

COMMONWEALTH OF VIRGINIA

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of Rockingham County, April Term, 1956.

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Rockingham, now attending the Circuit Court of the said County, upon their oath present that Leo Hoover Hensley on the 12th day of April, 1956, in said County of Rockingham, feloniously and unlawfully did kill and slay one Benjamin Franklin Merica, against the peace and dignity of the Commonwealth of Virginia.

Upon the evidence of Sheriff Dewey Haney, Ernest Merica and Ray Morris, witnesses sworn in open Court and sent to the Grand Jury to give evidence.

COMMONWEALTH OF VIRGINIA

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of Rockingham County, April Term, 1956.

The Grand Jurors of the Commonwealth of Virginia, in and for

the body of the County of Rockingham, now attending the Circuit

Court in said County, upon their oath present that Leo Hoover

Haney on the day of April, 1956, in said County of Rocking-

ham feloniously and unlawfully did kill and slay Benjamin

Franklin Haney, against the peace and dignity of the Commonwealth

of Virginia.

Under the sanction of Sheriff Dewey Haney, Frank Haney and

Ray Haney were sworn in open Court and sent the Grand

Handwritten signature: C. R. Farman

Foreman

COMMONWEALTH

v.

LEO HOOVER HENSLEY

INDICTMENT

A TRUE BILL

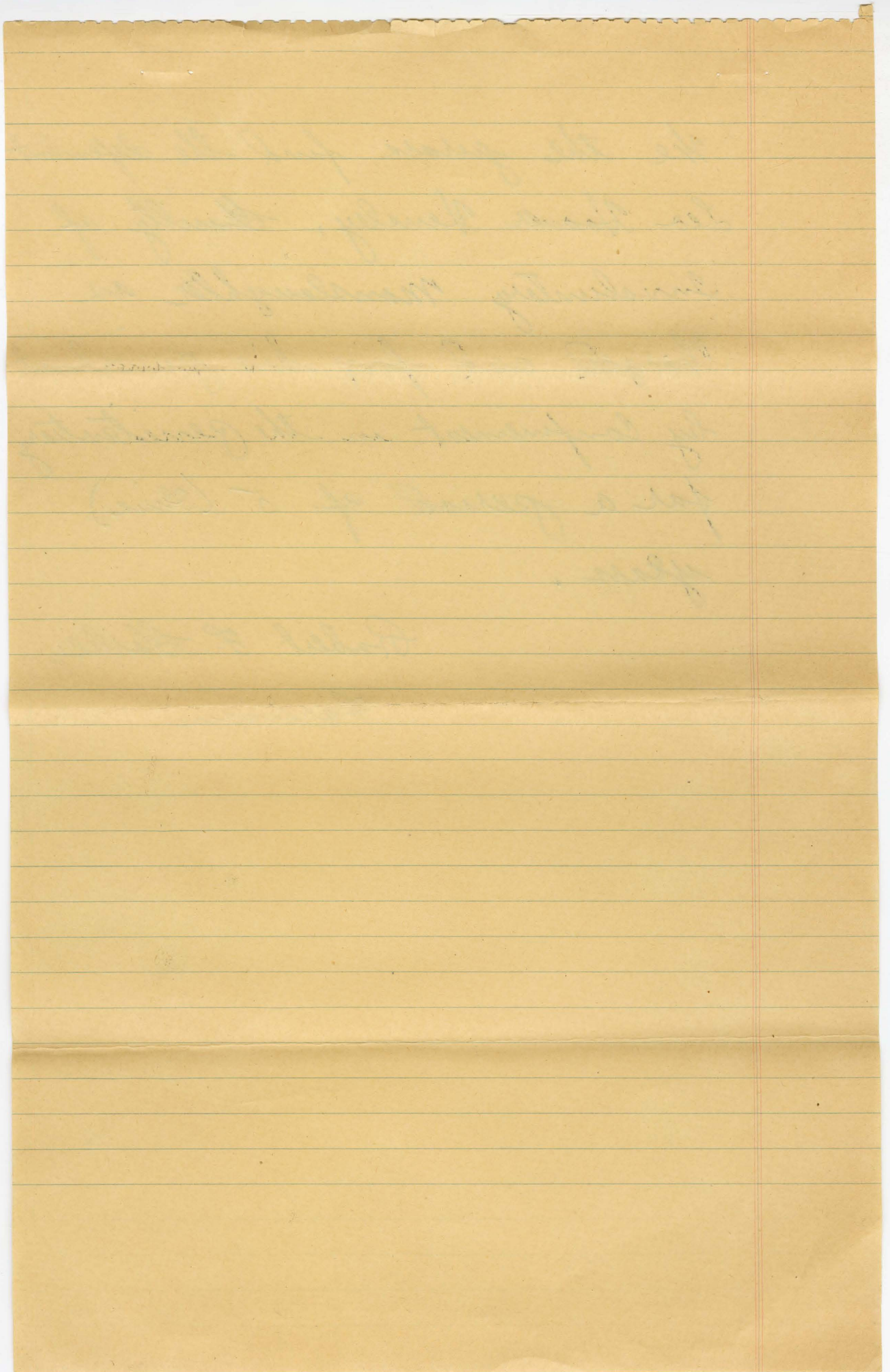
Handwritten initials: J. H. [unclear]

