

**U.S. District Court  
Eastern District of Virginia – (Norfolk)  
CIVIL DOCKET FOR CASE #: 2:12-cv-00340-AWA-LRL**

LeBlanc v. Mathena et al  
Assigned to: District Judge Arenda L. Wright Allen  
Referred to: Magistrate Judge Lawrence R. Leonard  
Case in other court: Richard H. Sewell, Case Manager,  
15-07151  
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 06/19/2012  
Jury Demand: None  
Nature of Suit: 530 Habeas Corpus  
(General)  
Jurisdiction: Federal Question

**Petitioner**

**Dennis LeBlanc**

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V.

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**Respondent**

**Commonwealth of Virginia**

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Date Filed	#	Docket Text
06/19/2012	<u>1</u>	PETITION for Writ of Habeas Corpus ( Filing fee \$ 5 receipt number 246830160841.), filed by Dennis LeBlanc. (Service Copies Provided) (Attachments: #

		<u>1</u> Civil Cover Sheet, # <u>2</u> Cover Letter, # <u>3</u> Receipt)(bnew) (Entered: 06/20/2012)
06/27/2012	<u>2</u>	Motion to appear Pro Hac Vice by Randall Scott Susskind, Jennae Rose Swiergula, Stephen Chu and Certification of Local Counsel Jennifer T. Stanton Filing fee \$ 75, receipt number 0422-3098062. by Dennis LeBlanc. (Attachments: # <u>1</u> Proposed Order)(Stanton, Jennifer) (Entered: 06/27/2012)
06/28/2012		Notice of Correction re <u>2</u> Motion to appear Pro Hac Vice – There needs to be a individual motion and proposed order for each individual attorney appearing Pro Hac Vice. The Motions do not have the Civil Case Number in the header. Also, a \$75 payment is required for each application. (bnew) (Entered: 06/28/2012)
06/28/2012	<u>3</u>	Motion to appear Pro Hac Vice by Stephen Chu and Certification of Local Counsel Jennifer T. Stanton Filing fee \$ 75, receipt number 0422-3100046. by Dennis LeBlanc. (Stanton, Jennifer) (Entered: 06/28/2012)
06/28/2012	<u>4</u>	Motion to appear Pro Hac Vice by Jennae Rose Swiergula and Certification of Local Counsel Jennifer T. Stanton Filing fee \$ 75, receipt number 0422-3100068. by Dennis LeBlanc. (Stanton, Jennifer) (Entered: 06/28/2012)
06/28/2012	<u>5</u>	MOTION to Amend/Correct <u>2</u> Motion to appear Pro Hac Vice by Randall Scott Susskind, Jennae Rose Swiergula, Stephen Chu and Certification of Local Counsel Jennifer T. Stanton Filing fee \$ 75, receipt number 0422-3098062. <i>to add civil case number</i> by Dennis LeBlanc. (Stanton, Jennifer) (Entered: 06/28/2012)
07/27/2012	<u>6</u>	ORDER finding as moot <u>2</u> Motion for Randall Scott Susskind to appear Pro hac vice because this motion will be granted as amended in doc. 5. Signed by District Judge Arenda L. Wright Allen on 07/27/2012. (Allen, Arenda) (Entered: 07/27/2012)
07/27/2012	<u>7</u>	ORDER granting <u>3</u> Motion to appear Pro Hac Vice by Stephen Chu (Certification by Local Counsel Jennifer T. Stanton). Signed by District Judge Arenda L. Wright Allen on 7/27/2012. (Allen, Arenda) (Entered: 07/27/2012)
07/27/2012	<u>8</u>	ORDER granting <u>4</u> Motion to appear Pro Hac Vice by Jennae Rose Swiergula (Certification by Local Counsel Jennifer T. Stanton). Signed by District Judge Arenda L. Wright Allen on 7/27/2012. (Allen, Arenda) (Entered: 07/27/2012)
07/27/2012	<u>9</u>	ORDER granting <u>5</u> Motion to Amend/Correct as follows: the prior Motion for Randall Scott Susskind to to appear Pro Hac Vice <u>2</u> is GRANTED as amended by this motion. Signed by District Judge Arenda L. Wright Allen on 7/27/2012. (Allen, Arenda) (Entered: 07/27/2012)
09/28/2012	<u>10</u>	ORDER – It is hereby ORDERED that the respondent file within thirty days from the date of this Order an answer to the petition conforming to the requirements of Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, together with the attachments specified in Rule 5. If the petitioner has exhausted his state court remedies pertaining to his allegations either by appeal of his conviction or by a state habeas corpus proceeding, the respondent is requested to cause the state court records and transcripts of the petitioner's original trial and related proceedings, and the state court's habeas corpus transcripts and records, if any, applicable to the grounds alleged in the petition, to be forwarded to this Court for examination WITHIN THIRTY DAYS FROM THE DATE OF THIS ORDER. Said state court records and transcripts will be carefully maintained and will be returned to the clerk of the proper court upon termination of this proceeding. Signed by Magistrate Judge F. Bradford Stillman and filed on 9/28/2012. (bnew, ) (Entered: 09/28/2012)
10/04/2012		Case reassigned to Magistrate Judge Lawrence R. Leonard. Magistrate Judge F. Bradford Stillman no longer assigned to the case. (jcow, ) (Entered: 10/04/2012)
10/31/2012	<u>11</u>	NOTICE of Appearance by Lara Kate Jacobs on behalf of Commonwealth of Virginia, Randall Mathena (Jacobs, Lara) (Entered: 10/31/2012)
10/31/2012	<u>12</u>	MOTION for Extension of Time to File Response/Reply as to <u>10</u> Order,,,, by Commonwealth of Virginia, Randall Mathena. (Jacobs, Lara) Modified on 11/16/2012 (bnew). (Entered: 10/31/2012)
11/01/2012		Notice of Correction re <u>12</u> MOTION for Extension of Time to File Response/Reply as to <u>10</u> Order: Motion was untimely filed. Support brief is required pursuant to Local

