

Circuit Court
OF THE
City of Richmond

DEVIKA E. DAVIS
JUDGE
13TH JUDICIAL CIRCUIT

JOHN MARSHALL COURTS BUILDING
400 NORTH 9TH STREET, SUITE 303
RICHMOND, VIRGINIA 23219
(804) 646-6516

May 9, 2025

Hon. Jason S. Miyares
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**RE: Commonwealth of Virginia, Ex. Rel. Jason S. Miyares, Attorney General v. AJP
Educational Foundation d/b/a American Muslims for Palestine (CL25-174)**

Dear Counsel:

On April 11, 2025, this matter was before the Court on the Commonwealth's Petition to Enforce the Civil Investigative Demand ("CID") issued to AJP Education Foundation ("AJP").

In AJP v. Miyares, CL23-5213, AJP petitioned to Modify or Set Aside the Civil Investigative Demand issued by the Attorney General dated, October 27, 2023. By order, on July 30, 2024, Judge Campbell, sitting for the court, denied the petition and found the Attorney General acted within the authority conferred by Va. Code § 59.1-9.10(F). In its Motion for Stay Pending Appeal, AJP sought clarification as to whether the stay provision of the governing code section applies throughout its appeal. Judge Campbell denied the request and held the Court does not have concurrent jurisdiction to consider requests for declaratory judgment over matters on appeal pursuant to Rule 1:1B(a)(2) of the Rules of the Supreme Court of Virginia.

The Commonwealth seeks to enforce the CID by the instant petition. AJP filed a Plea in Bar, seeking a stay of the Commonwealth's Petition while AJP pursues its appeal in CL23-5213. AJP argues that by this Petition, the Attorney General seeks to negate AJP's appeal of right and

would subject AJP to complying with the CID without respect to the legitimacy or impropriety of the requests therein.

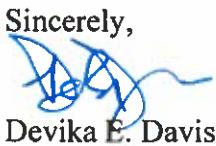
The Commonwealth argues Va. Code § 59.1-9.10(F) permits challengers of CIDs to request relief by filing a petition in the Richmond Circuit Court as the sole means of review and the period for compliance is stayed only while the petition remains before “the court.” Once the Richmond Circuit Court rules on the petition, the time for compliance is no longer stayed and challengers must comply with the CID.

When interpreting a statute, courts must apply a statute’s plain language unless the language is ambiguous or absurd. *City of Charlottesville v. Payne*, 299 Va. 515, 527 (2021). “An absurd result describes an interpretation that results in the statute being internally inconsistent or otherwise incapable of operation.” *Payne*, 299 Va. at 527 (internal citation omitted). In looking at the plain meaning of a statute, courts must “presume that the legislature chose, with care, the words it used when it enacted the relevant statute.” *Addison v. Jurgelsky*, 281 Va. 205, 208 (2011); *see also, In re Woodley*, 290 Va. 482, 491 (2015) (“We presume that the legislature says what it means and means what it says.”). While not substituting its judgment for the General Assembly’s, courts must determine the General Assembly’s intent through its words. *Payne*, 299 Va. at 532.

Va. Code § 59.1-9.10 governs CID processes and procedures. Pursuant to subsection (F), any party which has been issued a demand “. . . may file, in the Circuit Court of the City of Richmond and serve upon the Attorney General a petition for an order of such court modifying or setting aside such demand.” Va. Code § 59.1-9.10(F). The statute prescribes “[t]he time allowed for compliance with the demand . . . shall not run during the pendency of such petition in the court.” *Id.* Finally, to underscore its intent, the General Assembly saw fit to set forth, “[t]he provisions of this subsection shall be the exclusive means for a witness summoned pursuant to a civil investigative demand under this section to challenge a civil investigative demand issued pursuant to subsection B.” *See id.* (emphasis added).

Judge Campbell did not reach a decision on the merits with regard to AJP’s Motion for Stay due to the filing of AJP’s notice of appeal. As such, the doctrine of *res judicata* does not apply and I rule, that the stay provision in § 59.1-9.10 is lifted once the matter is finalized in this Court. To rule otherwise would render the statute practically inoperable and gut the Attorney General’s authority to engage in pre-enforcement civil investigations and promote the public interest. This Court is the only court expressly referenced in subsection (F). A plain reading and common-sense interpretation of Va. Code § 59.1-9.10, does not countenance the interpretation AJP argues because it contradicts the express language of the statute.

Accordingly, AJP’s Plea in Bar is **DENIED**. AJP shall comply with the CID. Counsel for the Attorney General are directed to circulate for endorsement and file an Order consistent with this ruling no later than May 23, 2025.

Sincerely,

Devika E. Davis