Charles E. Farman, Jr.
Commonwealth's Attorney

We the jurors find the defendant
Leo Hooper Hensley, Guilty of
Involuntary manslaughter as
charged and fix his punishment
by confinement in the penitentiary
for a period of 5 (Five)
years.

Robert F. Lisher

Foreman



COMMONWEALTH

V.

LEO HOOVER HENSLEY

INSTRUCTION 1

The Court instructs the jury that involuntary manslaughter is the killing of a human being ~~unintentionally~~ unintentionally while performing an act that is unlawful but not felonious, 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 incompatible with the proper regard for human life, the person causing such death is guilty of involuntary manslaughter.

5-15-56

H. H.

COMMONWEALTH

v.

LEO HOOVER HENSLEY

1
INSTRUCTION

The Court instructs the jury that involuntary manslaughter is the killing of a human being ~~without~~ unintentionally while performing an act that is unlawful but not felonious, 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 incompatible with the proper regard for human life, the person causing such death is guilty of involuntary manslaughter.

2-12-70
A. A.

INSTRUCTION NO. ✓.

The court instructs the jury that the law presumes every person charged with crime to be innocent until his guilt is established by the Commonwealth beyond a reasonable doubt, and this presumption of innocence goes with the accused through the entire case, and applies at every stage thereof; and if, after having heard all of the evidence in this case, the jury have a reasonable doubt of the guilt of the accused upon the whole case, or as to any fact essential to prove the charge made against him in the indictment, it is their duty to give the prisoner the benefit of the doubt, and find him not guilty.

5-15-56

H H.

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2-17-72
K H

COMMONWEALTH

V.

LEO HOOVER HENSLEY

INSTRUCTION 3

In considering whether or not the Commonwealth has met its burden of proving the guilt of the accused beyond reasonable doubt, the Court instructs the jury that you should not overlook the word "reasonable" nor its meaning. A reasonable doubt is a doubt which is founded on reason, and is not to be confused with imaginable or possible doubt, for the law does not say that a man must be proved guilty beyond every imaginable, conceivable or possible doubt.

In passing upon the sufficiency of the proof of the charge, the jury must limit its consideration to the evidence presented at the trial of this case, including the natural and reasonable inferences to be drawn therefrom. The jury cannot go beyond such evidence to create doubt, nor can you go beyond such evidence to find inferences of guilt.

Furthermore, the jury should bear in mind that any such doubt arising from lack of evidence, from conflicting testimony, or from questionable proof of any particular fact, should be a doubt of a material fact essential to the proof of the guilt of the accused and not a mere doubt concerning immaterial and nonessential circumstances.

If, after a reasonable and honest consideration of all of the evidence, your minds are left in such a state of doubt as to prevent you from reaching a convinced belief of the guilt of the accused, then the Commonwealth has failed to meet its burden.

