

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY NORFOLK

1 IN THE MATTER OF PETITION)
2 TO IMPANEL A SPECIAL)
3 GRAND JURY)
4)
5)

CASE NO. 710CL2300040300

6 IN/RE:)
7 RAMIN FATEHI)
8 _____)



9 PETITION TO IMPANEL A SPECIAL GRAND JURY PURSUANT TO VIRGINIA
10 CODE SECTION 48-1 TO INVESTIGATE A PUBLIC NUISANCE

11 Petitioners Michael J. Muhammad, Arekeda Brehon, Cartina Wilson, Shandy S.
12 Woodall, and Jessica R. Hairston (collectively, "Petitioners"), being five or more citizens
13 of the Commonwealth, file this Petition to Impanel a Special Grand Jury, with all the powers
14 pursuant to Article 3 of Virginia Code §§ 19.2-206 thru 19.2-215, to investigate a public
15 nuisance, pursuant to Virginia Code §48-1, which reads:
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18 **§ 48-1. Investigation of complaint by special grand jury.**

19 "When complaint is made to the circuit court of any county, or the corporation court of any
20 city of this Commonwealth, by five or more citizens of any county, city or town, setting forth
21 the existence of a public or common nuisance, the court, or the judge thereof in vacation, **shall**
22 **summon a special grand jury**, in the mode provided by law, to the next term of such court,
23 to specially investigate such complaint." The Court in Cuccinelli v. Rector & Visitors of the
24 Univ. of VA, 283 VA 420, 425 (2012) opined: "when the plain language of the statute is
25 unambiguous, we are bound by the plain meaning of that language." of the statute.
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1 In support of their Petition to impanel a Special Grand Jury pursuant to Virginia Code
2 §48-1, the Petitioners allege as follows:

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4 **RAMIN FATEHI HAS CREATED AND IS MAINTAINING A PUBLIC NUISANCE**
5 **IN THE CITY OF NORFOLK**

- 6 1. Ramin Fatehi (“Fatehi” or “Mr. Fatehi”) is the Commonwealth’s Attorney for the City
7 of Norfolk (on occasion “his Office”). Mr. Fatehi is responsible for the prosecution for
8 all felony and misdemeanor charges (at his discretion) resulting from violations of the
9 Criminal Code of the State of Virginia which occur within the City of Norfolk.
- 10 2. Mr. Fatehi, as the holder of his Office, is responsible for numerous assistant attorneys
11 and staff who are employed by his Office.
- 12 3. Mr. Fatehi was elected to his Office in November 2021 on a platform of reform and
13 progress. Significant alterations in the administration and operations of his Office have
14 been noted since Mr. Fatehi assumed his Office in January 2022.
- 15 4. Mr. Fatehi, is a professionally trained attorney, having studied at Columbia University
16 Law School and being a member of this Commonwealth’s bar for over a decade.
- 17 5. Mr. Fatehi, is amply qualified to understand his legal duties and obligations. On
18 information and belief, he is keenly aware of his duties, obligations, and oaths as the
19 holder of his Office.
- 20 6. Mr. Fatehi was required pursuant to Virginia Code Section, 15.2-1522 to take an oath of
21 office to qualify for his Office which is set forth fully below:
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26 “I do solemnly swear (or affirm) that I will support the Constitution of the United
27 States, and the Constitution of the Commonwealth of Virginia, and that I will
28 faithfully and impartially discharge all the duties incumbent upon me as ...
according to the best of my ability, (so help me God).”

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2 Va. Code § 49-1 (parentheses, ellipsis, and quotation marks original).

3 7. On information and belief, Mr. Fatehi has taken such an oath and understands that such
4 imposes obligations on him.

5 8. Further, on information and belief, Mr. Fatehi knows that pursuant to Virginia Code
6 Section 15.2-1626 he must “perform all duties imposed upon [him] by general law . . .”
7 including prosecuting criminal cases, upholding the laws of the Commonwealth, and the
8 United States.
9

10 9. Additionally, as an attorney, Mr. Fatehi, has a duty of diligence and competency in his
11 representation of clients, including the Commonwealth.
12

13 10. On information and belief, Mr. Fatehi has knowingly and willfully failed to carry out
14 these obligations as required by law and continues to fail to meet these duties.
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16 11. This willful failure constitutes bad faith.

17 12. More specifically, Mr. Fatehi has knowingly breached Constitutional obligations, duties
18 of competence as an attorney, and his oath of office.
19

20 13. As a prosecutor, Mr. Fatehi has *must timely* disclose certain materials to defense counsel,
21 known as “*Brady* material.” This mandatory obligation is incorporated in both
22 constitutional law and the law of the Commonwealth. Mr. Fatehi, and his Office have
23 repeatedly failed to disclose such information timely.
24

25 14. Thereby, Mr. Fatehi has knowingly and willfully breached his duties as a
26 Commonwealth’s Attorney and his Oath.

