

In the Name of the Commonwealth of Virginia: *Page*

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon *Mrs. Jennie Raulahush*  
*Addie Rothgeb, J. A. Barton, Dr. W. A.*  
*Kosntz, Thomas Shuler, Anis Raula-*  
*hush*

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 *1st* day of *May* 19*28*,  
to testify and the truth to say in behalf of the Defendant in the prosecution of the Common-  
wealth, plaintiff, against

*Masson Winston*

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. ROBERT SWITZER~~ Clerk of our said Court, at the Court House, the  
*13th* day of *Apr.* 19*28*, and in the *152nd* year of the Commonwealth.

*J. Robert Switzer*, Clerk.

Mason Winston  
adsl.  
Conn.

Chas. A. Hammer,  
P. D.

Edw. J. Lee \$3.00  
1928  
May 1.

Presented by delivering a paper at  
the 10th Annual Meeting of the  
Massachusetts Historical Society  
at the Boston Hotel, N. Y. City,  
March 25th of April 1928.  
Edw. J. Lee, P. D.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Walter Heiston, Lizzie Hollingsworth,  
& Andrew Miller

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 1st day of May 1924 to testify and the truth to say in behalf of the Defendant in the prosecution of the Commonwealth, plaintiff, against

Mason Winston

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

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

Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the 30 day of Apr 1924 and in the 15th year of the Commonwealth.

J. Robert Switzer, Clerk.

Mason Weitzer

add  
Cam.

cost 1.50

1128  
May 1.

Shirts By clothing store  
to Walter Heaton Elgin  
Halling and the Andersons  
30 doz of shirts 1928  
13 doz of shirts 1928  
Shirts along Jacky

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

*C. H. Fawley, J. N. Campbell,  
James Lewis, Bessie Tuckson, Ernest Tuckson,  
Harry Stoneburner, George Stoneburner,  
Minna Turner, Anna Lewis, Portia  
Beasley, Heywood Willie, Gordon Brown,  
Virginia Tuckson & Dr. J. M. Buddie*

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 *1st* day of *May* 19*28*  
to testify and the truth to say in behalf of the Commonwealth against

*Mason Winston*

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. ROBERT SWITZER, Clerk of our said Court, at the Court House, the  
*1st* day of *April* 19*28* and in the *15th* year of the Commonwealth.

*J. Robert Switzer*, Clerk.

Exhibited by delivering a true copy of the within  
summon in person, C.R. Fawley, J.N. Cambell, James Lewis  
Bessie Tuckson, Earnest Tuckson, Harry Stoneberger,  
George Stoneberger, Minor Turner, Annie Lewis, Porter  
Beasley, Raywood Willis, Gordon Brown, Virginia Tuck-  
son, & Dr J.W. Bildler. this the 25th day of April, 1928  
deputy for C.R. Fawley Sheriff,  
Rockingham, CO, Virginia.

*W. E. Lucas*

*Corn.*

*us*

*Wm. Winston*

*cost \$ 7.00*

*1928*

*May 1*

Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon *C. R. Fauley, J. W.*

*Campbell, James Lewis, Bessie  
Tuckson, & Ernest Tuckson*

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 *16th* day of *April* 19*28*

to testify and the truth to say in behalf of the Commonwealth before the GRAND JURY

*vs. Mason Winston*

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. BEACHBURN*, Clerk of our said Court, at the Court House, the *12th*  
day of *April* 19*28*, and in the *15th* year of the Commonwealth.

*J. Robert Switzer*, Clerk

Executed April 13 by delivering a true Copy of the

within Summons to Her within named

— in person. —

W. Long, D.S. for  
C. B. Faraway S.H.S.

Com.

vs

Mason Winston

1928  
Apr. 16

Executed — 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 *James Wilson, L. H. Bruce, G. W. Shifflett, Walter Hunston, George Bryant, N. R. Davis, Samuel Jackson, George Stonberger, Port Blasley, J. N. Campbell, Tom Ware, Harry Stonberger, Mrs. Annie Willis, Haywood Willis, Mrs. Annie Cabbage & V. W. Hultz*

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 *1st* day of *May* 19*28*, to testify and the truth to say in behalf of the Defendant in the prosecution of the Commonwealth, plaintiff, against

*Mason Winston*

who stands charged with and indicted for a felony *misdeemeanor*.

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

Witness *J. ROBERT SWITZER*, Clerk of our said Court, at the Court House, the *23rd* day of *February* 19*28* and in the *102nd* year of the Commonwealth.

*J. Robert Switzer*, Clerk.

