
4	DECERTIFICATION APPEAL HEARING REQUESTED BY MR. BROTHERS
5	APPEAL HEARING DATE NOTIFICATION TO MR. BROTHERS
6	OFFICIAL TRAINING RECORD AND TREX UPDATES
7	ADDITIONAL CONTENT: SPECIAL INVESTIGATION REPORT

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 17. Police and Public Order

§ 15.2-1707. Decertification of law-enforcement officers.

A. The sheriff, chief of police, or agency administrator shall notify the Criminal Justice Services Board (the Board) in writing within 48 hours of becoming aware that any certified law-enforcement or jail officer currently employed by his agency has (i) been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in the Commonwealth; (ii) been convicted of or pled guilty or no contest to a Class 1 misdemeanor involving moral turpitude or any offense that would be any misdemeanor involving moral turpitude, including but not limited to petit larceny under § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth; (iii) been convicted of or pled guilty or no contest to any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under § 18.2-67.4 or consensual sexual intercourse with a minor 15 years of age or older under clause (ii) of § 18.2-371; (iv) been convicted of or pled guilty or no contest to domestic assault under § 18.2-57.2 or any offense that would be domestic assault under the laws of another state or the United States; (v) failed to comply with or maintain compliance with mandated training requirements; or (vi) refused to submit to a drug screening or has produced a positive result on a drug screening reported to the employing agency, where the positive result cannot be explained to the agency administrator's satisfaction.

B. The sheriff, chief of police, or agency administrator shall notify the Board in writing within 48 hours if any certified law-enforcement or jail officer currently employed by his agency (i) is terminated or resigns in advance of being convicted or found guilty of an offense set forth in clause (i) of subsection A that requires decertification, (ii) is terminated or resigns in advance of a pending drug screening, (iii) is terminated or resigns for a violation of state or federal law, (iv) is terminated or resigns for engaging in serious misconduct as defined in statewide professional standards of conduct adopted by the Board, (v) is terminated or resigns while such officer is the subject of a pending internal investigation involving serious misconduct as defined in statewide professional standards of conduct adopted by the Board, or (vi) is terminated or resigns for an act committed while in the performance of his duties that compromises an officer's credibility, integrity, honesty, or other characteristics that constitute exculpatory or impeachment evidence in a criminal case.

C. The notification, where appropriate, shall be accompanied by a copy of the judgment of conviction.

D. Upon receiving such notice from the sheriff, chief of police, or agency administrator, or from an attorney for the Commonwealth, the Board shall immediately decertify such law-enforcement or jail officer. Such officer shall not have the right to serve as a law-enforcement officer within the Commonwealth until his certification has been reinstated by the Board.

E. When a conviction has not become final, the Board may decline to decertify the officer until the conviction becomes final, after considering the likelihood of irreparable damage to the officer if such officer is decertified during the pendency of an ultimately successful appeal, the likelihood of injury or damage to the public if the officer is not decertified, and the seriousness of the offense.

F. The Department of Criminal Justice Services is hereby authorized to waive the requirements for decertification as set out in subsection A for good cause shown.

G. The Board may initiate decertification proceedings against any current or former law-enforcement or jail officer if the Board has found that any basis for the officer's decertification set forth in subsection A or B exists.

H. Any conviction of a misdemeanor that has been appealed to a court of record shall not be considered a conviction for purposes of this section unless a final order of conviction is entered. Any finding of misconduct listed in

subsection B will not be considered final until all grievances or appeals have been exhausted or waived and the finding of misconduct is made final.

1994, cc. 850, 905, § 15.1-131.8:2; 1995, c. 112; 1997, c. 587; 2013, cc. 307, 468; 2017, c. 496; 2020, Sp. Sess. I, cc. 27, 37.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 17. Police and Public Order

§ 15.2-1708. Notice of decertification.

A. Service of notice. The Board shall, within ten days of decertification, serve notice upon an affected officer, in person or by certified mail, and upon the law-enforcement or jail agency employing said officer, by certified mail, specifying the action taken and remedies available. The Board shall stay final action until the period for requesting a hearing expires.

B. Decertification hearing. Any law-enforcement or jail officer who has been decertified may, within thirty days of receipt of notice served by the Board, request, by certified mail, a hearing which shall be granted by the Board. Upon receipt of such request, the Board shall set a date, time, and place for the hearing within sixty days and serve notice by certified mail upon the affected officer. The Board, or a committee thereof, shall conduct such hearing. The affected officer may be represented by counsel. In the absence of a request for hearing, decertification shall, without further proceedings, become final thirty days after the initial notice.

C. Standard of review. The decertification of a law-enforcement or jail officer under § 15.2-1707 shall be sustained by the Board unless such law-enforcement or jail officer shows, by a preponderance of the evidence, good cause for his certification to be reinstated.

D. Final decision after request for hearing. The Board shall render a final decision within thirty days.

E. Notice of final action. The Board shall notify the officer and the law-enforcement or jail agency involved, by certified mail, of the final action regarding decertification.

F. Reinstatement after decertification. Any officer who is decertified may, after a period of not less than five years, petition the Board to be considered for reinstatement of certification.

1994, cc. 850, 905, § 15.1-131.8:3; 1995, c. 112; 1997, c. 587.



Virginia Department of Criminal Justice Services

DC-1

Notification of Eligibility for Decertification

Pursuant to § 15.2-1707 of the Code of Virginia, this document shall serve as written notice to the Criminal Justice Services Board of the potential eligibility for decertification of the individual listed below.

Submit via Email to: lejdecert@dcs.virginia.gov FOR AGENTS ONLY CASE NO. 20210525-001

NAME: Paul L. Brothers, IV

LAST KNOWN ADDRESS: [Redacted] Montross, Virginia 22520

LAW ENFORCEMENT or JAIL CERTIFIED OFFICER: Law Enforcement DATE OF BIRTH: [Redacted]

REQUESTING AGENCY: Westmoreland Co. S.O. POINT OF CONTACT: 1st Sgt. J. Molinares

DATE OF SEPARATION: 05/20/2021 Terminated or Resigned: Terminated

Contact Email: jemolinares@westcoso.us Contact Phone: (804) 456-7218

REASON FOR DECERTIFICATION (CHECK ALL THAT APPLY/ATTACH SUPPLEMENTAL INFORMATION AS NECESSARY):

15.2-1707 (A)

- Convicted of or plead guilty or no contest to a felony of any offense that would be a felony if committed in the Commonwealth. (15.2-1707 (A)(i))
Convicted of or plead guilty or no contest to a Class 1 misdemeanor involving moral turpitude, including but not limited to petit larceny, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth. (15.2-1707 (A)(ii))
Convicted of or plead guilty or no contest to any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery or consensual sexual intercourse with a minor 15 or older. (15.2-1707 (A)(iii))
Convicted of or plead guilty or no contest to domestic assault or any offense that would be domestic assault under the laws of another state or the United States. (15.2-1707 (A)(iv))

FOR ALL OF THE ABOVE:

DATE OF CONVICTION: _____

FINAL CRIMINAL CHARGE(S): _____

COURT LOCATION: _____

FOR CRIMINAL CASES: COPY OF JUDGEMENT OF CONVICTION MUST SUBMITTED WHEN AVAILABLE.

- Failed to comply with or maintain compliance with mandated training requirements. (15.2-1707 (A)(v))
- Refusal to submit to a drug screening or has produced a positive result on a drug screening reported to the employing agency, where the positive result cannot be explained to the agency's satisfaction. (15.2-1707 (A)(vi))

15.2-1707 (B) (effective March 1st, 2021)

FOR ALL BELOW:

DATE OF INCIDENT OR ACTIONABLE OCCURANCE: 04/03/2021

VIOLATION Violation of Use of Force Policy G.O.09.01

- Terminated or resigns: (effective March 1st, 2021)
 - in advance of being convicted or found guilty of an offense as set forth in subsection (A), clause (i) that requires decertification. (15.2-1707 (B)(i))
 - in advance of a pending drug screening. (15.2-1707 (B)(ii))
 - for a violation of state or federal law. (15.2-1707 (B)(iii)) *Sgt McInnis No. 9282*
 - for an act committed while in the performance of the officer's duties that compromises that compromises an officer's credibility, integrity, honesty or other characteristics that constitute exculpatory or impeachment evident in a criminal case. (15.2-1707 (B)(vi))

Committed to (B)(iii), 6/29/2021 SDB

A summary of the circumstances associated with this consideration must accompany this submission. (For incidents occurring *AFTER* March 1, 2021.)

ADDITIONAL INFORMATION:

(Additional Supporting Documentation may attached and must be in PDF form)

Paul Lee Brothers, IV was employed as a Patrol Deputy for the Westmoreland County Sheriff's Office on 04/03/2021. After arresting a subject for Obstruction of Justice, Mr. Brothers was involved in a Use of Force at the Westmoreland County Sheriff's Office Booking Room. The Use of Force was in violation of policy for the Westmoreland County Sheriff's Office G.O.09.01. The Virginia State Police was requested by this Sheriff's Office to conduct an investigation and a Special Prosecutor has been assigned to determine if the use of force rises to the level of being a criminal law violation. The arrestee did suffer a laceration to the nose. Incident was recorded with audio and video on Westmoreland County Sheriff's Office Body Cameras. If further information is needed in regard to this incident do not hesitate to contact us.

(Attach additional pages as needed)

COB
Signature of Sheriff, Chief of Police or Agency Administrator

Date: 05 / 25 / 2021

Jonathan Banberger

From: Jonathan Banberger
Sent: Tuesday, June 29, 2021 11:57 AM
To: 'Eric Molinares'
Cc: Erik Smith
Subject: RE: Decertification Process

Sgt Molinares,

Again, deepest sympathies to you and your family.

Per our conversation, I will be amending the submitted DC-1 from violation of Subcategory (B)(vi) to (B)(iii). Biii is more suitable for the violation as described in the DC-1 narrative.

I am sending this notification so that you can adjust your records accordingly.

We will be proceeding with processing our paperwork.

When you get back to work, please let me know if you have any additional questions or concerns.

Again, you and your family are in our thoughts!

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement
Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
Cell: (804) 551-3521
<https://www.dcjs.virginia.gov/>

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Visit us on Facebook: www.facebook.com/vadocjs and Flickr: www.flickr.com/photos/va_dcjs

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From: lejdecert@dcjs.virginia.gov <lejdecert@dcjs.virginia.gov>
Sent: Thursday, May 6, 2021 10:29 AM
To: Eric Molinares <jemolinares@westcoso.us>
Subject: RE: Decertification Process

Good morning Sgt Molinares,

Attached is a form we've created to assist agencies with submissions. It pretty much encompasses everything we need. The only thing I emphasize if that, in the additional information sections, please include a good summary of the circumstances. I will follow-up with any questions or need for additional information.

Please let me know if you have any questions.

