

1961

FEB 1946

COMMONWEALTH

V.) Felony (murder)

JOHN R. CARR

N.Y. - Bail

Mar-12

FEB 1946

~~17~~
~~17~~
~~17~~
~~17~~

- 1 J Frank Leary
- 2 L L. Harris
- 3 Mr C. Bourne
- 4 Jesse E. Willey
- 5 Walter T. Leary
- 6 Geo E. Franklin
- 7 S. L. Carpenter
- 8 J. F. Leonard
- 9 M. E. Keegan
- 10 C. A. Atkin
- 11 C. E. Lohr
- 12 E. B. Miers

July # 227.80

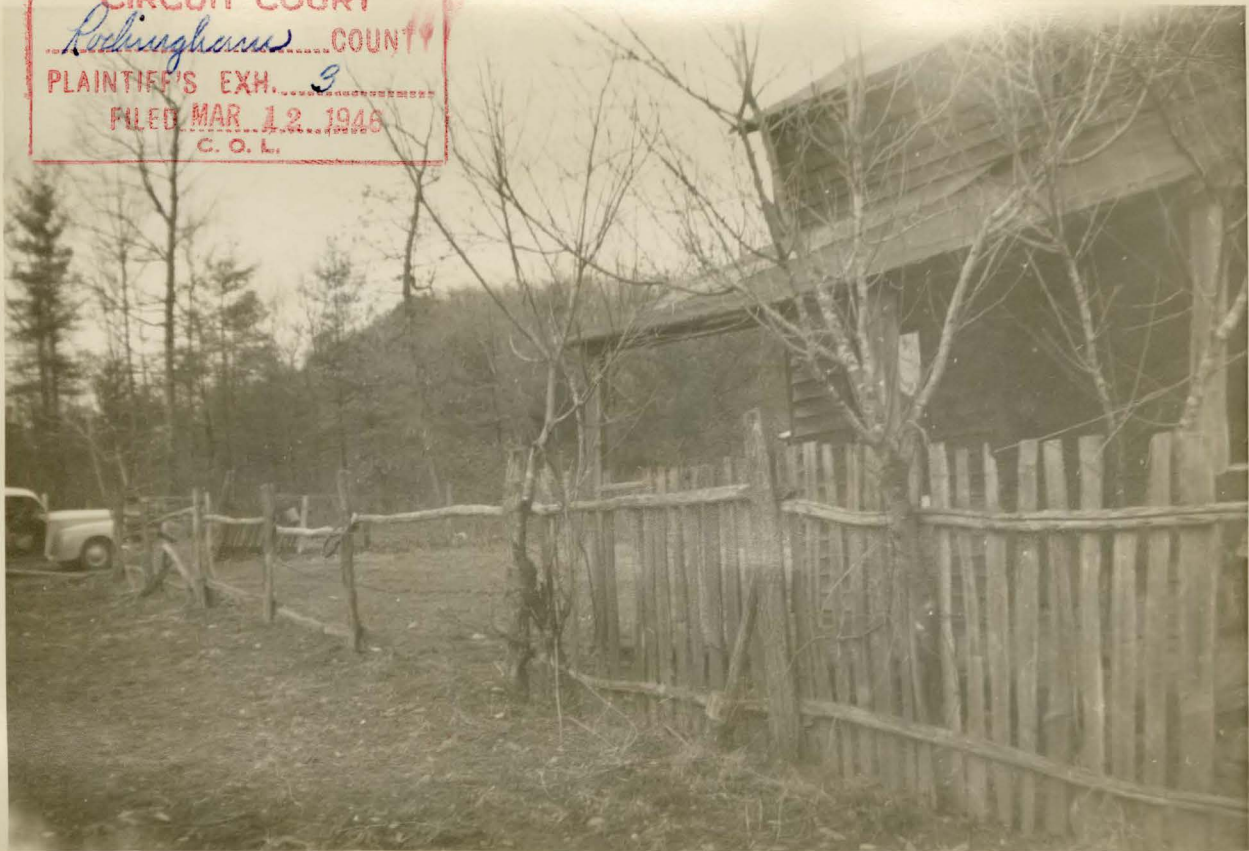
CIRCUIT COURT

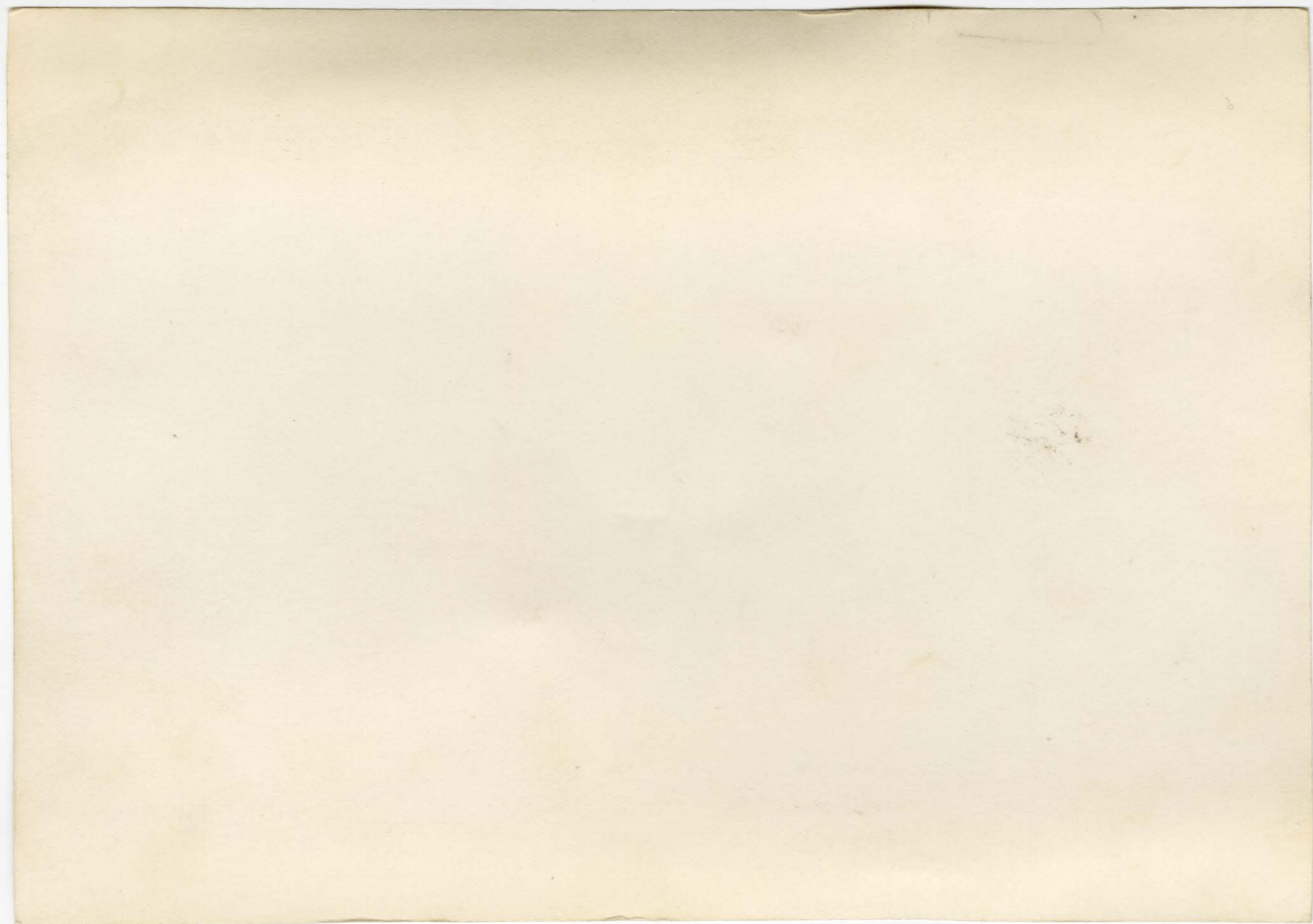
Rockingham COUNTY

PLAINTIFF'S EXH. *3*

