It appearing to the Court that additional jurors will be required for the trial of the case of the Commonwealth against Jno. P. Rhodes, charged with a capital felony, it is ordered that twenty four additional jurors from a list of twenty seven, to be drawn by the clerk of the Court as the law directs, be summoned to attend the Court on Monday the 10th day of the current month, for the trial of that case and such others as they may be required for.

TO THE SHERIFF OF ROCKINGHAM COUNTY, VIRGINIA.

The following list of persons of the County of Rockingham, residing remote from the place where the offense is charged to have been committed, and in other respects qualified to serve as Jurors, is furnished you, from which you shall take the 15 *Veniremen summoned by you to serve as Jurors upon the trial of* Jos.P.Rhodes, *charged with felony, set for the* 11th *day of* Nov. *, 19* 24 *, of the Circuit Court of Rockingham County.*

H.E.Crow Phoned A.

O.K.Earley A. Phoned

J.S.Good A. Phoned

F.E.Wine A. Phoned

E.M.Mannick Phoned. P.

W.S.Armentrout Phoned L. 85-F11

H.R.Eiler Told C. ✓

W.T.Hinton Phoned C 58F4

Guy W.Long Phoned C.

O.L.Burtner Present C.

W.H.Burtner C. 83F12

I.S.Ewing Phoned H.

C.F.Saufley Phoned. S.

J[redacted] W.Funkhouser S. Phoned.

~~John M.Good Ex S.~~

Form 54—Berlin.

Executed Nov. 18 1824 by delivering a true Copy of the within Summons to to within named witnesses each in person.

C. W. Dove, S. R. C.

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ROCKINGHAM COUNTY—GREETING:

You are hereby commanded to summon Fifteen *persons of the county of Rockingham, to be taken from a list furnished by the Judge of the Circuit Court of Rockingham County residing remote from the place where the offense is charged to have been committed, and qualified in all other respects, to serve as jurors, to attend and appear before the Circuit Court of Rockingham County, at the County Court House, on the* 11th *day of* Nov. *1924, to serve as jurors upon the trial of* Joseph P. Rhodes *charged with felony.*

And this they shall in no wise omit, under the penalty of £100. And have then and there the names of said persons and this writ.

Witness, J.F. Blackburn *, Clerk of our said Court, at the Court House, the* 10th *day of* Nov. *, 19* 24 *and in the* 149th *year of the Commonwealth.*

J.F. Blackburn *Clerk.*

Form 199—Berlin.

The case of the Commonwealth against Jas. P. Rhodes, docketed for trial on Tuesday June 17th, being a capital case in which a number of the jurors drawn will have to be excused from serving, it is ordered that thirty jurors be summoned for said case from a list of thirty jurors to be drawn and summoned as the law directs. Given under my hand this 7th day of June 1924.

J. R. Hoos, Judge of the Circuit Court of Rockingham Co.

J. D. H. Blackburn,
Clerk of the Circuit Court of Rockingham County.

mmmqmqmqmjmqmqmwuwueyetrtyuioop;lkjhgf

manejdhfgtryyruqieowcwovmcu lhe

bb

84

16.00
4.80
20.80

8.00
4.00
4.00
16.00

4.80

81

INSTRUCTION NO. 1

The Court instructs the jury that if they believe from the evidence that Martha Phillips died on September 29, 1923, as a result of having been raped by Joseph E. Rhodes, near Z. F. Armentrout's mail box on September 21, 1923, then they will find him guilty of murder in the first degree.

INSTRUCTION NO. 2.

The Court instructs the jury that rape is the carnal knowledge of a female by force and against her will, and the Court further tells the jury that force must be such as may reasonably be supposed adequate to overcome the physical resistance of the woman upon whom the rape is charged to have been committed, taking into consideration the relative strength of the parties and other circumstances of the case. The Court further instructs the jury that where there is no resistance by the female by reason of her being incapable of resistance, the mere force of penetration is sufficient, when against her will, to constitute rape.

See Clarks Crim. Law. p. 217.

INSTRUCTION NO. 3

The Court instructs the jury that involuntary manslaughter is when one in the performance of an unlawful act causes the death of another by accident, and it is involuntary manslaughter even though the person killed participates in the unlawful act.

INSTRUCTION NO. 4

The Court instructs the jury that dying declarations are legal and competent evidence and entitled to such weight or credit as the jury sees fit to give them.

O'Byle's case 100 Va. 795.

INSTRUCTION: A.

The Court instructs the jury that the law presumes the accused to be innocent until he is proved guilty beyond 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, and that 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 evidence supports the charge in the indictment, but to warrant his conviction, his guilt must be proved so clearly, and the evidence thereof be so strong, as to exclude every reasonable hypothesis of his innocence. And this instruction applies both to the charge that the accused had sexual intercourse with Martha Phillips on the 21st day of September, 1923, and that the same was the inducing cause of the peritonitis from which she died, or a cause accelerating her death from peritonitis.

But even though they may so believe, they cannot convict him of murder unless they further believe beyond every reasonable doubt that such sexual intercourse was by force and against the will of the said Martha Phillips.

