STATE OF VIRGINIA,

ROCKINGHAM COUNTY, 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, and now attending said Court at its October term, 1939, upon their oaths present that Homer Breeden, on or about May 21, 1939, in the said county, feloniously and unlawfully did kill and slay one Austin Dean, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of Otis Dean, Granville Lam, Willard Henslæy, Wilson Eppard, and Millard Davis, witnesses sworn in Court and sent before the grand jury to give evidence.

Manslaughter

Commonwealth

v) Indictment

Homer Breeden

Felony

October term, 1939

Witnesses:

A True Bill:

Otis Dean
Granville Lamn
Willard Hensley
Wilson Eppard
Millard Davis

D. W. Earman Commonwealth's Attorney

CHAPMAN AND MORRIS ATTORNEYS AT LAW

STANARDSVILLE, VA.

December 20th, 1939.

Honorable J.Robert Switzer Clerk of Circuit Court of Rockingham County Harrisonburg, Virginia.

In re: Homer Breeden

Dear Mr. Switzer.

We received your letter of December 18th, 1939, relative to the trial of Homer Breeden who stands indicted on a charge of manslaughter in your Court.

We wish to inform you that Homer Breeden called by our office a few days before the October Term of your Court and told us that he did not wish to employ us to represent him in this matter.

Since we had heard nothing further in the matter we assumed that no indictment was returned, or if one was returned that trial on such indictment had already been held.

We do not represent Homer Breeden in the matter and have severed our connection with the case.

Very truly yours,

Chapman & Morris, Attorneys.

John S. Chafman

CHAPMAN AND MORRIS ATTORIETS AT LAW STANARDSVILLE VA.

Deckens 20th 1958.

Honorable J. Elbert Switzer Clark of Girolit Court of Hockingham County Earlisonburg, Firginia.

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Dear Mr. Switzell.

We received your letter of December 18th, 1939,

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Chapman & Morrise, storriege.

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DEC 1939 #1568

COMMONWEALTH

V. Felony (manslaughter)

HOMER BREEDEN bail

10/19/39 Ny Mut net

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IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA

COMMONWEALTH

v.

CHARGE TO JURY

HOMER BREEDEN

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

If you 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 a period of not less than one year nor more than five years, or, in your discretion, by confinement in jail for a period not exceeding one year, or by a fine not exceeding One Thousand Dollars, or, by both such fine and imprisonment.

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

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IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA

COMMONWEALTH

YHUL OF MORAHO

HOMER BREEDER

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The court instructs the jury, that the defendant is presumed to be innocent until and unless his guilt is established by evidence beyond every reasonable doubt.

Constand

13.

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Come Breeden

INSTRUCTION /

The Court instructs the jury that involuntary manslaughter is the killing of a human being accidently or unintentionally while in the doing of some unlawful act, not feloniously, or in the improper or negligent performance of a lawful act; and that when a homicide follows as a consequence of such a reckless or culpably negligent act as is incompatibel with a proper regard for human life, the perpetrator is guilty of involuntary manslaughter.

Com-Resident

INSTRUCTION /

The Court instructs the jury that involuntary manufactor is the killing of a human being secidently or unistentionally while in the doing of some unlawful act, not retainedly, or in the doing of some unlawful performance of a lawful act; and that when a howicide follows as a consequence of such a reckless or culpably negligent act as is incompatibely ith a proper regard for numen life, the perpetrator is guilty of involuntary manufactions.

Breeden

INSTRUCTION 2

The Court instructs the jury that it is unlawful to operate an automobile upon a highway of this State in a careless and reckless manner; and, if you believe from the evidence in this case, beyond a reasonable doubt, that the accused, Homer Breeden, violated the law in this respect, and in such manner as to indicate a gross and culpable disregard of human life, then you will find the accused guilty, as charged in the indicament.

Com

INSTRUCTION

The Court instructs the jury that it is teriffer unlawful to operate an automobile upon a highway of this State in a careless and reckless manner; and, if you believe from the evidence in this case, beyond a reasonable doubt, that the accused, Homer Breeden, violated the law in this respect, and in such manner as to indicate a gross and oulpable disregard of human life, then you will the accused cutiffy, as charged in the indictment.

Breden

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The court instructs the jury that the fact as to whether the defendant had or did not have a drivers permit has no part in this case and they shall disregard the evidence pertaining thereto, in arriving at their verdict.

