

Docket No. 3539
APR 1959

COMMONWEALTH of VIRGINIA

Bill of)
VS. Indictment) Felony (murder)

SOLOMON D. ARBOGAST *hail*

W. W. Wharton

p. d.

Own (x) Appointed ()

1959

February 16. Indictment &c. waived;
accused arraigned and plea n.g.;
set for April 27. ~~10/162~~

April 7. Jury imp. & portion of
evidence heard. 10/191.

April 28. Evidence completed, instruc-
tions, argument & 10/191

April 29. Verdict - guilty of
second degree murder &
fine (5) years in St. Pen. 10/191

April 30. Accused sentenced to
fine (5) years in St. Pen
10/194

Dec 16 arrested

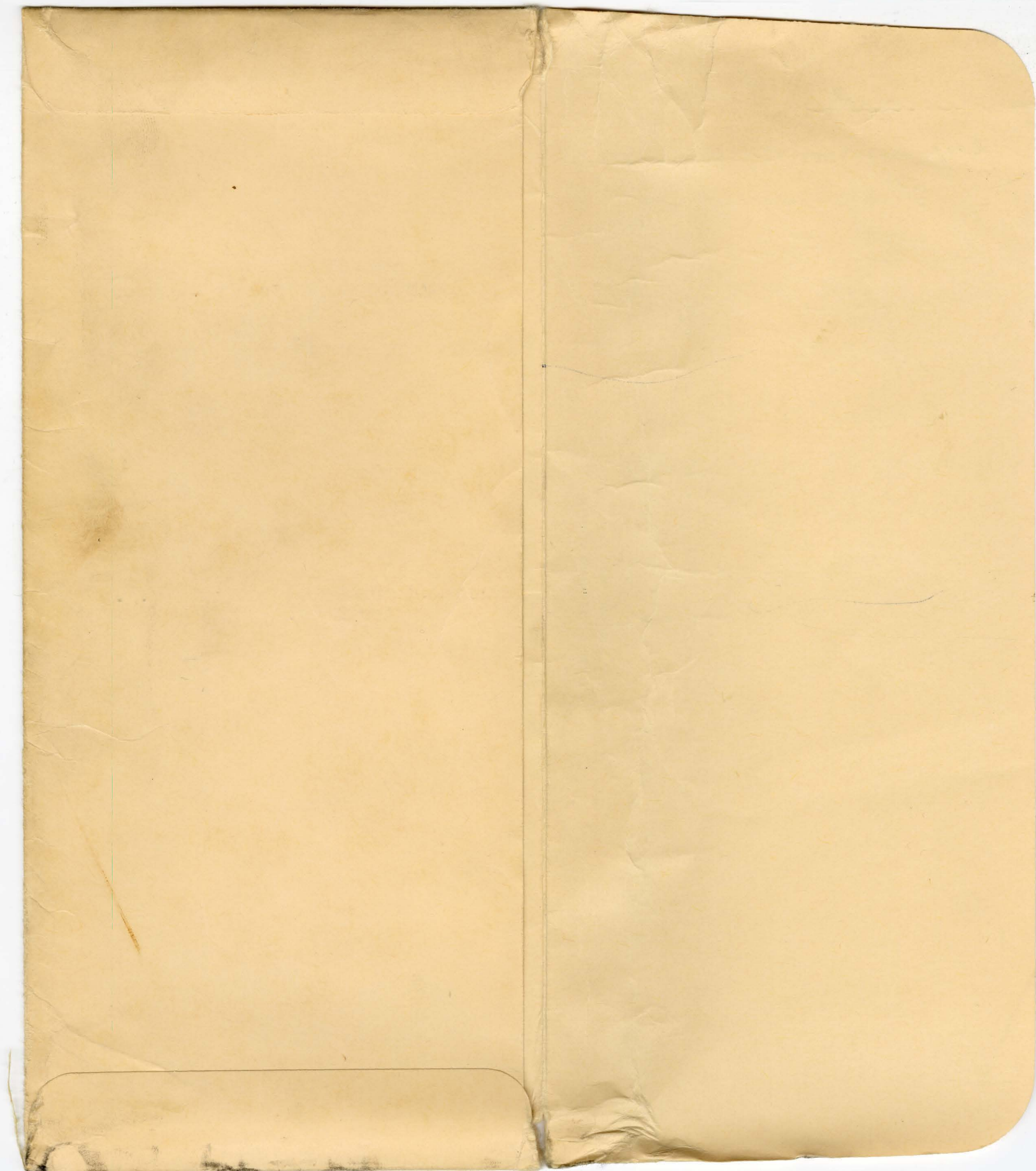
Dec. 23 bail 8 da

Apr 29, 1959 9 da.