INSTRUCTION B.

The Court instructs the jury that it is not sufficient to a conviction of the accused of any offense under the indictment that they may believe from the evidence that the accused had sexual intercourse with Martha Phillips on the 21st day of September, 1933, even though such intercourse may have been by force and against her will, unless they further believe beyond all reasonable doubt from the evidence that such act of intercourse produced or aggravated peritonitis in the said Martha Phillips and thereby caused or accelerated her death.

INSTRUCTION C.

The Court instructs the jury that though they believe from the evidence beyond all reasonable doubt that the death of Martha Phillips resulted from sexual intercourse with her by the accused, yet unless they further believe from the evidence that such intercourse was by force and against her will they cannot find him guilty of murder.

INSTRUCTION D.

The jury are instructed that even though they may believe from the evidence that the accused, on September 21st, 1925, had sexual intercourse with Martha Phillips, whether ~~within~~ by force and against her will, or by and with her consent, and that she at that time already had septicemia or peritonitis, and that it is possible or probable that such intercourse caused an increase of the infection which resulted in her death, yet, if they believe from the evidence that it is also probable that such death resulted from such infection independently of such intercourse, they must find the accused not guilty.

In the Name of the Commonwealth of Virginia Shenandoah

To the Sheriff of ~~Rockingham~~ County, Greeting:

You are hereby commanded to summon

Dr. R.McCord Huffman

New Market, Va.

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 17th *day of* June *19* 24 *to testify and the truth to say in behalf of the Commonwealth against*

Joseph P.Rhodes

who stands charged with and indicted for a felony ~~MISDEMEANOR~~

And this he *shall not omit under the penalty of £100. And have then and there this Writ.*

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 11th *day of* June *, 1924, and in the 14 8 th year of the Commonwealth.*

J. F. Blackburn, *Clerk.*

News-Record, Harrisonburg, Va.

Executed the within suits by delivering in person a true copy of the within suits on the 13th day of June 1924

B. M. Bodeen D.P.C.S

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Dr R. McC. Heffman

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 21 *day of* April *19*24*,*

to testify and the truth to say in behalf of the Commonwealth before the Grand Jury

Joseph P. Rhodes

who stands charged with and indicted for a ~~*felony*~~ *misdemeanor.*

And this he *shall not omit under the penalty of £100. And have then and there this Writ.*

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 17 *day of* April *, 19*24*, and in the* 14 *th year of the Commonwealth.*

J. F. Blackburn, *Clerk.*

News-Record, Harrisonburg, Va.

Executed the within writ
by delivering to Geo. Effey of the within
named defendants within mentioned
and by leaving with Mrs. Effey
one of the defendants a copy thereof
this 14th day of April 1924

J. M. Brown S.P.C.

Writ Sps.
Grand Jury
April 21, 1924

To -
R. McC. Hoffman

Apr. 21, 1924

In the Name of the Commonwealth of Virginia:

To the Sheriff of ~~Rockingham~~ Shenandoah County, Greeting:

You are hereby commanded to summon

M. H. Turning

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 17th *day of* June *19*24 *to testify and the truth to say in behalf of the Commonwealth against*

Joseph Rhodes

who stands charged with and indicted for a felony misdemeanor.

And this he *shall not omit under the penalty of £100. And have then and there this Writ.*

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 12th *day of* June *, 19*24*, and in the 14*8*th year of the Commonwealth.*

J. F. Blackburn *, Clerk.*

News-Record, Harrisonburg, Va.

M. H. Tusing

In the Name of the Commonwealth of Virginia:

To the Sheriff of ~~Rockingham~~ Shenandoah County, Greeting:

You are hereby commanded to summon

M. H. Turing

New Market.

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 17th *day of* June *19*24

to testify and the truth to say in behalf of the Commonwealth against

Joseph P. Rhodes

who stands charged with and indicted for a felony misdemeanor.

And this he *shall not omit under the penalty of £100. And have then and there this Writ.*

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 12th *day of* June *, 19*24 *and in the* 148 *th year of the Commonwealth.*

J. F. Blackburn *, Clerk.*

News-Record, Harrisonburg, Va.

Com.

vs.

Jas. P. Rhodes.

Filed & Recorded in my Bailiwick
June 14th 1924
[illegible] Brockenbrough

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

J. E. Phillips, G. F. Layman, M. H. Turner,
Jacob R. Shultz, Dr. A. W. Graves,
Dr. R. M. Huffman, Z. F. Armentrout,
Ora L. Armentrout, Geo. S. L. Baugher,
Wm. Sellers, Virgie Shultz.

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 18th *day of* Feb. *19*24

to testify and the truth to say in behalf of the Commonwealth before the Grand Jury

Joe P. Rhodes

who stands charged with ~~and indicted for~~ *a felony* ~~misdemeanor~~.

And this they shall not omit under the penalty of £100. And have then and there this Writ.

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 12 *day of* Feb. *, 192*4 *and in the 14*8*th year of the Commonwealth.*

J. F. Blackburn, *Clerk.*

Nono-Record, Harrisonburg, Va.

