

VIRGINIA:

IN THE CIRCUIT COURT OF YORK COUNTY
AND THE CITY OF POQUOSON

COMMONWEALTH OF VIRGINIA,

Plaintiff,

v.

DARYL RENARD ATKINS,

Defendant.



Docket No. CR06R3-8229-01

**ORDER SETTING ASIDE SENTENCE OF DEATH
AND IMPOSING LIFE IMPRISONMENT**

THIS DAY, January 17, 2008, came the Defendant, represented by Joseph A. Migliozi, Jr., Richard G. Parker, and Stephen D. Brody, and the Commonwealth, represented by Mark A. Krueger and Melissa H. Hoy, pursuant to a pre-trial motion by the Defendant to impose a life sentence based upon newly discovered evidence of *Brady* and *Napue* violations; and having granted a joint motion by the Commonwealth and Defense to recuse the York County Commonwealth Attorney's Office from participating in this hearing and to further hear evidence on Defendant's motion, the Court received testimony and exhibits from both parties and finds as follows:

1. For reasons articulated in the transcript of the January 17, 2008 proceedings, the Office of the Commonwealth Attorney for York County and the City of Poquoson improperly suppressed exculpatory evidence from the August 6, 1997 interview of William Jones, in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), and that the suppressed information probably would have affected the outcome of Daryl Atkins' trial had it been revealed to Atkins' counsel in 1998.

2. The court declines to find a violation of *Napue v. Illinois*, 360 U.S. 264 (1959).

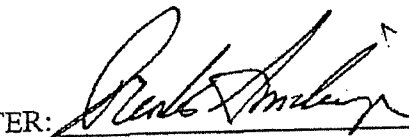
It is therefore **ORDERED**, that the Defendant's motion to impose a life sentence based upon newly discovered evidence of a *Brady* violation is granted and the Defendant's motion to find a *Napue* violation is denied.

It is further **ORDERED**, that pursuant to Section 19.2-264.5 of the Code of Virginia, and pursuant to this court's authority as a court of general jurisdiction, and for good cause shown, the death sentence of Daryl R. Atkins is set aside and this Court imposes a sentence of imprisonment for life without the possibility of parole for the following offense:

CASE NUMBER	OFFENSE DESCRIPTION AND INDICATOR (F/M)	OFFENSE DATE	VA. CODE SECTION
CR06R3-8229-01	Murder (F)	08/16/1996	18.2-31 (4)

And the defendant is remanded to the custody of the Department of Corrections.

1-24-08
DATE

ENTER: 
JUDGE

DEFENDANT IDENTIFICATION:

SSN: 223 - 47 - 0073

DOB: 11/06/1977

Sex: M

SENTENCING SUMMARY:
TOTAL SENTENCE IMPOSED:

LIFE

2

A COPY TESTE:

Lynn S. Mendibur, Clerk

York Co. - Poquoson, VA Circuit Court

By: Kristen N. Nelson, D.C.