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Bruden Hwo

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The Court instructs the jury that the gist of the crime charged against the defendant is criminal negligence; by the term criminal negligence is meant not simply such negligence as might be the foundation of a suit for damages by the person injured or be his personal representatives if killed, but something more than that; in order to be criminal negligence, as distinguished from such negligence as is necessary for a civil damage action, it must be shown that the negligence of the accused was gross or culpable negligence; culpable or gross negligence is that which indicates a callous disregard of human life and of the probable consequence of his act; criminal liability cannot be predicated upon every act carelessly performed merely because such carelessness results in the death of another, but in order for criminal liability to result from negligence, it must necessarily be reckless or wanton and of such a character as to show disregard of the safety of others under circumstances likely to cause injury or death; the crime is imputed because of recklessness and where there is no recklessness, there is no crime.

Bacedon-

A

The Court instructs the jury that the gist of the orime charged squipst the defendant is oriminal negligence; by the form oriminal negligence is meant not simply such negligence as might be the formdation of a suit for damages by the person injured or be his personal representatives if killed, but something more than that; in order to be oriminal negligence, as distinguished from auch negligence as is necessary for a civil damage action, it must be shown that the negligence of the accused was gross or oulpable negligence; culpable or gross negligence is that which indicates a callous disregard of human life and of the probable consequence of his act; criminal liability cannot be predicated upon every act carelessly performed merely because such carelessness results in the from negligence, it must necessarily be reckless or wanton and of the min a character as to show disregard of the safety of others under circumstances likely to cause injury or death; the crime is imputed elecause of recklessness, there is no recklessness, there is no orime.

Commonwealth of Virginia,
Rockingbam County, To-Wit:

BE IT REMEMBERED, that on the 23 day of 2000 CO
Home By ecle , vincinal and James I. Dearer
surery, who jugatified to his sufficiency, came before me, Stephen Filer
Mail Charles in the second
The Council Council of the said Council of the said Council of Recklingham.
Vend acknowledged the medices to be indebted to the Commonwealth of Virginia each in the sum of
A feel Color (1500c)
2 ~~ 2
Aco Devied of heir respective good and chartels, lands and tenements, for the use of the Commonwealth of Virginia
and our and they each repy waived homestead exemption to their recognizance; yet upon this condition:
Of the state of th
a comery or the Country of the Country of the
J. M. F. of &
and at such ther time or times to which the proceedings may be continued or further heard, and before any
color or judge her after having or holding any proceedings in connection with the said charge, and then and there answer
the Commonwealth of Virginia concerning a certain Lelety whereof the
charge is finally disposed of or until it is declared void by order of a competent court, then the above recognizance shall
The state of the s
CHERRINE STATES
COMMISSIONER)

December 26, 1939

Homer Breeden and James T. Dean Elkton, Virginia

Gentlemen:

When the December term of court opened on December 18 Homer Breeden should have appeared and had his case set down for trial. Court will again be in session on next Saturday, December 30, at 9:30, and in order that the bail bond may not be forfeited I suggest that Mr. Breeden be here promptly at 9:30 on that day so that his case may be set and the court may be advised who his attorney is.

Very truly yours,

J. Robert Switzer, Clerk

JRS:mb

December 26, 1939

Homer Breeden and James T. Dean Elkton, Virginia

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Very truly yours,

J. Robert Switzer, Clerk

JRS:mb

December 18, 1939

Mr. John S. Chapman Attorney-at-Law Stanardsville, Virginia

Dear Mr. Chapman:

I understand that you represent Homer Breeden who was indicted at the October term of our court on a manslaughter charge in connection with the death of one Austin Dean.

When court convened have this morning, the understanding was that Breeden was to appear pursuant to his recognizance on a continuing bond, and as he failed to do so, Judge Bertram has requested that I write you of his failure to appear and to ascertain his reason for not appearing this morning. As this case will probably be set for trial at this term along with several other criminal cases, it may be necessary for you to come to Harrisonourg some time on or before Friday next (with the exception of Wednesday on which day the Judge will be in Luray) in connection with the Breeden case.

Yours very truly,

J. Robert Switzer, Clerk

mb

P.S. Should you come to Harrisonburg, please arrange to be here around nine-thirty or ten o'clock.

J.R.S.

December 18, 1939

Mr. John S. Chapman Attorney-at-Lew Stanardsville, Virginia

Dear Mr. Chapman:

I understand that you represent Homer Breeden who was indicted at the October term of our court on a manslaughter charge in connection with the death of one Austin Dean.