		Civil Rule 7. (bnew) (Entered: 11/01/2012)
11/02/2012	<u>13</u>	MOTION for Extension of Time to File Response/Reply as to <u>10</u> Order,,,, by Commonwealth of Virginia, Randall Mathena. (Jacobs, Lara) (Entered: 11/02/2012)
11/02/2012	<u>14</u>	Brief in Support to <u>10</u> Order,,,, <u>13</u> MOTION for Extension of Time to File Response/Reply as to <u>10</u> Order,,,, filed by Commonwealth of Virginia, Randall Mathena. (Jacobs, Lara) (Entered: 11/02/2012)
11/05/2012	<u>15</u>	ORDER granting <u>13</u> Motion for Extension of Time to File Response; Respondents are ORDERED to file responsive pleadings on or before November 16, 2012. Signed by Magistrate Judge Lawrence R. Leonard and filed on 11/5/12. Copy mailed as directed on 11/5/12. (jcow, ) (Entered: 11/05/2012)
11/15/2012	<u>16</u>	<i>Rule 5 Answer</i> RESPONSE to Petition for Writ of Habeas Corpus by Commonwealth of Virginia, Randall Mathena.(Jacobs, Lara) (Entered: 11/15/2012)
11/15/2012	<u>17</u>	MOTION to Dismiss by Commonwealth of Virginia, Randall Mathena. (Jacobs, Lara) (Entered: 11/15/2012)
11/15/2012	<u>18</u>	Memorandum in Support re <u>17</u> MOTION to Dismiss filed by Commonwealth of Virginia, Randall Mathena. (Attachments: # <u>1</u> Exhibit A – VSC Record 111985 – part 1 of 2, # <u>2</u> Exhibit A – VSC Record 111985 – part 2 of 2, # <u>3</u> Exhibit B – Case No. CR02–1515 – part 1 of 7, # <u>4</u> Exhibit B – Case No. CR02–1515 – part 2 of 7, # <u>5</u> Exhibit B – Case No. CR02–1515 – part 3 of 7, # <u>6</u> Exhibit B – Case No. CR02–1515 – part 4 of 7, # <u>7</u> Exhibit B – Case No. CR02–1515 – part 5 of 7, # <u>8</u> Exhibit B – Case No. CR02–1515 – part 6 of 7, # <u>9</u> Exhibit B – Case No. CR02–1515 – part 7 of 7)(Jacobs, Lara) (Entered: 11/15/2012)
11/27/2012	<u>19</u>	NOTICE to Court to include the attached exhibits as part of the record of the case re <u>1</u> Petition for Writ of Habeas Corpus, <u>16</u> Response to Habeas Petition, <u>17</u> MOTION to Dismiss, <u>18</u> Memorandum in Support,, by Dennis LeBlanc. (Attachments: # <u>1</u> Exhibit Missing from prior pleadings)(Stanton, Jennifer) Modified on 11/27/2012 (bnew). (Entered: 11/27/2012)
12/11/2012		MOTION REFERRED to Magistrate Judge Lawrence R. Leonard. <u>17</u> MOTION to Dismiss (jcow, ) (Entered: 12/11/2012)
04/30/2013	<u>20</u>	ORDER re <u>17</u> MOTION to Dismiss filed by Randall Mathena, Commonwealth of Virginia. Petitioner is ORDERED to respond to motion by Tuesday, May 14, 2013. Respondent may file their reply within seven days thereafter. Signed by Magistrate Judge Lawrence R. Leonard on 04/30/2012. Copies mailed 5/1/2013.(tjoh, ) (Entered: 05/01/2013)
05/13/2013	<u>21</u>	RESPONSE to Motion re <u>17</u> MOTION to Dismiss <i>and Answer by Commonwealth</i> filed by Dennis LeBlanc. (Stanton, Jennifer) (Entered: 05/13/2013)
06/12/2013	<u>22</u>	MOTION for Leave to File <i>Additional authority</i> by Dennis LeBlanc. (Stanton, Jennifer) (Entered: 06/12/2013)
07/22/2013	<u>23</u>	ORDER granting <u>22</u> Motion for Leave to File.. Signed by Magistrate Judge Lawrence R. Leonard on 07/22/2013. Copies mailed 7/22/2013. (tjoh, ) (Entered: 07/22/2013)
07/24/2013	<u>24</u>	REPORT AND RECOMMENDATIONS re <u>1</u> Petition for Writ of Habeas Corpus filed by Dennis LeBlanc. For the following reasons, the undersigned RECOMMENDS the Respondents' Motion to Dismiss, ECF No 17, be GRANTED and LeBlanc's Petition, ECF No. 1, be DENIED and DISMISSED WITH PREJUDICE. Signed by Magistrate Judge Lawrence R. Leonard on 07/24/2013. Copies mailed via NEF 7/24/2013.(tjoh, ) (Entered: 07/24/2013)
08/01/2013	<u>25</u>	Objection to <u>24</u> REPORT AND RECOMMENDATIONS re <u>1</u> Petition for Writ of Habeas Corpus filed by Dennis LeBlanc filed by Dennis LeBlanc. (Stanton, Jennifer) (Entered: 08/01/2013)
10/11/2013	<u>26</u>	ORDER Supplemental Briefing to be filed within thirty days of this order. Respondents shall file a Sur–Reply to Petitioner's Supplemental Briefing. Signed by District Judge Arenda L. Wright Allen on 10/11/2013. (tbro) (Entered: 10/15/2013)