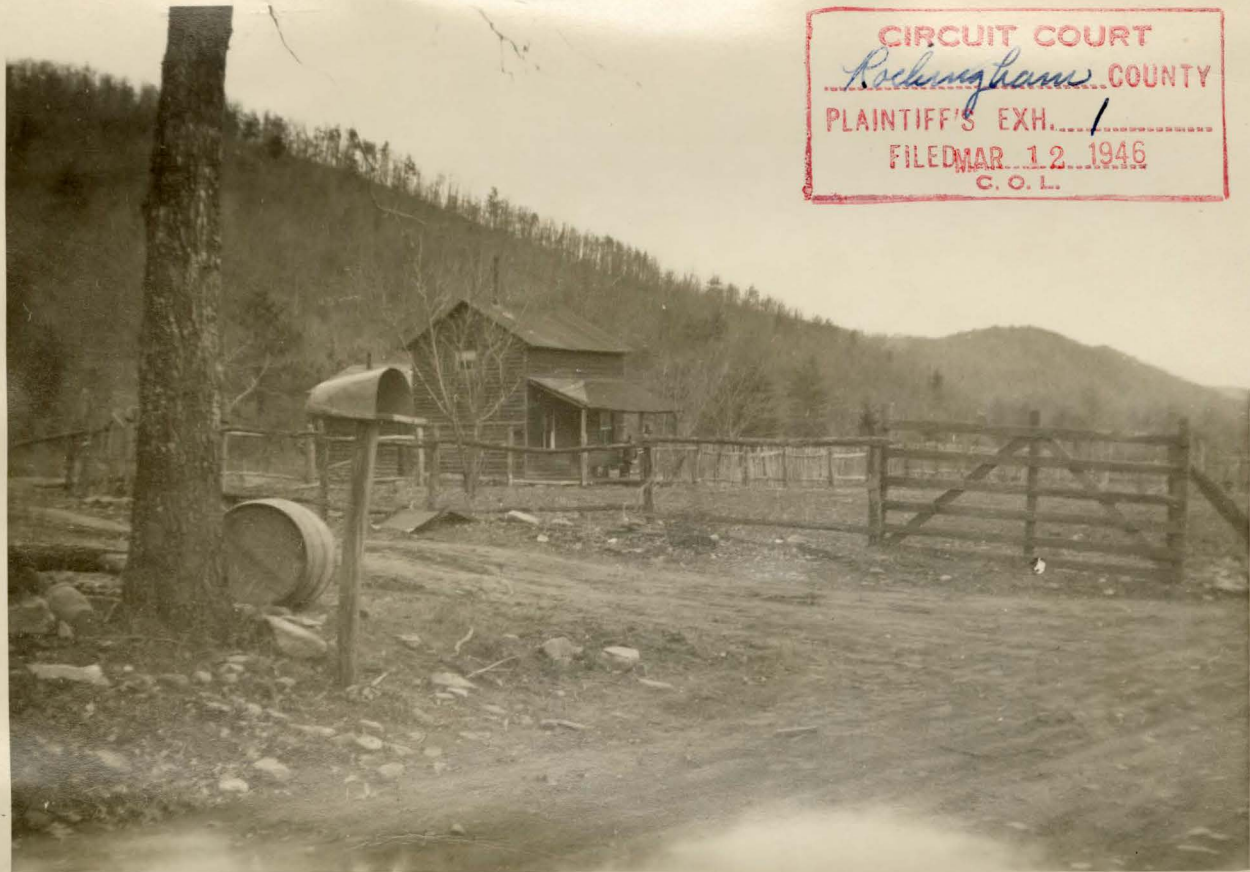
FILED MAR 12 1948

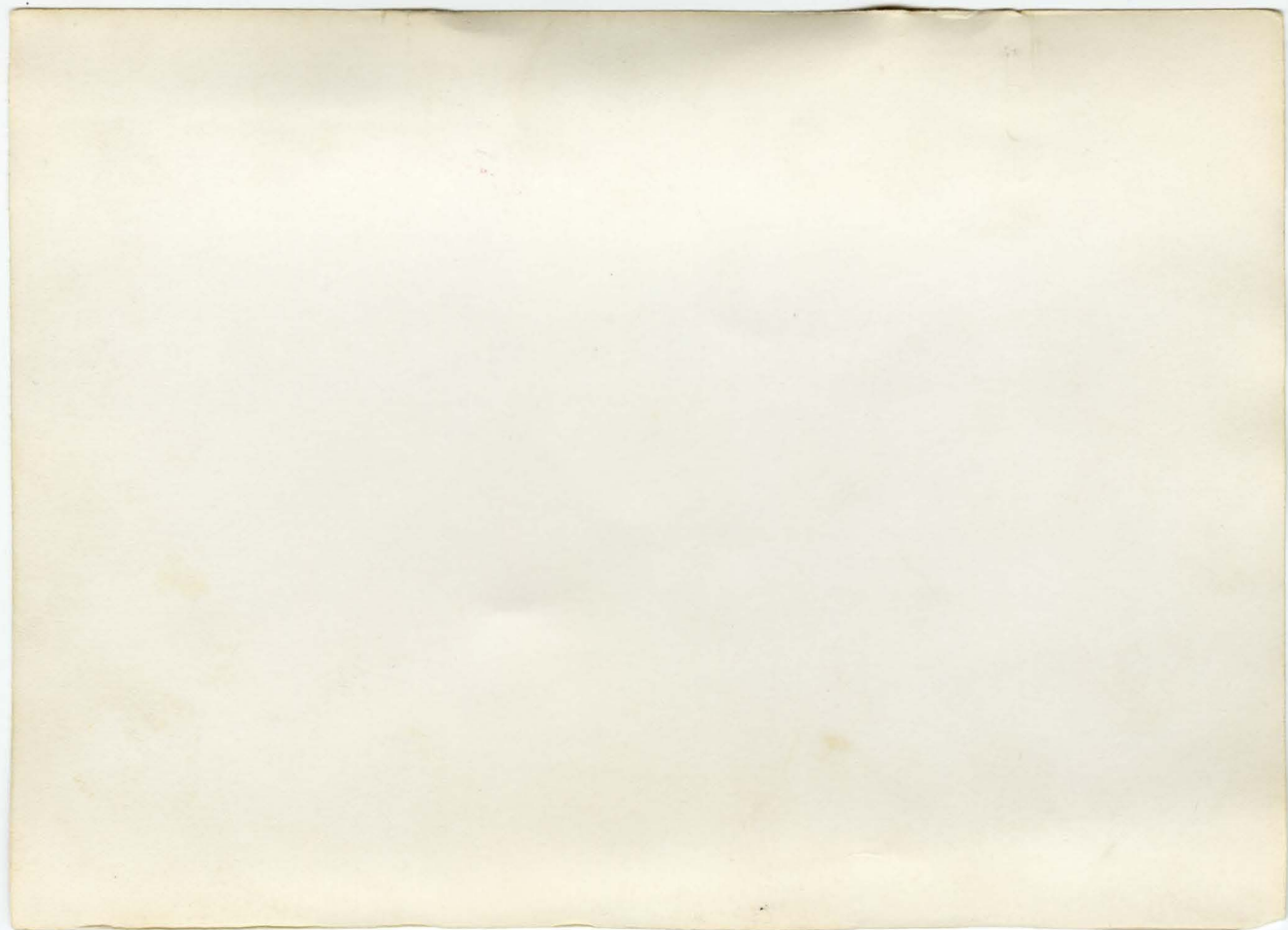
C. O. L.





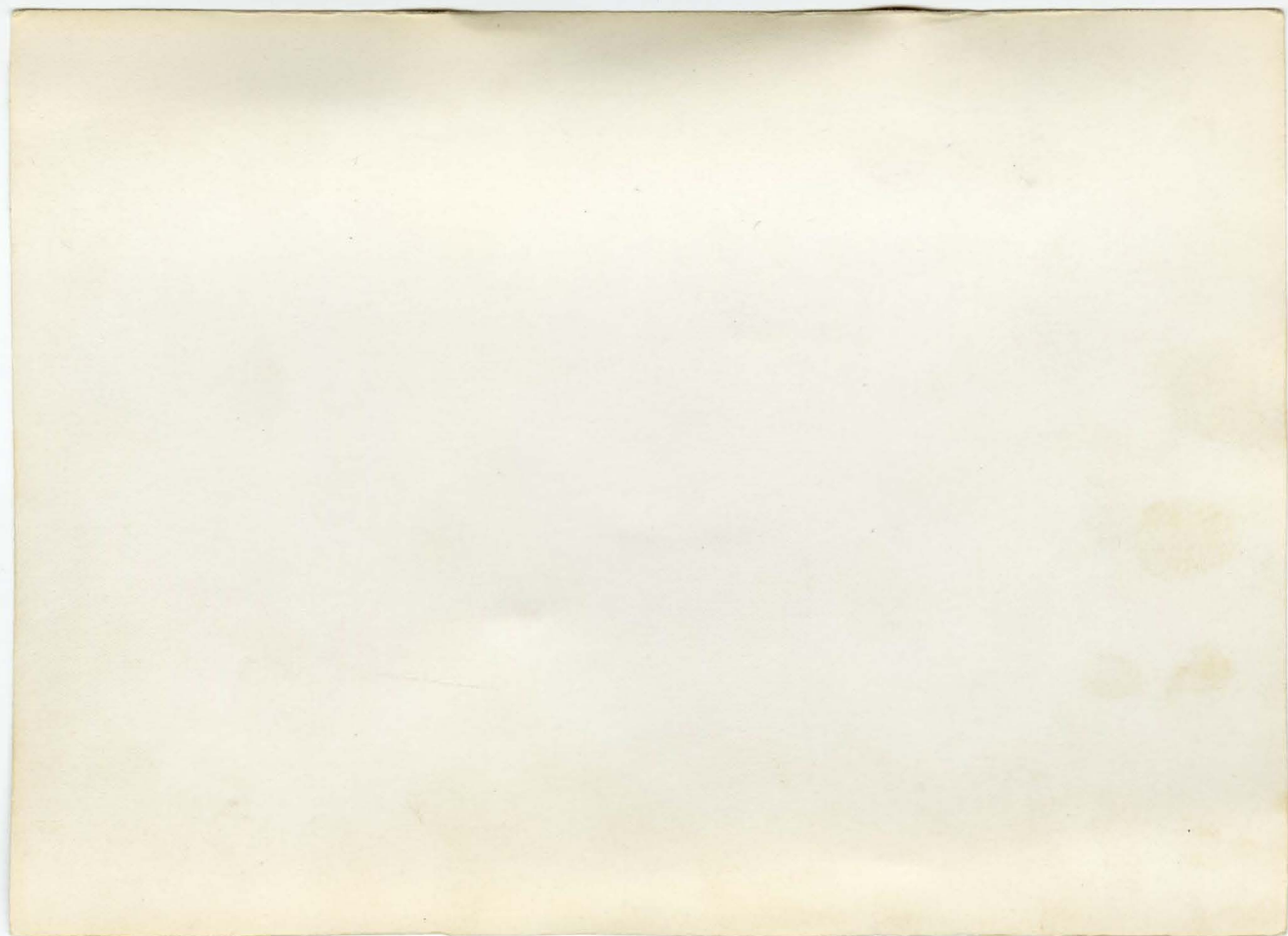
CIRCUIT COURT
Rockingham COUNTY
PLAINTIFF'S EXH. *1*
FILED MAR. 12. 1946
C. O. L.





