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VIRGINIA MANSLAUGHTER CONVICTION OVERTURNED BECAUSE POLICE WITHHELD DISCOVERY

The Supreme Court of Virginia has held that the failure of police officers to provide potentially helpful information to a defendant who was originally charged with murder and convicted of voluntary manslaughter was a violation of the defendant's constitutional rights. The manslaughter conviction was reversed and the case was sent back for retrial for an offense no greater than voluntary manslaughter.

The defendant had been in an altercation in a parking lot with two men outside of a nightclub. The defendant, an off-duty law enforcement officer, contended that one of the men pulled a gun on him while the other was choking him. He shot and killed the man who was choking him, and the other man ran away. Several witnesses reported that this other man always carried a gun. The prosecutor was not informed of this evidence and even argued at trial that there was no evidence that this other man had a gun. The defendant hired a private investigator who located a witness who had observed the other individual with the gone and also related that he had given us information to the police. The Supreme Court of Virginia held that this evidence was exculpatory in nature and should have been disclosed by the Commonwealth prior to trial and overturned the conviction.

Richmond criminal defense attorney Bob Battle, a former prosecutor, stated "Fortunately, this defendant had the means to hire a good private investigator after he was convicted but before he was sentenced. Unfortunately, about 99% of criminal defendants in Virginia do not have these resources available to them."

Mr. Battle is a criminal and DUI trial attorney in Richmond, VA.