If, on the other hand, after an impartial and reasonable consideration of all the evidence in the case, you have an abiding conviction of the truth of the charge, you are then satisfied beyond all reasonable doubt.

55-5-56

H. H.

INSTRUCTION

In considering whether or not the Commonwealth has met its burden of proving the guilt of the accused beyond reasonable doubt, the Court instructs the jury that you should not overlook the word "reasonable" nor its meaning. A reasonable doubt is a doubt which is founded on reason, and is not to be confused with imaginable or possible doubt, for the law does not say that a man must be proved guilty beyond every imaginable, conceivable or possible doubt.

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If, on the other hand, after an impartial and reasonable consideration of all the evidence in the case, you have an abiding conviction of the truth of the charge, you are then satisfied beyond all reasonable doubt.

2-12-25
A. H.

COMMONWEALTH

V.

LEO HOOVER HENSLEY

INSTRUCTION 4

The Court instructs the jury that drunkenness or voluntary intoxication is no excuse for crime, although such drunkenness may be the result of long continued and habitual drinking, without any purpose to commit crime; in other words, a person, whether he be an habitual drinker or not, cannot voluntarily make himself so drunk as to become on that account irresponsible for his conduct during such drunkenness.

5-15-56

H. H.

COMMONWEALTH

v.

LEO HOOVER HENSLEY

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2-11-20
H. A.

COMMONWEALTH

V.

LEO HOOVER HENSLEY

INSTRUCTION

5

The Court tells the jury that if a killing appears to be purely accidental and the act unaccompanied by any criminally careless or reckless conduct on the part of the slayer, such homicide is excusable in law; however, in order for the defense of excusable accidental homicide to prevail, the act resulting in death must have been done with due regard for the life and person of another and such killing must have been accidental.

5-15-56

H. H.

COMMONWEALTH

V.

LEO HOOVER HENSLEY

2 INSTRUCTION

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2-15-76
A.W.

COMMONWEALTH

V.

LEO HOOVER HENSLEY

INSTRUCTION 6

The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury; and the jury have the right to determine from the appearance of the witnesses on the stand, their manner of testifying, the reasonableness and consistency of their testimony, their apparent candor and fairness, their apparent intelligence or lack of intelligence, the relationship of the witness to the parties, if any, the interest of the witness in the result of the trial, if any appear, and from all other surrounding circumstances appearing on the trial, determine which witnesses are more worthy of credit and what is the relative weight of any testimony, and to give credit accordingly.

5-15-56

H. H.

COMMONWEALTH

v.

LEO HOOVER HENSLEY

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A. A.
2-12-20

1956
27
29

COMMONWEALTH VS. Les Hoover Newley

DESCRIPTION OF PRISONER

Last known address Rehoboth At 1

Color W Height 5-8 Eyes B Hair B Weight 160

Marks 10 14

Age 27 Occupation Farmall

Date of Trial 5/15/56

Result 5 yrs

1894/2
1894/2

COMMONWEALTH vs. James Murphy

DESCRIPTION OF PRISONER

Result _____
Date of Trial _____
Age _____
Mark _____
Color _____
Height _____
Eyes _____
Hair _____
Weight _____
Last known address _____
Occupation _____

D. W. Earman, atty.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon..... Elijah Dean and Hubert Meadows.....

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof,
at ^{9:30} ~~10~~ o'clock, a. m., on the 15th day of May, 1956 to testify and the truth to
say in behalf of the Defendant in the prosecution of the Commonwealth against.....

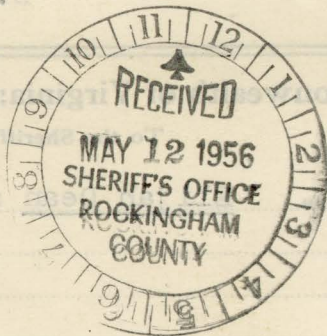
Leo Hoover Hensley

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 12th.....
day of May, 1956, and in the 180th year of the Commonwealth.