CIRCUIT COURT
Rockingham COUNTY
PLAINTIFF'S EXH. *2*
FILED *MAR 22 1948*
C.O.L.





In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Arthur Doue, May Doue,
Pauline Shiplett, Mallie Shiplett, Nettie
Conley, Lucille Conley, Ray Conley,
"Het" Mc Dorman, Gilbert Mainis,
Mrs. Virginia Doue, Goldie Carr,
Clint Ray, & Ted Knight

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 12th day of Mar 1946 to testify and the truth to
say in behalf of the Defendant in the prosecution of the Commonwealth against

John R. Carr

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 8th
day of Mar 1946 and in the 170th year of the Commonwealth.

J. Robert Switzer, Clerk

Not finding Goldie Carr nor any of her
immediate family, executed 3/9/46 by posting and leaving
posted a true copy of this summon upon her door.

Wm A. Rhodes Dpt. Sheriff

For Sam H Callender.

John F. Carr
add
Carr

Mar. 12

1946

Executed March 9-1946 by delivering
a true copy of the within, summon to,
Arthur Hore, May Hore,

Pauline Shufflett, Mollie Shufflett,
Nettie Conley, Lucile Conley
Rog Conley, Net McRomon,
Gilbert Morris & Ted Knight
Wm A. Rhodes Dep. for.

Sam H. Callender S. R. C.

Shufflett for
P. 5.30

not finding Mrs Virginia Hore at his usual

place of abode, Executed March 9-1946 by delivering a

true copy of this Summon to Mary Shoemaker

house keeper in person, at said Mrs Virginia Hore

usual place of abode Mary Shoemaker her house

being a member of his family above the age of 16 years, and explaining the purport thereof to her,

WM A. Rhodes Dep for

Sam H. Ballender S.R.B.

Not finding Clint Ray at his usual

place of abode, Executed March 9-1946 by delivering a

true copy of this Summon to Mrs Mary Kirkpatrick

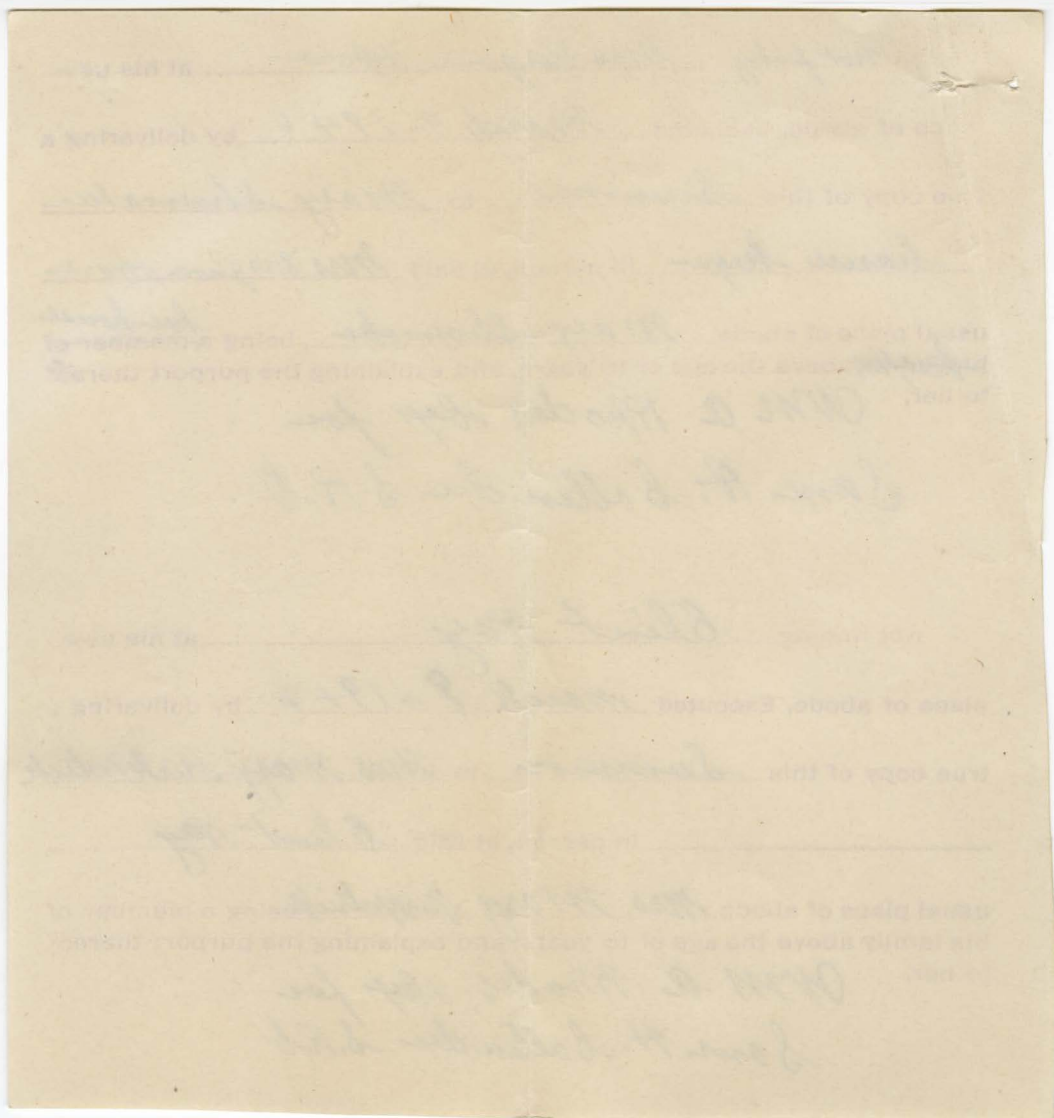
in person, at said Clint Ray

usual place of abode Mrs Mary Kirkpatrick

being a member of his family above the age of 16 years, and explaining the purport thereof to her,

WM A. Rhodes Dep for

Sam H. Ballender S.R.B.