CIRCUIT COURT OF ROCKINGHAM COUNTY, VA.

✓ Kenneth Long
✓ Bryan Alexander
✓ J. L. Carbaugh
✓ Lester Long
✓ Benjamin T. Westphal
✓ H. T. King
✓ Richard Bell
✓ Earl M. Hinkle
✓ P. A. Carbin
✓ Roy Spencer
✓ W. J. Brown
✓ Geo R. Bailey

Keystone Envelope Co., Phila. 33, Pa.
No 99378



COMMONWEALTH VS. _____

DESCRIPTION OF PRISONER

Last known address Weymouth Pt

Color W Height 6 ft Eyes Grey Hair Br Weight 195

Marks Q14

Age 36 Occupation Lumberman

Date of Trial 4-30-59

Result 5 yr

COMMONWEALTH VS

DESCRIPTION OF PRISONER

Result _____
Date of Trial _____
Age ~~20~~ _____
Marks _____
Color _____
Height _____
Eyes _____
Hair _____
Weight _____
Last known address _____

Not finding Leta Dahmer at his usual
place of abode, Executed April 17, 1959 by delivering a
true copy of this summons to Olav Dahmer
(mother) in person, at said Leta Dahmer
usual place of abode. Olav Dahmer, being a member of
his family above the age of 16 years, and explaining the purport thereof
to her.

A. L. Strandman S. R. C.
Deputy Sheriff J. G. M. Wilson

Not finding _____ at his usual
place of abode, Executed _____ by delivering a
true copy of this _____ to _____
_____ in person, at said _____
usual place of abode _____, being a member of
his family above the age of 16 years, and explaining the purport thereof
to her. _____
Deputy Sheriff _____ S.R.C.

Not finding John Dohmer at his usual
place of abode, Executed April 17, 1959 by delivering a
true copy of this summons to oh Dohmer
wife in person, at said John Dohmer
usual place of abode oh Dohmer, being a member of
his family above the age of 16 years, and explaining the purport thereof
to her.

A.L. Stroupman S.R.C.

Deputy Sheriff G.M. Wilcox

Not finding _____ at his usual

place of abode, Executed _____ by delivering a

true copy of this _____ to _____

_____ in person, at said _____

usual place of abode _____, being a member of

his family above the age of 16 years and explaining the purport thereof

to her. _____ S.R.C.

Deputy S.R.C. _____

EXECUTED 4-17-59 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN Summons
TO Warren Shiflet
IN PERSON.

J. M. Wilcox Dep for
A. L. STRAWDERMAN

SHERIFF
ROCKINGHAM COUNTY

EXECUTED 1-17-22 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN
TO William H. Miller
IN PERSON.

Wm. H. Miller
A. L. STRAWDERMAN
SHERIFF
ROCKINGHAM COUNTY

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon ^{DS} Norman Pennington; ^{W. R. R. W.} Jack Harmon; ^{DC} Mrs. Rodney Howdyshell; ^{DS} Rodney Howdyshell; ^P Warren Shiflet (c/o Shiflet Amoco Serv. Sta., Hinton); ^M John Dohmer; Lester Dohmer;

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 ^{27th} day of ^{April}, 19⁵⁹, to testify and the truth to say in behalf of the Defendant in the prosecution of the Commonwealth against

Solomon D. Arbogast

who stands charged with and indicted for a felony ~~misdeamnor~~

In witness whereof I hereunto set my hand, as the Clerk of the Circuit Court of Rockingham County, Va., at the Court House thereof, this, the ^{16th} day of ^{April}, 19⁵⁹, and in the ^{183d} year of the Commonwealth.

J. Robert Smithey
107 Madison Avenue
Clerk
D.C.

Executed on the 17th day of April, 1959, in the County of Rockingham, Virginia, by calling at the usual place of abode, Paula Va of Norman Pennington and not finding her there, or any other person upon whom service could be made, I left a true copy of the above mentioned papers attached to each other, posted on the front door of his usual place of abode.

