L. H. BRUCE
JUSTICE OF THE PEACE
ELKTON, VA.

To Hon J F Bleudebrun

I am enclosing the Certificate of Commitment for Grand Jury of Central Decem. with the following Costs

| | |
|---|---|
| Arrest. | $1.50 |
| G W Lawson Mileage | 4.48 |
| Sum wit for Comm | 6.00 |
| Wit Attendance for 11 | (5.50 consequent) |
| J.P. | 3.00 |
| Wit Mileage | 14.50 |
| Wit for Call Dual | 6.00 |
| Total | 40.98 |

Very Resp
L H Bruce J.P.

Certificate of Commitment for Trial.—News-Register.

**VIRGINIA--County of Rockingham, To-wit:**

*To the Clerk of the Circuit Court of said County:*

I, L H Bruce, *a Justice of the Peace of said county, do hereby certify that I have this day committed* Central Deem *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* 8 *day of* Oct, 1907, *in the said county* unlawfully Feloniously and of his Malice did Kill and Murder one Henry Deem

*Given under my hand and seal this* 2 *day of* Dec 1907

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

Refused D

INSTRUCTION No____

The court instructs the jury that when, upon a charge of murder, the evidence is wholly circumstantial, as is the case here, the absence of all evidence of an inducing cause or motive to commit the offense charged, affords of itself a strong presumption of innocence.

Reference 3

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S. E. Hoover
~~Clifford A. Jones~~
H. B. Myers
M. H. Cline
B. F. Mock
Guy W. Long
H. J. Longman
~~H. S. Earnest~~
R. K. Woods
S. J. Flook
~~S. E. Hoffman~~
~~R. C. Landes~~
~~H. K. Leap~~
W. H. Weller
T. L. Hoover
R. A. Neil
~~J. Wooddwillow~~
~~W. H. Miller~~
~~Geo. L. Hood~~
P. H. Ralston

A

The Court instructs the jury that the indictment in this case is not evidence to be considered by them and does not establish the fact that Henry Dean was murdered.

And the Court further tells the jury that before they can convict the accused the Commonwealth must prove beyond all reasonable doubt; (1) that Henry Dean was intentionally killed by someone, and that his death was not due to some other cause, and (2) that the accused was the person who killed him, or was present and aiding and ~~attending~~ abetting in the killing.

INSTRUCTION NO. B.

The Court instructs the jury that the law presumes the accused to be innocent until he is proven guilty beyond a 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 of proponderance of evidence supports the charge in the indictment, but to warrant his conviction his guilt must be proved so clearly that there is no reasonable theory, consistent with the evidence, upon which he can be innocent. Brown's Case, 97 Va. 792.

INSTRUCTION NO. C.

The Court instructs the jury, that the burden is upon the Commonwealth to prove every fact or circumstance necessary to convict the accused of any offense whatever, and if they have any reasonable doubt as to any fact or circumstance necessary to convict the accused as aforesaid, they are bound to give him the benefit of such doubt and find him not guilty and the Court tell s the jury that a reasonable doubt, is, "that state of the case, which after the entire comparison and consideration of all of the evidence, leaves the minds of the jurors in that condition that they cannot say that they feel an abiding conviction to a moral certainty of the truth of the charge. Kibler's Case 94 Va. 813.

INSTRUCTION No ____.

The court instructs the jury that to constitute a willful, deliberate, and premeditated killing, it is not necessary that the intention should exist for any particular length of time prior to the actual killing; it is only necessary that such intention should have come into existence for the first time at the time of such killing, or at any time previously.

INSTRUCTION NO. 7

The jury are instructed that a reasonable doubt is such a doubt as may be honestly and reasonably entertained as to any substantial and material fact essential to prove the offense charged. Reasonable doubt must be based upon the evidence or lack of evidence, or that is suggested by the evidence, or grows out of the evidence, itself. It must not be an arbitrary doubt, without evidence to sustain it. It must be serious and substantial in order to warrant an acquittal. It must be a doubt of material fact or facts necessary for the jury to believe to find a verdict of conviction, and not of immaterial and non-essential circumstances.

