

Virginia

Common Superior Court of Law and Chancery

Northampton County to wit

The jurors for the body of the County aforesaid, on this oath present, that Robert D. Hoy, late of the town of Harrisonburg in the County of Northampton, shames, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the eleventh day of October, in the year of our Lord eight hundred and thirty four, with force and arms, at Harrisonburg aforesaid in the County aforesaid, and within the jurisdiction of this Court, in and upon one Margaret Smoot, ^{spinster} in the peace of God and the Commonwealth then & there being, feloniously, wilfully, and of his malice aforethought, did make an assault, and that the said Robert D. Hoy, a certain gun of the value of ten dollars, then and there charged with gunpowder and two leaden bullets, which gun, he the said Robert D. Hoy in both his hands then and there had and held, then and there, feloniously, wilfully, and of his malice aforethought did shoot off, and discharged, against, and upon her the said Margaret Smoot, and that the said Robert D. Hoy, with the leaden bullets aforesaid out of the gun aforesaid, then and there by force of the gunpowder aforesaid, by the said Robert D. Hoy shot, discharged, and sent forth as aforesaid, then and there feloniously, wilfully, and of his malice aforethought, did strike, penetrate and wound the said Margaret Smoot, in and upon the ~~upper~~ superior part of the upper left arm of her the said Margaret Smoot, giving to her the said Margaret Smoot, then and there with the leaden bullets aforesaid, so as aforesaid by him the said Robert D. Hoy shot, discharged, and sent forth out of the gun aforesaid, by force of the gunpowder aforesaid, in and upon the superior part of the upper left arm of her the said Margaret Smoot, one mortal wound, of the depth of eight inches, and of the breadth of half an inch, of which said mortal wound, she the said Margaret Smoot, from the said eleventh day of October, in the year of our Lord eight hundred and thirty four until the eighth day of October, ^{in the year of our Lord} eight hundred and thirty four, at the town of Harrisonburg aforesaid in the County of Northampton did languish, and languishing did live, on which said eighth day of October, in the year of our Lord eight hundred and thirty four, at the town of Harrisonburg aforesaid in the County aforesaid and within the jurisdiction of this Court, she the said Margaret Smoot, of the mortal wound aforesaid died. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said Robert D. Hoy her the said Margaret Smoot, in the manner, and by the means aforesaid, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace and dignity of the Commonwealth and against the form of the Act of the General Assembly of Virginia in such case made and provided.

Commonwealth
 ~ Judgment for Murder
 Robert D. Hoy.

A true Bill
 Henry Boggs Attorney

William H. Hays
 Mary M. Speck
 Eliza M. Hays
 Isaac Smoot
 John F. Effinger
 Abraham Ferry
 Matthew Sanford
 George Clarke
 Susan Sprinkle
 Sam Gray
 Mary Jordan
 Polly Kelly
 Susan W. Hays
 Henry Kelly

County
 R. D. Hoy & Partner
 atty for
 trial of
 1835 May Court. Tried
 and convicted of Murder
 of 1st Degree. to
 hang on 24 July.
 1835.
 expenses before conviction
 in county Court . . . \$26.58
 in Superior Court . . . 191.66
 \$218.24

At the Jury find the Prisoner
 Guilty of Murder in
 the first degree John Hays

County Court

County Court. D. 189.

Chk for call Court 3.50

Shelf 4.20

Widup allowed . . 9.01.

Fails 4.87

Doctor bill . . . 5.00.

\$ 26.58

Sup Court

Fury . . . 45.00.

Fails . . . 70.00

Fans . . . 3.75.

Widup . . . 46.64.

Doctor bill . . . 22.00

\$ 213.99.

Shelf . . . 4.25

\$ 218.24

Statement of Costs

I am of your and
highly Elegant & Super-
natural life are
superior of any re-
and benefit deers

(Number One)

Commonwealth

4

Robert O'Hay

The prisoner was again led to the bar in custody of ~~the~~ whereupon the following ~~the following~~ entry was ordered to be made -

~~Memo.~~ The Jury who were sworn in this case returned a verdict in these words: "We the Jury find this prisoner Robert O'Hay guilty of murder in the first degree." signed by them ~~foreman~~. The Clerk in entering the verdict in the order Book when the orders were drawn up to be signed by the Judge, ^{added in said order that} the Jury find the person Robert O'Hay guilty of murder in the first degree, in manner and form as in the indictment charged. The Counsel for said O'Hay, after the orders were read, and before they were signed by the Judge presiding, moved the Court to correct said order in this, to expunge and erase from said order the words "in manner and form as in said indictment is alleged" because the words so moved to be expunged and erased, are not to be found in the verdict written by the Jury in this case and that the verdict as found by the Jury was not ^{correctly & truly} set forth in said order, in the particulars as aforesaid set forth - this application to correct the record, was made on Friday morning before the orders were signed, but the Court overruled said motion and at the request of the prisoner by his counsel this fact is now ordered to be spread upon the record -

As and in the car
to day

Commonwealth

vs

Robert D'Hay

And the said Robert D'Hay, being here in Court in his proper person prays that Judgment may not be rendered against ^{him} by the Court, upon the Verdict and finding of the Jury rendered against him, and that Judgment may be stayed and arrested for the following reasons, that is to say 1st Because the Verdict, does not find the matter in issue with certainty -

2^{dy} Because the Verdict, does not find the matter in issue expressly -

3^{dy} Because by the Verdict of the Jury, the said Robert D'Hay, has not been found guilty of the Murder set forth in the Indictment, in manner & form as therein set forth -

4th Because the Jury find the said Robert D'Hay guilty of Murder in the first degree, without finding that he is guilty of Murder in the first degree as set forth in said Indictment.