The Commonwealth of Virginia, } To-wit
 Rockingham County, }
 To the Sheriff of Said County:

Whereas, Lawrence H. Hoover of said County, has this day
 made complaint and information on oath before me, J. C. Swartz, Clerk T. J. Court
 of the said County, that John R. Carr
 on the 8th day of Feb., 19 46, in the said County, did unlawfully, felon-
 iously and maliciously kill and murder one Branson Caldwell, 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 the Trial Justice of the said County, the body of the said

John R. Carr

to answer the said complaint and to be further dealt with according
 to law.

Given under my hand this 12th day of Feb. 19 46.

J. C. Swartz
 Clerk.

T. J. or J. P.

Memo. of Commonwealth Witnesses:

Name

Address

JUDGEMENT

March 2-1946
 Upon the hearing of the within charge,
The defendant by
Carruth having waived
his Preliminary Hearing.
he is held to answer
the action of the grand
Jury

Fine	- - - - -	\$
Issuing Justice's Fee	- - - - -	\$ 1.00
Clerk's Fee	- - - - -	\$ 1.25
Trial Justice Fee	- - - - -	\$ 2.00
Arrest and Mileage	- - - - -	\$ 1.50
Summoning Witness	- - - - -	\$
Witness	- - - - -	\$
Attendance and Mileage	- - - - -	\$
Commonwealth's	- - - - -	\$ 2.50
Attorney	- - - - -	\$
Jail Fees	- - - - -	\$.50
Total	- - - - -	\$ 8.75

AC Moore
 Trial Justice

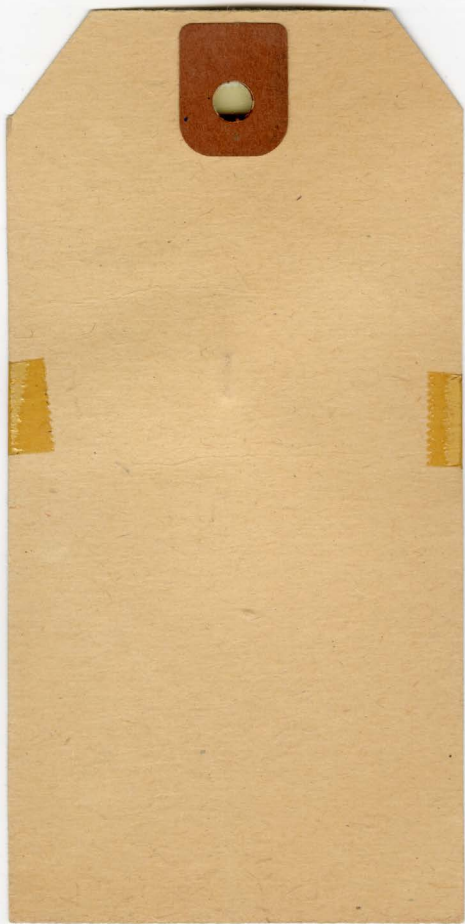
STATE OF VIRGINIA—COUNTY OF ROCKINGHAM, TO-WIT:
 I, _____, in and for the County of Rockingham, State of
 of Virginia, do hereby certify that _____ and _____
 _____ as his suret _____, have this day acknowledged themselves indebted to the
 Commonwealth of Virginia in the sum of _____ dollars (\$) as to
 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
 _____, on the _____ day of _____, 19____, 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 _____ day of _____, 19____.

T. J. or J. P. or Bail Commissioner

Trial Justice Court
 Criminal Docket No. 7552
 Commonwealth
 vs. { Arrest Warrant
John R. Carr
 Executed the within warrant by ar-
 resting and delivering the body of
John R. Carr
 before Paul
 this 28th day of Feb, 1946
S. H. C.
 Officer's Mileage
 Miles travelled by officer - - - ✓
 Miles carried prisoner - - - ✓
 Total mileage - - - ✓
Not guilty

CIRCUIT COURT
Rockingham COUNTY
PLAINTIFF'S EXH. *4*
FILED MAR 12 1946
C. O. L.



COMMONWEALTH VS.

Geo A. Barr

DESCRIPTION OF PRISONER

Last known address

7 A

Color

W-

Height

5-8

Eyes

Blue

Hair

Grey

Weight

140

Marks

Q/N

Age

52

Occupation

Fanner

Date of Trial

Mar-12-1946

Result

18 mo

COMMONWEALTH VS

DESCRIPTION OF PRISONER

Last known address

Color

Eyes

Hair

Weight

Height

Occupation

Age

Date of Trial

Result

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

*Mac Dore, Arthur G. Dore
and Ted Knight*

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 *12th* day of *March*, 19*46*,
to testify and the truth to say in behalf of the Commonwealth against

John R. Carr
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.

LAWRENCE H. HOOVER, COMMONWEALTH'S ATTORNEY
Witness, ~~J. ROBERT SWITZER, Clerk~~ of our said Court, at the Court House, the *7th*

day of *March*, 19*46*, and in the *19th* year of the Commonwealth.

Lawrence H. Hoover, Clerk
Commonwealth's Attorney

usual place of abode the, being a member of
his family above the age of 16 years, and explaining the purport thereof
to her.

Jooper Epfandine

place of abode, Executed 3/7/46
true copy of this Deed to Clippie Knight
his mother in person, at said led knight

by delivering a

Not finding

led knight

at his usual

Deed

John R. R.

