

We the jury find the accused, Russell Eppard, guilty of murder.
Wm. H. Hester
for the State

COMMONWEALTH OF VIRGINIA

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of said County:

The grand jurors of the State of Virginia, in and for the body of the County of Rockingham, upon their oaths presents, that Rufus Lam on the 9th day of April, 1931, in said County of Rockingham, feloniously did kill and murder one Robert Davis.

The jurors aforesaid, upon their oaths aforesaid, do further present that Russel Eppard and Charles Slye on the day and year aforesaid in the County aforesaid, feloniously, willfully and of their malice aforethought, were present, ^uconseling conspiring, aiding, abetting and assisting the said Rufus Lam, the felony and murder aforesaid to do and commit, and so the jurors aforesaid, upon their oaths aforesaid, do say that Russel Eppard and Charles Slye in manner and form aforesaid, feloniously, willfully and of their malice aforethought, did kill and murder the said Robert Davis, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of Rufus Lam, Lucy Davis, Herman Davis, Flossie Davis, S. F. Newman and Samuel C. Heltzel, witnesses sworn in court and sent before the grand jury to give evidence.

We the jury find the accused, Russell Eppard,
not guilty.

L. M. Staylor
Foreman

COMMONWEALTH OF VIRGINIA
COUNTY OF ROCKINGHAM, to-wit:

HOMICIDE

COMMONWEALTH

V

RUSSEL EPPARD
CHARLES SLYE.

A FELONY

A True Bill

J. B. [Signature]
Foreman

D. W. Earman,
Commonwealth's Attorney

In the Circuit Court of said County:
The Grand Jurors of the County of Rockingham, do hereby certify that on the 25th day of [Month] 1921, in said County of Rockingham, feloniously did kill [Name] one Robert Davis. The Jurors aforesaid, upon their oaths aforesaid, do further present that Russel Eppard and Charles Slye on the day aforesaid, feloniously did kill [Name] one Robert Davis, feloniously, willfully and of their malice aforethought, did kill and murder the said Robert Davis, against the peace and dignity of the Commonwealth of Virginia. This indictment is found on the testimony of Rufus [Name], Lucy Davis, Herman Davis, Elvaine Davis, G. F. Newman and [Name]. Samuel C. Helmsel, witnesses sworn in court and sent before the Grand Jury to give evidence.

We the Jury find the accused
Russell Eppard Not Guilty

C. M. Skaylor
Foreman

Handwritten text on a piece of aged, yellowed paper with horizontal ruling. The text is extremely faint and illegible, appearing as ghostly impressions of cursive script. The paper has a vertical margin line on the left side and a small folded corner at the bottom right.

Commonwealth of Virginia,
Rockingham County, To-Wit:

BE IT REMEMBERED, that on the 30th day of June- , 1931,
Charles Slye, principal and W.T. Dearing + R.F. Sly
surety, who justified to his sufficiency, came before me, Sheffey L. Devier

BAIL COMMISSIONER-----, of the said County of Rockingham,
(J. P. or Bail Commissioner)

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of
TWO THOUSAND----- Dollars, (\$ 2,000.00),

to be levied of their respective goods and chattels, lands and tenements, for the use of the Common-
wealth of Virginia rendered, and they each severally waived their homestead exemption to their re-
cognizance; yet upon this condition:

That if the said Charles Slye shall personally appear before
the Circuit Court of Rockingham County, at the Courthouse of said County, on the 22nd day of the
July 1931 at 9:30 AM Term thereof, being the 22nd day of

1931, and at such other time or times to which the proceedings may be continued or further
heard, and before any court or judge hereafter having or holding any proceedings in connection with
the said charge, and then and there answer the Commonwealth of Virginia concerning a certain
felony whereof the said Charles Slye stands

charged, and be bound under said recognizance until the charge is finally disposed of or until it is
declared void by order of a competent court, then the above recognizance shall be null and void; other-
wise to remain in full force and effect.

IN WITNESS WHEREOF, I hereunto affix my signature this 30th day of June
1931.

Sheffey L. Devier
~~Notary~~ BAIL COMMISSIONER)

Commonwealth of Virginia
Rockingham County, To-Wit:

BE IT REMEMBERED, that on the 30th day of June, 1931,
Charles W. [unclear] principal and [unclear] + R.F. [unclear]
surety, who joined to his authenticity, came before me, Shelby J. DeVier,
of the said County of Rockingham,

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of

Charles W. [unclear]
\$2,000.00
To July-22-1931
9:30 A.M.
Circuit Court

In Witness Whereof, I hereunto affix my signature this 30th day of June, 1931.