11/11/2013	<u>27</u>	Reply to <u>26</u> Order, <u>24</u> REPORT AND RECOMMENDATIONS re <u>1</u> Petition for Writ of Habeas Corpus filed by Dennis LeBlanc, <u>25</u> Objection filed by Dennis LeBlanc. (Stanton, Jennifer) (Entered: 11/11/2013)
11/18/2013	<u>28</u>	MOTION for Extension of Time to File Response/Reply as to <u>26</u> Order, <u>27</u> Reply by Commonwealth of Virginia, Randall Mathena. (Todd, Lara) (Entered: 11/18/2013)
11/18/2013	<u>29</u>	RESPONSE to Motion re <u>28</u> MOTION for Extension of Time to File Response/Reply as to <u>26</u> Order, <u>27</u> Reply filed by Dennis LeBlanc. (Stanton, Jennifer) (Entered: 11/18/2013)
12/02/2013	<u>30</u>	ORDER granting <u>28</u> Motion for Extension of Time to File Response/Reply. Respondents shall file a Sur-Reply to Petitioner's supplemental briefing within 15 days of this Order. Signed by District Judge Arenda L. Wright Allen on 12/2/13. (afar) (Entered: 12/03/2013)
12/13/2013	<u>31</u>	Response to <u>27</u> Reply <i>Respondents' Response to Petitioner's Supplemental Brief</i> filed by Commonwealth of Virginia, Randall Mathena. (Attachments: # <u>1</u> Exhibit A – affidavit of William W. Muse)(Todd, Lara) (Entered: 12/13/2013)
12/16/2013	<u>32</u>	MOTION for Leave to File & <i>Supplemental Response</i> by Dennis LeBlanc. (Stanton, Jennifer) (Entered: 12/16/2013)
01/08/2014	<u>33</u>	ORDER granting <u>32</u> Motion for Leave to File. Signed by District Judge Arenda L. Wright Allen on 1/7/14 and filed on 1/8/14. (tbro) (Entered: 01/08/2014)
03/27/2014	<u>34</u>	ORDER: The Court hereby DEFERS ruling re <u>17</u> MOTION to Dismiss filed by Randall Mathena, Commonwealth of Virginia, pending the outcome of a closely related matter, which may significantly impact the resolution of this case. Signed by District Judge Arenda L. Wright Allen on 3/27/14. (tbro) (Entered: 03/27/2014)
07/01/2015	<u>35</u>	MEMORANDUM OPINION AND ORDER re: <u>24</u> Report and Recommendations.; <u>17</u> Motion to Dismiss. Petitioner's objections to the Magistrate Judge's Report and Recommendation (ECF No. 24) are SUSTAINED. Accordingly Respondents' Motion to Dismiss (ECF No. 17) is DENIED. Because the state court's decision was both contrary to, and an unreasonable application of, clearly established federal law set forth in <i>Graham v. United States</i> , 560 U.S. 48 (2010), Mr. LeBlanc's Petition (ECF No. 1) is GRANTED. His case is REMANDED for resentencing in accordance with <i>Graham</i> . Mr. LeBlanc may not be sentenced to life without the possibility of parole for nonhomicide offenses he committed as a juvenile. IT IS SO ORDERED. Signed by District Judge Arenda L. Wright Allen and filed on 7/1/15. Copies distributed to all parties 7/1/15. (ldab, ) (Entered: 07/01/2015)
07/01/2015	<u>36</u>	CLERK'S JUDGMENT. Signed by Clerk and filed on 7/1/15. Copies distributed to all parties 7/1/15.(ldab, ) (Entered: 07/01/2015)
07/06/2015	<u>37</u>	NOTICE of Appearance by Katherine Quinlan Adelfio on behalf of Randall Mathena (Adelfio, Katherine) (Entered: 07/06/2015)
07/06/2015	<u>38</u>	CERTIFICATE of Service – <i>Corrected</i> re <u>37</u> Notice of Appearance by Katherine Quinlan Adelfio on behalf of Randall Mathena (Adelfio, Katherine) (Entered: 07/06/2015)
07/16/2015	<u>39</u>	NOTICE of Appearance by Stuart Alan Raphael on behalf of Commonwealth of Virginia, Randall Mathena (Raphael, Stuart) (Entered: 07/16/2015)
07/20/2015	<u>40</u>	NOTICE of Appearance by Trevor Stephen Cox on behalf of Commonwealth of Virginia, Randall Mathena (Cox, Trevor) (Entered: 07/20/2015)
07/20/2015	<u>41</u>	NOTICE OF APPEAL as to <u>35</u> Order on Report and Recommendations, Order on Motion to Dismiss,,,,, <u>36</u> Clerk's Judgment by Commonwealth of Virginia, Randall Mathena. Filing fee \$ 505, receipt number 0422-4552307. (Raphael, Stuart) (Entered: 07/20/2015)
07/21/2015	<u>42</u>	Transmission of Notice of Appeal to US Court of Appeals re <u>41</u> Notice of Appeal (All case opening forms, plus the transcript guidelines, may be obtained from the Fourth Circuit's website at <a href="http://www.ca4.uscourts.gov">www.ca4.uscourts.gov</a> ) (jmej, ) (Entered: 07/21/2015)