Executed Feb. 13, 1924 by delivering a copy of this summons to J. E. Phelps, J. E. Hargrave, Jacob P. Rhodes, J. W. Davis, J. W. Clements, J. W. Dennis, Clements Coal Co., J. C. Dennis, Wm. Sullivan and Virginia Pocahontas Pension, Wm. Sullivan and Virginia Pocahontas Pension, M. N. Hufman and M. N. Hufman not found in my bailiwick.

Com.
To
Joe P. Rhodes.

Sheriff fee $4.40

Feb. 18, 1924
Grand Jury

COMMONWEALTH

v.

JOSEPH P. RHODES

Charge to the Jury.

If the jury find the accused, Joseph P. Rhodes, not guilty, you will say so and no more.

If you find him guilty of murder in the first degree, as charged in the indictment, you will say so and ascertain his punishment with death, or by confinement in the penitentiary for life, or for any term not less than twenty years.

~~If you do not find him guilty of murder in the first degree, but guilty of murder in the second degree, then you will say so and ascertain his punishment by confinement in the penitentiary not less than 5 nor more than 20 years.~~

~~If you do not find him guilty of either of the felonies aforesaid, but guilty of voluntary manslaughter, then you will say so and ascertain his punishment by confinement in the penitentiary not less than 1 nor more than 5 years.~~

If you do not find him guilty of ~~any of the felonies aforesaid,~~ murder in the first degree, but guilty of involuntary manslaughter, then you will say so and ascertain his punishment by confinement in the penitentiary not less than 1 nor more than 5 years; or, in your discretion, by a fine not exceeding $1,000, or by confinement in jail not exceeding 1 year, or both such fine and imprisonment.

Commonwealth

v.

Joseph P. Rhodes

Charge to the Jury.

INSTRUCTION NO. 1

The Court instructs the jury that if they believe from the evidence that Martha Phillips died on September 29, 1923, as a result of having been raped by Joseph P. Rhodes, near Z. F. Armentrout's mail box on September 21, 1923, then they will find him guilty of murder in the first degree.

INSTRUCTION NO. 2.

The Court instructs the jury that rape is the carnal knowledge of a female by force and against her will, and the Court further tells the jury that force must be such as may reasonably be supposed adequate to overcome the physical resistance of the woman upon whom the rape is charged to have been committed, taking into consideration the relative strength of the parties and other circumstances of the case. The Court further instructs the jury that where there is no resistance by the female by reason of her being incapable of resistance, the mere force of penetration is sufficient, when against her will, to constitute rape.

See Clarks Crim. Law. p. 217.

INSTRUCTION NO. 3

The Court instructs the jury that involuntary manslaughter is when one in the performance of an unlawful act causes the death of another by accident, and it is involuntary manslaughter even though the person killed participates in the unlawful act.

INSTRUCTION NO. 4

The Court instructs the jury that dying declarations are legal and competent evidence and entitled to such weight or credit as the jury sees fit to give them.

O'Byle's case 100 Va. 795.

INSTRUCTION: A.

The Court instructs the jury that the law presumes the accused to be innocent until he is proved guilty beyond 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, and that 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 evidence supports the charge in the indictment, but to warrant his conviction, his guilt must be proved so clearly, and the evidence thereof be so strong, as to exclude every reasonable hypothesis of his innocence. And this instruction applies both to the charge that the accused had sexual intercourse with Martha Phillips on the 21st day of September, 1925, and that the same was the inducing cause of the peritonitis from which she died, or a cause accelerating her death from peritonitis.

But even though they may so believe, they cannot convict him of murder unless they further believe beyond every reasonable doubt that such sexual intercourse was by force and against the will of the said Martha Phillips.

INSTRUCTION B.

The Court instructs the jury that it is not sufficient to a conviction of the accused of any offense under the indictment that they may believe from the evidence that the accused had sexual intercourse with Martha Phillips on the 21st day of September, 1923, even though such intercourse may have been by force and against her will, unless they further believe beyond all reasonable doubt from the evidence that such act of intercourse produced or aggravated peritonitis in the said Martha Phillips and thereby caused or accelerated her death.

INSTRUCTION C.

The Court instructs the jury that though they believe from the evidence beyond all reasonable doubt that the death of Martha Phillips resulted from sexual intercourse with her by the accused, yet unless they further believe from the evidence that such intercourse was by force and against her will they cannot find him guilty of murder.

INSTRUCTION 6.

The Court instructs the jury that though they believe from the evidence beyond all reasonable doubt that the death of Martha Phillips resulted from sexual intercourse with her by the accused, yet unless they further believe from the evidence that such intercourse was by force and against her will they cannot find him guilty of murder.

INSTRUCTION D.

The jury are instructed that even though they may believe from the evidence that the accused, on September 21st, 1923, had sexual intercourse with Martha Phillips, ~~weither~~ whether by force and against her will, or by and with her consent, and that she at that time already had septicemia or peritonitis, and that it is possible or probable that such intercourse caused an increase of the infection which resulted in her death, yet, if they believe from the evidence that it is also probable that such death resulted from such infection independently of such intercourse, they must find the accused not guilty.

