

COURT OF APPEALS OF VIRGINIA

Jaeyoung Lee v. Commonwealth of Virginia

Record No. 0547-24-4 (Va. Ct. App. Jan. 13, 2026) · No. 0547-24-4 · Decided January 13, 2026

SUMMARY

The published opinion addresses Jaeyoung Lee’s appeal from convictions in the Circuit Court of Fairfax County for aggravated malicious wounding, wiretapping, possession of burglary tools, firearm use in the commission of a felony, personal trespass by computer, and computer invasion of privacy. The Court of Appeals of Virginia held that admitting Lee’s notebook violated the attorney-client privilege but concluded that the error was harmless; the excerpt also addresses judicial reassignment, admission of Lee’s refusal to provide a DNA sample, and the related jury instruction.

CASE DETAILS

COURT	Court of Appeals of Virginia
WRITING FOR THE COURT	Clifford L. Athey, Jr.; Fulton; Lorish
JURISDICTION	Virginia Court of Appeals
DECIDED	January 13, 2026
DOCKET	0547-24-4
DISPOSITION	affirmed
PROCEDURAL POSTURE	Lee appealed his convictions and sentence following a jury trial in the Circuit Court of Fairfax County, challenging admission of his notebook, reassignment of post-trial and sentencing proceedings to a different judge, admission of his refusal to provide a DNA sample pursuant to a search warrant, and a related jury instruction.
STANDARD OF REVIEW	Statutory interpretation and due process questions are reviewed de novo. Evidentiary rulings are reviewed for abuse of discretion. Jury instructions are reviewed to determine whether the law was clearly stated and the issues fairly raised by the evidence were covered; whether to give an instruction is reviewed for abuse of discretion, while whether it accurately states the law is reviewed de novo. Nonconstitutional evidentiary error is harmless when the appellate court can conclude that the error did not influence the jury or had only slight effect, including when the evidence of guilt is overwhelming.
PRECEDENTIAL VALUE	published

TOPICS

attorney client privilege

evidence

criminal procedure

jury instructions

appellate procedure

PRACTICE AREAS

criminal procedure

evidence

appellate procedure

legal ethics and privilege

QUESTIONS PRESENTED

1. Whether admission of Lee's notebook violated the attorney-client privilege or work-product doctrine.
2. If admission of the notebook violated the attorney-client privilege, whether the error was harmless.
3. Whether Code § 19.2-154 permitted a different circuit judge to preside over post-trial motions and sentencing after the judge who presided over trial became available for some judicial duties.
4. Whether reassignment of post-trial and sentencing proceedings violated Lee's due-process rights or his right to be sentenced by the judge who presided over trial.
5. Whether evidence of Lee's initial refusal to comply with a DNA search warrant was relevant and admissible as evidence of consciousness of guilt.
6. Whether the trial court properly instructed the jury that Lee's failure to comply with the search warrant created no presumption of guilt but could be considered with the other evidence.

HOLDINGS

1. The notebook was protected by the attorney-client privilege because it was created after Lee retained Ellis, concerned the subject matter of Ellis's representation, and was prepared with the intention of securing legal advice on its contents.
2. Although admission of the notebook violated Lee's attorney-client privilege, the error was harmless because the notebook had only a slight effect in the context of the entire trial and the circumstantial evidence of guilt was overwhelming.
3. Code § 19.2-154 permitted Judge Bellows to preside over Lee's post-trial motions and sentencing after certifying that he had familiarized himself with the trial record; the statute did not require reinstatement of the original trial judge when that judge later resumed some judicial duties.
4. Lee had no constitutional due-process right to have post-trial motions or sentencing conducted by the judge who presided over his jury trial, so reassignment to Judge Bellows did not violate due process.
5. The trial court did not abuse its discretion by admitting evidence that Lee initially refused to comply with the DNA search warrant because the refusal had at least a slight logical tendency to establish consciousness of guilt.
6. The trial court properly instructed the jury that Lee's failure to comply with the DNA search warrant created no presumption of guilt but could be considered with the other evidence.

KEY QUOTATIONS

“a document is privileged if the client is seeking legal advice on the contents of the document, not that the attorney explicitly directed the client to produce it.” (at 13)

“the evidence of guilt must be so overwhelming that it renders the error insignificant by comparison.” (at 15)

“the bar for the admission of relevant evidence is a low one, as even a “slight” tendency to establish a point—here, consciousness of Lee’s guilt—renders the evidence admissible.” (at 23)

FACTUAL BACKGROUND

Lee was prosecuted for a shooting and a series of computer- and privacy-related offenses involving Jennifer Mills, a former romantic partner, and J.T., who was shot multiple times at a townhouse associated with Mills. The Commonwealth presented evidence of Lee's stalking and surveillance behavior, unauthorized access to Mills's electronic accounts, a camera found in Mills's apartment bearing Lee's DNA, firearms and ammunition connected to Lee, and inconsistent statements about his whereabouts near the shooting. After retaining attorney John Ellis during the investigation, Lee began keeping a notebook about the investigation; police seized it pursuant to a search of his vehicle and introduced its contents at trial. Lee initially declined to provide a DNA sample despite a search warrant, later complied, and the trial court admitted evidence of the refusal and gave a limiting instruction.

