

VIRGINIA:

In the Court of Appeals of Virginia on Tuesday the 4th day of October, 2005.

Wesley C. Smith,

Appellant,

against

Record No. 0916-05-4
Circuit Court No. CH53360
(Appeal of the January 18, 2005 order)

Cheri Smith,

Appellee.

Upon a Petition for Rehearing En Banc

Before the Full Court

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 5th day of July, 2005 and grant a rehearing *en banc* thereof, the said petition is denied on the grounds that there is no dissent in the panel decision, no member of the panel has certified that the decision is in conflict with a prior decision of the Court, nor has a majority of the Court determined that it is appropriate to grant the petition for rehearing *en banc* in this case. Code § 17.1-402(D).

A Copy,

Teste:

Cynthia L. McCoy, Clerk

By: *original order signed by a deputy clerk of the
Court of Appeals of Virginia at the direction
of the Court*

Deputy Clerk