INSTRUCTION No. 2

The court instructs the jury that the evidence touching the relations of the accused and Martha Phillips before the 21st day of September, 1923, can be considered by them only in so far as they may believe it to throw light upon the question whether or not the accused on that day had sexual intercourse with her, and whether, if so, the same was, or was not, by force and against her will; and they cannot upon the basis of such evidence convict him of any offense not charged in the indictment.

Instruction No. 8

The court instructs the jury that the evidence tending to show the conduct and acts of the Phillips before the date of September, 1920, can be considered by them only in so far as they may believe it to throw light upon the question whether or not the accused on that day had sexual intercourse with her, and whether, if so, the acts and, if was not, by force and against her will; and they cannot base the basis of such evidence convict him of any crime not charged in the indictment.

11

INSTRUCTION No. 4

The court instructs the jury that if they have a reasonable doubt as to the grade of the offense of which the accused may be guilty, if they believe from the evidence beyond a reasonable doubt that he is guilty at all, they should resolve that doubt in his favor and find him guilty of the lower grade; to illustrate, if they have a reasonable doubt as to whether he is guilty of murder in the first degree or manslaughter, they should find him guilty of manslaughter, and if they have a reasonable doubt as to whether he is guilty at all, they must resolve that doubt in favor of the accused and acquit him.

We the Jury find the accused,
Jas P. Rhodes, guilty as charged
in the indictment of involuntary
manslaughter and fix his punishment
at 5 years in the Penitentiary

W. L. Mangum
Foreman

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

C. W. Allebaugh, D. A. Brock, S. E. Sirk, C. E. Armentrout, Robert Higgs, Layton Bennett, Mrs. Layton Bennett, J. T. Reid, Clinton Armentrout, Jacob R. Shultz, Vergie Shultz, Mrs. Everet Shipp, Wade Armentrout, Hinton Armentrout, J. J. Cole

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House, at 10 o'clock, a. m., on the 10 *day of* Nov. *19*24 *to testify and the truth to say in behalf of the Defendant in the prosecution of the Commonwealth, Plaintiff, against*

Joseph P. Rhodes *Defendant*

And this they *shall not omit under the penalty of £100. And have then and there this Writ.*

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 4 *day of* Nov. *19*24 *and in the* 149 *th year of the Commonwealth.*

J. F. Blackburn, *Clerk.*

News-Record, Harrisonburg, Va.

Jas. P. Rhodes
ads
Commonwealth

E. D. Ott

Sheriff fee $7.50

Nov. 10, 1934

Execution _____ NOV 8 1934 _____ by delivering a true Copy of the

within Summons to _____

in person

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Dr. A. W. Graves & Rev. S. L. Baughes

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 26 *day of* Feby *19*24*,*

to testify and the truth to say in behalf of the Commonwealth before the Grand Jury

Joseph P. Rhodes

who stands charged with and indicted for a felony misdemeanor.

And this day *shall not omit under the penalty of £100. And have then and there this Writ.*

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 23 *day of* Feby *, 19*24*, and in the* 148 *th year of the Commonwealth.*

J. F. Blackburn *, Clerk.*

News-Record, Harrisonburg, Va.

Executed Feb. 23, 1923 by delivering
a copy of this summons to Dr. A. W. Graves
and Rev. S. L. Baugher in person,

C. W. Howe, S. P. C.

~~[illegible]~~
Com.
U. S.
Joseph R. Rhodes

Grand Jury

Sheriff's Fee, $0

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Jas. Aiken!
Mrs. J. R. Campbell

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 11 *day of* Nov. *19*24

to testify and the truth to say in **behalf of the Commonwealth** *against*

Joseph P. Rhodes

who stands charged with and indicted for a felony ~~*misdemeanor.*~~

And this They *shall not omit under the penalty of £100. And have then and there this Writ.*

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 10 *day of* Nov. *, 192*4 *and in the* 149*th year of the Commonwealth.*

J. F. Blackburn, *Clerk.*

News-Record, Harrisonburg, Va.

Comm.
vs
Jos. P. Rhodes

Sheriff fee 1.00

Nov. 11, 1924

NOV 1 1 1924

Executed _____ by delivering a true Copy of the within Summons to Mrs. W. C. Campbell & James Acker

Cash in advance.

Jas. Dove, Deputy
for S. W. Dove, S. N. C.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

J.E.Phillips,G.F.Huffman,[redacted],Jacob R.Shultz,A.W.Graves,
Z.F.Armentrout,Oss L.Armentrout,S.L.Baugher,Wm.Sellers,
Virgie Shultz,John Cromer,Maude Rhodes,Compton Koontz,
Robert Carrier,Henry Carrier

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 17th *day of* June *19* 24
to testify and the truth to say in behalf of the Commonwealth against

Joseph P.Rhodes

who stands charged with and indicted for a felony misdemeanor.

And this he *shall not omit under the penalty of £100. And have then and there this Writ.*

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 11th *day of* June *, 1924, and in the 14 8 th year of the Commonwealth.*

J F Blackburn, *Clerk.*

News-Record, Harrisonburg, Va.