[Signature]
Shelby J. DeVier
(Notary Public)

June 1931

879

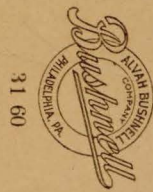
COMMONWEALTH

VS. Felony (homicide)

RUSSEL EPPARD
CHARLES SLYE

20th July

- 1 E. V. Lewis ✓✓✓
- 2 W. D. Heathwaite ✓✓✓
- 3 C. S. Showalter ✓✓✓
- 4 C. M. Kaylor ✓✓✓
- 5 E. E. Hinkle ✓✓✓
- 6 Elmer D. Carr ✓✓✓
- 7 G. A. Peamer ✓✓✓
- 8 R. F. Audrick ✓✓✓
- 9 R. H. Roston ✓✓✓
- 10 T. R. Carley ✓✓✓
- 11 Lynwood Whitel ✓✓✓
- 12 - B. S. McKay ✓✓✓



31 60

Case v. Appard

*Requested because
covered by A+B
NWA*

INSTRUCTION NO. C .

The Court instructs the jury that if upon the whole evidence in the case there is any rational hypothesis consistent with the conclusion that the accused is innocent he cannot be convicted, and that the guilt of the accused is not to be inferred because the facts proved are consistent with his guilt, but they must be inconsistent with his innocence.

On a report
Refused to
Counsel
M...

INSTRUCTION NO. 2

The State introduced the...
sole evidence in the case...
is inconsistent with the...
is impossible to be...
of the... is not to be...
proved... consistent with...
must be inconsistent with...

Refused to
in
afford
evidence

INSTRUCTION

7

The jury are instructed that if they believe, from the evidence, beyond a reasonable doubt that the accused, Russell Eppard, induced Rufus Lam to get the pistol with which the killing was done for the purpose of killing or doing Robert Davis serious bodily harm therewith, and that after Rufus Lam had gotten the pistol the accused and Rufus Lam went to the home of said Davis where the killing of Davis was done by Lam and there the accused aided, abetted, counselled, advised or consented to the said killing, then the accused is equally guilty with Rufus Lam in said murder, even though they further believe from the evidence that at the time the killing was done by Lam, Eppard was not present but had departed from the place of the killing.

7 INSTRUCTION

The jury are instructed that if they believe, from the evidence, beyond a reasonable doubt that the accused, Russell Spord, induced Rufus Lam to get the pistol with which the killing was done for the purpose of killing or doing Robert Davis serious bodily harm therewith, and that after Rufus Lam had gotten the pistol the accused and Rufus Lam went to the home of said Davis where the killing of Davis was done by Lam and there the accused aided, abetted, counseled, advised or consented to the said killing, then the accused is equally guilty with Rufus Lam in said murder, even though they further departed from the evidence that at the time the killing was done by Lam Spord was not present but had departed from the place of the killing.

1

The court instructs the jury that whoever kills a human being with malice aforethought is guilty of murder; that a murder which is perpetrated by poison, lying in wait, or any other kind of wilful, deliberate, and premeditated killing is murder in the first degree.

2

The court further instructs the jury that whenever the killing is wilful, deliberate, and premeditated, the law infers malice from this fact.

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 appearance of the witnesses on the stand, their manner of testifying, and their apparent candor and fairness, their apparent intelligence, and from all the other surrounding circumstances appearing on the trial, which witnesses are more worthy of credit, and to give credit accordingly.

4

The court instructs the jury that to constitute an aider and abettor, it is essential that there should be: First, presence, actual or constructive; second, participation in the crime; but the court further tells the jury that any encouragement or act of assistance is a participation in the crime.

5

The court instructs the jury that principals in the first degree in every murder or other crime are those who are the actors, or actual perpetrators of the crime -- those who are the immediate perpetrators of the act. That principals in the second degree are those who did not with their own hands commit the act, but were present, aiding and abetting it. It is not necessary in order to make a person a principal in the second degree, that he be actually present when the crime was committed or that he actually participated in the commission of the crime. The test as to whether or not he is a principal in the second degree is, was he encouraging, inciting, or in some manner offering aid or consent to the crime. All persons present, lending countenance, or otherwise aiding, while another does the act, are principals in the second degree, and liable to the same punishment as if they were principals in the first degree, and actually committed the crime.