Thanks,

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement
Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
<https://www.dcjs.virginia.gov/>

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Visit us on Facebook: www.facebook.com/vadccjs and Flickr: www.flickr.com/photos/va_dcjs

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From: Eric Molinares <jemolinares@westcoso.us>
Sent: Thursday, May 6, 2021 9:08 AM
To: LEDecert@dcjs.virginia.gov
Subject: Decertification Process

Good morning,

Our Agency would like to see what we need to do on our end to start the Decertification Process.

Thanks,

Eric

1st Sergeant J.E. Molinares
Administrative / Training
Westmoreland County Sheriff's Office
P.O. Box 305 / 175 Polk Street
Montross Virginia, 22520
(804) 493-8066 Office Ext: 3521
(804) 313-5013 Cell
(804) 456-7218 Cell
jemolinares@westcoso.us



Virginia Department of Criminal Justice Services

DC-1

Notification of Eligibility for Decertification

Pursuant to § 15.2-1707 of the Code of Virginia, this document shall serve as written notice to the Criminal Justice Services Board of the potential eligibility for decertification of the individual listed below.

Submit via Email to: jeidecert@dcjs.virginia.gov FOR DCJS USE ONLY: CASE ID # 20210525-001

NAME: Paul L. Brothers, IV

LAST KNOWN ADDRESS: [Redacted] Virginia 22520

LAW ENFORCEMENT or JAIL CERTIFIED OFFICER: Law Enforcement DATE OF BIRTH: [Redacted]

REQUESTING AGENCY: Westmoreland Co. S.O. POINT OF CONTACT: 1st Sgt. J. Molinares

DATE OF SEPARATION: 05/20/2021 Terminated or Resigned: Terminated

Contact Email: jemolinares@westcoso.us Contact Phone: (804) 456-7218

REASON FOR DECERTIFICATION (CHECK ALL THAT APPLY/ATTACH SUPPLEMENTAL INFORMATION AS NECESSARY):

15.2-1707 (A)

- Convicted of or plead guilty or no contest to a felony of any offense that would be a felony if committed in the Commonwealth. (15.2-1707 (A)(i))
Convicted of or plead guilty or no contest to a Class 1 misdemeanor involving moral turpitude, including but not limited to petit larceny, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth. (15.2-1707 (A)(ii))
Convicted of or plead guilty or no contest to any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery or consensual sexual intercourse with a minor 15 or older. (15.2-1707 (A)(iii))
Convicted of or plead guilty or no contest to domestic assault or any offense that would be domestic assault under the laws of another state or the United States. (15.2-1707 (A)(iv))

FOR ALL OF THE ABOVE:

DATE OF CONVICTION: _____

FINAL CRIMINAL CHARGE(S): _____

COURT LOCATION: _____

FOR CRIMINAL CASES: COPY OF JUDGEMENT OF CONVICTION MUST SUBMITTED WHEN AVAILABLE.

- Failed to comply with or maintain compliance with mandated training requirements. (15.2-1707 (A)(v))
- Refusal to submit to a drug screening or has produced a positive result on a drug screening reported to the employing agency, where the positive result cannot be explained to the agency's satisfaction. (15.2-1707 (A)(vi))

15.2-1707 (B) (effective March 1st, 2021)

FOR ALL BELOW:

DATE OF INCIDENT OR ACTIONABLE OCCURANCE: 04/03/2021

VIOLATION Violation of Use of Force Policy G.O.09.01

- Terminated or resigns: (effective March 1st, 2021)
 - in advance of being convicted or found guilty of an offense as set forth in subsection (A), clause (i) that requires decertification. (15.2-1707 (B)(i))
 - in advance of a pending drug screening. (15.2-1707 (B)(ii))
 - for a violation of state or federal law. (15.2-1707 (B)(iii))
 - for an act committed while in the performance of the officer's duties that compromises that compromises an officer's credibility, integrity, honesty or other characteristics that constitute exculpatory or impeachment evident in a criminal case. (15.2-1707 (B)(vi))

A summary of the circumstances associated with this consideration must accompany this submission. (For Incidents occurring *AFTER* March 1, 2021.)

ADDITIONAL INFORMATION:

(Additional Supporting Documentation may attached and must be in PDF form)

Paul Lee Brothers, IV was employed as a Patrol Deputy for the Westmoreland County Sheriff's Office on 04/03/2021. After arresting a subject for Obstruction of Justice, Mr. Brothers was involved in a Use of Force at the Westmoreland County Sheriff's Office Booking Room. The Use of Force was in violation of policy for the Westmoreland County Sheriff's Office G.O.09.01. The Virginia State Police was requested by this Sheriff's Office to conduct an investigation and a Special Prosecutor has been assigned to determine if the use of force rises to the level of being a criminal law violation. The arrestee did suffer a laceration to the nose. Incident was recorded with audio and video on Westmoreland County Sheriff's Office Body Cameras. If further information is needed in regard to this incident do not hesitate to contact us.

(Attach additional pages as needed)

COB, IV

Signature of Sheriff, Chief of Police or Agency Administrator

Date: 05 / 25 / 2021

Jonathan Banberger

From: Jonathan Banberger
Sent: Wednesday, June 30, 2021 12:41 PM
To: 'Chris Hawkins'
Cc: 'Smith, Erik'; 'Eric Molinares'
Subject: RE: Decert Form Paul Brothers
Attachments: 20210525-001 DC-1_Brothers IV, Paul L. _Amended_JDB 06-29-2021.pdf

Absolutely.

Please see attached! The notification email sent to 1st Sgt. Molinares is included.

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement
Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
Cell: (804) 551-3521
<https://www.dcjs.virginia.gov/>

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From: Chris Hawkins <chawkins@westcoso.us>
Sent: Wednesday, June 30, 2021 12:32 PM
To: Jonathan Banberger <jonathan.banberger@dcjs.virginia.gov>
Subject: RE: Decert Form Paul Brothers

Sir,

I just talked to the sheriff about your conversation. He is requesting that you email me a copy of the final form for the Decertification of Paul Brothers for our file. We want to make sure we have the changes made on file in case it is appealed. A scanned and emailed copy will work fine.

Thank you,

Major Hawkins
Westmoreland County Sheriff's Office

From: Jonathan Banberger [mailto:jonathan.banberger@dcjs.virginia.gov]
Sent: Thursday, June 24, 2021 8:34 AM
To: Chris Hawkins <chawkins@westcoso.us>
Cc: John Hoover <chiefdeputy@westcoso.us>; Erik Smith <erik.smith@dcjs.virginia.gov>
Subject: RE: Decert Form Paul Brothers

Thanks for the update. It will ultimately help in determining if we can move forward under the newer additions to the code if applicable, or wait until the outcome of a potential court process.

In advance, we appreciate any additional information that can be provided.

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement
Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
Cell: (804) 551-3521
<https://www.dcjs.virginia.gov/>

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From: Chris Hawkins <chawkins@westcoso.us>
Sent: Tuesday, June 22, 2021 12:44 PM
To: Jonathan Banberger <jonathan.banberger@dcjs.virginia.gov>
Cc: John Hoover <chiefdeputy@westcoso.us>
Subject: RE: Decert Form Paul Brothers

Sir,

I have Cc'd our Chief Deputy in this email. We are still waiting on the special prosecutor to render a decision as to prosecution. Mr. Brothers is no longer employed here but the Chief Deputy would have to decide what to release in consultation with the Commonwealth's Attorney.

Major Hawkins

From: Jonathan Banberger [mailto:jonathan.banberger@dcjs.virginia.gov]
Sent: Tuesday, June 22, 2021 9:53 AM
To: Jonathan Banberger <jonathan.banberger@dcjs.virginia.gov>; Chris Hawkins <chawkins@westcoso.us>
Subject: RE: Decert Form Paul Brothers

Good morning,

I am following up with you in regard to the Brothers matter. Can you advise if there have been any charges by VSP or the special prosecutor?

Also, can you provide a summary of the incident that prompted your agency to take action? I will need the supporting documentation for file in order to establish the criteria for the specific Decertification section application. Especially if an appeal is made.

Thanks,

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement
Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
Cell: (804) 551-3521
<https://www.dcjs.virginia.gov/>

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From: Jonathan Banberger <jonathan.banberger@dcjs.virginia.gov>
Sent: Wednesday, May 26, 2021 8:58 AM
To: Chris Hawkins <chawkins@westcoso.us>
Subject: RE: Decert Form Paul Brothers

Good morning,

We have received your DC-1 submission for Mr. Brothers. I will create a file for this matter and follow-up with you regarding any additional information if necessary.

Please keep me posted on if charges are obtained in this matter.

Best Regards,

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement
Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
Cell: (804) 551-3521
<https://www.dcjs.virginia.gov/>

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From: Chris Hawkins <chawkins@westcoso.us>

Sent: Tuesday, May 25, 2021 3:31 PM

To: leidecert@dcjs.virginia.gov

Subject: Decert Form Paul Brothers

Jonathan Banberger

From: Chris Hawkins <chawkins@westcoso.us> on behalf of Chris Hawkins
Sent: Friday, August 13, 2021 2:35 PM
To: Jonathan Banberger
Subject: RE: Decert Form Paul Brothers

The prosecutor has declined prosecution on Paul Brothers

From: Jonathan Banberger [mailto:jonathan.banberger@dcjs.virginia.gov]
Sent: Wednesday, May 26, 2021 8:58 AM
To: Chris Hawkins <chawkins@westcoso.us>
Subject: RE: Decert Form Paul Brothers

Good morning,

We have received your DC-1 submission for Mr. Brothers. I will create a file for this matter and follow-up with you regarding any additional information if necessary.

Please keep me posted on if charges are obtained in this matter.

Best Regards,

Jon Banberger
Law Enforcement Decertification Coordinator/ Division of Law Enforcement
Virginia Department of Criminal Justice Services
1100 Bank St., 9th Floor
Richmond, VA 23219
Office: (804) 225-4503
Cell: (804) 551-3521
<https://www.dcjs.virginia.gov/>

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From: Chris Hawkins <chawkins@westcoso.us>
Sent: Tuesday, May 25, 2021 3:31 PM
To: lejdecert@dcjs.virginia.gov
Subject: Decert Form Paul Brothers



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

Shannon Dion
Director

Megan Peterson
Chief Deputy Director

Washington Building
1100 Bank Street
Richmond, Virginia 23219
(804) 786-4000
www.dcjs.virginia.gov

June 30, 2021

Mr. Paul L. Brothers IV
[REDACTED]
Montross, Virginia 22520

- Sent Via Certified Mail: 7013 1710 0002 2953 3020

Dear Mr. Brothers,

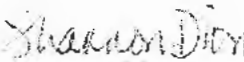
The Department of Criminal Justice Services (DCJS) has been notified that on May 20, 2021, you were terminated as a Law-Enforcement officer with the Westmoreland County Sheriff's Office, after your agency found that you engaged in conduct on April 3, 2021, that was in violation of agency policies regarding the use of force and in violation of state and federal law.