27 15. Additionally, as an attorney, Mr. Fatehi has a legal obligation—under the Virginia
28 Code—to “provide competent representation Competent representation requires

1 legal knowledge, skill, thoroughness and *preparation* reasonably necessary . . .” Rules
2 of Prof. Conduct Rule 1.1.

3
4 16. Mr. Fatehi, and his Office, have repeatedly breached this obligation by failing to
5 undertake necessary preparation required to prosecute cases. This failure in competence
6 has continued and on information and belief is both knowing and willful.

7
8 17. Mr. Fatehi is ultimately responsible for all actions and decisions of his Office so long as
9 he holds his Office, both administrative and prosecutorial.

10 18. These willful failures to fulfill his legal duties represent bad faith. Because these acts or
11 omissions were taken in bad faith, Mr. Fatehi is not entitled to quasi-judicial immunity.

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13 19. Each of these acts collectively and individually harm the public broadly and the citizens
14 of Norfolk specifically. Apart from the injury they perpetrate on criminal defendants the
15 failures place the citizens of Norfolk in danger and at risk of irreparable harm.

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17 20. All citizens of the City of Norfolk are harmed by failure to competently prosecute
18 accused wrongdoers, just as all citizens face potential harm where prosecutors fail to
19 uphold the laws of the Commonwealth and the Constitution of the United States.

20
21 21. Every citizen in the City of Norfolk has an interest in 1, wrongdoers being adequately
22 punished; 2, the citizenry being competently represented; 3, fair trials being conducted;
23 and 4, a functioning criminal justice system.

24
25 22. Mr. Fatehi’s willful acts and omissions injure each of these interests and continue to do
26 so, thereby harming the public at large. This constitutes a public nuisance.

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28 23. Specifically, Mr. Fatehi and his office failed to adequately prepare for the prosecution
of certain defendants in the widely publicized murder case of Chris Cummings, an Old

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1 Dominion University student. Further, his Office failed to timely disclose *Brady*
2 material.

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4 24. This led to a dismissal without prejudice against one defendant and a mistrial for another.

5 25. In another homicide case, lack of preparation and failure to secure witnesses again led
6 to an inability to proceed to trial.

7 26. In yet another homicide case, Mr. Fatehi and his Office failed to secure and subpoenaed
8 witnesses, preventing his Office from prosecuting a *triple* homicide case. This resulted
9 in charges being dropped.

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11 27. Mr. Fatehi, and his Office have admitted that these repeated and continual failures were
12 caused by actions of his Office, rather than uncontrollable circumstances or other
13 factors. While “falling on one’s sword” may be honorable, the admitted and continued
14 failures and incompetence places the citizens of the City of Norfolk in immediate
15 danger.
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18 28. Mr. Fatehi and his office have violated the *spirit* of the “Crime Victim and Witness Right
19 Act”, Virginia Code §19.2-11.01, by, *inter alia*, not keeping the victims (*victims’*
20 *families*) and witnesses properly informed of all proceedings.

21
22 29. On information and belief, the acts described above continue and their injurious impacts
23 continue to this day and will cause irreparable future harm to the public at large.

24 30. Petitioners submit their request that a Grand Jury be summoned as soon as practically
25 possible, but not later than “the next term of such court” pursuant to Virginia Code § 48-
26 1, to investigate whether Mr. Fatehi has created and maintained a public nuisance in the
27 City of Norfolk by willfully failing to fulfill his duties in bad faith.
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1 31. Petitioners further request that the Special Grand Jury investigate, pursuant to Virginia
2 Code section 48-1, whether Mr. Fatehi's actions and omissions, specifically his failure
3 to adequately prepare, competently represent, and faithfully undertake his duties to the
4 Commonwealth and uphold the laws of the Commonwealth and the United States
5 Constitution, constitute a public nuisance.
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7 32. Petitioners further request that the Special Grand Jury, as part of its presentment against
8 Fatehi, determine that the above-described nuisance is public in nature, as the citizenry
9 of the City of Norfolk are all affected by the integrity and competency of its prosecutorial
10 representatives and all have a collective interest in a functioning criminal justice system.
11 In addition to any financial penalty which the Special Grand Jury should seek,
12 presentment should additionally seek an order prohibiting Fatehi from committing any
13 act that disrespects the rights of crime victims, criminal defendants, and the general
14 public.
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18 **DATE: January 12, 2023**

19 ***RESPECTFULLY SUBMITTED,***

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21
22 By: 

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