Executed June 14, 1924 by delivering a copy of this summons to the within named defendant in person.
Jas. Dove, Deputy
for B. W. Dove, S.R.C.

Com.

vs

Jos. P. Rhodes

9

Sheriff fee 7.00

5.20
7.00
4.50
8.50
25.20

June 17 1924

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

J. E. Phillips, J. F. Layman, Jacob R. Shelly, Dr. A. W. Grove, G. D. Armentrout, Eva L. Armentrout, Rev. C. L. Bougher, Wm. Sellers and Verpie Shelly

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 21st *day of* April *19*24 *to testify and the truth to say in behalf of the Commonwealth before the Grand Jury*

Joseph P. Rhodes

who stands charged with and indicted for a felony misdemeanor.

And this they *shall not omit under the penalty of £100. And have then and there this Writ.*

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 17 *day of* April, *19*24, *and in the* 147 *th year of the Commonwealth.*

J. F. Blackburn, *Clerk.*

News-Record, Harrisonburg, Va.

Com -
vs - Grand Jury Sbpe
Joseph P Rhodes

Executed April 17, 1924. by delivering a copy of this summons to the within named witnesses in person.
John Doane, Deputy
for E. W. Doane, S.R.C.

REC'D

Sheriff fee 4.50

April 21, 1924

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon R. McCord Huffman, Burke Armentrout, Russell Carrier, J. E. Phillips, H. F. Kaufman, Jacob R. Shultz, Dr. A. W. Graves, Z. F. Armentrout, Ora L. Armentrout, Wm. Sellers, Virgie Shultz, John Cromer, Compton Koontz, Maude Rhodes, Robert Carrier, Mrs. Robert Carrier, Henry Carrier

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 10 *day of* Nov. *192*4 *to testify and the truth to say in* **behalf of the Commonwealth** *against*

Jas. P. Rhodes

who stands charged with and indicted for a felony ~~misdemeanor~~.

And this they *shall not omit under the penalty of £100. And have then and there this Writ.*

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 4 *day of* Nov. *, 192*4*, and in the 14*9*th year of the Commonwealth.*

J. F. Blackburn, *Clerk.*

News-Record, Harrisonburg, Va.

NOV 8 1924 by delivering a true Copy of the

within Summons to within named Defendant

~~each~~ in person.

Jas. Dove, Deputy
for E. W. Dove, S.R.C.

Case

vs

Jas. P. Rhodes

Shippee $5.50

In person

within Building to

Executed: _____ by delivering a true copy of the

Nov. 10, 1924

Withdrawn

The jury are instructed that it is sufficient to entitle the accused to an acquittal if when the whole evidence shall have in the minds of the jury a reasonable doubt either (1) that the accused committed sexual intercourse with Martha Phillips on the 21st day of September 1922 or (2) that her death resulted from peritonitis caused by the impact of his body upon hers or the insertion of his male organ into her private parts.

12

Ref.

INSTRUCTION No._____

The court instructs the jury that though they believe the evidence in this case is consistent with the defendant's guilt, yet before they can convict the accused of any offense under the indictment they must also be satisfied that the facts are such as to be inconsistent with any other rational conclusion than that the accused is guilty.

INSTRUCTION No._____

The court instructs the jury that though they believe the evidence in this case is consistent with the defendant's guilt, yet before they can convict the accused of any offense under the indictment they must also be satisfied that the facts are such as to be inconsistent with any other rational conclusion than that the accused is guilty.

7

INSTRUCTION No._____.

The jury are instructed that the defendant'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 all reasonable doubt. Nothing is to be presumed or taken by implication against him; no mere preponderance of evidence will suffice, nor is it enough that by conjecture or speculation he may be supposed to be guilty, but the jury must be satisfied that he is guilty beyond all reasonable doubt.

INSTRUCTION No._____.

The jury are instructed that the defendant's plea of not guilty [illegible] the burden of proving his guilt beyond all reasonable doubt. Nothing is to be presumed or taken by implication against him; no mere preponderance of evidence will suffice, nor is it enough that by conjecture or speculation he may be supposed to be guilty, but the jury must be satisfied that he is guilty beyond all reasonable doubt.

5

Ref.

INSTRUCTION No._____.

The court instructs the jury that the testimony of experts is admissible and is to be weighed by the jury in the same manner as the testimony of other witnesses, and that the jury have a right to consider the ~~personal~~ professional standing and experience of such witnesses in arriving at their verdict.

INSTRUCTION No._____.

The court instructs the jury that the testimony of experts is admissible and is to be weighed by the jury in the same manner as the testimony of other witnesses, and that the jury have a right to consider the personal standing and experience of such witnesses in arriving at their verdict.

6

Ref.

INSTRUCTION No._____.

The court instructs the jury that in view of the fact that the statement made by Martha Phillips, as testified to by witnesses for the Commonwealth, shortly prior to her death, was made under circumstances precluding the cross-examination of the said Martha Phillips and without the sanction of oath and in the absence of the accused, the same is to be considered by them with great caution.

