June Term 1921

MOHLER KITE

ADS

Indictment for a Felony

COMMONWEALTH

June Term 1921

Frank H. Sherer
C. L. Burner
W. S. Burner
L. J. Strickler
R. J. Huffman
Chas. Brock
Hubert White
G. D. Bokes
Geo. W. Shaver
D. L. Huffman
C. H. Zeigler
Jas. E. Linkey

Virginia, Rockingham County, towit;

Be it remembered that this day came Moler Kite and H. J. Kite, came before me, H. W. Bertrum, Bail Commissioner for Rockingham County, and, severally and respectively, acknowledged themselves indebted to the Commonwealth of Virginia, in the sum of $2000.00 to be levied of their respective goods and chattels, lands and tenements, for the use of the use of the Commonwealth rendered, at the same time waiving their homestead exemption as to this obligation, and all claim to discharge any liability arising to the Commonwealth under this recognizance, with coupons detached from the bonds of this State. The surety herein having first justified, under oath, as to his sufficiency.

Yet upon this condition, that if the said Moler Kite shall personally appear before the Circuit Court of Rockingham County Virginia on the 1st day of Monday in May the April Term 1921, at Harrisonburg Va at 10 o'clock a. m., then and there to answer the Commonwealth for and concerning Felony of which he stands charged and shall not depart therefrom without leave of said Court, then this recognizance to be void, otherwise to remain in full force and virtue.

Taken and acknowledged before me this 30 day of March, 1921.

H W Bertrum B. C.

Certified to the Clerk of the Circuit Court of Rockingham County, Virginia.

INSTRUCTION NO.___

The Court instructs the jury that in this case,as in all criminal cases,the prisoner's plea of not guilty raises a presumption of innocence in his favor and puts upon the Commonwealth the burden of proving his guilt beyond reasonable doubt. If therefore,upon a consideration of the whole case,the testimony of the witnesses and the circumstances proven in evidence ,there exists in the minds of the jury a reasonable doubt as to the guilt of the accused,they should find him not guilty.

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INSTRUCTION NO.___

The Court instructs the jury that they are the judges of the credibility of the witnesses, and that in determining the weight to be given to the testimony of the different witnesses they are authorized to consider their interest in the result of the case, if they have any; their relationship to the parties concerned; their temper, feeling, or bias, if any has been shown; their demeanor while testifying; their intelligence; their means of information; the reasonableness or unreasonableness of their statements; and all other circumstances appearing on the trial; and to give such credit to the testimony of the different witnesses as under all the circumstances the jurors think they are entitled to.

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The court instructs the jury that penetration of a boy, with or without his consent, by a man, against the order of nature, with or without emission, constitutes buggery;- and the offense is completed by the smallest penetration.

If the jury find the accused, Mohler Kite, not guilty; they will say so and no more.

If they find him guilty of the crime of buggery as charged in the indictment they will say so and ascertain his punishment by confinement in the penitentiary not less than one nor more than three years.

If they find him not guilty of buggery but guilty of simple assault and battery upon the boy Alfred Coughlin, they shall say so and ascertain his punishment by confinement in jail not exceeding twelve months or by fine not exceeding $500.00; either or both.

Certificate of Commitment for Trial.—News-Register.

VIRGINIA--County of Rockingham, To-wit:

To the Clerk of the Circuit Court of said County:

W L Bruce & R H Bridges, a Justices of the Peace of said county, do hereby certify that I have this day committed Molus Kite to the jail of said county, that he may be tried before the circuit court of said county, for a felony by him committed, in this, that he, on the 12 day of Feb, 1931, in the said county of Rockingham did Felonously make an assault upon one Alfred Coughlein a Male Child about the age of thirteen and then and there Feloniously did Commit the Detestable and abominable Crime of Buggery by then and there having Carnal Knowledge of the Body of the said Alfred Coughlein against the laws of Nature

Given under my hand and seal this 30 day of Mar 1931

L W Bruce, J. P. [L. S.]

R. H. Bridges J.P.

Clerk

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News-Register Co.
Harrisonburg, Va. | Commitment.