INSTRUCTION NO. A.

The Court instructs the jury that in this case, as in all criminal cases, the accused's plea of not guilty raises a presumption of innocence in his favor and puts on 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 shown 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. And the Court further tells the jury that a reasonable doubt is that state of the case which, after comparison and consideration of all the evidence, leaves the minds of the jurors in such condition that they cannot say that they feel an abiding conviction to a moral certainty of the truth of the charge.

A INSTRUCTION NO.

The Court instructs the jury that in this case, as in all criminal cases, the accused's plea of not guilty raises a presumption of innocence in his favor and puts on 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 shown 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. And the Court further tells the jury that a reasonable doubt is that state of the case which, after comparison and consideration of all the evidence, leaves the minds of the jurors in such condition that they cannot say that they feel an abiding conviction to a moral certainty of the truth of the charge.

B

The Court instructs the jury that as a matter of Law, the mere charge or indictment against the defendant does not justify any inference as to the guilt of the defendant, and that the defendant, in law, is presumed to be innocent of the offense charged in the indictment, and the burden is on the Commonwealth to prove the guilt of the defendant beyond any reasonable doubt, and that unless the jury believe that the evidence proves beyond a reasonable doubt every fact essential to the conviction of the accused, they must find him not guilty.

21

The Court instructs the jury that as a matter of law,

the mere charge or indictment against the defendant does not justify any inference as to the guilt of the defendant, and that the defendant, in law, is presumed to be innocent of the offense charged in the indictment, and the burden is on the Commonwealth to prove the guilt of the defendant beyond any reasonable doubt, and that unless the jury believe that the evidence proves beyond a reasonable doubt every fact essential to the conviction of the accused, they must find him not guilty.

INSTRUCTION NO. 2.

The Court instructs the jury that upon the trial of this case if a reasonable doubt of any fact essential to the guilt of the accused as charged in the indictment be raised by the evidence, or lack of evidence, such doubt is decisive, and the jury must acquit the accused.

INSTRUCTION NO. 81.

The Court instructs the jury that unless they believe from the evidence beyond a reasonable doubt that the accused was actually or constructively present at the killing of Robert Davis and participated in the perpetration of said crime, they must find the accused not guilty.

INSTRUCTION NO. 7.

The Court instructs the jury that any act done by Russell Eppard after Robert Davis was killed by Rufus Lam cannot be considered as aiding and abetting Rufus Lam who fired the fatal shots and committed the crime; and unless the Jury believe beyond all reasonable doubt that Russell Eppard aided or abetted Rufus Lam prior to the time the fatal shots were fired that killed Robert Davis, and prior to the completion and consummation of the crime, the Court tells the jury that the said defendant, Russell Eppard cannot be found guilty as aider and abettor.

INSTRUCTION NO. 4.

The Court instructs the jury that if they believe from the evidence in this case that Rufus Lam shot and killed Robert Davis, and if the jury further believe, from the evidence that said shooting was done, independent of any act or participation therein upon the part of Russell Eppard, then the Court tells the jury that they shall find the accused not guilty.

6

The court instructs the jury 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 offence charged. Reasonable doubt must be based upon the evidence, or that is suggested by the evidence, or grows out of the evidence *or from the lack of evidence.* itself. It must not be 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.

COMMONWEALTH

V

CHARGE TO THE JURY

RUSSELL EPPARD

Your charge is to inquire whether the accused is guilty of the felony as charged in the indictment or not guilty.

If you find him guilty of murder, as charged in the indictment, and that the same was committed with malice aforethought and was wilful, deliberate and premeditated, then you shall find him guilty of murder in the first degree and ascertain his punishment at death, or, in your discretion, by confinement in the penitentiary for life, or for any term not less than twenty years.

If you find him guilty of murder, as charged in the indictment, and the same was committed with malice aforethought, and was not wilful, deliberate and premeditated, then you shall find him guilty of murder in the second degree, and ascertain his punishment by confinement in the penitentiary for not less than five nor more than twenty years.

If you find him not guilty of murder in the first degree or of murder in the second degree, but that he killed Robert Davis without malice aforethought, actual or implied, upon a sudden heat, on reasonable provocation, or in mutual combat, you will find him guilty of voluntary manslaughter, and ascertain his punishment by confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree or of murder in the second degree, or of voluntary manslaughter but guilty of involuntary manslaughter, you will say so and ascertain his punishment by confinement in the penitentiary for not less than one nor more than five years, or in your discretion, assess a fine against him of not exceeding \$1000, or by confinement in jail for not exceeding one year, or both.