PROCEDURAL HISTORY

A Fairfax County jury convicted Lee of aggravated malicious wounding, wiretapping, possession of burglary tools, use of a firearm in the commission of a felony, personal trespass by computer, and two counts of computer invasion of privacy. Judge Dontaè L. Bugg presided over the pretrial proceedings and jury trial, while Judge Randy I. Bellows, after certifying that he had familiarized himself with the trial record, presided over post-trial motions and sentencing. The circuit court denied Lee's post-trial motions and imposed a sentence of life plus 48 years, and the Court of Appeals of Virginia affirmed the convictions.

DISPOSITION

affirmed

CASES CITED

- Logan v. Commonwealth, 299 Va. 741, 745 (2021)
- Crawford v. Commonwealth, 281 Va. 84, 97 (2011)
- Artis v. Commonwealth, 76 Va. App. 393, 397 (2023)
- Bragg Hill Corp. v. City of Fredericksburg, 297 Va. 566, 585 (2019)
- Jones v. Commonwealth, 38 Va. App. 231, 236 (2002)
- Watson v. Commonwealth, 298 Va. 197, 207 (2019)
- Hilton v. Commonwealth, 293 Va. 293, 302 (2017)
- Ducharme v. Commonwealth, 70 Va. App. 668, 674 (2019)

- *Sarafin v. Commonwealth*, 288 Va. 320, 325 (2014)
- *Commonwealth v. Edwards*, 235 Va. 499, 508-09 (1988)
- *Grant v. Harris*, 116 Va. 642, 648 (1914)
- *Va. Elec. & Power Co. v. Westmoreland-LG&E Partners*, 259 Va. 319, 325 (2000)
- *Walton v. Mid-Atlantic Spine Specialists, P.C.*, 280 Va. 113, 122 (2010)
- *Johnson v. Hart*, 279 Va. 617, 625 (2010)
- *Commonwealth v. White*, 293 Va. 411, 419, 423 (2017)
- *Welsh v. Commonwealth*, 304 Va. 118, 140 (2025)
- *Commonwealth v. Swann*, 290 Va. 194, 201 (2015)
- *Angel v. Commonwealth*, 281 Va. 248, 264 (2011)
- *Castillo v. Commonwealth*, 70 Va. App. 394, 431 (2019)
- *Finney v. Commonwealth*, 277 Va. 83, 89 (2009)
- *Hillman v. Commonwealth*, 68 Va. App. 585, 592-93 (2018)
- *Richardson v. Commonwealth*, 67 Va. App. 436, 442-43 (2017)
- *Anderson v. Commonwealth*, No. 0993-22-2, slip op. at 7 (Va. Ct. App. Oct. 17, 2023)
- *United States ex rel. Fields v. Fitzpatrick*, 548 F.2d 105, 107 (3d Cir. 1976)
- *United States v. Whitfield*, 874 F.2d 591, 593 (8th Cir. 1989)
- *Grandison v. Commonwealth*, No. 1472-04-4, slip op. at 6 (Va. Ct. App. Oct. 25, 2005)
- *Lynch v. Commonwealth*, 39 Va. App. 89, 95 (2002)
- *Fogg v. Commonwealth*, 215 Va. 164, 167-68 (1974)
- *Church v. Commonwealth*, 71 Va. App. 107, 123 (2019)
- *Ragland v. Commonwealth*, 16 Va. App. 913, 918 (1993)
- *Commonwealth v. Proffitt*, 292 Va. 626, 634 (2016)
- *Va. Elec. & Power Co. v. Dungee*, 258 Va. 235, 260 (1999)
- *Langhorne v. Commonwealth*, 13 Va. App. 97, 102 (1991)
- *Palmer v. Commonwealth*, 14 Va. App. 346, 349 (1992)
- *Haas v. Commonwealth*, 71 Va. App. 1, 15, 18-19 (2019), *aff'd in part, vacated in part*, 299 Va. 465 (2021)
- *Turman v. Commonwealth*, 276 Va. 558, 564 (2008)
- *Anderson v. Commonwealth*, 100 Va. 860, 863 (1902)
- *Cheripka v. Commonwealth*, 78 Va. App. 480, 493 (2023)
- *Otey v. Commonwealth*, 61 Va. App. 346, 350 n.3 (2012)