J. Robert Switzer, Clerk
W.C.



EXECUTED 5-14-56 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN Symposium

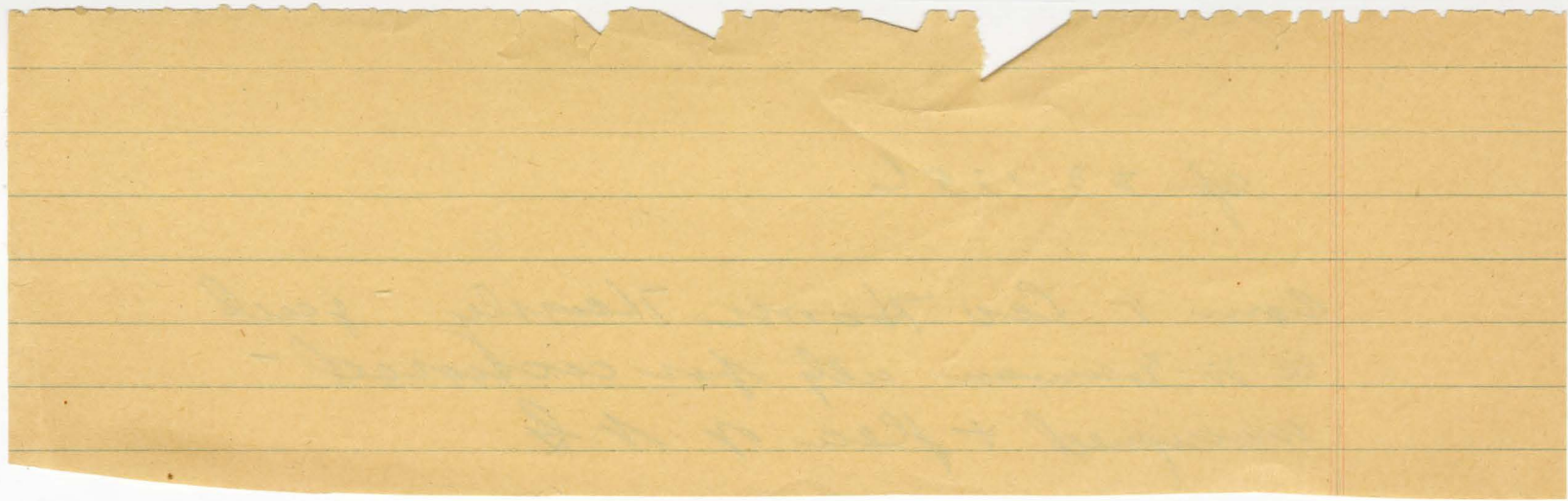
TO Elijah Denson and Hubert Meadows
IN PERSON.

Denver E. Haney Dep.
for A. L. STRAWDERMAN
SHERIFF
ROCKINGHAM COUNTY

2 wit. sum. 40 = .80¢

af 23-1956

Com r Leo Horner Hensley - jail
re W. Yerman aty for captured -
arranged + plea of N.G.



In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

.....SHERIFF HANEY.....

.....ERNEST MERICA..... *O.K. 2 traps*

.....RAY MORRIS..... *PD. # 136*

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 15th day of May, 1956, to testify and the truth to say in behalf of the Commonwealth before the Grand Jury, against LEO. HOOVER HENSLEY

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

And this you shall not omit under penalty. And have then and there this Writ.

Witness, CHARLES E. EARMAN, JR., Commonwealth's Attorney for Rockingham County and the City of

Harrisonburg, Virginia, at the Court House, the 2nd of May, 1956, and in the 1801st year of the Commonwealth.

Charles E. Earman Jr.
Commonwealth's Attorney

EXECUTED 5-11-56 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN Summons

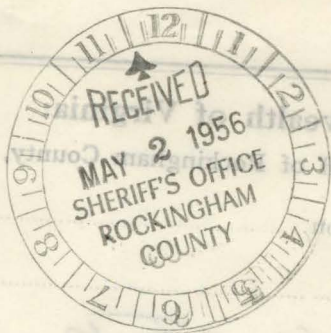
TO Ernest Mering and Roy Morris
IN PERSON.

Henry E. Harvey Dep.