07/21/2015		Assembled INITIAL Electronic Record Transmitted to 4CCA re <u>41</u> Notice of Appeal. (jmey, ) (Entered: 07/21/2015)
07/21/2015	<u>43</u>	Consent MOTION to Stay re <u>35</u> Order on Report and Recommendations, Order on Motion to Dismiss,,,,, <u>36</u> Clerk's Judgment by Commonwealth of Virginia, Randall Mathena. (Attachments: # <u>1</u> Proposed Order)(Raphael, Stuart) (Entered: 07/21/2015)
07/22/2015	<u>44</u>	USCA Case Number 15-7151 – Richard H. Sewell, Case Manager for <u>41</u> Notice of Appeal filed by Randall Mathena, Commonwealth of Virginia. (jmey, ) (Entered: 07/24/2015)
07/24/2015	<u>45</u>	ORDER. ORDERED that the judgment of this Court entered July 1, 2015 (ECF No. 36), and the accompanying Memorandum Opinion and Order (ECF No. 35), are hereby stayed pending issuance of the mandate in this case by the United States Court of Appeals for the Fourth Circuit. Signed by District Judge Arenda L. Wright Allen on 7/23/2015. Copies mailed 7/24/2015. (jmey, ) (Entered: 07/24/2015)
08/07/2015	<u>46</u>	ORDER of USCA as to <u>41</u> Notice of Appeal filed by Randall Mathena, Commonwealth of Virginia. The court appoints Jennifer T. Stanton to represent Dennis LeBlanc. (15-7151) (jmey, ) (Entered: 08/13/2015)
11/07/2016	<u>47</u>	Opinion of USCA (Copy) re <u>41</u> Notice of Appeal. (15-7151) (jmey, ) (Entered: 11/07/2016)
11/07/2016	<u>48</u>	USCA JUDGMENT as to <u>41</u> Notice of Appeal filed by Randall Mathena, Commonwealth of Virginia. The Judgment of the district court is affirmed. This judgment shall take effect upon issuance of the court's mandate in accordance with Fed. R. App. P. 41. (15-7151) (jmey, ) (Entered: 11/07/2016)
11/10/2016	<u>49</u>	ORDER of USCA as to <u>41</u> Notice of Appeal filed by Randall Mathena, Commonwealth of Virginia. The Court amends its opinion filed November 7, 2016. (15-7151) (jmey, ) (Entered: 11/14/2016)
11/10/2016	<u>50</u>	Amended Opinion of USCA (Copy) re <u>41</u> Notice of Appeal. (15-7151) (jmey, ) (Entered: 11/14/2016)
11/21/2016	<u>51</u>	Appeal Remark re <u>41</u> Notice of Appeal : Stay of Mandate. The mandate is stayed pending further order of this court. (15-7151) (jmey, ) (Entered: 11/22/2016)
01/20/2017	<u>52</u>	ORDER of USCA as to <u>41</u> Notice of Appeal filed by Randall Mathena, Commonwealth of Virginia. The court denies the petition for rehearing en banc. (15-7151) (jmey, ) (Entered: 01/23/2017)
01/24/2017	<u>53</u>	Appeal Remark re <u>41</u> Notice of Appeal : The mandate is stayed pending further order of this court. (15-7151) (jmey, ) (Entered: 01/26/2017)