Pursuant to Virginia Code §§ 9.1-102, 9.1-107 and 15.2-1707(B)(iii), you have been decertified as a law-enforcement officer in the Commonwealth of Virginia as of June 30, 2021.

You have the right to a hearing pursuant to Virginia Code § 15.2-1708. Your request for a hearing must be in writing, sent by certified mail, and received by DCJS within thirty days of receipt of this letter. If so requested, a hearing before the Board shall be set within sixty days and you may be represented by counsel. In the absence of a request for hearing, decertification shall, without further proceedings, become final thirty days after the initial notice.

If you have any questions about this notification, please feel free to contact Jon Banberger at (804) 225-4503 or via email at (jonathan.banberger@dcjs.virginia.gov).

Sincerely,


Shannon Dion

- c: C. Balderson, Sheriff, Westmoreland County Sheriff's Office
Catherina F. Hutchins, Senior Assistant Attorney General, Office of the Attorney General
Harvey Powers, Director, Division of Law Enforcement (DCJS)
Erik Smith, Standards and Policy Manager, Division of Law Enforcement (DCJS)

United States Postal Service

6 JUL 2003 9:41 AM



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Commonwealth of Virginia
Department of Criminal Justice Services
Law Enforcement Division, JDB/ES
1100 Bank St.
Richmond, VA. 23219



SENDER - COMPLETE THIS SECTION

- 1. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- 2. Print your name and address on the reverse so that we can return the card to you.
- 3. Attach this card to the back of the mail piece or on the front if space permits.

1. Addressee to

Mr. Paul L. Brothers IV
[Redacted]
Montross, Virginia 22520

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee

B. Received by / Printed Name: Date of Delivery:

2. Is delivery address different from item 1? Yes No
If YES, enter delivery address below.

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number: 7013 1740 0002 2989 3020
Postnet barcode



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

Shannon Dion
Director

Megan Peterson
Chief Deputy Director

Washington Building
1100 Bank Street
Richmond, Virginia 23219
(804) 786-4000
www.dcjs.virginia.gov

June 30, 2021

Sheriff C. Balderson
Westmoreland County Sheriff's Office
99 Court Square
P.O. Box 305
Montross, VA. 22520

Dear Chief Burke,

Please find the enclosed agency file copy of documents providing notification of decertification to the following individuals:

- Mr. Paul J. Brothers IV

If you have any questions, please feel free to contact me at (804) 225-4503 or via email at (jonathan.banberger@dcjs.virginia.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Banberger".

Jon Banberger
Decertification Coordinator
Law Enforcement Division
Virginia Department of Criminal Justice Service

July 23, 2021

Shannon Dion
Director, Department of Criminal Justice Services
1100 Bank Street
Richmond, VA 23219

Re: Request for Hearing

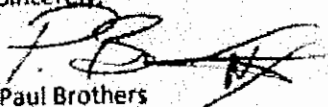
Dear Ms. Shannon,

On July 8, 2021, I received your letter dated June 30, 2021 advising me of the pending decertification of my law-enforcement credentials. This letter serves as formal notice of my request for a hearing pursuant to Virginia Code § 15.2-1708. I will be represented by counsel. My attorney's contact information is as follows:

Andrew Meyer
P.O. Box 14543
Richmond, VA 23221
(804) 358-2909 phone
(757) 418-4161 facsimile
ameyer@ameyerlaw.com

Please schedule the hearing through my attorney. Thank you for your time and attention.

Sincerely,


Paul Brothers

1st Attempt

SENT VIA CERTIFIED MAIL - TRACKING NO.

2nd Attempt

Certified Mail-Tracking number

9402 1112 9837 0640 5465 14

EJ 865 283 104 US

~~7018 3090 0001 9346 8962~~

Jonathan Banberger

From: Andrew Meyer <ameyer@ameyerlaw.com> on behalf of Andrew Meyer
Sent: Wednesday, August 4, 2021 11:51 AM
To: Jonathan Banberger
Subject: Re: Paul Brothers IV DCJS Appeal

Sorry for the double-tap, I thought I cancelled the first email that did not have the attachments. The tracking numbers are:

DCJS Appeal Tracking No. 9402111298370640546514
Second Attempt DCJS Appeal Tracking No. EJ865263104US

They are both listed on the letter itself.

Andy M

On Wed, Aug 4, 2021 at 11:47 AM Jonathan Banberger <Jonathan.Banberger@dcjs.virginia.gov> wrote:

Good morning Mr. Meyer.

Please provide the USPS Certified Mail tracking Numbers, for both attempts, and I'll see what we can be done.

Respectfully,

Jon Banberger

Law Enforcement Decertification Coordinator, Division of Law Enforcement

Virginia Department of Criminal Justice Services

1100 Bank St., 9th Floor

Richmond, VA 23219

Office: (804) 225-4503

Cell: (804) 551-3521

<https://www.dcjs.virginia.gov/>

For up to date information, subscribe to **DCJS Updates**. www.dcjs.virginia.gov/subscribe

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From: Andrew Meyer <ameyer@ameyerlaw.com>
Sent: Wednesday, August 4, 2021 11:42 AM
To: jonathan.banberger@dcjs.virginia.gov
Cc: [REDACTED]
Subject: Paul Brothers IV DCJS Appeal

Mr. Banberger,

I represent Mr. Brothers in the above referenced matter. He is attempting to note his appeal, but his first attempt is still in transit and his second attempt appears to have been forwarded. Attached please find his notice of appeal. Please advise if this submission is sufficient to perfect his appeal. Attached is an electronic copy of the letter he sent with the corresponding tracking numbers.

Andrew Meyer

--

Andrew D. Meyer, Esq.
1205 West Main Street, Suite 204
Richmond, Virginia 23220
Phone: (804) 358-2909
Fax: (757) 257-0063
<http://www.ameyerlaw.com/>

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--
Andrew D. Meyer, Esq.
1205 West Main Street, Suite 204
Richmond, Virginia 23220
Phone: (804) 358-2909
Fax: (757) 257-0063
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Jonathan Banberger

From: Andrew Meyer <ameyer@ameyerlaw.com> on behalf of Andrew Meyer
Sent: Wednesday, August 4, 2021 11:46 AM
To: jonathan.banberger@dcjs.virginia.gov
Cc: [REDACTED]
Subject: Paul Brothers IV DCJS Appeal
Attachments: F05F8112-0DF9-4A89-9A4D-2C9F670F7277.jpeg, DCJS_Ltr_dated_Jun_30_2021_rec_d_Jul_8_2021.pdf

Mr. Banberger,

I represent Mr. Brothers in his appeal of the pending decertification as a law-enforcement officer. He has tried to note his appeal, but his first attempt is still in transit and his second attempt is apparently being forwarded. Attached please find the initial notice my client received from DCJS on July 8, 2021 as well as his notice of appeal with the corresponding tracking numbers. Please advise if this communication is sufficient for him to note his appeal given the difficulties my client is facing with the U.S. Postal Service.

Thank you.

Andrew Meyer

--

Andrew D. Meyer, Esq.
1205 West Main Street, Suite 204
Richmond, Virginia 23220
Phone: (804) 358-2909
Fax: (757) 257-0063
<http://www.ameyerlaw.com>

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COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

Shannon O'Boe
Director

Megan Peterson
Chief Deputy Director

Division of Law Enforcement
1100 Park Avenue
Richmond, Virginia 23219
(804) 225-4000
www.dcj.state.va.us

June 30, 2021

Mr. Paul L. Brothers IV

Montross, Virginia 22526

- Sent Via Certified Mail: 7013 1710 0002 2953 3020

Dear Mr. Brothers,

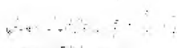
The Department of Criminal Justice Services (DCJS) has been notified that on May 20, 2021, you were terminated as a Law Enforcement officer with the Westmoreland County Sheriff's Office, after your agency found that you engaged in conduct on April 3, 2021, that was in violation of agency policies regarding the use of force and in violation of state and federal law.

Pursuant to Virginia Code §§ 9.1-102, 9.1-107 and 15.2-1707(b)(1)(i), you have been decertified as a law enforcement officer in the Commonwealth of Virginia as of June 30, 2021.

You have the right to a hearing pursuant to Virginia Code § 15.2-1706. Your request for a hearing must be in writing, sent by certified mail, and received by DCJS within thirty days of receipt of this letter. If so requested, a hearing before the Board shall be set within sixty days and you may be represented by counsel. In the absence of a request for hearing, decertification shall, without further proceedings, become final thirty days after the final notice.

If you have any questions about this notification, please feel free to contact Jon Bartsberger at (804) 225-4503 or via email at jon.bartsberger@dcj.state.va.us.

Sincerely,


Shannon O'Boe

- c: C. Bakerson, (former), Westmoreland County Sheriff's Office
- Catherina F. Hutchins, Senior Assistant Attorney General, Office of the Attorney General
- Harvey Powers, Director, Division of Law Enforcement (DCJS)
- Erik Smith, Standards and Policy Manager, Division of Law Enforcement (DCJS)

USPS Tracking®

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Tracking Number: 9402111298370640546514

Remove X

Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.

USPS Tracking Plus™ Available ✓

In Transit, Arriving Late

July 27, 2021

Get Updates ✓

Feedback

Text & Email Updates



Proof of Delivery



Tracking History



July 27, 2021

In Transit, Arriving Late

Your package will arrive later than expected, but is still on its way. It is currently in transit to the next facility.

July 23, 2021, 4:01 pm

Departed Post Office

NINDE, VA 22526

July 23, 2021, 3:55 pm
USPS in possession of item
NINDE, VA 22526

July 23, 2021, 2:15 am
Shipping Label Created, USPS Awaiting Item
MONTROSS, VA 22520

USPS Tracking Plus™



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USPS Tracking®

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Tracking Number: EJ865283104US

[Remove X](#)

Scheduled Delivery by

WEDNESDAY

4 AUGUST
2021 ⓘ

by
6:00pm ⓘ

Feedback

Forwarded

August 4, 2021 at 10:32 am
RICHMOND, VA

Get Updates ▾

Text & Email Updates ▾

Proof of Delivery ▾

Tracking History ▴

August 4, 2021, 10:32 am

Forwarded

RICHMOND, VA

Your item was forwarded to a different address at 10:32 am on August 4, 2021 in RICHMOND, VA. This was because of forwarding instructions or because the address or ZIP Code on the label was incorrect.

August 4, 2021, 10:24 am

Arrived at Post Office

RICHMOND, VA 23232

August 4, 2021, 8:08 am

Departed USPS Regional Facility

RICHMOND VA DISTRIBUTION CENTER

August 3, 2021, 7:47 pm

Arrived at USPS Regional Facility

RICHMOND VA DISTRIBUTION CENTER

August 3, 2021, 5:12 pm

Departed Post Office

MONTROSS, VA 22520

August 3, 2021, 2:53 pm

USPS in possession of item

MONTROSS, VA 22520

Feedback

Product Information



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Go to our FAQs section to find answers to your tracking questions.