3/12/46

EXECUTED 3/2/46 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN Deed
TO Mac Dove & Arthur J. Dove
IN PERSON.

Jooper Epfandine

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Dr. F. L. Byers

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 *12th* day of *Mar.* 19 *46*,

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

John R. Carr

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 *11th*
day of *Mar.*, 19 *46*, and in the *16th* year of the Commonwealth.

J. Robert Switzer, Clerk

Com

V

In the Name of the Commonwealth of Virginia:
To the Sheriff of Rockingham County, Greeting:

Not finding John R. Carr at his usual

place of abode, Executed 3-11-46 by delivering a

true copy of this summon to Ann L. Beyer

wife in person, at said Dr. F. S. Beyer

usual place of abode Ann L. Beyer, being a member of
his family above the age of 16 years, and explaining the purport thereof
to her.

Sam H. Beyer
Sheriff fees \$46

1946

Mar. 12

Ann Beyer

Trial Justice Court

Criminal Docket No.

7552✓

Commonwealth

vs.

John R. Carr

A.W. Arraigneded 2-12-46

Trial 3-1-46

Held to await the action
of the Grand Jury.

MM 1-1946. 2. PM



COMMONWEALTH
v.
CARR

162013
INSTRUCTION 1

The Court instructs the jury that murder in the first degree is any wilful, deliberate and premeditated killing with malice aforethought.

The Court further instructs the jury that if the killing of a human being be malicious but not wilful, deliberate and premeditated, then such killing is murder in the second degree.

The Court still further instructs the jury that voluntary manslaughter is the unlawful killing of a human being in heat of blood and sudden passion, upon adequate provocation, and not from malice.

COMMONWEALTH
v.
DARR

INSTRUCTION

The Court instructs the jury that murder in the first degree is any wilful, deliberate and premeditated killing with malice aforethought.

The Court further instructs the jury that if the killing of a human being be malicious but not wilful, deliberate and premeditated, then such killing is murder in the second degree.

The Court still further instructs the jury that voluntary manslaughter is the unlawful killing of a human being in heat of blood and sudden passion, upon adequate provocation, and not from malice.

COMMONWEALTH
v.
CARR

11173

INSTRUCTION 2

The Court instructs the jury that every homicide in Virginia is presumed to be murder in the second degree. In order to elevate the offense to murder in the first degree, the burden of proof is upon the Commonwealth, and to reduce the offense to manslaughter, the burden of proof is upon the prisoner.

Commonwealth

CARR

INSTRUCTION

The Court instructs the jury that every homicide in Virginia is presumed to be murder in the second degree. In order to elevate the offense to murder in the first degree, the burden of proof is upon the Commonwealth, and to reduce the offense to manslaughter, the burden of proof is upon the prisoner.

COMMONWEALTH
v.
CARR

142573

INSTRUCTION

3

The Court instructs the jury that a man is taken to intend that which he does, or which is the natural and probable consequence of his own act; therefore, if the accused, John R. Carr, shot and killed Branson Caldwell with a loaded rifle, as shown by the evidence, under the circumstances the law presumes that he intended the consequences that resulted from the use of said weapon.

Commonwealth
CAR

14073

3 INSTRUCTION

The Court instructs the jury that a man is taken to intend that which he does, or which is the natural and probable consequence of his own act; therefore, if the accused, John R. Carr, shot and killed Branson Caldwell with a loaded rifle, as shown by the evidence, under the circumstances the law presumes that he intended the consequences that resulted from the use of said weapon.

17203

COMMONWEALTH
CARR

INSTRUCTION 4

The Court instructs the jury that where a homicide is proved by the use of a deadly weapon, and the prisoner relies upon the plea of self-defense, the burden of proving such defense rests upon the prisoner; and in determining whether or not such defense has been established, the jury should consider all of the evidence and circumstances in the case, that for the Commonwealth as well as that for the accused.

Commonwealth

CARR

Page 8

4 INSTRUCTION

The Court instructs the jury that where a homicide is proved by the use of a deadly weapon, and the prisoner relies upon the plea of self-defense, the burden of proving such defense rests upon the prisoner; and in determining whether or not such defense has been established, the jury should consider all of the evidence and circumstances in the case, that for the Commonwealth as well as that for the accused.

HWTB

COMMONWEALTH
v.
CARR

INSTRUCTION 5

The Court instructs the jury that bare fear that a man intends to commit murder or other atrocious felony, however well-grounded, unaccompanied by any overt act indicative of any such intention will not warrant killing the party by way of prevention. There must be some overt act indicative of immediate danger at the time.

And the Court further instructs the jury that words, however greivous or insulting, do not justify an assault.

COMMONWEALTH
v
GARR

Page 13

INSTRUCTION 2

The Court instructs the jury that bare fact that a man
intends to commit murder or other atrocious felony, however
well-grounded, unaccompanied by any overt act indicative of
any such intention will not warrant killing the party by way
of prevention. There must be some overt act indicative of
immediate danger at the time.
And the Court further instructs the jury that words,
however grievous or insulting, do not justify an assault.

HWB

COMMONWEALTH
v.
CARR

INSTRUCTION 6

The Court instructs the jury that the owner of a dwelling house may resist the entry of a trespasser, but he has no right to kill, unless it be rendered necessary to prevent loss of life or great bodily harm. If he kills where there is not a reasonable ground of apprehension of imminent danger to his person or property, it is manslaughter, and if done with malice, express or implied, it is then murder.

Commonwealth

CARR

Writ

INSTRUCTION

The Court instructs the jury that the owner of a dwelling house may resist the entry of a trespasser, but he has no right to kill, unless it be rendered necessary to prevent loss of life or great bodily harm. If he kills where there is not a reasonable ground of apprehension of imminent danger to his person or property, it is manslaughter, and if done with malice, express or implied, it is then murder.