VIRGINIA, COUNTY OF Rockingham TO-WIT:

To W B Lucas a Deputy Sheriff ~~Constable~~ of said County, and to the Keeper of the Jail thereof:

Whereas Molor Kite was this day found guilty before ~~me~~ G H Bruce & R H Bridges justices of said county, of a ~~misdemeanor~~ felony, for this, that he, the said Molor Kite, on the 17 day of Feb, 1921, in said county, did Felonously make an assault upon one Alfred Coughlen a male Child about the age of Thirteen, and then and there Felonously did Commit the detestable and abominable Crime of Buggery by then and there having Carnal Knowledge of the body of said Alfred Coughlen against the Laws of Virginia, and I, the said justice, ~~adjudged that he should pay a fine of~~ find sufficient evidence of Guilt ~~dollars and~~ and Send on the Grand Jury for farther ~~cents, for the said offence, and~~ dollars ~~and~~ investigation ~~cents, the cost of prosecution; and the said~~, ~~being so convicted, and being now required by law to pay the said fine and costs, has not paid the same, but wholly failed to do so:~~

These are, therefore, in the name of the Commonwealth of Virginia, to command you, the said ~~constable~~ Sheriff, to take the said Molor Kite, and convey him to the jail of said county, and there deliver him to the keeper thereof, together with this warrant; and to command you, the keeper of the said jail, to receive the said Molor Kite into your custody in the said jail, and him there safely keep, until he shall have ~~paid said fine and costs~~, or until he be otherwise discharged by law.

Given under my hand and seal, this 30 day of Mar, 1921

G H Bruce
R H Bridges J.P., J. P. [L. S.]

[For the collection of a fine and costs, a justice may either—(1) commit to jail, as in above form, or (2) take security for payment of same within 30 days, for which purpose an endorsement on the warrant, with date, of the name of the surety and the amount, is sufficient; or (3) merely certify the fine and costs to the clerk of the circuit court, who first issues a fi. fa., and, if it proves ineffectual, then a capias—see Code, sec's 717-18, amended, Acts 1899-1900, p. 544, and Acts 1903-4, p. 605, and sec's 719, 727. In case surety is given, add to the judgment the following: "And ..... thereupon acknowledged himself as surety for the said ..... for the payment of said fine and costs, to the clerk of the circuit court of said county, within thirty days from date hereof." For form of monthly certificate of fines to clerk, see Hurst's Guide & Manual, p. 397, No. 171. For how and when person in jail for fine, released, see Code, sec's 4754-5, amended, Acts 1916-6, p. 686.]

Commutment
Motor Rate

Arrest Warrant

COMMONWEALTH OF VIRGINIA,
ROCKINGHAM COUNTY, } TO-WIT:

To W. E. Lucas, Deputy Sheriff, a Constable of said County:

Whereas, J. W. Coughlin of the said County, has this day made complaint and information on oath before me, T. H. Bruce a Justice of said County, that Moler Kite of the said County, on the 12 day of Feb, 1921, in the said County, did feloniously make an assault upon one Alfred Coughlin a male child about the age of Thirteen, and then and there feloniously did commit the detestable and abominable crime of buggery, by then and there having carnal knowledge of the body of the said Alfred Coughlin against the laws of Nature

These are therefore, in the name of the Commonwealth of Virginia, to command you forthwith to apprehend and bring before me, or some other Justice of the said County, the body of the said Moler Kite to answer the said complaint and to be further dealt with according to law. And you are required to summon

to appear and give evidence in behalf of the Commonwealth, on the examination touching the said offence.

Given under my hand and seal this 16 day of Feb, in the year 1921

T. H. Bruce J. P. (Seal)

Press of Rockingham Publishing Co., Harrisonburg, Va.

