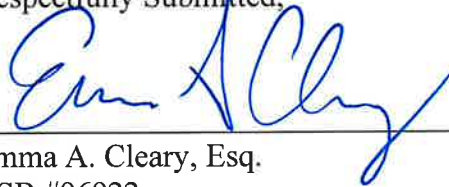


- ## COMMONWEALTH'S MOTION TO NOLLE PROSEQUI

6. Additionally, there is a second witness for the Commonwealth, also a minor, who is currently undergoing counseling. The Commonwealth would like the opportunity for this witness to also progress in their therapy before subjecting them to a jury trial.
7. Virginia's appellate courts have provided guidance on what may constitute good cause for a *nolle prosequi*. Specifically, in the case of *Harris v. Commonwealth*, 258 Va. 576, 583-84 (1999), the Supreme Court of Virginia noted that good cause for a *nolle prosequi* can be extremely broad. In the *Harris* case, good cause was found in light of the Commonwealth's failure to timely obtain necessary documents for their case, which the Court noted was partially an issue of the Commonwealth's own making and partially outside of their control. However, it was still good cause. The Court opined that absent a showing of "bad faith" or "oppressive tactics" on the part of the Commonwealth, to such a degree as would amount to prosecutorial misconduct, a trial court's discretionary determination of good cause is judicially sound. *See id.*, (cited by, *Moore v. Commonwealth*, 59 Va. App. 795, 810 (2012)). Good cause for a *nolle prosequi* has been found to include issues with locating and obtaining the cooperation of witnesses, as the Court of Appeals noted in cases such as *Duggins v. Commonwealth*, 59 Va. App. 785 (20212) and *Arnold v. Commonwealth*, 18 Va. App. 218 (unpub., 1994).
8. The mental well-being and emotional healing of the minor witnesses in this matter are of paramount importance to the Commonwealth, and must be balanced with the public interest inherent in prosecuting these offenses.

For the foregoing reasons and good cause shown, the Commonwealth respectfully requests that this Honorable Court grant the motion to *nolle prosequi* the charges against the defendant at this time.

Respectfully Submitted,



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Certificate of Service

I hereby certify that the foregoing Motion to *Nolle Prosequi* was emailed to Amina Matheny-Willard, Kenneth Singleton, and Curtis Brown counsel for the defendant,



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