

**VIRGINIA:**

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday, the 31st day of March, 2004.

Dennis Mitchell Orbe, Appellant,

against Record No. 040598  
Circuit Court No. CH-04-419-1

Gene M. Johnson, Director, Virginia  
Department of Corrections, et al., Appellees.

Upon a Petition for Rehearing

Dennis Mitchell Orbe petitions for rehearing of the Court's order denying his appeal. Rule 5:20 permits the filing of a petition to rehear; however, a Petition for Rehearing may not raise issues that were not presented in the Petition for Appeal. Orbe raises federal constitutional issues for the first time in his Petition for Rehearing. In his petition for appeal, he specifically disclaimed any federal constitutional basis for his appeal. Rather, he proceeded exclusively under Article I, Sections 9 and 11 of the Constitution of Virginia. Under our Rules, Orbe is barred from advancing new issues in his Petition for Rehearing under Rule 5:20.

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 30th day of March, 2004 and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

Patricia H. Krueger, Clerk