Defendants wit.
Loyd Beasley
James Keyser
Gilbert Strickler
Frank Phillips

Commonwealth
A B Oberstreet wit
Dr. P. G. Hundley
Dr R C Shuler
Geo. Wiseman
H. O. Turner
E J Bumgardner
B F. Judd
M T Tate
James Madison
Mrs. J W Coughlin
L F Bailey

Oct. 8 1921

June 1921

Commonwealth

vs. } Arrest Warrant

Jno. Coughlin & Moler Kite

Executed the within warrant by arresting and delivering the body of

before ..... a Justice of Rockingham County, and by summoning the within named witnesses in person this ..... day of ..... 192.....

Constable of Rockingham County.

Moler Kite brought before me and went into Recognizance as H J Kite security for the sum of Five Hundred dollars for the Security Kite for said appearance on the 30th day of Nov 1921
This 8th of Nov 1921
L H Bruce J.P.

This Case heard by us before us and there evidence of Guilt and Sustained by us and the defendant sent over to the Grand Jury for further examination & costs in this Case before us $28.70
This the 30 day of Nov 1921
L H Bruce J.P.
C H Bridger J.P.

Cosmo
75-

Mohler Veite

1 Frank H. Driver
2 C. L. Burner
3 W. B. Burner
4 L. J. Strickler
5 S. G. Huffman
6 Chas. Brooks
7 Hubert White
8 G. D. Baker
9 Geo. W. Shaver
10 H. L. Huffman
11 C. H. Geiger
12 Jas E. Lickey

Refused

INSTRUCTION NO._____

The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury, and the Law is that where a number of witnesses testify directly opposite to each other the jury is not bound to regard the weight of the evidence as equally balanced, the jury have the right to determine from the appearances of the witnesses on the stand, their manner of testifying, and their apparent candor and fairness, their apparent intelligence, and from all the other surroundings, circumstances appearing on the trial, which witnesses are more worthy of credit and to give credit accordingly.

Refused

INSTRUCTION NO._____

The Court further instructs the jury that in determining the weight to be given the testimony of different witnesses in this case, the jury are authorized to consider the relationship of the witnesses to the parties, if the same is proved, their interest if any in the result of the case, their temper feeling or bias, if any has been shown; their demeanor while testifying, their apparent intelligence, the reasonableness or unreasonblenss of their story, their means of information, and to give such credit to the testimony of such witnesses as under all the circumstances such witnesses seem to be entitled.

Copy

Refused

INSTRUCTION NO._____

The Court instructs the jury that the law presumes the accused to be innocent, until he is proven guilty, beyond all reasonable doubt, and if there is upon the minds of the jury any reasonable doubt of the guilt of the accused, the law makes it their duty to acquit him. His guilt is not to be inferred, although the facts proven may be consistent with his guilt, but in order to convict him, they must be inconsistent with his innocence.

Mere suspicion or probability of his guilt, however strong, is not sufficient to convict, nor is it sufficient if the greater weight or preponderance of the evidence supports the charge in the indictment, but to warrant his conviction, his guilt must be proven so clearly that there is no reasonable theory consistent with the evidence upon which he can be innocent.

Am
J
Bartholomäus
Quedlinburg Pfr
Dryer Meiner

STATE OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of said county:

The grand jurors in and for the body of said county of Rockingham and now attending said court at its April term, 1921, upon their oaths, do present that Mohler Kite on or about the 12 day of Feby, 1921, in the said County, did feloniously make an assault upon one Alfred Coughlin, a male child about 12 yrs. of age, and then and there feloniously did commit the detestable and abominable crime of buggery, by then and there to-wit, on the day and year aforesaid, in the County aforesaid, feloniously having carnal knowledge of the body of the said Alfred Coughlin, against the order of nature, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of Alfred Coughlin, Dr. T. G. Hundley, J. W. Coughlin, F. D. Turner and E. J. Bumgardner, witnesses sworn in Court and sent to the grand jury to give evidence.

Commonwealth

vs) Indictment

Mohler Kite

A Felony

A true bill.

J. A. Gable

Foreman

We the jury find the prisoner not guilty

Frank H. Drew, Foreman

D. W. Tarman

Commonwealth's Attorney.

Bryan

We the jury find the prisoner, Mohler Kite, not guilty.

Frank H. Drew, Foreman.