Exhibited by delivering a true copy of the within  
summon in person, James Wilson, L.H. Brice, G.W. Shiflet  
Walter Hunston, George Bryant, W.P. Davis, Samuel Jack  
son, George Stoneberger, Port Beasley, J.N. Campbell,  
Tom Ware, Harry Stonebeger, Mrs Annie Willis, Haywood  
Willis, Mrs Annie Cabbage, & V.W. Fultz.  
this the 25th day of April 1928.

W. L. L. L. deputy for C.P. Fawley Sheriff  
Rockingham, CO, Virginia.

Mason Winston

aka

Com.

East 93.00

1928

May 1st

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA.

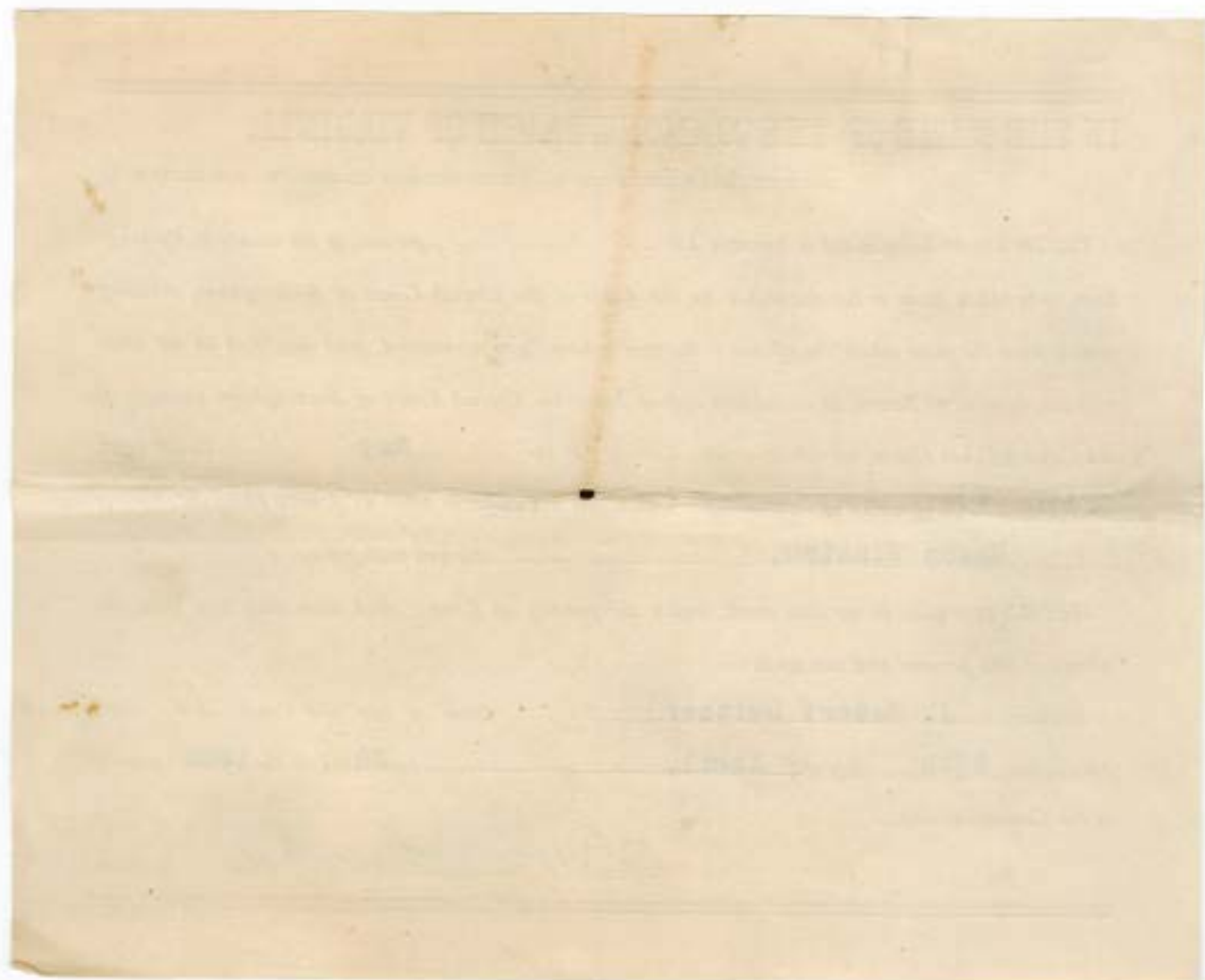
TO THE SHERIFF OF ROCKINGHAM COUNTY—GREETING:

You are hereby commanded to summon 10 persons of the county of Rockingham, to be taken from a list furnished by the Judge of the Circuit Court of Rockingham, 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 \_\_\_\_\_ day of the May Court next, being the 1st day of May 1928, to serve as Jurors upon the trial of Mason Winston, 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. Robert Switzer, Clerk of our said Court, at the Court House, the 30th day of April, 1928 and in the 152d year of the Commonwealth.

