

Timothy K. Sanner, Judge
Sixteen Judicial Circuit
P.O. Box 799
Louisa, Virginia 23093
540-967-5300
540-967-5681 (Fax)

FACSIMILE TRANSMITTAL SHEET

TO: Douglas A. Ramseur, Esquire, Richard W. Johnson, Jr., Esquire, Matthew L. Engle, Esquire, Rusty E. McGuire, Esquire

FROM: Timothy K. Sanner, Judge

COMPANY:

DATE: 9/10/20

FAX NUMBER: 804-597-6306, 804-62-7172, 434-465-6866, 540-967-0998

TOTAL NO. OF PAGES INCLUDING COVER: 4

PHONE NUMBER:

SENDER'S REFERENCE NUMBER:

RE: Commonwealth v. Darcel Murphy
 Opinion Re: Confederate Symbols in the Courtroom

YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

COMMONWEALTH OF VIRGINIA



Timothy K. Sanner
 P.O. Box 799
 Louisa, VA. 23093
 (540)967-5300
 (540)967-5681 (fax)

Cheryl V. Higgins
 501 E. Jefferson St., 3rd Floor
 Charlottesville, VA. 22902
 (434)972-4015
 (434)972-4071 (fax)

Richard E. Moore
 315 E. High Street
 Charlottesville, VA. 22902
 (434)970-3760
 (434)970-3038 (fax)

Sixteenth Judicial Court

Albemarle Culpeper Fluvanna Goochland
 Greene Louisa Madison Orange Charlottesville

Dale B. Durrer
 135 West Cameron Street
 Culpeper, VA. 22701
 (540)727-3440
 (540)727-7535 (fax)

Claude V. Worrell
 P.O. Box 386
 Stanardsville, VA. 22973
 (434)326-3723
 (434)985-6723 (fax)

David B. Franzén
 P.O. Box 230
 Orange, VA. 22960
 (540)672-2433
 (540)672-2189 (fax)

September 10, 2020

Douglas A. Ramseur, Esquire
 The Ram Law Firm PLLC
 530 East Main Street, Suite 608
 Richmond, Virginia 23219
 Via Facsimile 804-597-6306

Richard W. Johnson, Jr., Esquire
 Commonwealth of Virginia
 Office of the Capital Defender, Central Region
 1602 Rolling Hills Drive, Suite 212
 Henrico, Virginia 23229
 Via Facsimile 804-662-7172

Matthew L. Engle, Esquire
 Donovan & Engle, PLLC
 1134 East High Street, Unit A
 Charlottesville, Virginia 22902
 Via Facsimile 434-465-6866

Rusty E. McGuire, Esquire
 Office of the Commonwealth's Attorney
 P.O. Box 128
 Louisa, Virginia 23093
 Via Facsimile 540-967-0998

Re: Commonwealth v. Darcel Murphy
 Renewed Motion To Conduct Trial in a Courtroom That Does Not Contain Confederate Symbols,
 Memorials and Iconography
 Case nos. CR16000204-01 to -05, CR16000239-01 to -02 and CR17000054-00

Dear Counsel:

This matter comes on before the Court upon the above referenced motion. The Court has carefully considered the renewed motion, the exhibits attached thereto, the preceding motion of like nature, the record of the proceedings, and the Court's previous November 15, 2019 ruling.

Initially, the Court will address the portraits of Andrew J. Richardson, Clayton G. Coleman, and Robert Lewis Dabney, all Confederate officers, whose portraits hang on the west wall of the courtroom. At the time of its November 15, 2019 ruling, the Court had mistakenly believed that the Defendant's motion as to these portraits had been withdrawn. Having been advised that such was not the case, the Court will proceed to address their presence.

Other than being portraits of individuals who served as Confederate officers, these portraits present few, if any, of the concerns of the Lee portrait. Each of the portraits is in black and white, not in color, as is the Lee portrait. Each of the portraits is not only substantially smaller than the Lee portrait, they are smaller than the typical portrait within the courtroom. The location of the portraits within the courtroom is not nearly as prominent as that of the Lee portrait. Neither Richardson nor Dabney are in uniform, as is Lee. Clayton Coleman's portrait depicts him in uniform; however, the portrait is so dark that while one could reasonably conclude that it is a mid-nineteenth century military uniform, it is not apparent to the casual observer that it is a Confederate uniform.

Having reviewed the exhibits accompanying the Defendant's original motion, the Court finds that each of the three subjects in question has substantial Louisa County ties outside of their wartime service, unlike Lee. Andrew J. Richardson served Louisa County as Commissioner of Revenue for 37 years, and additionally as a delegate in the General Assembly. Clayton Coleman is described as a court justice and state senator. Robert Lewis Dabney was born in Louisa County, and was a notable theologian, minister, teacher and leader in the Southern Presbyterian Church. Their peacetime pursuits establish a substantial basis for why the citizens of Louisa County would wish to honor them. With that said, however, with each of the three subjects having been dead for well over a century, the Court can only conclude that only the most ardent student of Civil War history or Louisa County history, or perhaps their descendants, would have any idea who any of the three gentlemen were. Unlike General Lee, the Court finds nothing "iconic", about them or their portraits. Consequently, the Court sees no reason to reconsider its analysis previously set forth in its November 15, 2019 opinion letter which concluded, generally, the degree to which a citizen should be honored by having his or her portrait placed in the circuit courtroom was a political issue, best resolved by the citizens' representatives, the Louisa County Board of Supervisors. Consequently, the motion to remove the Richardson, Coleman, and Dabney portraits is denied.