FAQs

USPS Tracking®

[FAQs >](#)

[Track Another Package +](#)

Tracking Number: 70183090000193468962

[Remove X](#)

Expected Delivery by

FRIDAY

6 AUGUST 2021 ⓘ **by** **9:00pm** ⓘ

Feedback

Departed USPS Regional Facility

August 4, 2021 at 8:29 am
RICHMOND VA DISTRIBUTION CENTER

[Get Updates](#) ✓

Text & Email Updates ✓

Tracking History ^

August 4, 2021, 8:29 am

Departed USPS Regional Facility
RICHMOND VA DISTRIBUTION CENTER

Your item departed our USPS facility in RICHMOND VA DISTRIBUTION CENTER on August 4, 2021 at 8:29 am. The item is currently in transit to the destination.

August 3, 2021, 7:59 pm

Arrived at USPS Regional Facility
RICHMOND VA DISTRIBUTION CENTER

August 3, 2021, 5:12 pm
Departed Post Office
MONTROSS, VA 22520

August 3, 2021, 3:43 pm
USPS in possession of item
MONTROSS, VA 22520

Product Information



See Less ^

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Go to our FAQs section to find answers to your tracking questions.

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Feedback





COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

Shannon Dion
Director

Megan Peterson
Chief Deputy Director

Washington Building
1100 Bank Street
Richmond, Virginia 23219
(804) 786-4000
www.dcjs.virginia.gov

August 30, 2021

Mr. Paul L. Brothers IV
[REDACTED]
Montross, Virginia 22520

- Sent Via Certified Mail 2021 0950 0000 4626 0107

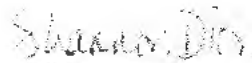
Dear Mr. Brothers,

The Department of Criminal Justice Services (DCJS) has received your request for a hearing pursuant to the provisions of § 15.2-1708 (B) of the Code of Virginia. The Executive Committee of the Criminal Justice Services Board will conduct the hearing at 11:00 A.M. on Tuesday, September 21, 2021 at the Washington Building in Richmond, Virginia. The physical address is 1100 Bank Street, Richmond, VA 23219. You may be represented by counsel if you wish to do so.

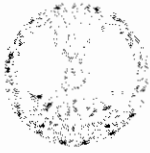
The hearing will take place in the DCJS conference room on the 12th floor. Upon entering the building at the Bank Street entrance, you must sign in with security and show a photo ID or driver's license. We will notify you by the telephone number you provided if there are any changes to the scheduled hearing.

If you have any questions about this hearing, please feel free to contact Jon Banberger at (804) 225-4503 or via email at (jonathan.banberger@dcjs.virginia.gov).

Sincerely,


Shannon Dion

- c: C. Balderson, Sheriff, Westmorland County Sheriff's Office
- Chief James Williams, Chair, Criminal Justice Service Board
- Catherina F. Hutchins, Senior Assistant Attorney General, Office of the Attorney General
- Harvey Power, Director, Division of Law Enforcement (DCJS)
- Erik Smith, Standards and Policy Manager, Division of Law Enforcement (DCJS)



OFFICE OF THE
COMMONWEALTH'S ATTORNEY FOR HENRICO COUNTY

Shannon L. Taylor
Commonwealth's Attorney

August 18, 2021

The Honorable Julia H. Schol
Commonwealth's Attorney for Westmoreland County
George E. English Building
175 Park St., Door 258
P.O. Box 967
Montross, VA 22520

In Re: Incident Number 202100260

Dear Ms. Schol,

This Office was asked to review Incident Number 202100260, which occurred on April 3, 2021, between Deputy Paul Brothers, Sr. and George Frenzley Jr. after his arrest at 878 Granary Road, Montross, Virginia, and offer a legal opinion as to whether excessive force was used and whether Deputy Brothers committed a criminal act. Please accept this letter as the Final Report for this matter.

The incident began when Mrs. Gail Frenzley telephoned 911 for help with her adult son, Justin Frenzley, who was in the midst of a mental health crisis. Deputies Paul Brothers and Dillon Jackson, both from the Westmoreland County Sheriff's Department, were dispatched to the home. Deputy Jackson dealt primarily with Justin Frenzley, while Deputy Brothers engaged the parents, Mr. and Mrs. Frenzley. Circumstances led Deputy Brothers to detain Mr. Frenzley in handcuffs and ultimately arrest him for obstruction of justice. After his arrest, Mr. Frenzley was transported to the Sheriff's Office and held in a holding area for approximately 1.5 hours. In preparation to be transported to the jail, Deputy Brothers and Deputy Shackelford attempted to change Mr. Frenzley's handcuffs. During the exchange, certain actions of Mr. Frenzley led Deputy Brothers to take him to the ground before re-cuffing him. The takedown caused Mr. Frenzley to receive injuries to his face and ribs.

The materials reviewed for this investigation included: the initial 911 call recording; Body Worn Camera and Dashcam videos; Deputy Brothers' Incident Report, including a Confidential Supplement; medical records for Mr. Frenzley; and interviews of Mr. and Mrs. Frenzley, conducted on June 3, 2021.

911 Call

The 911 call reveals the following:

1. Mrs. Frenzley calls 911 for assistance because her son, Justin, has paranoid schizophrenia and is having an "episode."
2. Mrs. Frenzley states that Justin's Father is "not in the best of states either."
3. Yelling can be heard in the background during the call.

Body Worn Camera (BWC) and Dashcam Video

BWC and Dashcam video was submitted from Deputies Taylor Shackelford, Dillon Jackson, Thomas Jackson, and Paul Brothers. The totality and combination of the various BWC videos from the various perspectives show the following:

1. Deputy Brothers and Deputy Jackson arrive at the scene at approximately 10:10 p.m.
2. Mrs. Frenzley receives deputies at the front door and permits them into the home.
3. Deputy Jackson approaches Justin, who is in the kitchen area.
4. Deputy Brothers moves toward Mr. Frenzley who is laying down on a sofa in a living room area.
5. Justin, whose mental health issue was the original basis of the 911 call, appears highly agitated and is hesitant about complying with Deputy Jackson's instructions. Justin's speech, behavior and movement are consistent with someone experiencing a mental health crisis.
6. Mrs. Frenzley states that Justin is having a bad episode and that the Mr. Frenzley triggered it.
7. At one point, Mr. Frenzley announces, "All of ya'll know me and I don't take no shit." Mrs. Frenzley mentions that Justin is a paranoid schizophrenic who is prescribed medication. In front of the deputies, she announces out loud towards Mr. Frenzley, "You are schizophrenic, but you are not on medication."
8. Deputy Brothers steps into the kitchen to check on Deputy Jackson and Justin. Mr. Frenzley begins yelling that Justin should not let the deputies approach him. Inaudible yelling can be heard in the background, and Deputy Brothers yells, "Can you shut-up, thank you." Mr. Frenzley shouts, "This is my house," to which Deputy Brothers responds, "I am here, and I am taking control of the scene, so you are going to sit back and shut your mouth. You understand me?" Deputy Brothers further warns Mr. Frenzley that he will be placed in handcuffs next time. While addressing Mr. Frenzley, Deputy Brothers moves from the kitchen back to the living room. After delivering his warning, Deputy Brothers returns to the kitchen.
9. Mrs. Frenzley and Mr. Frenzley can be heard yelling at each other. Mrs. Frenzley comments that Mr. Frenzley woke up drinking this morning by having a half pint of vodka. Although not entirely clear from the audio of the BWC recording, Mr. Frenzley seems to state that, "I will kill that white boy". Deputy Brothers, reacting, says, "Excuse me, did you say that you'll kill a white boy?" and heads back into the living room. Deputy Brothers asks Mr. Frenzley whether he just threatened a law enforcement officer, to which Mr. Frenzley responds that he did not say that. Deputy

- Brothers tells Mr. Frenzley that he is "asking to go to jail tonight." As Deputy Brothers returns to the kitchen, Mrs. Frenzley can be heard asking Mr. Frenzley, "What's wrong with you?"
10. Mrs. Frenzley enters the kitchen and begins discussing Justin's medications. Mr. Frenzley can be seen standing behind Mrs. Frenzley and, due to his earlier antics, Deputy Brothers immediately tells him to sit back down as he starts walking toward him. Deputy Brothers states, "You ain't listening" as he begins attempting to handcuff Mr. Frenzley. Deputy Brothers explains that you are going in handcuffs "because you squaring-up on me." Mrs. Frenzley can be heard yelling, "Why couldn't you just sit and be quiet? We trying to help our son." At this point, Mr. Frenzley is taken outside in handcuffs by Deputy Brothers. When Mr. Frenzley is told that he is being detained, he responds, "Fuck you!"
 11. Once outside, Mr. Frenzley mutters under his breath and Deputy Brothers calls for more units. Justin can be heard yelling in the house and ultimately comes out and starts yelling at Deputy Brothers. Mrs. Frenzley and the deputies talk to each other and to Justin, trying to calm him down. Deputy Brothers is calm while speaking with Justin, who is still upset. When Justin expresses concern about his father, Deputy Brothers explains that he is being detained because he was too aggressive. Mrs. Frenzley adds that "He" (seemingly referring to Mr. Frenzley) was going to kill the white boy." Mr. Frenzley is out of frame for a while as the deputies persuade Justin to go to the hospital.
 12. As the deputies are finishing with Justin, Deputy Brothers comments to the others about Mr. Frenzley by saying, "I am getting ready to let him out. Obstruction is really it and that is pushing it. He just needed to be detained." An unnamed deputy asks about the use of force and Deputy Brothers responds that he used an arm bar. Deputy Brothers appears to be preparing to release Mr. Frenzley, when two other deputies provide information about Mr. Frenzley's past actions. A deputy who appears to be a supervisor tells Deputy Brothers to "do it," meaning arrest Mr. Frenzley.
 13. Before taking Mr. Frenzley to the jail, Deputy Brothers attempts to loosen the handcuffs because Mr. Frenzley has screamed that his handcuffs are too tight. It is obscured on the BWC, but as he approaches to loosen the handcuffs, Deputy Brothers reprimands Mr. Frenzley for attempting to kick him. As the handcuffs are being loosened, Mr. Frenzley calls Deputy Brothers several names such as "dirty cop", "smartass", "a piece of shit", and "redneck motherfucker". As Deputy Brothers pulls off, Mrs. Frenzley thanks him.
 14. During the ride to the jail, Mr. Frenzley continues a pattern of muttering to himself, and talking to/yelling at Deputy Brothers, who does not respond. Mr. Frenzley's speech is slurred, and he repeats himself often. At one point he says, "I'm gonna fuck you up. You put your hands on my son, and I'm gonna fuck you up. You disrespected me in my own home. I'm gonna fuck you up."
 15. Once they arrive at the jail, Deputy Brothers warns Mr. Frenzley that when he opens the car door, he will be put to the ground "fast and hard" if he makes any aggressive moves toward him. Mr. Frenzley responds, "I'm gonna whip your ass." As he is walked into the jail, Mr. Frenzley continues to curse and call Deputy Brothers names.