J. Robert Switzer Clerk.



## 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 10 Jurymen summoned by you to serve as jurors upon the trial of **Mason Winston**, charged with felony, set

for the **1st** day of **May**, 19 **28**, of the Circuit

Court of Rockingham County.

✓ P. T. Kiser <i>Charge av 400</i>	H.	✓ J. H. Spader	A.
✓ Owen E. Suter	A.	✓ J. C. Bradford	P.
✓ Ralph Staples	H.	✓ Minor Wine	A.
B. S. Armentrout <i>gone</i>	C.	✓ R. T. Armentrout	S.
✓ E. D. Andes	P.	✓ C. W. Baker <i>Quinn</i>	A.



In the Name of the Commonwealth of Virginia: *Page*

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

You are hereby commanded to summon

*Mrs Jennie Loudahush*

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 *1st* day of *May* 19 *28*, to testify and the truth to say in behalf of the Defendant in the prosecution of the Commonwealth, plaintiff, against

*Mason Winston*

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

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

Witness, *J. F. BLITCHER*, Clerk of our said Court, at the Court House, the *23d* day of *Apr* - 19 *28* and in the *152nd* year of the Commonwealth.

*Robert Switzer*, Clerk.

Mrs. Jennie Landhurst

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 the county of Rockingham, and now attending the said Court at its April term, 1928, upon their oaths do present that Mason Winston, on or about February 4, 1928, with force and arms, in the county aforesaid, in and upon the body of one James Tuckson in the peace of said Commonwealth, then and there being, feloniously, wilfully, and of his malice aforethought, did make an assault, and that the said Mason Winston a certain pistol then and there charged with gunpowder and one leaden bullet, which said pistol, he, the said Mason Winston in his hand then and there had and held, then and there feloniously, wilfully, and of his malice aforethought, did discharge and shoot off, to, against, and upon the said James Tuckson; and that the said Mason Winston, with the leaden bullet aforesaid, out of the pistol by the said Mason Winston discharged and shot off, as aforesaid, then and there feloniously, wilfully, and of his malice aforethought, did strike, penetrate, and wound the said James Tuckson in and upon the body of said James Tuckson, giving to him, the said James Tuckson, then and there with the leaden bullet aforesaid, so as aforesaid discharged and shot out of the pistol aforesaid, by the said Mason Winston, in and upon the body of him, the said James Tuckson, one mortal wound; of which said mortal wound, he, the said James Tuckson from the said 4th day of February, 1928 to the 7th day of February, 1928, in the county aforesaid, did languish, and languishing did live; on which said 7th day of February, 1928, in the county aforesaid, of the said mortal wound died; and so the jurors aforesaid, upon their oaths aforesaid, do say that the said Mason Winston, the said James Tuckson in manner and form aforesaid feloniously, wilfully, and of his malice aforethought did kill and murder, against the peace and dignity of the Commonwealth of Virginia.

COMMUNICATION BY TELETYPE

COMMUNICATION BY TELETYPE

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COMMUNICATION BY TELETYPE

This indictment is found on the testimony of C. R.  
Fawley, I. N. Campbell, James Lewis, Bessie Tuckson, and Ernest  
Tuckson, witnesses sworn in Court and sent before the grand jury  
to give evidence.

We the jury find the accused, Mason Winston,  
guilty of involuntary manslaughter as charged in the  
indictment; and fix his punishment at twelve  
months in jail -

J. P. Bradford

Murder

Commonwealth

v) Indictment

Mason Winston

Felony  
April term, 1928

A True Bill:

J. H. Searns  
Foreman

D. W. Farmer  
Commonwealth's Attorney

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA.

COMMONWEALTH :

v :

CHARGE TO THE JURY

MASON WINSTON :

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

If you do not find him guilty of murder in the first degree or murder in the second degree as charged in the indictment, but find him guilty of voluntary manslaughter as charged therein, 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, but find him guilty of involuntary 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, or, in your discretion, by a fine not exceeding one thousand dollars, or confinement in jail not exceeding one year, or both such fine and imprisonment.

Mason Winston

Charge to the jury

JOS. J. WAFF, M. D.  
SHENANDOAH, VA.

4-30-88.

This is to certify that Mrs.  
Virginia Roundbush is  
under my professional care  
and that she is physically  
unable to attend court  
at this time, and  
probably will be for  
some time.

Jos. J. Waff, M.D.

4-20-08

There is a belief that the  
virginia tobacco is  
superior to any other and  
and that the in physical  
condition is better than  
at this time and  
probably will be for  
some time.