02/01/2017	<u>54</u>	ORDER of USCA as to <u>41</u> Notice of Appeal filed by Randall Mathena, Commonwealth of Virginia. The court grants the motion to stay mandate pending the filing of a petition for a writ of certiorari. (15-7151) (jmey, ) (Entered: 02/07/2017)
03/31/2017	<u>55</u>	Appeal Remark re <u>41</u> Notice of Appeal : Supreme Court Remark. The petition for a writ of certiorari in the above entitled case was filed on March 28, 2017 and placed on the docket March 30, 2016 as No. 16-1177. (15-7151) (jmey, ) (Entered: 04/03/2017)
06/12/2017	<u>56</u>	Appeal Remark re <u>41</u> Notice of Appeal : Supreme Court Remark. The petition for certiorari and the motion for leave to proceed in forma pauperis are granted, and the judgment of the Court of Appeals is reversed. (15-7151) (jmey, ) (Entered: 06/20/2017)
08/07/2017	<u>57</u>	Appeal Remark re <u>41</u> Notice of Appeal : Supreme Court Remark. The petition for writ of certiorari is granted. (15-7151) (jmey, ) (Entered: 08/09/2017)
08/09/2017	<u>58</u>	MOTION to Withdraw as Attorney by Commonwealth of Virginia, Randall Mathena. (Attachments: # <u>1</u> Proposed Order Granting Motion to Withdraw)(Raphael, Stuart) (Entered: 08/09/2017)
08/09/2017	<u>59</u>	ORDER of USCA as to <u>41</u> Notice of Appeal filed by Randall Mathena, Commonwealth of Virginia. The Court grants Solicitor General Stuart A. Raphael's motion to withdraw from further representation on appeal. (15-7151) (jmey, ) (Entered: 08/10/2017)

08/25/2017	<u>60</u>	USCA JUDGMENT as to <u>41</u> Notice of Appeal filed by Randall Mathena, Commonwealth of Virginia. The judgment of the district court is reversed. This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41. (15-7151) (jmey, ) (Entered: 08/28/2017)
08/25/2017	<u>61</u>	USCA Mandate re <u>41</u> Notice of Appeal. The judgment of this court, entered takes effect today. This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. (15-7151) (jmey, ) (Entered: 08/28/2017)
09/08/2017	62	ORDER granting <u>58</u> , the Motion to Withdraw as Attorney. Attorney Stuart Alan Raphael is withdrawn as one of several counsel of record for respondents for good cause shown. Signed by District Judge Arenda L. Wright Allen on 9/08/2017. (Allen, Arenda) (Entered: 09/08/2017)
10/02/2017	<u>63</u>	Appeal Remark re <u>41</u> Notice of Appeal : Supreme Court Remark. Amended Supreme Court Judgment. (15-7151) (jmey, ) (Entered: 10/03/2017)