16. Once in the holding area, Deputy Brothers tells Mr. Frenzley that when his hand is released from the handcuff, he will be dealt with if he acts aggressively. Deputy Brothers handcuffs one of Mr. Frenzley's hands to a metal bench.
17. Mr. Frenzley next spends approximately 1.5 hours handcuffed to the bench while waiting for a magistrate. Deputy Brothers watches from across the room. At times, Mr. Frenzley yells and curses and makes threats at Deputy Brothers. At other times, Mr. Frenzley mutters to himself or sits quietly. At one point while telling another deputy what happened, Mr. Frenzley says, "I will whip your ass", although it is not specifically made clear who he is talking about. Throughout this period, Mr. Frenzley makes a series of threats to Deputy Brothers. Some examples of those threats include: "I hope your momma and daddy die cause you are a rotten motherfucker," "Punk-ass motherfucker," "I hate you, I'm gonna get you," "I'm gonna get you cause you're crooked," "You better watch out for me for the rest of your life". This period included several cycles of Mr. Frenzley sitting quietly and/or speaking calmly followed by periods of yelling, cursing, and thrashing about. Throughout this period, Mr. Frenzley showed signs of intoxication, namely, slurred speech, speaking incoherently at times, and much repetition.
18. After around 1.5 hours, Mr. Frenzley is seen by the magistrate on video and given a \$6000 secured bond (\$2000 for each of his 3 disorderly charges). After hearing that he was being held, Mr. Frenzley became animated and irate and began cursing again. He ended his tirade by yelling "Fuck you", several times to the magistrate. Subsequently, the magistrate told Mr. Frenzley that because of his outburst, he was having him held without bond until he saw a judge.
19. At the conclusion of the magistrate's hearing, Deputy Brothers began preparing to move Mr. Frenzley out of the holding area. For a short period, Deputy Brothers leaves Mr. Frenzley as another deputy watches him. During this time, Mr. Frenzley is laying silent on the bench, and for a period of time repeatedly thrusting his chained arm into the air. Although Deputy Brothers is not initially in the waiting area when the arm thrusting occurs, the clanging of the chain can be heard even after Deputy Brothers is outside of the room.
20. When Deputy Brothers returns to the waiting area, Mr. Frenzley is still thrusting his arm into the air, but he calms down when Deputy Brothers sits down for a minute or two. Deputy Brothers and Deputy Shackleford then walk toward Mr. Frenzley, and Deputy Brothers tells him that he is going to remove his handcuffs and place him into another pair. Deputy Brothers warns him that if he "tries anything", then it "will not go good for him". When the cuff is removed, Mr. Frenzley pulls his arm back while making a fist, then slowly lets his arm down. Deputy Brothers quickly turns Mr. Frenzley slightly and pushes him down to the ground and handcuffs his hand behind his back.
21. Blood can be seen coming from Mr. Frenzley's head, and he immediately indicates that he is hurt. Deputy Brothers leans on Mr. Frenzley's back/side with his knee and shin as he and Deputy Shackleford secure his wrists in handcuffs. Once Mr. Frenzley is secured, Deputy Brothers immediately requests medical aid for him.

The Honorable Julia H. Sichel

August 18, 2021

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Medical Records for George Frenzley

Following the incident at the jail, George Frenzley was treated at Mary Washington Hospital. He remained uncooperative with medical staff. He was diagnosed with a single non-displaced rib fracture, left L2-3 transverse process fractures, nose abrasion, broken tooth and left back contusion. His blood alcohol level was 265.0 mg/dL. That is the equivalent of a blood alcohol concentration of .265 percent by weight by volume, approximately three times the legal limit for a driving while intoxicated charge. He was discharged that night back into the custody of the jail.

Interviews of George and Gail Frenzley

Mrs. Frenzley's statement does not contain many details of what occurred in the home that night. She states that she was in the back packing Justin's bag when she heard Mr. Frenzley and Deputy Brothers "having words." Although not admitted in her statement, the BWC shows that Mrs. Frenzley was in the room for most of the incident between her husband and Deputy Brothers in the home. Her statement does not reflect any of her negative comments made to or about Mr. Frenzley that were captured on the BWC.

Several portions of Mr. Frenzley's statement also do not match the BWC. Mr. Frenzley's statement greatly minimizes his responsibility for Deputy Brothers' reactions to him. His statement that he was not yelling or inciting his son is contradicted by the BWC. Mr. Frenzley believes that Deputy Brothers purposely acted in a way to cause his injuries. Initially, Mr. Frenzley stated that he did not remember pulling back his arm after the handcuff came off. After seeing the video, he stated that such movement was to circulate blood in his arm. This does not ring true since Mr. Frenzley's arm, although cuffed, had not been held immobile.

Analysis and Conclusion

While a significant body of case law exists regarding the lawfulness and criminal responsibility of a law enforcement officer's use of deadly force, little to no caselaw exists for the use of lesser levels of force. To determine whether a law enforcement officer's use of force is lawful, we must turn to the Constitution.

The Fourth Amendment prohibits police from using excessive force "in the course of making an arrest, investigatory stop, or other seizure of his person." See *Graham v. Connor*, 490 U.S. 386, at 388, (1989); *Jones v. Buchanan*, 325 F.3d 520, 527 (4th Cir. 2003) ("The Fourth Amendment prohibition on unreasonable seizures bars police officers from using excessive force to seize a free citizen."). Once an individual has been arrested and is awaiting an adjudication of guilt as a "pretrial detainee", the Fourteenth Amendment prohibits police from using excessive force "that amounts to punishment."

The Honorable Julia H. Sichel

August 18, 2021

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Kingsley v. Hendrickson, 576 U.S. 389, 135 S. Ct. 2466, 2473, 192 L.Ed.2d 416 (2015) (quoting *Graham*, 490 U.S. at 395 n.10, 109 S. Ct. 1865).

A claim of excessive force by police during an arrest or investigatory stop is properly analyzed under the Fourth Amendment by a determination of whether the officer's conduct was "objectively reasonable." *Henry v. Purnell*, 652 F.3d 524, 531 (4th Cir. 2011) (quoting *Graham*, 490 U.S. at 397, 109 S. Ct. 1865); see also *Kingsley*, 576 U.S. at ____, 135 S. Ct. at 2473 (finding that excessive force claims under the Fourteenth Amendment, just like excessive force claims under the Fourth Amendment, were properly analyzed under a standard of objective reasonableness).

Whitley v. Albers, 475 U.S. 312 (1986) and *Farmer v. Brennan*, 511 U.S. 825 (1994), are both cases dealing with monetary claims by injured inmates. These cases reason that a "force analysis" should consider whether force was applied in a good faith effort to maintain and/or restore discipline as contrasted by force applied maliciously and sadistically to cause harm. Within the backdrop of Eighth Amendment violations, the case law explains that factors to consider include: the extent of any injury; an evaluation of the need for force; the relationship between the need for force and the amount of force used; the threat level as reasonably perceived by the jailor; and efforts made to temper the severity of the force used. Later cases added the premise that the use of force can constitute cruel and unusual punishment even when the inmate does not suffer serious injury. See *Hudson v. McMillian*, 503 U.S. 1 (1992).

In the present case, looking at the totality of the circumstances, it is objectively reasonable for Deputy Brothers to believe that the use of force was necessary. The deputy is confronted with a just uncuffed arrestee who is intoxicated, confrontational, having made numerous threats of physical force against him, having seemingly already tried to kick him, and then pulling back a fist in a threatening manner. While Mr. Frenzley did begin to put down his arm, there are no other objective signs of expected compliance or abandonment of the intent to potentially act out aggressively toward the officer. Thus, it cannot be said that Deputy Brothers' decision to use force was unlawful.

The next part of the equation is whether Deputy Brothers used excessive force on or assaulted Mr. Frenzley. This Report is not intended to comment on the wisdom of Deputy Brothers being the officer to remove the handcuffs from Mr. Frenzley. It may also be argued that Deputy Brothers could have acted differently or waited before his use of force. However, those are assessments outside the scope of this Report. Additionally, his actions should not be reviewed in a vacuum, and all the circumstances leading to the incident must be considered. First, the initial scenario faced by Deputy Brothers must be considered. The call was to calm an adult male who was having a mental health issue. Upon arriving on scene, Deputy Brothers would have noticed Justin's large stature, which could have become an issue if things became physical. Almost immediately, it would have been apparent that Mr. Frenzley appeared intoxicated. Mrs. Frenzley confirmed that possibility when she stated that Mr. Frenzley had been drinking vodka. Deputy Brothers also heard Mrs. Frenzley say that Mr. Frenzley is schizophrenic and not on

The Honorable Julia H. Siehol

August 18, 2021

Page 7

medications. Mrs. Frenzley's comment that Mr. Frenzley triggered Justin's episode, combined with seeing Mr. Frenzley's attempts to prevent Justin's interaction with the police, would indicate that Mr. Frenzley could very possibly cause disruption. Considering Justin's potential volatility, it was not unreasonable to put Mr. Frenzley in handcuffs once he had disregarded Deputy Brothers' instructions.

Once Mr. Frenzley had been handcuffed and temporarily removed from the situation, Deputy Brothers' actions were calm and under control. When dealing with Justin, Deputy Brothers showed great patience during a tense and possibly combustible situation. After Justin's cooperation had been secured, Deputy Brothers was prepared to release Mr. Frenzley, until other deputies indicated that he should be charged. This indicates that Deputy Brothers was harboring no ill will or vendetta against Mr. Frenzley. During the ride to the jail, Mr. Frenzley was loud, abusive, and verbally aggressive, yet Deputy Brothers displayed restraint and did not engage.

Mr. Frenzley's lengthy stay in the waiting area provides helpful information. The slurred speech, constant repetition, and muttering to himself indicated that Mr. Frenzley was probably still intoxicated. His toxicology report confirms that. However, unlike many intoxicated individuals, Mr. Frenzley did not gradually calm down. Although there were periods when Mr. Frenzley did cool down, he repeatedly would become aggressive and verbally abusive again.

Deputy Brothers' takedown of Mr. Frenzley appeared to be in direct response to Mr. Frenzley pulling his arm back and making a fist immediately after being warned against any aggressive actions. Taking an aggressive suspect down to the ground is an established law enforcement technique. Although Deputy Brothers clearly meant to put Mr. Frenzley on the ground, he did not appear to use excessive force or act with an intent to injure. It is unclear whether the head injury comes from Mr. Frenzley not being able to use his arms to catch himself when striking the floor or from hitting a cabinet on the way down. In either case, Deputy Brothers' actions did not seem malicious or meant to purposely cause injury. Although forceful, Deputy Brothers' action did not appear out of control or done in anger. The push to the ground did not seem excessively violent. Once Deputy Brothers had Mr. Frenzley down, he administered no strikes or blows. Deputy Brothers did use his knee and lower leg to help secure Mr. Frenzley as the handcuffs were secured, but he did not appear to place excessive weight on Mr. Frenzley or use the knee as a weapon or for an unreasonable period. Once it became apparent that Mr. Frenzley was injured, Deputy Brothers immediately requested medical assistance.

