

Virginia:

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Circuit Court of Virginia

7/13/18

FILED  
CRIMINAL

2018 JUL 13 PM 3:48

FAIRFAX COUNTY CLERK'S  
OFFICE

Commonwealth )

Plaintiff )

v )

Kristin L. Burns )

Defendant )

MI-2018-666

JOHN T. FINEY  
CLERK, CIRCUIT COURT  
FAIRFAX, VA

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Defendant's Motion to Dismiss

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**Relevant Status of the Case**

1. At a hearing on 7/13/18, the defendant's 7/6/18 motion for a protective order was denied because the presiding judge did not believe he had jurisdiction to enter a protective order for her and her family in the criminal proceeding to prevent further violence. The presiding judge denied the defendant's request to appeal bond in this case because she had been released on bond. He also denied hearing any facts regarding the defendant's request to dismiss the charge.

7/13/18 MI-2018-0666 Defendant's Motion to Dismiss Charge and Request Protective Order

2. At the hearing on 7/13/18, the Commonwealth Attorney agreed that he would not seek jail-time for the charge. Therefore, the presiding judge did not appoint an attorney for the defendant.
3. At the hearing on 7/13/18, the Commonwealth Attorney agreed to provide relevant discovery.

### **Request to Dismiss Charge Based on Discovery Provided**

1. The charge against the defendant by FCPD on 1/14/18 was against code 18.2-461, which states that: "It shall be unlawful for any person (i) to knowingly give a false report as to the commission of any crime to any law-enforcement official with intent to mislead, or (ii) without just cause and with intent to interfere with the operations of any law-enforcement official, to call or summon any law-enforcement official by telephone or other means, including engagement or activation of an automatic emergency alarm. Violation of the provisions of this section shall be punishable as a Class 1 misdemeanor."
2. The evidence provided by the Commonwealth Attorney consisted of two police reports (**Attached**) . He also allowed me to review an incomplete

and inaccurate copy of my criminal history, but would not allow me to have copies of them.

3. The police reports inaccurately states that I called "911" and the "emergency line". The phone number I called was a non-emergency phone number.
4. The police report does not provide any evidence regarding the content or intent of my calls to the non-emergency phone number.
5. My intent was to find a safe way to work with law enforcement to prevent chronic violence in our community by both individuals and members of government agencies. That violence has taken a toll on my life and the lives of my children, who I lost custody of after law enforcement failed to investigate or protect us from crimes committed against us reported back in 2011.<sup>1</sup> My intent was also to discourage call center personnel from

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<sup>1</sup> Some of the history of my criminal history, which began when I reached out to law enforcement to help me protect myself and my children from domestic and family violence; was provided in a 7/6/18 notarized affidavit in this case requesting a protective order.

dispatching emergency personnel in response to non-emergency phone calls.

6. The evidence provided does confirm that I was arrested in my sleep following the phone calls I made to the non-emergency phone line.

***I ask that this charge be dismissed based on a lack of supporting evidence in discovery provided to me by the Commonwealth Attorney on this day.***

At hearing on 7/20/18, should the charge not be dismissed; I would ask that call center logs and recordings from 1/14/18 be provided to me at least 2 weeks prior to the hearing as a part of additional relevant discovery. Those logs and recordings would confirm that my phone calls were made to the *non-emergency* phone line, and also confirm that my intent in making them was not to “mislead”, and was not “to interfere with the operations of any law-enforcement official.”

At hearing on 7/20/18, I will ask to be heard regarding my request for a protective order in this case that was not heard today.