The Court instructs the jury that the credibility of the witnesses is a question exclusively for the jury; and the law is that, where witnesses testify in conflict or contradiction of each other, the jury is not bound to regard the evidence as equally balanced, but it is the duty of the jurors to judge the evidence for themselves and to give such weight to the testimony of the different witnesses as under all the circumstances they think them entitled to.

INSTRUCTION No. 9

The Court instructs the jury that it is not essential to proof of guilt by circumstantial evidence that the facts and circumstances established should produce on the minds of the jury absolute and demonstrative certainty, but it is sufficient if they produce moral certainty of the commission of the offense charged, to the exclusion of reasonable doubt.

INSTRUCTION No 10.

The court instructs the jury that to constitute a willful, deliberate, and premeditated killing, it is not necessary that the intention should exist for any particular length of time prior to the actial killing; it is only necessary that such intention should have come into existence for the first time at the time of such killing, or at any time previously.

The jury are further instructed that circumstantial evidence must always be scanned with great caution, and can never justify a verdict of guilty, especially of an offense, the penalty of which may be death.

1

Murder is the unlawful killing of another person with malice aforethought, and is distinguished by the law of Virginia as murder in the first degree and murder in the second degree.

Every homicide in Virginia is presumed in law to be murder in the second degree. In order to elevate the offense to murder in the first degree, the burden of proof is on the Commonwealth, and to reduce the offense to manslaughter, the burden of proof is on the prisoner.

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3

The jury are instructed that any willful, deliberate, and premeditated killing is murder in the first degree, and that murder in the second degree is the unlawful killing of any person with malice, but not willfully, deliberately, and premeditatedly.

The court instructs the jury that manslaughter is when a person feloniously and unlawfully, but without malice, kills another; and is divided into two classes:

Voluntary manslaughter is the unlawful killing of another without malice in a sudden quarrel, or in heat of blood. But it is not every killing in the heat of blood, or upon sudden quarrel, which is voluntary manslaughter. In order to be so, it must be done without malice, such as defined; for the existence or want of malice is the distinction between murder and manslaughter. Involuntary manslaughter is when one in the performance of an unlawful act kills another by accident.

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INSTRUCTION NO. 5

On the charge of murder, malice is presumed from the fact of killing. When the killing is proved and is unaccompanied with circumstances of palliation, the burden of disproving the malice is thrown upon the accused.

INSTRUCTION NO. 7

On the charge of murder, malice is presumed from the act of killing. When the killing is proved and is unaccompanied with circumstances of justification, the burden of disproving the malice is thrown upon the accused.

And the jury impanelled and sworn for the trial of this case, within the exception of Joseph Carver, came in charge of the officers of the court, pursuant to adjournment and it appearing to the court that the jury had before coming into court and while all twelve of the jurors were together, agreed on a verdict, the said Joseph Carver having suddenly become too ill to appear in court, by the consent of the accused in person and the Commonwealth's Attorney, the verdict of the jury as found as aforesaid was received and recorded which is as follows:

2

The jury are instructed that the accused is presumed to be innocent until his guilt is established beyond a reasonable doubt, and he is not to be prejudiced by the inability of the Commonwealth to point to any other criminal agent, nor is he called upon to vindicate his own innocence by naming the guilty person.

Pl147

103-917

112-891

Com -
vs -
Central Dean
et

Jan 21 — 1928

We the Jury find the accused guilty of Murder in Second Degree and fix his Punishment at (15) Fifteen years in Penitentiary

Signed
Foreman
H E Bolton

COMMONWEALTH

v )  CHARGE TO THE JURY

CENTRAL DEAN

If you find the accused, Central Dean, 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, then you will say so and fix 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 find him guilty of murder in the second degree as charged in the indictment, then you will say so and fix his punishment by confinement in the penitentiary for a period of not less than five nor more than twenty years.

If you do not find him guilty of either murder in the first degree or murder in the second degree, but find him guilty of voluntary manslaughter as charged in the indictment, then you will say so and fix his punishment by confinement in the penitentiary for not less than one nor more than five years.