8

Ref.

INSTRUCTION No._____.

The court instructs the jury that even though they may believe from the evidence beyond all reasonable doubt that Martha Phillips, in a dying declaration, stated that on September 21st, 1923, the accused at the mail-box, assaulted her and then and there had intercourse with her, she being too weak to resist him, and even though they may further believe beyond every reasonable doubt that such statement was true, the same is not sufficient as a basis of conviction of the accused of murder.

INTRODUCTION BY_____.

9

Refs.

INSTRUCTION No._____.

The court instructs the jury that the absence of any evidence showing that Martha Phillips made any complaint shortly after the occurrence of the alleged act of sexual intercourse by the accused with her, on the 21st day of September, 1923, that he had had such intercourse with her by force and against her will, is ground for a presumption that if any such intercourse had occurred, by and with her consent.

INSTRUCTION No._____.

The court instructs the jury that the absence of any evidence showing that Dorcia Phillips was any particular activity after the commission of the alleged act of sexual intercourse by the accused with her, on the 21st day of September, 1955, does not of itself mean that intercourse occurred by force and against her will, is proof of a presumption that such intercourse occurred, or and with her consent.

Def 1

INSTRUCTION No._____.

The court instructs the jury that even though they may believe from the evidence beyond all reasonable doubt that the accused on the 21st day of September, 1923, had sexual intercourse with Martha Phillips by force and against her will and that her death resulted from peritonitis, induced or aggravated by such sexual intercourse, they cannot find the accused guilty of murder, but if they believe beyond all reasonable doubt from the evidence that her death so resulted from such intercourse they may find him guilty of involuntary manslaughter.

Com

Jos. A. Phelps

Defense Counsel.

Ref. in brief

DOCUMENTATION NO. _____

Tuesday evening

Rhodes
Ex 7 H 7

Harrisonburg, Va.
Sep 1923.

My Dearest One

Just a few lines this lonely evening to let you hear from me I was feeling very good untill this eve I don't feel very good think it's something I eat for my dinner. I have to be so careful about my eating. if I just had you to love me I would feel fine. Oh! why can't it be true. we could be happey togather all the time why don't you think that way Jessie. what have you been doing sence I saw you? How many women have you had none I hope but I know better. where did you go Sunday night. I got your letter yesterday was awful glad to get a nice letter from my dear once again. I am always so glad to get sweet loving letters from you

They are going to fill Silo here tomorrow If I feel then like I do now I will sure be in bed. Oh! if I fall in your loving arms this evening and just lay there how happy I would be. right where I could get a sweet kiss from those dear lips every second. you dear why can't I be with you now instead of sitting here trying to write. She has gone down to the Kerlin place now. Wish I could have been down there at your place with you when you spoke of being there.

Love I feel to bad to write much this time so please spare a short letter answer real soon

Love and kisses. your loving girl now and forever

Martha.

(1)

Exp A

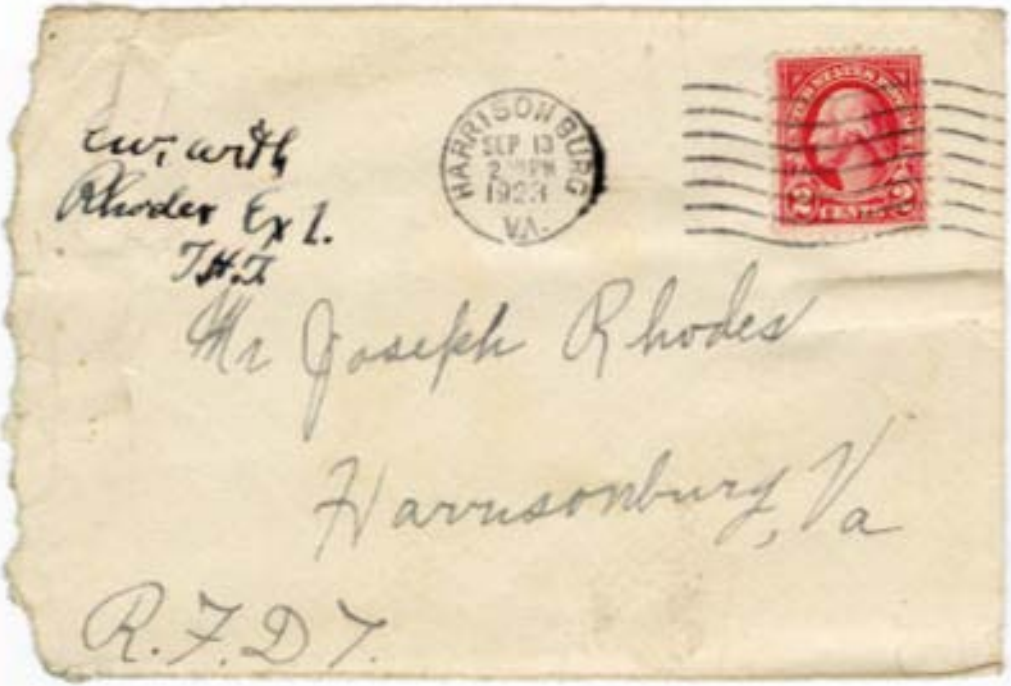
Harrisonburg Va
Sep 14, 1923

My Dearest Ane

Just a few lines this evening to let you hear from me I am in hopes you will go to the Post office tomorrow and get it. Joe dear I am in such a shape I don't know what to do. I am sick as can be and am getting the same treatment I got befor when I was here he is sitting here now giving me going I am so nervious and weak can hardly stand it. Say dear if you get this in time be sure and come up Sunday They are all going to Mt Sallon ~~except~~ except papa