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Yours very truly,

J. Robert Switzer, Clerk

dm

P.S. Should you come to Harrisonburg, please arrange to be here around nine-thirty or ten o'clock.

The Commonwealth of Virginia, To-wit Rockingham County,

To the Sheriff of Said County:

Whereas, D. W. Ear	man		of said County, has this day
made complaint and information on	oath before me, _	Harry Lee Bryan,	Clerk T. J. Court
of the said County, that Homer B:		Commonwealth	Г. J. or J. P.
10.0	and the same of th	mA 70	
14 12 18 18 18 18 18 18 18 18 18 18 18 18 18			nty, did unlawfully and
feloniously kill and	slay one Au	stin Dean, while	operating a certain
motor vehicle in a gr	ossly carel	ess and reckless	manner, against the
peace and dignity of	the Commonw	wealth of Va.	and the second
11 4 1911 3-			Simulation with
Eastward Transfer	reant by and	Execute the within wa	
These are therefore, in the name of the	ne Commonwealt	h of Virginia, to command	you forthwith to apprehend and bring
before the Trial Justice of the said Co	ounty, the body of	f the said Homer Br	eeden
中 有 有	to	enswer the said complaint	and to be further dealt with according
4, 9 37 915 9		answer the said complaint	and to be further deart with according
to law.			The transfer of the transfer o
Given under my hand, this	29th day of_	May , 19_	39.
		Tha	my Lee Bregan,
			Olark F. Work David
			Con 1 factor
Memo. of Commonwealth Wi	tnesses•		and ance and Milenge S. Acabet.
Name	iresses.		Address
M. C. Davis	1 811	Flkton	
	1.80	Elkton,	va.
J. W. Bazzle			Total Island
A. R. Burke			
Otis Dean VV Hansford Dean V4	r.40	September 1880 to	spiral littl
Glenvil Lam	2.20		
Willard Hensley 22 Wilson Eppard 18	1.80		
//	12.60		

STATE OF VIRGINIA—COUNTY OF ROCKINGHAM, TO-WIT: , in and for the County of Rockingham, State T. J. or J. P. or Bail Commissioner of Virginia, do hereby certify that as his suret, have this day acknowledged themselves indebted to the dollars (\$.... Commonwealth of Virginia in the sum of which they severally waived their exemption, to be made and levied of their goods and chattels, yet upon this condition: That the said shall appear before the Trial Justice Court of Rockingham County at o'clock A. M., and not depart hence without leave of said Court, 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 said charge, and then and there answer the Commonwealth of Virginia concerning the within charge until the same is finally disposed of, then this recognizance shall be null and void; otherwise to remain in full force and effect. Given under my hand this, the T. J. or J. P. or Bail Commissioner day of resting and delivering the body of Trial Justice Court Officer's Milage Miles travelled by officer Criminal Docket No. Breeden Miles carried prisoner Total mileage Commonwealth before JUDGMENT Attendance and Mileage Summoning Witness Arrest and Mileage Issuing Justice's Fee Commonwealth's Trial Justice Fee Clerk's Fee Attorney

After 5 days, return to CHAPMAN AND MORRIS, STANARDSVILLE, VA.



Honorable J.Robert Switzer

Clerk of Circuit Court of Rockingham County

Harrisonburg,

Virginia.



Commonwealth of Virginia:
To the Sheriff of Rockingham County, Greeting:
You are hereby commanded to summon Olis bleau, Grassille Low
Willand Thensey, Wilton Effected T
nulland learner 11
to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof,
at 9:30 o'clock, a. m., on the day of 1939,
to testify and the truth to say in behalf of the Commonwealth before the GRAND JURY
10 testify who the train to say in behalf of the Commonwealth before the Civilian Jord
Howell prelicteur
who stands charged with a felony misdemeanor.
And this you shall not omit under penalty of £100. And have then and there this Writ.
Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the
day of Class 1939, and in the Jest year of the Commonwealth.
Any, Clerk

Com. 1939 by delucioning a true copy of the ruthing Hower Breeden ga out 13

In the Name of the Commonwealth of Virginia:
To the Sheriff of Rockingham County, Greeting:
You are hereby commanded to summon Dr. G. Byers.
Wilson Epparl & John Eppard
1 30 8 - 4 - 11 5 - 8 - · · · · · · · · · · · · · · · · ·
to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof,
at 9:30 o'clock, a. m., on the 15 day of January 1940,
to testify and the truth to say in behalf of the Commonwealth against
Hamus Belden
who stands charged with and indicted for a felony-misdemeanor.
And this you shall not omit under penalty of £100. And have then and there this Writ.
Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the
day of 1940, and in the 164 tyear of the Commonwealth.
Robert Suntyse, Clerk
THE SERVICE PRESS

copy of this Edunnyng of abode, Executed. executed and 13.1940 by delivering r true Copy of the Shereffifee \$ 2.25 Bentasylleb