Prisoners Report of Rockingham County Jail

Name John R. Carr Date Arrested 2-8-46
Date Bailed Out 2-14-46 Again Placed in Jail 4-22-46
Male ☒ Female ☐ Age 52 Race W Single ☒ Married ☐ Divorced ☐
Separated ☒ Widow ☐ Widower ☐ Illiterate ☐ Gr. School ☒ High Sch. ☐
Vocational ☐ College ☐ Drug Addict ☐ Inebriate ☐ Occupation Farmer
Employed ☐ Reason for Being in Jail await Pen
Reason for Release from Jail _____
Amount of Fine _____ Cost _____ Sentence Time 18 months
State ☒ County _____ City _____ Town _____
Federal ☐ Army ☐ Navy ☐ Others ☐
Offense unequal shooting Fel. ☒
Miscellaneous _____ ABC _____ Ins. _____
Date Committed _____ Date of Trial _____ Date of Release 2-14-46
Court Committed From C.C. Type of Court _____
Transferred From _____ Transferred To _____
Reason for Transfer _____
Physical Condition _____ Contagious Disease, If Any no
Fine After Prisoner at Jail; Amount to State \$ _____ Amount to City \$ _____

Date Reported _____

Deputy and Jailor _____

Sheriff _____

7 da. en

Fred Mar -13-46
sumner for serving
sentenced ap. 22-
-46

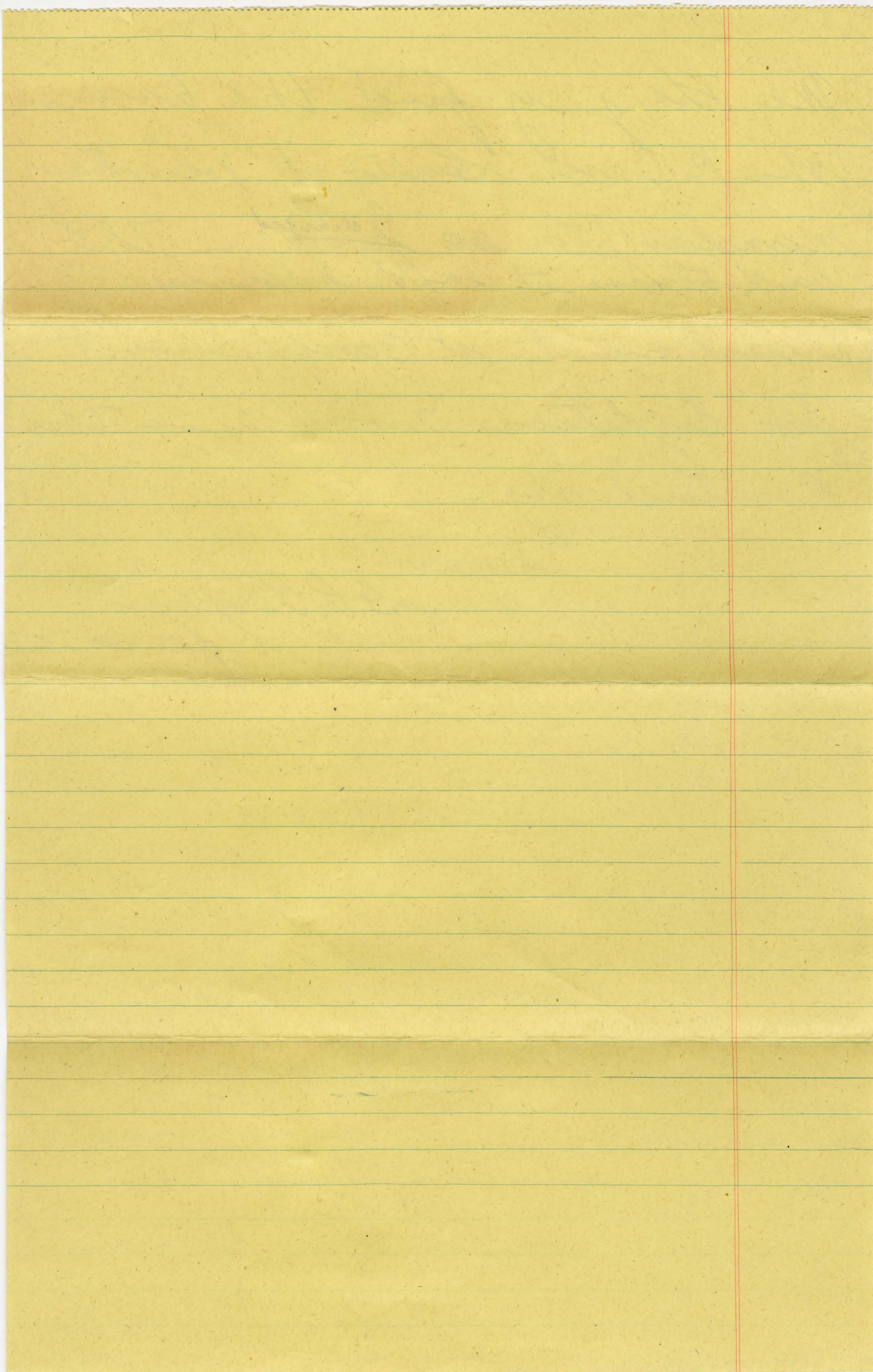
Prisoners Report of Rockingham County Jail

Name John R. Carter Date Arrested 2-8-42
Date Bailed Out 2-19-42 Again Placed in Jail 4-22-42
Male ☒ Female ☐ Age 32 Race W Single ☒ Married ☐ Divorced ☐
Vocational ☐ College ☐ Drug Addict ☐ Inebriate ☐ Occupation Farmer
Employed ☐ Reason for Being in Jail Arrested for Possession of Firearms
Reason for Release from Jail ☐
Amount of Fine ☐ Cost ☐ Sentence Time 18 months
State ☒ County ☐ City ☐ Town ☐
Federal ☐ Army ☐ Navy ☐ Others ☐
Offense Unlawful Shooting
Miscellaneous ☐ ABC ☐ Inc. ☐
Date Committed ☐ Date of Trial ☐ Date of Release 2-14-42
Transferred from ☐ Transferred to ☐
Reason for Transfer ☐
Physical Condition ☐ Contagious Disease, If Any Yes
Fine After Release as Jail/amount to State \$ ☐ Amount to City \$ ☐
Date Reported ☐ Deputy and Jailor ☐
Shelf ☐

Prison 12-13-42
Carter, John R.
4-22-42

We The jury find the Accused
John R. Carr. Guilty of Voluntary
manslaughter as ^{charged} ~~found~~ in the
indictment and give his
Punishment at Confinement
for Eighteen months in the
Penitentiary.