That brings the Court to the second issue before it, the renewed motion by the Defendant, for the Court to order the removal of the Robert E. Lee portrait. The Court is well aware of the events which have transpired since the time of the Court's November 15, 2019 letter. The Court is aware of the General Assembly's action abolishing the Lee-Jackson Holiday. The Court is aware of the General Assembly's amendment of Virginia Code §15.2-1812 to give localities their control over the disposition of war memorials. In the Court's view, these are precisely the types of action which the Court alluded to in its November 15, 2019 opinion holding that these matters were properly political matters to be addressed by the people's elected representatives. The Court is also aware of the pronouncement of various Commonwealth's officials setting forth their opinion as to the proper place of Robert E. Lee's image in present day Virginia.

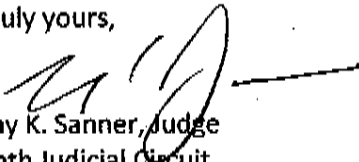
The Court continues to believe that matters of this nature would be best addressed by the people's elected representatives; however, the Court notes that the Louisa County Board of Supervisors has not accepted the Court's invitation to address this issue, which was implicit in its November 15, 2019 letter opinion. Given the letter recently sent by the Louisa County Attorney to counsel in this case, the Court can only infer that the Board has no intention of addressing the issue, or at least not in a fashion deemed timely by this Court. The Court will note, parenthetically, that letter seemed to misunderstand the Court's opinion. The Court never stated that it did not have the power to remove the portrait; it obviously does. The Court's point was that matters of that nature were best addressed by the elected representatives of the people rather than the unelected judge.

While Robert E. Lee's place in history has been controversial, undoubtedly, for some time, the tenor of that debate has changed remarkably in the ten months which have passed since the Court last addressed the issue. The image of Robert E. Lee has gone from one being deemed unworthy by some of being honored because of his significant role in a war which had a goal of preserving the institution of slavery to one of abiding racial prejudice and hatred which bears some level of responsibility for the real ills suffered by African American citizens some 150 years after his death. Despite the existence of legislative remedies to effect the removal of statues of Lee and other Confederate icons, criminal mayhem directed at those symbols is implicitly, and in some instances explicitly, condoned by some Commonwealth and municipal officials.

Given this, the Court is compelled to conclude that the level of controversy surrounding the image of Robert E. Lee is sufficiently intense that it is foreseeable that it may impair the fair administration of justice. More importantly, given the significantly prevalent image of Robert E. Lee as a figure of racial hatred and prejudice, the Court is compelled to conclude that such image is unwelcoming to many of the African Americans, and others, who are compelled to appear in our courtroom as litigants, witnesses, jurors, attorneys, and judges.

For the foregoing reasons, the Court will require by order entered of even date that the County of Louisa remove the portrait of Robert E. Lee and the accompanying United Daughters of the Confederacy plaque from the Louisa County Circuit Courtroom on or before the close of business on September 23, 2020 to be exhibited in such location and manner as best determined by the County of Louisa.

Very truly yours,



Timothy K. Sanner, Judge
Sixteenth Judicial Circuit
TKS/vc

Cc: Christian Goodwin, Louisa County Administrator

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF LOUISA
COMMONWEALTH OF VIRGINIA

CR16000204-01 to 05,
CR16000239-01 to 02,
& CR17000054-00

DARCEL NATHANIEL MURPHY, Defendant

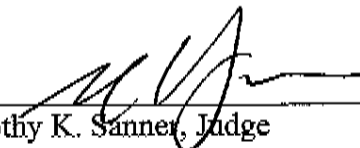
ORDER

This matter comes to be heard upon the Renewed Motion to Conduct Trial in a Courtroom that Does Not Contain Confederate Symbols, Memorials and Iconography. For the reasons set forth in the Court's letter opinion of September 10, 2020, the motion to remove the Richardson, Coleman and Dabney portraits is denied.

For the reasons set forth in that same letter opinion, the Defendant's motion to remove the portrait of Robert E. Lee is granted. The County of Louisa is directed to remove said portrait and the accompanying United Daughters of the Confederacy plaque on or before the close of business of September 23, 2020. The portrait thereafter shall be exhibited in such location and manner as best determined by the County of Louisa.

The Clerk shall provide a certified copy of this order to counsel of record and to Mr. Christian Goodwin, Louisa County Administrator.

ENTER: _____


Timothy K. Sanner, Judge

DATE: _____

9-10-20