In the Name of the Commonwealth of Virginia: To the Sheriff of Rockingham County, Greeting:		
You are hereby commanded to summon		
AR Bunke		
to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a.m., on the 15 day of annually 19 49,		
to testify and the truth to say in behalf of the Commonwealth against		
who stands charged with and indicted for a felony misdemeanor.		
And this you shall not omit under penalty of £100. And have then and there this Writ Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the		
day of , 19 , and in the 16 , year of the Commonwealth.		

THE SERVICE PRESS

	Com
	In the Name of the Commonwealth of Virginia:
John Strang Comments	Homer Bullen behave no volered one wor
Ser Per	
moon of in	Sheriffs Lee .75
R. B.	to testify and the truth to say in behalf of the Commonwealth against
24.6.	
Oure Course Section	Wienes, J. R. BERT SWITZER, Clerk of our said Court, at the Cday of , 19 2, and in the 16 4 year of the C
executed ()	1940 Jan. 15

In the Name of the Commonwealth of Virginia:
To the Sheriff of Rockingham County, Greeting:
You are hereby commanded to summon Willand Hursley, Hasper Dean
Tou are nereby commanded to summon
Glimille Lam, Wilson Eppard, Jam Snow,
Hayd Moonis, Vernon Risen and
to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof,
at 9:30 o'clock, a. m., on the 15 tay of 1940 to testify and the truth to
say in behalf of the Defendant in the prosecution of the Commonwealth against.
Homes Dielden
who stands charged with and indicted for a felony misdemeanor.
And this you shall not omit under penalty of £100. And have then and there this Writ.
Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the
day of 1940, and in the 164th year of the Commonwealth.
Kolust Souther Clerk

Not finding Glenville Lam at his usual place of abode Executed Jan. 10, 1940 by delivering a true copy of this Summons to Lemuel Lam his Father in person at said Glenville Lam usual place of abode. Neues Ken Day H Callender Stic, Not finding Wilson Eppard at his usual place of abode Executed Jan. 10, 1940 by delivering a true copy of this Summons to Nettie Eppard his Mother in person, at said Wilson Eppard usual place of abode. each in person delivering a true bega

In the Name of the Commonwealth of Virginia: To the Sheriff of Rockingham County, Greeting: You are hereby commanded to summon to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a. m., on the 15 day of and. to testify and the truth to say in behalf of the Commonwealth against Homes Bulken who stands charged with and indicted for a felony misdemeanor. And this you shall not omit under penalty of £100. And have then and there this Writ. Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the day of 19 40, and in the 16 tyear of the Commonwealth. Molenhamitys , Clerk

THE SERVICE PRESS

true copy of abode, Father in why delive Vittiln Summons to finding Granville Lam at Sheriff of the within person. Executed Jan. 10, 1940 Otis C.C. - 39 In person, at said 10.1946 by delivering a true Copy of the Of Dean, Alleghany Summons sent to Summons to Lemuel Lam his C.C. - 39 tages of abode, Executed County. was seen of this De by delivering a his usual mot finding...

THE COMMONWEALTH OF VIRGINIA.

THE SERVICE PRESS-1282

TO THE SHERIFF OF ROCKINGHAM COUNTY, GREETINGS:

We command you, that you take House breedles if he be
found within your bailiwick, and him safely keep, so that you have his body forthwith before the
Circuit Court of Rockingham County, at the Court House thereof
to answer us of a certain felory whereof he stands
indicted.
And have then and there this Writ. Witness J. Robert Switzer, Clerk of our said Court at the
Court House the 17 day of Oct , 1939, in the 164
year of the Commonwealth.
Ident Smilliclerk.

COMMONWEALTH We command you, that you take the Arriver Breeclett within your bailing to before the 5 And bave then and there this Writ. Winness J. Robert Switzer, Flerk of our said Court at the A House the 17 and of Mar 1938 in the of the Commonwealth



TRIAL JUSTICE COURT

Criminal DOCKET NO. 3027

Dommon wrallh

V.)

Homes Breeden

5/29/39 Grand Jary