Viewed in the totality of circumstances, the decision to apply force was lawful and the amount of force used was not excessive. Although alternative actions could have been taken, Deputy Brothers committed no criminal act.

Please do not hesitate to reach out to me if you should have any questions. (804)501-4218.

Very truly yours,



Shannon L. Taylor

Commonwealth's Attorney for Henrico County

SLT/msh

Jonathan Banberger

From: Chris Smith <csmith@westcoso.us> on behalf of Chris Smith
Sent: Wednesday, September 15, 2021 2:08 PM
To: jonathan.banberger@dcjs.virginia.gov
Subject: Paul Brothers Hearing
Attachments: CA's Investigation.pdf

Mr. Banberger,

Attached to this email is the Special Prosecutor's full report referencing Paul Brother's Use of Force. If there is anything else you need please let me know.

Respectfully Submitted,

Lieutenant C.M. Smith #5
Westmoreland County Sheriff's Office
Phone: (804) 493-8066
Cell: (804) 456-6580
Fax: (804) 493-8715
Email: csmith@westcoso.us

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Appellant's Exhibit Book

Westmoreland County
Sheriff's Office

In Re: Paul Brothers



Sheriff C. O. Balderson
Westmoreland County Sheriff's Office
A State Accredited Law Enforcement Agency



May 20, 2021

To: Senior Deputy Paul Brothers
From: C.O. Balderson, Sheriff *C.O.B.*

Reference: Termination of Appointment

Senior Deputy Brothers,

Upon considerable review and evaluation of a recent incident, your service with the Westmoreland County Sheriff's Office is terminated effective Thursday, May 20, 2021.

Return all issued uniforms and equipment to the sheriff's office immediately for inventory. Any items not returned or that are damaged/destroyed, unless due to normal wear and tear, shall be reimbursed by you.



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

Shannon Dion
Director

Megan Peterson
Chief Deputy Director

Washington Building
1100 Bank Street
Richmond, Virginia 23219
(804) 786-4000
www.dcjs.virginia.gov

June 30, 2021

Mr. Paul L. Brothers IV
[REDACTED]
Montross, Virginia 22520

- Sent Via Certified Mail: 7013 1710 0002 2953 3020

Dear Mr. Brothers,

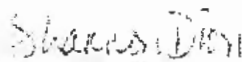
The Department of Criminal Justice Services (DCJS) has been notified that on May 20, 2021, you were terminated as a Law-Enforcement officer with the Westmoreland County Sheriff's Office, after your agency found that you engaged in conduct on April 3, 2021, that was in violation of agency policies regarding the use of force and in violation of state and federal law.

Pursuant to Virginia Code §§ 9.1-102, 9.1-107 and 15.2-1707(B)(iii), you have been decertified as a law-enforcement officer in the Commonwealth of Virginia as of June 30, 2021.

You have the right to a hearing pursuant to Virginia Code § 15.2-1708. Your request for a hearing must be in writing, sent by certified mail, and received by DCJS within thirty days of receipt of this letter. If so requested, a hearing before the Board shall be set within sixty days and you may be represented by counsel. In the absence of a request for hearing, decertification shall, without further proceedings, become final thirty days after the initial notice.

If you have any questions about this notification, please feel free to contact Jon Banberger at (804) 225-4503 or via email at (jonathan.banberger@dcjs.virginia.gov).

Sincerely,


Shannon Dion

- c: C. Balderson, Sheriff, Westmoreland County Sheriff's Office
Catherina F. Hutchins, Senior Assistant Attorney General, Office of the Attorney General
Harvey Powers, Director, Division of Law Enforcement (DCJS)
Erik Smith, Standards and Policy Manager, Division of Law Enforcement (DCJS)

FOIA for Video

2 messages

Paul Brothers <[REDACTED]>
To: Chris Smith <csmith@westcoso.us>
Cc: ameyer@ameyerlaw.com

Wed, Jun 9, 2021 at 11:25 AM

LT,

I hope all is well with you sir. I wanted to FIOA the entire video of the Mr. Frenzley situation. My lawyer wasn't sure who to contact and I was pretty sure that you did the FOIA's so I told him I would email you. If I need to contact someone else to get the info could you let me know who I need to speak with? We also wanted to get any and all of the administrative investigation paperwork involving my termination from the Sheriff's Office. Thank you for your help in this matter.

Paul Brothers IV
[REDACTED]

Chris Smith <csmith@westcoso.us>
To: Paul Brothers <[REDACTED]>
Cc: "ameyer@ameyerlaw.com" <ameyer@ameyerlaw.com>

Wed, Jun 9, 2021 at 1:18 PM

Paul,

The special prosecutor and VSP have to authorize release of the body camera. I have reached out to both via email. If they say it's okay I will have it burned for you within 5 business days. As far as Administrative Investigation paperwork, there was no IA investigation initiated so there is no paperwork to produce. If you have any questions feel free to contact me. Hope you're doing well.

Lieutenant C.M. Smith #5
Westmoreland County Sheriff's Office
Phone: (804) 493-8066
Cell: (804) 456-6580
Fax: (804) 493-8715
Email: csmith@westcoso.us

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[Quoted text hidden]



OFFICE OF THE
COMMONWEALTH'S ATTORNEY FOR HENRICO COUNTY



Shannon L. Taylor
Commonwealth's Attorney

August 18, 2021

The Honorable Julia H. Sichol
Commonwealth's Attorney for Westmoreland County
George D. English Building
175 Polk St., Door 256
P.O. Box 967
Montross, VA 22520

In Re: Incident Number 202100260

Dear Ms. *Julia* Sichol,

This Office was asked to review Incident Number 202100260, which occurred on April 3, 2021, between Deputy Paul Brothers, Sr. and George Frenzley Jr., after his arrest at 378 Grainery Road, Montross, Virginia, and offer a legal opinion as to whether excessive force was used and whether Deputy Brothers committed a criminal act. Please accept this letter as the Final Report for this matter.

The incident began when Mrs. Gail Frenzley telephoned 911 for help with her adult son, Justin Frenzley, who was in the midst of a mental health crisis. Deputies Paul Brothers and Dillon Jackson, both from the Westmoreland County Sheriff's Department, were dispatched to the home. Deputy Jackson dealt primarily with Justin Frenzley, while Deputy Brothers engaged the parents, Mr. and Mrs. Frenzley. Circumstances led Deputy Brothers to detain Mr. Frenzley in handcuffs and ultimately arrest him for obstruction of justice. After his arrest, Mr. Frenzley was transported to the Sheriff's Office and held in a holding area for approximately 1.5 hours. In preparation to be transported to the jail, Deputy Brothers and Deputy Shackelford attempted to change Mr. Frenzley's handcuffs. During the exchange, certain actions by Mr. Frenzley led Deputy Brothers to take him to the ground before re-cuffing him. The takedown caused Mr. Frenzley to receive injuries to his face and ribs.

The materials reviewed for this investigation included: the initial 911 call recording; Body Worn Camera and Dashcam videos; Deputy Brothers' Incident Report, including a Confidential Supplement; medical records for Mr. Frenzley, and interviews of Mr. and Mrs. Frenzley, conducted on June 3, 2021.

911 Call

The 911 call reveals the following:

1. Mrs. Frenzley calls 911 for assistance because her son, Justin, has paranoid schizophrenia and is having an "episode."
2. Mrs. Frenzley states that Justin's Father is "not in the best of states either."
3. Yelling can be heard in the background during the call.

Body Worn Camera (BWC) and Dashcam Video

BWC and Dashcam video was submitted from Deputies Taylor Shackleford, Dillon Jackson, Thomas Jackson, and Paul Brothers. The totality and combination of the various BWC videos from the various perspectives show the following:

1. Deputy Brothers and Deputy Jackson arrive at the scene at approximately 10:10 p.m.
2. Mrs. Frenzley receives deputies at the front door and permits them into the home.
3. Deputy Jackson approaches Justin, who is in the kitchen area.
4. Deputy Brothers moves toward Mr. Frenzley who is laying down on a sofa in a living room area.
5. Justin, whose mental health issue was the original basis of the 911 call, appears highly agitated and is hesitant about complying with Deputy Jackson's instructions. Justin's speech, behavior and movement are consistent with someone experiencing a mental health crisis.
6. Mrs. Frenzley states that Justin is having a bad episode and that the Mr. Frenzley triggered it.
7. At one point, Mr. Frenzley announces, "All of ya'll know me and I don't take no shit." Mrs. Frenzley mentions that Justin is a paranoid schizophrenic who is prescribed medication. In front of the deputies, she announces out loud towards Mr. Frenzley, "You are schizophrenic, but you are not on medication."
8. Deputy Brothers steps into the kitchen to check on Deputy Jackson and Justin. Mr. Frenzley begins yelling that Justin should not let the deputies approach him. Inaudible yelling can be heard in the background, and Deputy Brothers yells, "Can you shut-up, thank you." Mr. Frenzley shouts, "This is my house," to which Deputy Brothers responds, "I am here, and I am taking control of the scene, so you are going to sit back and shut your mouth. You understand me?" Deputy Brothers further warns Mr. Frenzley that he will be placed in handcuffs next time. While addressing Mr. Frenzley, Deputy Brothers moves from the kitchen back to the living room. After delivering his warning, Deputy Brothers returns to the kitchen.
9. Mrs. Frenzley and Mr. Frenzley can be heard yelling at each other. Mrs. Frenzley comments that Mr. Frenzley woke up drinking this morning by having a half pint of vodka. Although not entirely clear from the audio of the BWC recording, Mr. Frenzley seems to state that, "I will kill that white boy". Deputy Brothers, reacting, says, "Excuse me, did you say that you'll kill a white boy?" and heads back into the living room. Deputy Brothers asks Mr. Frenzley whether he just threatened a law enforcement officer, to which Mr. Frenzley responds that he did not say that. Deputy