If you find him not guilty, you will say so and no more.

Your charge is to inquire whether the accused is guilty of the felony as charged in the indictment or not guilty.

If you find him guilty of murder, as charged in the indictment, and that the same was committed with malice aforethought

and was willful, deliberate and premeditated, then you shall find him guilty of murder in the first degree and ascertain his punishment at death, or, in your discretion, by confinement in the penitentiary for life, or for any term not less than twenty years.

If you find him guilty of murder, as charged in the indictment, and the same was committed with malice aforethought, and was not willful, deliberate and premeditated, then you shall find him guilty of murder in the second degree, and ascertain his punishment by confinement in the penitentiary for not less

than five nor more than twenty years.

If you find him not guilty of murder in the first degree or of murder in the second degree, but that he killed Robert Davis without malice aforethought, actual or implied, upon a sudden heat, on reasonable provocation, or in mutual combat, you will find him guilty of voluntary manslaughter, and ascertain his punishment by confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree or of murder in the second degree, or of voluntary manslaughter but guilty of involuntary manslaughter, you will so and ascer-

tain his punishment by confinement in the penitentiary for not less than one nor more than five years, or in your discretion, assess a fine against him of not exceeding \$1000, or by confinement in jail for not exceeding one year, or both.

If you find him not guilty, you will so and no more.

Charge to jury

Arrest Warrant

Commonwealth of Virginia, } To-Wit:
Rockingham County, }

To C. R. Fawley, Sheriff, a Constable of said County:

Whereas, _____ of the said County, has this day made complaint and information on oath before me, J. F. Byerly a Justice of the said County, that Russell Eppard of the said County, on the 9th day of April, 1931, in the said County, did feloniously aid and abet Charles Rufus Lam in kill one Robert Davis, against the peace and dignity of the Commonwealth of Virginia

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 Russell Eppard to answer the said complaint and to be further dealt with according to law. And you are required to summon Charles Rufus Lam, Agnes Deering

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

Given under my hand and seal this 7th day of May, in the year 1931

John F. Byerly J. P. [Seal]

did conspire, aid and abet

STATE OF VIRGINIA - COUNTY OF ROCKINGHAM - TO WIT:

JUDGMENT

STATE OF VIRGINIA—COUNTY OF ROCKINGHAM, TO-WIT:

I, _____, a Justice of the Peace in and for the County of Rockingham, Virginia, do hereby certify that _____ and _____ as his suret _____ have this day acknowledged themselves indebted to the Commonwealth of Virginia in the sum of _____ Dollars (\$) to be made and levied of their goods and chattels, upon this condition: That the said _____ shall appear before the undersigned or the Circuit Court of Rockingham County, on the _____ day of _____, 19____, and not leave hence without leave of the said Court, to answer the charge in this warrant, or to await the action of the Grand Jury of the said County upon the within charge.

Given under my hand this, the _____ day of _____, 19____.

_____, J. P.

JUDGMENT

Upon the examination of the within charge, I find the accused

The accused, Russel Eppard, having been brought before me and waived his preliminary hearing, I commit him to jail to await the action of the next grand jury, this 26th day of May, 1931.

Commonwealth

Arrest Warrant

Fine John F. Ryerly J. P.

Clerk's Fee - - - - \$

Justice's Fee - - - - \$

Arrest - - - - \$

Summoning Witness - - - - \$

Witness Attendance and Mileage \$

Commonwealth's Attorney - - - - \$

Jail Fees - - - - \$

Total - - - - \$

Justice of the Peace.

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 7 day of May 1931

W. P. ...
Constable of Rockingham County

J. C. ...

Corn

Russell Effort

The Commonwealth having introduced its evidence in chief ^{and} stated, the accused by counsel moved the court to strike out the evidence which upon the court overruled to which action of the court in so doing the accused by counsel excepted on the ground that the evidence introduced by the Commonwealth failed to show that the accused had committed any

^{crime} ^{at one time on ship testimony} ¹ ^{that} ^{when} ^{he} ^{went} ^{to} ^{Robert} ^{Davis} ^{home} ^{on} ^{the} ^{night} ^{he} ^{killed} ^{him}, ^{he} ^{had} ^{no} ^{inten-} ^{tion} ^{of} ^{killing} ^{the} ^{said} ^{Davis}.

17007

One in
Cover of 2/1/1900