now be sure and come I guess
you will go to the Office.
I ~~had~~ had one of the funniest
dreams some few nights ago
Will tell you some time.
Well dear I finished this
on Sat morning I am scared
Mary will miss the mail too
so I will have to come to close
I am real sick again this
morning certainly hope I will
soon be well.
I close ~~with~~ with love
and kisses
yours now and always

Martha


Encl with
Rhodes Ex 1.
T.H.T
HARRISONBURG
SEP 13
2 PM
1923
VA.
Mr Joseph Rhodes
Harrisonburg, Va
R.F.D 7.

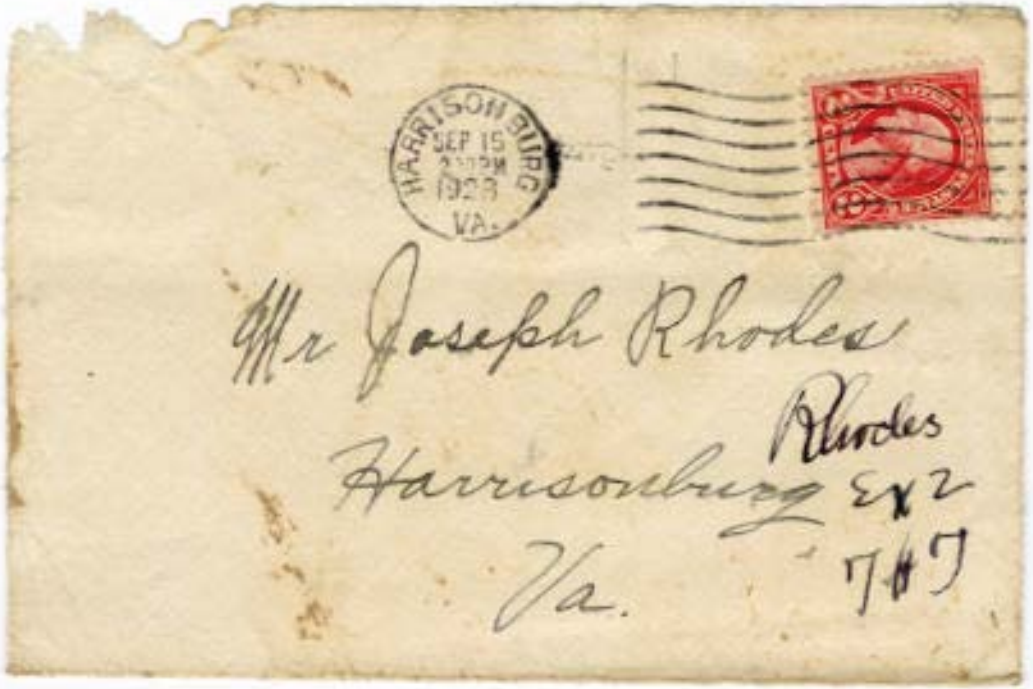
{Rhodes Ex 1.
JHJ}

Harrisonburg, Va.
Sept 13, 1928.

My Dear Joe

Will try and drop you a few lines this morning guess you have been thinking I had forgot you. Please excuse my long delay dear I have been in bed ever since Monday sick to is what I mean. papa went to town Tue got me some Md I am getting some better now. Hope you are not thinking hard of me for not writing dear for it sure wasnt wasnt because I didnt want to you know. What have you been doing since I saw you any way I bet I can guess, cant I?

I hope I cant though, when am
I going to see you soon I hope
it seems like it has been a year
sence saw you.
Listen now write me right
away for I am anxious
to hear from you. I told pa
if he saw you in town Tuesday
to tell you every-thing but
I dont think he saw you.
well dear it is now Mail
time so you will please
excuse a short letter
this time now ans soon
I remain now and alway
yours
Martha


HARRISONBURG
SEP 15
1928
VA.
Mr Joseph Rhodes
Rhodes
Harrisonburg Ex 2
Va.
747

AtCrosby Hotel where I was staying
Washington,D.C.

To Whom These Presents May Concern;

Miss.Martha.Henrietta.Phillips,Daughter of mr. J.E.Phillips,Harrisonburg,Route7,Va.