A. L. STRAWDERMAN

SHERIFF

ROCKINGHAM COUNTY



ROCKINGHAM COUNTY

SHERIFF

A. L. STRAWDERMAN

Edward C. Boyd Dep. for

Henry E. Harvey

TO W. J. Hunt

IN PERSON.

EXECUTED 5-2-56 IN THE COUNTY OF

You are hereby commanded to summon
To the Sheriff
In the Name of the Commonwealth

SHERIFF HANNEY

0215 204 - I. 20
3 W. J. Hunt

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

EUGENE HAMMER, Elkton, Virginia

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 15th day of May, 1956, to testify and the truth to say in behalf of the
Commonwealth ~~before the Grand Jury,~~ against LEO HOOVER HENSLEY

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

And this you shall not omit under penalty. And have then and there this Writ.

Witness, CHARLES E. EARMAN, JR., Commonwealth's Attorney for Rockingham County and the City of
Harrisonburg, Virginia, at the Court House, the 3rd of May, 1956, and in the 180th year
of the Commonwealth.

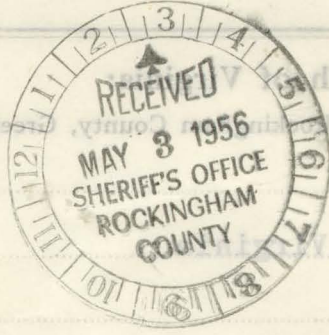
Charles E. Earman Jr.
Commonwealth's Attorney

EXECUTED 5-11-56 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN Sumner
TO Eugene Hammer
IN PERSON.

Denny E. Henry Dep.

for A. L. STRAWDERMAN

SHERIFF
ROCKINGHAM COUNTY



160
120
280

copy sent to WI 40¢

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

..... SHERIFF DEWEY HANEY

..... ERNEST MERICA

..... RAY MORRIS

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 16th day of April, 1956, to testify and the truth to say in behalf of the
Commonwealth before the Grand Jury, against LEO HOOVER HENSLEY

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

And this you shall not omit under penalty. And have then and there this Writ.

Witness, CHARLES E. EARMAN, JR., Commonwealth's Attorney for Rockingham County and the City of
Harrisonburg, Virginia, at the Court House, the 13th of April, 1956, and in the 180th year
of the Commonwealth.

Charles E. Earman, Jr.
Commonwealth's Attorney

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

You are hereby commanded to summon

SHERIFF DEWEY HANEY

ERNEST MERICA

RAY MARRIS



EXECUTED 4-14-54 IN THE COUNTY OF ROCKINGHAM

BY DELIVERING A TRUE COPY OF THE WITHIN Summons

TO Dewey E. Haney
Ernest Merica
Ray Marris

IN PERSON.

A. L. Strauderman

S. R. C.

BY Dewey E. Haney

DEPUTY SHERIFF

Commonwealth's Attorney

3 Wit Sum. 402 = \$ 1.20

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

SHERIFF DENNY HANEY

ERNEST HERRICA

RAY MORRIS

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 10th day of April, 1956, to testify and the truth to say in behalf of the
Commonwealth before the Grand Jury, against LEO HOOVER HENSLEY

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

And this you shall not omit under penalty. And have then and there this Writ.

Witness, CHARLES E. EARMAN, JR., Commonwealth's Attorney for Rockingham County and the City of
Harrisonburg, Virginia, at the Court House, the 13th of April, 1956, and in the 130th
year of the Commonwealth.

Charles E. Earman, Jr.
Commonwealth's Attorney

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 _____ day of _____, 19____, to testify and the truth to say in behalf of the

Commonwealth before the Grand Jury, against _____

who stands charged with and indicted for a felony misdemeanor.

And this you shall not omit under penalty. And have then and there this Writ.

Witness CHARLES E. FARMAN, JR., Commonwealth's Attorney for Rockingham County and the City of

Harrisonburg, Virginia, at the Court House, the _____ day of _____, 19____, and in the _____ year

of the Commonwealth.