- Brothers tells Mr. Frenzley that he is "asking to go to jail tonight." As Deputy Brothers returns to the kitchen, Mrs. Frenzley can be heard asking Mr. Frenzley, "What's wrong with you?"
10. Mrs. Frenzley enters the kitchen and begins discussing Justin's medications. Mr. Frenzley can be seen standing behind Mrs. Frenzley and, due to his earlier antics, Deputy Brothers immediately tells him to sit back down as he starts walking toward him. Deputy Brothers states, "You ain't listening" as he begins attempting to handcuff Mr. Frenzley. Deputy Brothers explains that you are going in handcuffs "because you squaring-up on me." Mrs. Frenzley can be heard yelling, "Why couldn't you just sit and be quiet? We trying to help our son." At this point, Mr. Frenzley is taken outside in handcuffs by Deputy Brothers. When Mr. Frenzley is told that he is being detained, he responds, "Fuck you!"
 11. Once outside, Mr. Frenzley mutters under his breath and Deputy Brothers calls for more units. Justin can be heard yelling in the house and ultimately comes out and starts yelling at Deputy Brothers. Mrs. Frenzley and the deputies talk to each other and to Justin, trying to calm him down. Deputy Brothers is calm while speaking with Justin, who is still upset. When Justin expresses concern about his father, Deputy Brothers explains that he is being detained because he was too aggressive. Mrs. Frenzley adds that "He" (seemingly referring to Mr. Frenzley) was going to kill the white boy." Mr. Frenzley is out of frame for a while as the deputies persuade Justin to go to the hospital.
 12. As the deputies are finishing with Justin, Deputy Brothers comments to the others about Mr. Frenzley by saying, "I am getting ready to let him out. Obstruction is really it and that is pushing it. He just needed to be detained." An unnamed deputy asks about the use of force and Deputy Brothers responds that he used an arm bar. Deputy Brothers appears to be preparing to release Mr. Frenzley, when two other deputies provide information about Mr. Frenzley's past actions. A deputy who appears to be a supervisor tells Deputy Brothers to "do it," meaning arrest Mr. Frenzley.
 13. Before taking Mr. Frenzley to the jail, Deputy Brothers attempts to loosen the handcuffs because Mr. Frenzley has screamed that his handcuffs are too tight. It is obscured on the BWC, but as he approaches to loosen the handcuffs, Deputy Brothers reprimands Mr. Frenzley for attempting to kick him. As the handcuffs are being loosened, Mr. Frenzley calls Deputy Brothers several names such as "dirty cop", "smartass", "a piece of shit", and "redneck motherfucker". As Deputy Brothers pulls off, Mrs. Frenzley thanks him.
 14. During the ride to the jail, Mr. Frenzley continues a pattern of muttering to himself, and talking to/yelling at Deputy Brothers, who does not respond. Mr. Frenzley's speech is slurred, and he repeats himself often. At one point he says, "I'm gonna fuck you up. You put your hands on my son, and I'm gonna fuck you up. You disrespected me in my own home. I'm gonna fuck you up."
 15. Once they arrive at the jail, Deputy Brothers warns Mr. Frenzley that when he opens the car door, he will be put to the ground "fast and hard" if he makes any aggressive moves toward him. Mr. Frenzley responds, "I'm gonna whip your ass." As he is walked into the jail, Mr. Frenzley continues to curse and call Deputy Brothers names.

16. Once in the holding area, Deputy Brothers tells Mr. Frenzley that when his hand is released from the handcuff, he will be dealt with if he acts aggressively. Deputy Brothers handcuffs one of Mr. Frenzley's hands to a metal bench.
17. Mr. Frenzley next spends approximately 1.5 hours handcuffed to the bench while waiting for a magistrate. Deputy Brothers watches from across the room. At times, Mr. Frenzley yells and curses and makes threats at Deputy Brothers. At other times, Mr. Frenzley mutters to himself or sits quietly. At one point while telling another deputy what happened, Mr. Frenzley says, "I will whip your ass", although it is not specifically made clear who he is talking about. Throughout this period, Mr. Frenzley makes a series of threats to Deputy Brothers. Some examples of those threats include: "I hope your momma and daddy die cause you are a rotten motherfucker," "Punk-ass motherfucker," "I hate you, I'm gonna get you," "I'm gonna get you cause you're crooked," "You better watch out for me for the rest of your life". This period included several cycles of Mr. Frenzley sitting quietly and/or speaking calmly followed by periods of yelling, cursing, and thrashing about. Throughout this period, Mr. Frenzley showed signs of intoxication, namely, slurred speech, speaking incoherently at times, and much repetition.
18. After around 1.5 hours, Mr. Frenzley is seen by the magistrate on video and given a \$6000 secured bond (\$2000 for each of his 3 disorderly charges). After hearing that he was being held, Mr. Frenzley became animated and irate and began cursing again. He ended his tirade by yelling "Fuck you", several times to the magistrate. Subsequently, the magistrate told Mr. Frenzley that because of his outburst, he was having him held without bond until he saw a judge.
19. At the conclusion of the magistrate's hearing, Deputy Brothers began preparing to move Mr. Frenzley out of the holding area. For a short period, Deputy Brothers leaves Mr. Frenzley as another deputy watches him. During this time, Mr. Frenzley is laying silent on the bench, and for a period of time repeatedly thrusting his chained arm into the air. Although Deputy Brothers is not initially in the waiting area when the arm thrusting occurs, the clanging of the chain can be heard even after Deputy Brothers is outside of the room.
20. When Deputy Brothers returns to the waiting area, Mr. Frenzley is still thrusting his arm into the air, but he calms down when Deputy Brothers sits down for a minute or two. Deputy Brothers and Deputy Shackelford then walk toward Mr. Frenzley, and Deputy Brothers tells him that he is going to remove his handcuffs and place him into another pair. Deputy Brothers warns him that if he "tries anything", then it "will not go good for him". When the cuff is removed, Mr. Frenzley pulls his arm back while making a fist, then slowly lets his arm down. Deputy Brothers quickly turns Mr. Frenzley slightly and pushes him down to the ground and handcuffs his hand behind his back.
21. Blood can be seen coming from Mr. Frenzley's head, and he immediately indicates that he is hurt. Deputy Brothers leans on Mr. Frenzley's back/side with his knee and shin as he and Deputy Shackelford secure his wrists in handcuffs. Once Mr. Frenzley is secured, Deputy Brothers immediately requests medical aid for him.

Medical Records for George Frenzley

Following the incident at the jail, George Frenzley was treated at Mary Washington Hospital. He remained uncooperative with medical staff. He was diagnosed with a single non-displaced rib fracture, left L2-3 transverse process fractures, nose abrasion, broken tooth and left back contusion. His blood alcohol level was 265.0 mg/dL. That is the equivalent of a blood alcohol concentration of .265 percent by weight by volume, approximately three times the legal limit for a driving while intoxicated charge. He was discharged that night back into the custody of the jail.

Interviews of George and Gail Frenzley

Mrs. Frenzley's statement does not contain many details of what occurred in the home that night. She states that she was in the back packing Justin's bag when she heard Mr. Frenzley and Deputy Brothers "having words." Although not admitted in her statement, the BWC shows that Mrs. Frenzley was in the room for most of the incident between her husband and Deputy Brothers in the home. Her statement does not reflect any of her negative comments made to or about Mr. Frenzley that were captured on the BWC.

Several portions of Mr. Frenzley's statement also do not match the BWC. Mr. Frenzley's statement greatly minimizes his responsibility for Deputy Brothers' reactions to him. His statement that he was not yelling or inciting his son is contradicted by the BWC. Mr. Frenzley believes that Deputy Brothers purposely acted in a way to cause his injuries. Initially, Mr. Frenzley stated that he did not remember pulling back his arm after the handcuff came off. After seeing the video, he stated that such movement was to circulate blood in his arm. This does not ring true since Mr. Frenzley's arm, although cuffed, had not been held immobile.

Analysis and Conclusion

While a significant body of case law exists regarding the lawfulness and criminal responsibility of a law enforcement officer's use of deadly force, little to no caselaw exists for the use of lesser levels of force. To determine whether a law enforcement officer's use of force is lawful, we must turn to the Constitution.

The Fourth Amendment prohibits police from using excessive force "in the course of making an arrest, investigatory stop, or other seizure of his person." See *Graham v. Connor*, 490 U.S. 386, at 388, (1989); *Jones v. Buchanan*, 325 F.3d 520, 527 (4th Cir. 2003) ("The Fourth Amendment prohibition on unreasonable seizures bars police officers from using excessive force to seize a free citizen."). Once an individual has been arrested and is awaiting an adjudication of guilt as a "pretrial detainee", the Fourteenth Amendment prohibits police from using excessive force "that amounts to punishment."

The Honorable Julia H. Sichol

August 18, 2021

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Kingsley v. Hendrickson, 576 U.S. 389, 135 S. Ct. 2466, 2473, 192 L.Ed.2d 416 (2015) (quoting *Graham*, 490 U.S. at 395 n.10, 109 S. Ct. 1865).

A claim of excessive force by police during an arrest or investigatory stop is properly analyzed under the Fourth Amendment by a determination of whether the officer's conduct was "objectively reasonable." *Henry v. Purnell*, 652 F.3d 524, 531 (4th Cir. 2011) (quoting *Graham*, 490 U.S. at 397, 109 S. Ct. 1865); see also *Kingsley*, 576 U.S. at ___, 135 S. Ct. at 2473 (finding that excessive force claims under the Fourteenth Amendment, just like excessive force claims under the Fourth Amendment, were properly analyzed under a standard of objective reasonableness).

Whitley v. Albers, 475 U.S. 312 (1986) and *Farmer v. Brennan*, 511 U.S. 825 (1994), are both cases dealing with monetary claims by injured inmates. These cases reason that a "force analysis" should consider whether force was applied in a good faith effort to maintain and/or restore discipline as contrasted by force applied maliciously and sadistically to cause harm. Within the backdrop of Eighth Amendment violations, the case law explains that factors to consider include: the extent of any injury; an evaluation of the need for force; the relationship between the need for force and the amount of force used; the threat level as reasonably perceived by the jailor; and efforts made to temper the severity of the force used. Later cases added the premise that the use of force can constitute cruel and unusual punishment even when the inmate does not suffer serious injury. See *Hudson v. McMillian*, 503 U.S. 1 (1992).

In the present case, looking at the totality of the circumstances, it is objectively reasonable for Deputy Brothers to believe that the use of force was necessary. The deputy is confronted with a just uncuffed arrestee who is intoxicated, confrontational, having made numerous threats of physical force against him, having seemingly already tried to kick him, and then pulling back a fist in a threatening manner. While Mr. Frenzley did begin to put down his arm, there are no other objective signs of expected compliance or abandonment of the intent to potentially act out aggressively toward the officer. Thus, it cannot be said that Deputy Brothers' decision to use force was unlawful.