Dying Decleration Giving freely by Marthe,as following.And witnessed by Rev.S.L.Baugher,United Brethren Pastor Lacey Spring,Va, Mr.Z.F.Armentrout brother -in-law,Mrs.Gsa.Leatha. Armentrout sister,Mr.J.E.Phillips father,and Dr.A.W.Graves,her physician this I want Joe.P.Rhodes,Harrisonburg,R,7,Va purnished,and $17.00 was paid by Joe.Rhodes to Mrs.Laura.Bennett,wife of Layton Bennett,who's address is #314 Tulip Ave,Tacoma Park,Md.who did the criminal operation with/"This Instrument was Produced and acknowledged by Martha as "Instrument" was inserted in my womb at 8AM on Thursday 6th Sept-1923 and I removed said "INSTRUMENT" at 12Noon on 6Sept-1923,left for home on Friday 7-Sept-1923 arrived in Harrisonburg went to Campbell Hotel and had a "Child and After Birth" a little boy no Doctor or any one else was present when I give birth on Sat 8-Sept-1923;got up out of bed wraped child and after birth in paper put it into my grip and with Joe.P.Rhodes got into his car and threw it out in the woods near Linville,Va,came then to my sister's home and staid there all the time without revealing any thing to my people but I begin to get so sick on 21-Sept-1923 when I went to my brother -in Law's mail box and was assaulted then and there by Joe.P.Rhodes who had intercouses with me too weak to resist him and I fainted and Joe.after I come too put me into his car and Dumpt me out at Mr. Jacob.Shultz's Home/without getting or giving any notice to my people where I was so Dr.Graves came to see me at Mr.Shultz and took me home on "Stretcher"with my sister,broter-n-law ,and father to Mr. Z.F.Armentrout's Home,Mrs.Laura.Bennett was given this "instrument" by Gertrude.McWilliams Washington.D,C,being produced and given to Laura,to do criminal operation with,and I removed with this string which is attached to said "instrument" it from my womb at 12noon on 6-Sept-1923. Martha.do you want these parties punished yes Joe.P. Rhodes came to Harrisonburg with me on train.

Witness by the following parties by name as above here in stated, on morning of 29-Sept-1923 atabout 3AM.

Rev. S. L. Baugher. Pastor
Z F Armentrout

J. E. Phillips
Dr Aw Graves

COMMONWEALTH OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of said County:

The jurors of the Commonwealth of Virginia in and for the body of said County and now attending said Court at its April term, 1924, upon their oaths do present that Joseph P. Rhodes on the 21st day of September, 1923, in the County aforesaid, in and upon one Martha Phillips, an unmarried female, feloniously did make an assault, and that the said Joseph P. Rhodes then and there when the said Martha Phillips was weak and sick from theretofore having given premature birth to a child, and able to offer but little if any resistance, did unlawfully and feloniously by force and against her will have sexual intercourse with her, the said Martha Phillips, then and there by such unlawful act mortally injuring and wounding the said Martha Phillips in this that by the insertion by said Rhodes of his male organ into the vagina of said Martha Phillips and by the pressure of the body of saidRhodes upon the pelvis and abdomen of said Martha Phillips, in said act of intercourse, he caused the generative organs of said Martha Phillips to be bruised and injured and septic peritonitis to set up and arise within said Martha Phillips, of which mortal wound and injury she, the said Martha Phillips, from the said 21st day of September, in the year aforesaid, to the 29th day of September, in the year aforesaid, in the County aforesaid, did languish, and languishing did live, and on the said 29th day of September, 1923, in the County aforesaid, of the said mortal wound and injury died; and so the jurors aforesaid upon their oaths aforesaid do say that the said Joseph P. Rhodes of his malice aforethought, the said Martha Phillips in manner and form aforesaid, feloniously did kill and murder, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of J. E. Phillips, G. F. Layman, Jacob H. Shultz, Dr. H. McCord Huffman, Dr. A. W. Graves, E. F. Armentrout, Osa L. Armentrout, Rev. S. L.Baugher, William Sellers, and Vergie Shultz, witnesses sworn in court and sent before the grand jury to give evidence.

We the jury find the accused, Joseph P. Rhodes, guilty of involuntary manslaughter, as charged in the indictment and fix his punishment at five years in the penitentiary

W. L. Mangy
Foreman

{ and to get more credit
Witness
Prosecutor ~~[illegible]~~ to pay costs

Murder.

COMMONWEALTH
v.
JOSEPH P. RHODES

A VERDICT
A TRUE BILL
FOREMAN

NO Mang

Filed Feb. 27 1924

D. W. EARNAM,
COMMONWEALTH'S ATTORNEY.

Murder. #100

October Term 1927

COMMONWEALTH

vs. Felony

JOSEPH P. RHODES

Jury Oct. Term 1824

S. B. Bradley	1.5
Job. Evans Jr	2.8
W. J. Lippel	1.7
W. L. Gray	1.5
T. A. Rush	2.5
F. R. Rhodes	2.5
G. W. Baker	1.5
W. L. Mangy	3.5
C. B. Anthony	2.5
Hubert Wise	2.
J. B. Good	2.
F. E. Wine	2.
	26.

Sheriff Cost

Summ Jury 1.50

Extra venire 1.50

Summons 25.20

Arrest 1.50

29.70

Defendants Cost 8.52

38.22