Charles E. Farman, Jr.
Commonwealth's Attorney

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

EUGENE HAMMER, Elkton, Virginia

1 Trip

23 miles one way

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 15th day of May, 1956, to testify and the truth to say in behalf of the Commonwealth before the Grand Jury, against LEO HOOVER HENSLEY

who stands charged with and indicted for a felony misdemeanor.

And this you shall not omit under penalty. And have then and there this Writ.

Witness, CHARLES E. EARMAN, JR., Commonwealth's Attorney for Rockingham County and the City of Harrisonburg, Virginia, at the Court House, the 3rd of May, 1956, and in the 180th year of the Commonwealth.

Charles E. Earman, Jr.
Commonwealth's Attorney

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

JEROME BROWN, Plaintiff, vs. JAMES HUBBARD, Defendant.

23
1797

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 17th day of May, 1797, to testify and the truth to say in behalf of the

Commonwealth before the Grand Jury, against JAMES HUBBARD.

who stands charged with and indicted for a felony misdemeanor.

And this you shall not omit under penalty. And have then and there this Writ.

Witness, CHARLES E. FARRMAN, Jr., Commonwealth's Attorney for Rockingham County and the City of

Harrisonburg, Virginia, at the Court House, the 17th day of May, 1797, and in the 17th year of the Commonwealth.

[Handwritten signature]
Commonwealth's Attorney

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

SHERIFF HANEY

ERNEST MERICA

RAY MORRIS

2 Trips

13 miles one way

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 15th day of May, 1956, to testify and the truth to say in behalf of the Commonwealth ~~before the Grand Jury~~, against LEO HOOVER HENSLEY

who stands charged with and indicted for a felony misdemeanor.

And this you shall not omit under penalty. And have then and there this Writ.

Witness, CHARLES E. EARMAN, JR., Commonwealth's Attorney for Rockingham County and the City of Harrisonburg, Virginia, at the Court House, the 2nd of May, 1956, and in the 180th year of the Commonwealth.

Charles E. Earman, Jr.
Commonwealth's Attorney

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

ERNEST HALEY

ERNEST HALEY

RAY MOORE

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 1st day of May, 1955, to testify and the truth to say in behalf of the Commonwealth before the Grand Jury, against RAY MOORE, HENRY

who stands charged with and indicted for a felony misdemeanor.

And this you shall not omit under penalty. And have then and there this Writ.

Witness, CHARLES E. EARMAN, JR., Commonwealth's Attorney for Rockingham County and the City of

Harrisonburg, Virginia, at the Court House, the 2nd of May, 1955, and in the 10th year of the Commonwealth.

Commonwealth's Attorney

Charles E. Earmann, Jr.

STATE OF VIRGINIA
~~COUNTY~~ OF Harrisonburg
City

To-Wit: No. _____

TO ANY SHERIFF OR POLICE OFFICER:

Whereas, Dewey Haney

has this day made complaint and information on oath before me, John G. Leake
City (Name)
Justice of The Peace of the said ~~County~~, that
(Title) Leo Hoover Hensley Rockingham
in ~~Rockingham~~ County

did on the 12th day of April, 19 56; Unlawfully and feloniously
kill and slay Benjamin Franklin Merica, against the peace and dignity of the
Commonwealth of Virginia

These are, therefore, to command you, in the name of the Commonwealth, to apprehend and bring before the
Rockingham
Trial Justice Court of ~~Rockingham~~ County, the body (~~body~~) of the above accused, to answer the said complaint and
to be further dealt with according to law. And you are also directed to summon

- _____ color _____ Address _____
- _____ color _____ Address _____
- _____ color _____ Address _____
- _____ color _____ Address _____
- _____ color _____ Address _____

as witnesses.