If you do not find him guilty of either of the felonies aforesaid, as charged in the indictment, but find him guilty of involuntary manslaughter as charged therein, then you will say so and fix his punishment at confinement in the penitentiary for not less than one nor more than five years, or, in your discretion, by confinement in jail for a period not exceeding twelve months, or by a fine not exceeding one thousand dollars, or both.

Commonwealth

v)

Central Dean

Charge to the Jury

VIRGINIA, Rockingham County, towit:

In the Circuit Court of said County:

The jurors of the Commonwealth of Virginia in and for the body of the County of Rockingham and attending the said court, upon their oaths present that Central Dean on the 8th. day of October in the year 1927, in the County aforesaid, in and upon one Henry Dean, then and there being in said County, felonously, wilfully, and of his malice aforethought, did make an assault, and that said Central Dean with a certain pistol then and there charged with gun powder and a leaden bullet, which said pistol said Central Dean then and there had and held and then and there felonously, wilfully and of his malice aforethought, did discharge and shoot off, at, against and upon the said Henry dean; and that the said Central Dean with the leaden bullet aforesaid out of the pistol of the said Central Dean, discharged and shot off as aforesaid, then and there felonously, wilfully and of his malice aforethought, did strike, penetrate and wound the said Henry Dean in and upon the front of the head of the said Henry Dean then and there with the leaden bullet aforesaid, so as aforesaid discharged and shot off one mortal wound out of which said mortal wound, he, the said Henry Dean, then and there died.

And the jurors aforesaid, upon their oaths aforesaid do further present that James Snow, and Malcolm Hensley, on the day and year aforesaid in the County aforesaid, felonously, wilfully and of their malice aforethought, were present, counseling, aiding, abetting and assisting the said Central Dean, the felony and murder aforesaid to do and commit, and so the jurors aforesaid upon their oaths aforesaid do say that Central Dean, James Snow and Malcolm Hensley in manner and form aforesaid, felonously, wilfully and of their malice aforethought, did kill and murder the said Henry Dean against the peace and dignity of the Commonwealth.

L H Bruce C W Dove Geo. A Lawson
Leland Davis M L Day Wilbert Shifflett W E Lucas
T R Hammer Robert Crawford Bernie Coverstone

We the jury find the accused, guilty of cannot agree murder in the second degree, as charged in the indictment, and fix his punishment at fifteen years in the penitentiary - J H E Bolton

We the jury find the accused, James Dow, guilty of murder in the second degree, as charged in the indictment and fix his punishment at twelve years in the penitentiary -

Guy A Long

Commonwealth vs - } Indictment
Lewis & Dean &c

Com
vs
Lewis Dean
Indictment Murder

A Tod Bolp
J P Bradford
Foreman

COMMONWEALTH

VS.

CENTRAL DEAN.

The defendant, by counsel, moves the Court to set aside the verdict in this case on the following grounds:

(1) Because the corpus delecti has not been proven.

(2) Because the verdict of the jury is contrary to the law and the evidence.

(3) Because the verdict of the jury is without evidence to support it.

(4) Because of the refusal of the Court to admit certain evidence heretofore offered during the trial by the accused, said refusal being duly excepted to, for the reasons set forth at the time said questions were propounded.

(5) Because of the admission of certain evidence tendered on behalf of the Commonwealth, and received over the objection of the accused, exceptions being duly taken thereto, ~~and the reasons therefor~~ over-ruled, the reasons being assigned for said exceptions

#1761

COMMONWEALTH

VS. Felony

CENTRAL DEAN
JAMES SNOW - arraigned - not guilty
MALCOLM HENSLEY

September 21
Plea of not guilty

Oct Term 1928
Nol pros as to
Malcolm Hensley

K

James Dover Jury

1 - S. E. Hoover
2 - H. B. Myers
3 - M. H. Cline
4 - B. F. Frank
5 - Guy W. Long
6 - D. J. Layman
7 - R. L. Black
8 - L. J. Flock
9 - W. H. Weller
10 - T. L. Hoover
11 - D. A. Hill
12 - H. H. Ralston