~~5th Because the said Verdict, is insufficient, inasmuch as it does not find, for what offence, the said Robert D'Hay, is guilty of Murder in the first degree.~~

5^{thly} Because the Jury have not found expressly, that the said Robert D'Hay was guilty of the Murder where mention is made in said Indictment. - nor does the Verdict show the person, who was killed, or whether the said Hay was guilty of Murder in the first degree, by means of poison or by lying in wait, or how or in what way he was guilty of Murder

6^{thly} Because, the said Verdict is illegal, informal and insufficient - For those and other reasons, the

Said Robert O'Hay, prays that the said Judgment may be
Stayed and arrested.

Amth

O'Hay

Errors of
Judgment

Commonwealth

9
Robert D. Hoy

On an Indictment for Murder

and the said Robert D. Hoy comes & defends the
free and felony whereof and craves oyer of the Indictment,
found in this case, which is read to him, in the following
words of your following to wit: "Virginia Circuit Supreme Court
of Law and Chancery, Rockingham County to wit The Jurors
do hereby (him) the Indictment" which being read and heard
the defendant says, that the Indictment aforesaid, and the
matter & things as therein set forth and alleged, are not
good and sufficient in Law, for the Commonwealth, to have
and maintain ^{the} prosecution aforesaid against ^{him}, nor is he
bound by the Law of the Land to answer the same
and this the defendant is ready to verify: wherefore he
prays the Judgment of the Court now here, whether the
Indictment aforesaid is good & sufficient in Law - and the
defendant shews here to the Court, the following Causes
of Demurrer to said Indictment.

1st Because the said Indictment does not aver, that the
killing whereof mention is made therein, was done, wilfully
deliberately and premeditatedly -

2nd Because, to constitute murder in the first degree
under the Statute of Virginia, the Indictment must
charge the offense to have been done, wilfully, deliberately
and premeditatedly: that the Indictment in this case
contains no such averment -

3rd Because the Indictment, in this case is radically
defective -

Samuel H. Clarke
for Deft.

Hay
 at } Dec?
 Com month

The Commonwealth of Virginia to the Sheriff of Rockingham County,

GREETING:

YOU are hereby commanded to summon

James A. Duval
and *Laurence Warburton*

to appear

before the Judge of the Circuit Superior Court of Law and Chancery of Rockingham County at
the Court-House on the ~~the~~ day of *to Morrow* ~~Countdown~~, to testify and
the truth to say in behalf of *the Commonwealth*

in a certain matter of controversy in
our said Court, depending and undetermined, between *the Commonwealth*
and *Robert L. Hay Defendant*

And this

May shall in no wise omit under the penalty of £100 each

And have then there this Writ. Witness HENRY J. GAMBILL, Clerk of our said Court at

the Court-House the *11^m* day of

May 1835 and in the

year of the Commonwealth.

H. J. Gambill

The Commonwealth of Virginia to the Sheriff of Rockingham County.
YOU are hereby commanded to summon
James A. [unclear]

to appear
before the Judge of the Circuit Superior Court of Law and Chancery of Rockingham County at
the Court House on the
day of [unclear] 1833
at [unclear] to say in behalf of [unclear]

10 months
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

in a certain matter of controversy in
our said Court, depending and undetermined, between

And this
And have then there this With Witness HENRY J. GARNETT, Clerk of our said Court at
the Court House the 11 day of [unclear] 1833 and in the [unclear]
year of the Commonwealth.

The Commonwealth of Virginia to the Sheriff of Rockingham County,

GREETING:

YOU are hereby commanded to summon *Alexander McGilley*
and *Elizabeth Garing Benjamin Vasseltt*
Solomon M Hunter Hugh Brueffer Joseph
Cravens and Sarah Spicer Anas Cravens
Sarah Gray & S. Gamble to appear
before the Judge of the Circuit Superior Court of Law and Chancery of Rockingham County at
the Court-House on the *1st* day of *October* ~~May~~ Court next, to testify and
the truth to say in behalf of *the Commonwealth*

in a certain matter of controversy in
our said Court, depending and undetermined, between *the Commonwealth*
and *Robert L Day Defendant*

And this *they* shall in no wise omit under the penalty of £100. each

And have then there this Writ. Witness HENRY J. GAMBILL, Clerk of our said Court at
the Court-House the *28th* day of *April* 1835 and in the *59th*
year of the Commonwealth.

H. J. Gamble

Executed as to Benj. Vanpelt, Soc. M Hunter
Hugh Bruffy, Jos. Cravens, Jos. & Cravens
M. Cravens & Co
Jos. Cravens & Co

The Commonwealth of Virginia to the Sheriff of Rockingham County greeting
Whereas hereby we command you that you cause to come before the Judge
of our Circuit Superior Court of Law & Chancery of said County on the first day
of the next term, twelve good and lawful freeholders of your County, residing
as near as may be to the place, where the Murder was committed of which
Robert Stoy is accused, every one of whom is proprietor of a visible estate real
& Personal of the Value of \$300. at the least. at the least. to recognize on
their Oaths, whether the aforesaid Robert Stoy be guilty of the Murder
aforesaid, or not, and have them there the names of the said freeholders, and
this writ, Witness Henry J. Gambill Clerk of our said Court. the 9th
day of April 1835 and in the 59th year of the Commonwealth

H. J. Gambill

Cometh
E. Keniro facias
R. 1804

To May. Supr. Court.

Isaac Linnemann, John Rice Jr, Samuel Heath
-langer, George Brown, Jacob Wiley, Abraham
-Brenneman, James Dean, William Boutwell, Phil
-lipo Payne, Gabriel Payne, Emmae Saenger & Dan
-iel Getty
Wm. L. Johnson & Co.