Given under my hand and seal, this 13th day of April, 19 56

John G. Leake
(Title of Issuing Officer)
JUSTICE OF THE PEACE (Seal)

STATE OF VIRGINIA—COUNTY OF _____, to-wit:

I, _____ a Trial Justice Justice of the Peace in and for the County aforesaid, State of Virginia, do certify that _____ and _____, as his suret _____, have this day each acknowledged themselves indebted to the Commonwealth of Virginia in the sum of _____ Dollars (\$ _____), to be made and levied of their respective goods and chattels, lands, and tenements to the use of the Commonwealth to be rendered, yet upon this condition: That the said _____, shall appear before the Circuit Court of _____ County, on the _____ day of _____, 19____, at _____ M., at _____, Virginia, and at any time or times to which the proceedings may be continued or further heard, and before any court thereafter having or holding any proceedings in connection with the charge in this warrant, to answer for the offense with which he is charged, and shall not depart thence without the leave of said court, the said obligation to remain in full force and effect until the charge is finally disposed of or until it is declared void by order of a competent court; and upon the further condition that the said _____ shall keep the peace and be of good behavior for a period of _____ days from the date hereof.

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

T. J., J. P.

NONAPPEARANCE SHALL BE DEEMED TO CONSTITUTE A WAIVER OF TRIAL BY JURY

DOCKET NO. _____

COMMONWEALTH

WARRANT OF ARREST

Leo Hoover Hensley

Executed this, the _____ day of _____, 19____.

Handwritten signature: Leo Hoover Hensley
S.R.C.

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

The following witnesses were recognized to appear before the Circuit Court of _____ County, Virginia, at _____ M., on the _____ day of _____, 19____, under penalty of \$ _____

COSTS

Warrant \$ 1.00
Trial 2.00
Bail 1.50
Arrest 1.50
Milage 51 4.00
Clerk 5.00
Jail Fee and Board 5.00
Witness Attendance
Summoning Witnesses
Commonwealth Attorney
Total Costs \$
Fine \$
Total \$

Fine \$
Costs \$
Total \$

INSTRUCTION NO. 7

The Court instructs the jury that if they believe from the evidence that Benjamin Franklin Merica was accidentally killed, they should find the defendant not guilty.

Refused & I. to refusal &
giving of court prepared inst. # 5
5-15-56

H. H.

The Court tells the jury
that ~~in case a killing is~~ purely
~~accidental, where the slayer~~

The Court tells the jury
that ~~if~~ ^a ~~the~~ killing
appears to be purely
accidental ~~with~~ ~~the~~
~~slayer is~~ ~~in~~ ~~the~~ ~~act~~
and the act unaccompanied by
by any criminal carelessness
or reckless conduct on the
part of the slayer, such
homicide is excusable in
law; however, in order for the
defense of excusable accidental
homicide to prevail, the act resulting
in death must have been done with
the intent for the life + person of another and
such ^{killings} must have been accidental ~~the~~

COMMONWEALTH

V.

LEO HOOVER HENSLEY

CHARGE TO JURY

If you find the accused, Leo Hoover Hensley, guilty of involuntary manslaughter, as charged in the indictment, 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 a fine not exceeding One Thousand Dollars, or confinement in jail for a period not exceeding one year, or both.

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

COMMONWEALTH

V.

LEO HOOVER HENSLEY

CHARGE TO JURY

If you find the accused, Leo Hoover Hensley, guilty of involuntary manslaughter, as charged in the indictment, 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 a fine not exceeding One Thousand Dollars, or confinement in jail for a period not exceeding one year, or both.

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

Samuel S. Shank
Stanford Runion
Pauline Rutter
Charles F. Berider
Warren Clark
Robert F. Barker
Alfred Good
Mrs A. Hearers
Paul Heatwell
Layman Lanty
Howard Waller's
Allen S. Harvey

Docket No. 3134

To be over
april 23

APR 21 1956

COMMONWEALTH of VIRGINIA

VS.

)
Sud Mance,
Felony (murder)
)

LEO HOOVER HENSLEY

jail

D. W. Earman

p. d.

Own (X) Appointed ()

1956

April 16. Return of Grand Jury. 9/280

Apr. 23. Arraigned, plea n. g. +
case set for May 8. 9/286

May 15. Jury imp. v. +
verdict. 5 yrs. in St. Pen. 9/294

Apr. 18

May 15

33 da. cr.

CIRCUIT COURT OF ROCKINGHAM COUNTY, VA.

Keystone Envelope Co., Phila., Pa.