Signed
G. C. Carpenter
foreman



STATEMENT

DATE _____ 194 _____

NAME _____

TO SAM H. CALLENDER, SHERIFF DR.

John R. Carr

arrest \$15-0

company pay 15-0

sumy & wife 160

\$4,60 Sheriff's cost

This day came again the attorney for the commonwealth, and the accused, John R. Carr, came in person pursuant to his recognizance, and the jury impanelled and sworn for the trial of this case came pursuant to adjournment; and having received the instructions of the court and having heard the argument of counsel, the jurors were sent to their room to consider their verdict, and after some time they came again into court and returned the following verdict: "We, the jury, find the accused, John R. Carr, guilty of voluntary manslaughter as charged in the indictment, and fix his punishment at confinement for eighteen months in the Penitentiary. (signed) G. C. Carpenter, foreman." Whereupon, the accused, by counsel, moved the court to set aside the verdict of the jury/~~and grant a new trial on the ground that the verdict is contrary to the law and the evidence and is without evidence to support it and for misdirection of the jury, which motion the court overruled, to which action of the court, the~~ *in overruling said motion* accused, by counsel, excepted. And it is therefore considered by the court that the commonwealth recover of the defendant, John R. Carr, the costs incident to this prosecution, and that he be confined in the Penitentiary of this state for the term of eighteen months at hard labor. However, on motion of counsel for the accused, execution of this sentence is suspended for a period of forty (40) days in order to allow the defendant to apply to the Supreme Court of Appeals of Virginia for a writ of error to the judgment of this Court.

fail?

7/1/11

This day came again the attorney for the commonwealth,

and the accused, John R. Carr, came in person pursuant to his
recognizance, and the jury impaneled and sworn for the trial
of this case came pursuant to adjournment; and having received
the instructions of the court and having heard the argument of
counsel, the jurors were sent to their room to consider their
verdict, and after some time they came again into court and
returned the following verdict: "We, the jury, find the accused,
John R. Carr, guilty of voluntary manslaughter as charged in
the indictment, and fix his punishment at confinement for
eighteen months in the Penitentiary." (signed) G. C. Carpenter,

foreman." Whereupon, the accused, by counsel, moved the court
and grant a new trial on the ground that
to set aside the verdict of the jury.

the verdict is contrary to the law and the evidence and is without

evidence to support it and for misdirection of the jury, which
motion the court overruled, to which action of the court, the

accused, by counsel, excepted. And it is therefore considered

by the court that the commonwealth recover of the defendant, John

R. Carr, the costs incident to this prosecution, and that he be

confined in the Penitentiary of this state for the term of eighteen

months at hard labor. However, on motion of counsel for the accused,

execution of this sentence is suspended for a period of forty (40)

days in order to allow the defendant to apply to the Supreme

Court of Appeals of Virginia for a writ of error to the judgment

of this Court.

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA

COMMONWEALTH

v.

JOHN R. CARR

CHARGE TO JURY

If you find the accused, John R. Carr, guilty of murder, as charged in the indictment, and that the murder was committed with malice aforethought, and that it was wilful, deliberate and premeditated, you will find him guilty of murder in the first degree and fix his punishment at death, or 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 that the same was committed with malice aforethought, but that it was not wilful, deliberate and premeditated, then you will find him guilty of murder in the second degree, and fix his punishment at 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, nor of murder in the second degree, but that he killed Branson Caldwell without malice aforethought, actual or implied, upon sudden heat, on reasonable provocation, or in mutual combat, you will find him guilty of voluntary manslaughter and fix his punishment at confinement in the penitentiary for not less than one nor more than five years.

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

Commonwealth of Virginia,
Rockingham County, To-wit:

BE IT REMEMBERED, that on the 14 day of February, 1946,

John R. Carr, principal and Abe Carr, A.C. Carr,
Robert Crawford, and H.M. Dore and David S. Carr,
surety, who justified to his sufficiency, came before me, Shepley & Devier

Bail Commissioner
(J. P. or Bail Commissioner), of the said county of Rockingham,

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of Five Thousand Dollars, (\$ 5000.00),

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

That if the said John R. Carr shall personally appear before the ~~Circuit Court~~ Trial Justice's Court of Rockingham County, at the Courthouse of said County, on the 1st day of March, 1946 at 2 P.M. Term thereof, being the _____ day of _____,

~~19~~____, 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 John R. Carr 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; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, I hereunto affix my signature this 14th day of February, 1946
Shepley & Devier
(J. P. or BAIL COMMISSIONER)

Commonwealth of Virginia,
Rockingham County, To-wit:

BE IT REMEMBERED, that on the 14 day of February, 1946,

John P. Carr, principal and
Robert Carr, his wife, came before me,
[Signature], of the said county of Rockingham,

and acknowledged themselves to be indebted to the Commonwealth of Virginia, each in the sum of
Dollars (\$5000.00).

each severally waived their homestead exemption to their recognizance; yet upon

shall personally appear before the
day of [Signature] at the Court of Rockingham County, at the Courthouse of said County, on the 14 day

and at each 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
whereof the said [Signature] 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, otherwise to remain in full

force and effect.
In Witness Whereof, I hereunto affix my signature this 14 day of February, 1946.
[Signature]
[Signature]
(Bail Commissioner)

A 7552

COMMONWEALTH OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

IN THE CIRCUIT COURT OF SAID COUNTY:

The grand jurors of the Commonwealth of Virginia, in and for the body of the County of Rockingham, and now attending the Circuit Court of said County, at its February term, 1946, upon their oaths do present that John R. Carr, on or about the 8th day of February, 1946, in said County, unlawfully and feloniously did kill and murder one Branson Caldwell, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found upon the testimony of E. P. Landers, a witness sworn in Court and sent before the grand jury to give evidence.

Murder

COMMONWEALTH

v.

JOHN R. CARR

7. 29

Felony:

February Term, 1946

A True Bill:

W. P. Lander
Foreman

Witnesses:

✓ 1. E. P. Landers

Lawrence H. Hoover
Commonwealth's Attorney