Yours truly,  
Joe L. Berry, M.D.

INSTRUCTION NO. 7.

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. The Commonwealth, and the people of the State, are entitled to the benefit of the law, and the law is the same for all.

INSTRUCTIONS NO. 1

Written in the original language of the author  
and translated into English by the author  
of the original language. The original language is the  
language of the author in the first section of the book.

Page 1

INSTRUCTION NO. 2.

INSTRUCTION NO. 3

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.

DOUGLASS, W. L.

They dwell in Virginia is proved in the  
to be under the same laws. In order to leave the  
alliance to which in the first place, the Union of men  
is in the Government, and to return the action to Washington,  
the finding of proof is on the ground.

INSTRUCTION NO. 3.

The jury are instructed that any wilful, 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 wilfully, deliberately, and premeditatedly.

THE UNIVERSITY OF CHICAGO

THE UNIVERSITY OF CHICAGO  
LIBRARY  
540 EAST 57TH STREET  
CHICAGO, ILL. 60637  
U.S.A.

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.

INVESTIGATION NO. 1

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

65

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.

The first sentence of the first paragraph  
of the report is a general statement of the  
fact that the committee has been organized  
and that it is now in the process of  
conducting its investigation. The second  
sentence of the first paragraph states that  
the committee has been organized by the  
board of directors of the company and  
that it is now in the process of  
conducting its investigation. The third  
sentence of the first paragraph states that  
the committee has been organized by the  
board of directors of the company and  
that it is now in the process of  
conducting its investigation.

INSTRUCTION NO. 4.

The Court instructs the jury that to constitute a wilful 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.

EXHIBIT NO. 1

The Court instructed the jury that in order to find a defendant guilty of murder, 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 some intention should have been in existence for the time of the killing, at any time previously.

INSTRUCTION NO 7

The Court instructs the jury that the law of self defense is the law of necessity and is not to be lightly resorted to; and that the accused is not to be found justifiable in using a deadly weapon unless under the circumstances, as they existed or seemed to exist, such course was necessary in order to defend himself from then imminent danger of death, or serious bodily harm, at the hands of an assailant, which seemed to be then imminent and threatening the accused.

INVESTIGATION NO. 7

The Court, in its opinion, has held that the law of self defense is  
the law of necessity and is not to be lightly restricted; and that  
the accused is to be held liable for having a deadly weapon  
unless under the circumstances, as they related to him, he was  
compelled to use it. It is not necessary for him to show that  
he was in danger of death, or serious bodily harm, at the time of the  
offense, which would be the case in a case of self defense.  
The Court.

13  
A

The Court instructs the Jury that if they believe from the evidence that Tuxton did any act or that there were circumstances brought about by him of such a character as to afford the accused a reasonable ground for believing that the said Tuxton designed to kill, the said Winston or to inflict on him great bodily harm and there was imminent danger of carrying such design into immediate execution, then under these circumstances the killing is excusable although it may have turned out afterwards that the appearances were deceptive and there was no design on the part of Tuxton to kill the accused or to do him great personal injury, and the Jury must acquit Mason Winston.

Brown's Case 66 Va. 466.



13

The Court instructs the jury that as to the imminency or the danger which threatened the prisoner, and the necessity of killing in the first instant, the prisoner is the judge; and that the jury must pass upon the prisoner's action in the premises, viewing said action from the prisoner's standpoint at the time of the killing; and if the jury believe from all the facts and circumstances in the case, viewed from the standpoint of the prisoner at the time of the killing, that the prisoner had reasonable ground to believe, and did believe, the danger imminent and that the killing was necessary to preserve his own life, or to protect him from great bodily harm, he was excusable for using a deadly weapon in his defense and the jury should find the defendant not guilty.



INSTRUCTION NO. C

The Court instructs the jury that the law presumed 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.



THE MAPLES

117 SOUTH MAIN STREET  
HARRISONBURG, VA.

L. A. PARR, Manager

We, the jury find the prisoner  
guilty, and set his punishment  
at Twelve (12) months in jail.

J. B. Bradford  
Foreman



*Apr. 1977 #485*  
COMMONWEALTH

VS

Felony

MASON WINSTON

*May 1st*

Wade H. Stroyer	✓	2.1
J. P. Warner	✓	3.1
Robert W. Weiss	✓	2.5
Sam'l G. Whitt	✓	2.1
T. B. Good	✓	3.1
J. H. Rhodes	✓	3.1
T. B. Whitworth	✓	2.5
G. E. Southards	✓	1.1
Oliver E. Butler	✓	1.1
J. H. Spader	✓	2.1
J. C. Bradford	✓	2.1
R. T. Armentrout	✓	2.1