***I certify that this motion is neither frivolous, nor intended to harass; but is a sincere plea for court intervention in relation to my and my children's health, safety, and fundamental parental rights; and the ends of justice for my original complaint for separate maintenance; an attempt to separate myself and my children from domestic and family violence in our home, with the hope of maintaining our familial relationship with their father.***

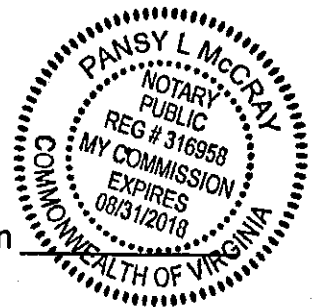
*Kristin L Burns*

Kristin L. Burns  
1731 Whisper Hill  
Reston, VA 20194  
(703)967-3889

In the County of Fairfax, State of Virginia, this affidavit has been subscribed and sworn to me on this day, July 13, 2018:

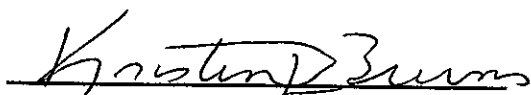
*Pansy L McCray*  
Signature of Notary Public, State of Virginia

My commission expires on



I certify that I have noticed the following with a copy of this Petition for Temporary Protective Order on this day, July 13, 2018.

Commonwealth Attorney  
4110 Chain Bridge Road  
Suite 103  
Fairfax, VA 22030  
(703)246-2776



Kristin L. Burns  
Plaintiff, pro se  
1731 Whisper Hill  
Reston, VA 20194  
(703)967-3889  
krislyn@gmail.com

Please note that on my 7/6/18 petition in this case, I had an incorrect address listed on the certification page. The correct address is the one above, where I have been living since April of 2014. I had copied a certification from another petition from years ago when I lived at a different address with a cousin of my mother.

7/13/18 MI-2018-0666 Defendant's Motion to Dismiss Charge and Request Protective Order

# Incident/Investigation Report

Agency: FCPD

Case Number: 2018-0140020

Date: 7/13/2018 13:24:04

## Supplement Information

Supplement Date	Supplement Type	Supplement Officer
01/14/2018 05:16:01	OFFICER SUPPLEMENT	FLETCHER, S.
Contact Name		Supervising Officer
		HUTCHISON, C.

CLEAR/DARK - STREET LIGHTS

## Supplement Notes

On 1/14/2018 I received word from both PSTOC as well as the PLC about Mrs. Kristin Burns, a citizen who lived in area 510. Ms. Burns had begun calling our dispatch center on the emergency line since 2130. Between 2130 and 0030 Ms. Burns had called 17 times. Each time she called she did not request any Police assistance but rather berated the call takers and used obscene and offensive language.

She was told multiple times by our dispatch call takers as well as spoke to the PLC who also told her to stop calling 911 without an emergency or there would be legal consequences. When on the phone with the PLC Ms. Burns hung up on him and then immediately called 911 screaming and yelling obscenities.

I then went to the Fairfax County ADC where I met with Magistrate Talevra who issued a Warrant for false summoning of Police 18.2-429 (Class 1 Misdemeanor).

The warrant was then taken to the Warrant Desk and entered. I then transported the warrant back to the area to attempt to serve the warrant on Ms. Burns with other Officers.

Ms. Burns was located and then taken into custody without incident.

No Further Action Taken

## Incident/Investigation Report

Agency: FCPD

Case Number: 2018-0140020

Date: 7/13/2018 13:24:04

### Notes/Narratives

On 1-14-18 this officer responded to 1731 Whisperhill Dr around 2:35am for a warrant service on a Kristen Burns who had called many times during the night. Ms. Burns had called dispatch 17 times with out just cause.

This officer arrived on scene with warrant in hand for falsely summon/report to law enforcement. We were allowed entrance into home from the owner. Ms. Burns's door opened when we knocked and announced ourselves.

Ms. Burns did not move from her bed and appeared to still be asleep. we woke Ms. Burns and arrested her on the spot. She had a strong odor of alcoholic beverages coming from her. Ms. Burns was searched and transported to the ADC around 3:00am and arrived there around 3:20am.

Magistrate Talavera who issued the warrant was there and gave Ms. Burns a secured bond of \$3000 and also required her to take a psychological evaluation.

Deputies were unable to livescan Ms. Burns do to her behavior at the time I was there so therefore there is no CCRE number at this time.

Ms. Burns was taken out of NCIC/VCIN by warrant desk.

No further action taken by this officer.

### Notes/Continuation