A. L. Strawbman S. R. C.
BY J. M. Wilcox DEPUTY SHERIFF

Not finding Jack Harmon at his usual place of abode, Executed April 17, 1959 by delivering a true copy of this Summons to Bena Harmon in person, at said Jack Harmon

usual place of abode. Bena Harmon, being a member of his family above the age of 16 years, and explaining the purport thereof to her.
A. L. Strawbman S. R. C.
Deputy Sheriff J. M. Wilcox

Executed on the 17th day of April, 1959, in the County of Rockingham, Virginia, by calling at the usual place of abode, Lilly King of Mr Rodney Hardy and not finding her there, or any other person upon whom service could be made, I left a true copy of the above mentioned papers attached to each other, posted on the front door of her usual place of abode.

A. L. Strawbman S. R. C.
BY J. M. Wilcox DEPUTY SHERIFF

Executed on the 17th day of April, 1959, in the County of Rockingham, Virginia, by calling at the usual place of abode, Lilly King of Rodney Hardy and not finding her there, or any other person upon whom service could be made, I left a true copy of the above mentioned papers attached to each other, posted on the front door of her usual place of abode.

A. L. Strawbman S. R. C.
BY J. M. Wilcox DEPUTY SHERIFF

2.80

John Dobner, Peeler Dobner, Sheriff: Rodney Hardy: Weller Spitzer (c/o Spitzer Amoco Serv. Sta., Hinton): You are hereby commanded to summon Norman Pennington: Jack Harmon: Mrs. Rodney Hardy:

To the Sheriff of Rockingham County, Virginia:

In the Name of the Commonwealth of Virginia:

In the Name of the Commonwealth of Virginia:

To the Sheriff of ^{Highland}~~Rockingham~~ County, Greeting:

You are hereby commanded to summon Rev. W. W. Stephenson (McDowell, Va.); and
George Hook (c/o Hook Bros., Monterey, Va.);

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 27th day of April, 1959, to testify and the truth to say in behalf of
the Defendant in the prosecution of the Commonwealth against
Solomon D. Arbogast

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

In witness whereof I hereunto set my hand, as the Clerk of the Circuit Court of Rockingham County, Va.,
at the Court House thereof, this, the 16th day of April, 1959, and in the 183d year
of the Commonwealth.

J. Robert Smith, Clerk
By Maggie Brown
D.C.

In the Name of the Commonwealth of Virginia:

Executed this the 20th day of April 1959 by
delivering a true copy of the with in summons
to the Rev. W.W. Stephenson and George Hook in
person In my County of Highland Virginia.

W. L. Gallatin

Sheriff of Highland County

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 27th day of April, 1959, to testify and the truth to say in behalf of
the Defendant in the prosecution of the Commonwealth against
Solomon D. Arbogast
who stands charged with and indicted for a felony
In witness whereof I hereunto set my hand, as the Clerk of the Circuit Court of Rockingham County, Va.,
at the Court House thereof, this the 10th day of April, 1959, and in the 183d year
of the Commonwealth.

[Signature]

Clerk

STATE OF VIRGINIA
~~COUNTY~~ OF Harrisonburg
City

To-Wit: No. _____

TO ANY SHERIFF OR POLICE OFFICER:

Whereas, T.L. Martin

has this day made complaint and information on oath before me, John G. Leake
City (Name)

Justice of The Peace of the said ~~County~~ County, that
(Title)

Solomon D. Arbogast Rockingham
in the said County

or about
did on the 14th day of December, 19 58: Unlawfully and feloniously

kill and murder Pete Reese, 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
County Court of the ~~County~~ County, the body (~~quod~~) 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 16th day of December, 19 58

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

STATE OF VIRGINIA—COUNTY OF ROCKINGHAM, to-wit:
 I, HARRY BLATT a BAIL COMMISSIONER in and for the County aforesaid, State of Virginia, do certify
 that SOLOMON D. ARBOGAST
~~GEORGE W. HOOKE, MONTEREY, VA., A. LEE LOCKRIDGE, MEDOWELL, VA.~~
 and + P. S. LOCKRIDGE, MEDOWELL, VA., as his sureties, have this day each acknowledged themselves indebted
 to the Commonwealth of Virginia in the sum of TEN THOUSAND Dollars
 (\$10,000.00), 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 SOLOMON D. ARBOGAST, shall appear before the City Court
 of ROCKINGHAM County, on the 30th day of JANUARY, 1958,
 at 2:00 P. M., at HARRISONBURG, 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 SOLOMON D. ARBOGAST shall keep the peace and be of good behavior for a period of _____ days
 from the date hereof. Nonappearance shall be deemed to constitute a waiver of trial by jury.