The next part of the equation is whether Deputy Brothers used excessive force on or assaulted Mr. Frenzley. This Report is not intended to comment on the wisdom of Deputy Brothers being the officer to remove the handcuffs from Mr. Frenzley. It may also be argued that Deputy Brothers could have acted differently or waited before his use of force. However, those are assessments outside the scope of this Report. Additionally, his actions should not be reviewed in a vacuum, and all the circumstances leading to the incident must be considered. First, the initial scenario faced by Deputy Brothers must be considered. The call was to calm an adult male who was having a mental health issue. Upon arriving on scene, Deputy Brothers would have noticed Justin's large stature, which could have become an issue if things became physical. Almost immediately, it would have been apparent that Mr. Frenzley appeared intoxicated. Mrs. Frenzley confirmed that possibility when she stated that Mr. Frenzley had been drinking vodka. Deputy Brothers also heard Mrs. Frenzley say that Mr. Frenzley is schizophrenic and not on

The Honorable Julia H. Sichel

August 18, 2021

Page 7

medications. Mrs. Frenzley's comment that Mr. Frenzley triggered Justin's episode, combined with seeing Mr. Frenzley's attempts to prevent Justin's interaction with the police, would indicate that Mr. Frenzley could very possibly cause disruption. Considering Justin's potential volatility, it was not unreasonable to put Mr. Frenzley in handcuffs once he had disregarded Deputy Brothers's instructions.

Once Mr. Frenzley had been handcuffed and temporarily removed from the situation, Deputy Brothers's actions were calm and under control. When dealing with Justin, Deputy Brothers showed great patience during a tense and possibly combustible situation. After Justin's cooperation had been secured, Deputy Brothers was prepared to release Mr. Frenzley, until other deputies indicated that he should be charged. This indicates that Deputy Brothers was harboring no ill-will or vendetta against Mr. Frenzley. During the ride to the jail, Mr. Frenzley was loud, abusive, and verbally aggressive, yet Deputy Brothers displayed restraint and did not engage.

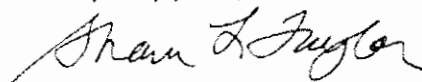
Mr. Frenzley's lengthy stay in the waiting area provides helpful information. The slurred speech, constant repetition, and muttering to himself indicated that Mr. Frenzley was probably still intoxicated. His toxicology report confirms that. However, unlike many intoxicated individuals, Mr. Frenzley did not gradually calm down. Although there were periods when Mr. Frenzley did cool down, he repeatedly would become aggressive and verbally abusive again.

Deputy Brothers' takedown of Mr. Frenzley appeared to be in direct response to Mr. Frenzley pulling his arm back and making a fist immediately after being warned against any aggressive actions. Taking an aggressive suspect down to the ground is an established law enforcement technique. Although Deputy Brothers clearly meant to put Mr. Frenzley on the ground, he did not appear to use excessive force or act with an intent to injure. It is unclear whether the head injury comes from Mr. Frenzley not being able to use his arms to catch himself when striking the floor or from hitting a cabinet on the way down. In either case, Deputy Brothers' actions did not seem malicious or meant to purposely cause injury. Although forceful, Deputy Brothers' action did not appear out of control or done in anger. The push to the ground did not seem excessively violent. Once Deputy Brothers had Mr. Frenzley down, he administered no strikes or blows. Deputy Brothers did use his knee and lower leg to help secure Mr. Frenzley as the handcuffs were secured, but he did not appear to place excessive weight on Mr. Frenzley or use the knee as a weapon or for an unreasonable period. Once it became apparent that Mr. Frenzley was injured, Deputy Brothers immediately requested medical assistance.

Viewed in the totality of circumstances, the decision to apply force was lawful and the amount of force used was not excessive. Although alternative actions could have been taken, Deputy Brothers committed no criminal act.

Please do not hesitate to reach out to me if you should have any questions. (804)501-4218.

Very truly yours,



Shannon L. Taylor

Commonwealth's Attorney for Henrico County

SLT/msh



Andrew Meyer <ameyer@ameyerlaw.com>

FOIA request

Paul Brothers [REDACTED]
To: Chris Smith <csmith@westcoco.us>
Cc: "ameyer@ameyerlaw.com" <ameyer@ameyerlaw.com>

Fri, Sep 3, 2021 at 12:20 PM

Lt. Smith,

I hope all is well with you sir. Since the criminal investigation has been completed I wanted to FOIA the body cam video and the use of force paperwork for the incident involving Mr. Frenzley.

Thank you for your assistance in this matter.

Truly,

Paul Brothers

--

Paul Brothers
[REDACTED]

FOIA Request

Andrew Meyer <ameyer@ameyerlaw.com>
To: csmith@westcoso.us

Tue, Sep 7, 2021 at 2:06 PM

Lt. Smith -

I am an attorney representing Paul Brothers and this email serves as a FOIA request for the recordings of the encounter and subsequent arrest of George Frenzley occurring on April 3, 2021.

This FOIA request also seeks any and all police reports surrounding the April 3, 2021 call to [REDACTED] Montross, VA as well as the Use of Force paperwork resulting from that service call. Please do not hesitate to contact my office with any questions or concerns.

Regards,

Andrew Meyer

--

Andrew D. Meyer, Esq.
1205 West Main Street, Suite 204
Richmond, Virginia 23220
Phone: (804) 358-2909
Fax: (757) 257-0063
<http://www.ameyerlaw.com/>

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FOIA Request

Chris Smith <csmith@westcoso.us>
To: Andrew Meyer <ameyer@ameyerlaw.com>


Tue, Sep 14, 2021 at 4:48 PM

Mr. Meyer,


Per our conversation attached is the paper portion of the FOIA. If there is anything else you need please feel free to contact me. The rest of the information was mailed 09/10/2021 to the P.O. Box address below.

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8 attachments


 Scan0003.jpg
380K


 Scan0001.jpg
361K

 Scan0002.jpg
383K

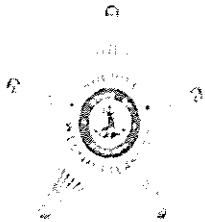
 Incident Report_202100260.pdf
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 Supp_202100260_1.pdf
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 Supp_202100260_2.pdf
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 2021_09_10_12_18_05.pdf
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 Use of Force Report Sgt. D. Jackson.pdf
1075K



Sheriff C. O. Balderson
Westmoreland County Sheriff's Office



Westmoreland County Sheriff's Office
Use of Force – Injury to Prisoner Part A

Incident

Date of Incident: 04/04/2021 Time of Incident: 0030 hours

Location of Incident: Westmoreland County Sheriff's Office IBR: 202100260

Brief Description of Incident: _____

Mr. Frenzley was in custody at the Westmoreland County Sheriff's Office. Mr. Frenzley was about to be transported to the Jail by Deputy Shackelford. When I took Mr. Frenzley's handcuff off (that was connected to the bench) to place him in handcuffs behind his back, he balled his fist up in what appeared to be an attempt to punch me. Mr. Frenzley was taken to the ground to be handcuffed. In the course of Mr. Frenzley being taken to the ground, he hit his head on the ground and received a cut on his nose and head. After he was handcuffed I immediately started to render first aid. Medics were called and arrived on scene a few minutes later to take over the medical attention for Mr. Frenzley.

Type/extent of force used: _____

Arm bar takedown

Officer(s) Involved

Officer(s) Involved:	1. <u>Sr. Dep. P. Brothers</u>	CP Number:	<u>22</u>
	2. <u>Dep. T. Shackelford</u>		<u>24</u>
	3. _____		_____
	4. _____		_____

Witness/Witness Written Statement

Witness Name: Deputy T. Shackelford

Address: WCSO

Home Phone Number _____ Work Phone Number: _____

Witness Name: _____

Address: _____

Home Phone Number _____ Work Phone Number: _____



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Officer Injury – Complaint/Charges Filed

Is there an injury to officer? Yes No Photograph(s) taken Yes No

Describe officer's injuries None

Complaint filed in connection with this incident? Yes No

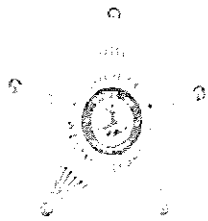
If yes, give details (This is not a substitute for the complaint form) _____

**Use of Force - Supervisor's Review - Part B
Subject Information**

Name: <u>George Frenzley Jr.</u>	Race: <u>Black</u>	Sex: <u>Male</u>	Age: <u>59</u>
Address: [REDACTED] <u>Montross, VA 22520</u>			
Home Telephone: <u>none</u>	Work Telephone: <u>none</u>		
Name _____	Race: _____	Sex: _____	Age: _____
Address _____			
Home Telephone: _____		Work Telephone: _____	

Injury to Subject

Was subject injured as a result of the force used? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
If yes, nature/extent of injury: <u>Mr. Frenzley received a laceration to his nose and head. Broken Rib on right side.</u>
Did injury require medical treatment? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> (give details) <u>On scene medical treatment, and then he was transported to Mary Washington Hospital</u>
Were subject's injuries photographed? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <u>Both Deputies had body cameras on. Photos were also taken</u>
If no, give explanation why not: <u>of the injury.</u>
Results of subject interview: <u>I Sgt. Jackson Spoke with Mr. Frenzley at MWH in the ER. Mr. Frenzley advised that Deputy Brothers uncuffed him from the bench and he went to stretch And Deputy Brothers slammed him to the ground.</u>



Sheriff C. O. Balderson

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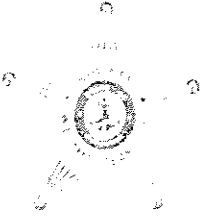


Analysis/Conclusion of Investigating Supervisor:	After watching the body camera from
Deputy Brothers and Deputy Shackelford I believe Deputy Brothers used the amount of force	
Necessary to prohibit Mr. Frenzley from assaulting him. From the video you can obviously	
See Mr. Frenzley ball his fist up in an aggressive manor in attempt to strike Deputy Brothers	
contrary to what Mr. Frenzley stated to me at the hospital.	

Investigating Supervisor's Signature: _____

Investigating Supervisor's Printed Name: Sgt. D.W. Jackson

Date: 4/4/2021



Sheriff C. O. Balderson

Westmoreland County Sheriff's Office



Chain Of Command Review **Investigating Supervisor**

Use of force was consistent with Departmental policy and applicable law

Approved

Disapproved

Use of force was appropriate under the circumstances

Approved

Disapproved (If disapproved, provide a statement as to what other force options or course of action may have been more appropriate under the circumstances.)

Supervisor: Sgt. Dan Jackson Date: 4-23-21

Captain

Use of force was consistent with Departmental policy and applicable law

Approved

Disapproved

Use of force was appropriate under the circumstances

Approved

Disapproved (If disapproved, provide a statement as to what other force options or course of action may have been more appropriate under the circumstances.)

Captain: _____ Date: _____



Sheriff C. O. Balderson
Westmoreland County Sheriff's Office



Major:

Use of force was consistent with Departmental policy and applicable law

Approved

Disapproved

Use of force was appropriate under the circumstances

Approved

Disapproved (If disapproved, provide a statement as to what other force options or course of action may have been more appropriate under the circumstances.

Major: _____ Date: _____

Sheriff:

Use of force was consistent with Departmental policy and applicable law

Approved

Disapproved

Use of force was appropriate under the circumstances

Approved

Disapproved (If disapproved, provide a statement as to what other force options or course of action may have been more appropriate under the circumstances.

Sheriff: _____ Date: _____