Given under my hand, this 23rd day of DECEMBER, 1958.
Harry Blatt

DOCKET NO. 27997 A

COMMONWEALTH
 WARRANT OF ARREST
 vs. Solomon D. Arbogast

Executed this, the 16th day of
December, 1958

G. J. Howard
 Sheriff

Upon the examination of the within charge, ~~XXXXX~~
~~this accused~~ the defendant is hereby ordered
 held for action by the Grand Jury.

Given under my hand this 30th day January,
 1959.

Deft. Arbogast
 Subst. Judge

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	\$ 1.50
Trial	2.00
Bail	
Arrest	1.00
Mileage	
Clerk	1.25
Jail Fee and Board	.50
Witness Attendance	
Summoning Witnesses	
Commonwealth Attorney	5.00
Total Costs	\$ _____
Fine	
Total	\$ _____

BOND 10,000.00 \$ 1-30-59
 10-12-22-58 1:30 P.M.
 Total \$ _____
 1959. 12-11-58 P.R.G. JWS.

COMMONWEALTH OF VIRGINIA

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of Rockingham County, February Term, 1959.

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 Solomon D. Arbogast, on or about the 14th day of December, 1958, in the said County, feloniously, wilfully, maliciously, deliberately and unlawfully did kill and murder one Pete Reese, against the peace and dignity of the Commonwealth of Virginia.

Upon the evidence of T. L. Martin and Glen Wilcox, witnesses sworn in open court and sent to the Grand Jury to give evidence.

I, Solomon D. Arbogast, defendant in the above named bill of indictment, do hereby waive the Grand Jury in connection therewith.

Given under my hand this 16th day of February, 1959.

Solomon D. Arbogast

COMMONWEALTH OF VIRGINIA

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of Rockingham County, February Term, 1938.

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Rockingham, now attending the Circuit

Court of said County, upon their oath present that Solomon D. Arbogast, or about the 14th day of December, 1938, in the said County feloniously, wilfully, maliciously, deliberately and unlawfully kill and murder one Pete Reese, against the peace and dignity of the Commonwealth of Virginia.

In evidence of T. L. Martin and Glen Wilcox, witnesses sworn in open court and sent to the Grand Jury to give evidence.

COMMONWEALTH
v.
SOLOMON D. ARBOGAST
Will J. Rutherford

3539
Murder

I, Solomon D. Arbogast, defendant in the above named bill of indictment, do hereby waive the Grand Jury in connection therewith. Given under my hand this 14th day of February, 1938.

Solomon D. Arbogast

Commonwealth

v.

Arbogast

INSTRUCTION NO. 16

The Court instructs the jury that upon the trial of a criminal case by a jury the law contemplates the concurrence of twelve minds in the conclusion of guilt before a conviction can be had. Each individual juror must be satisfied beyond a reasonable doubt of the guilt of the accused before he can, under his oath, consent to a verdict of guilty. ~~Each juror should feel the responsibility resting upon him as a member of the jury, and should realize that his own mind should be convinced beyond a reasonable doubt of the guilt of the accused before he can consent to a verdict of guilty.~~ Therefore, if any individual member of the jury, after having duly considered all the evidence in this case, and after ^{candid} consultation with his fellow jurors, should entertain ~~such~~ reasonable doubt of the guilt of the accused, ~~as is set forth in certain court instructions in this case,~~ it is his duty not to surrender his own ^{firm} conviction simply because the balance of the jury entertain different convictions.

4-28-59
H. H.

H.

Commonwealth

vs.

INSTRUCTION NO. 16

The Court instructs the jury that upon the trial of a criminal case by a jury the law contemplates the concurrence of twelve minds in the conclusion of guilt before a conviction can be had. Each individual juror must be satisfied beyond a reasonable doubt of the guilt of the accused before he can, under his oath, consent to a verdict of guilty. Each juror should feel the responsibility resting upon him as a member of the jury, and should realize that his own mind should be convinced beyond a reasonable doubt of the guilt of the accused before he can consent to a verdict of guilty. Therefore, if any individual member of the jury, after having duly considered all the evidence in this case, and after consultation with his fellow jurors, should entertain any reasonable doubt of the guilt of the accused, or if he is unable to reach a unanimous verdict, it is his duty not to surrender his own conviction simply because the balance of the jury entertain different convictions.

16-7-19
H. H.

Commonwealth

v.

Arbogast

INSTRUCTION NO. 14

~~The Court instructs the jury that every homicide in Virginia is presumed, in the absence of other evidence, to be murder in the second degree, and in order to elevate the offense to murder in the first degree the burden is on the Commonwealth.~~

The Court instructs the jury that if they ^{find the accused guilty, but are in} ~~have a reasonable~~ doubt as to the grade of offense of which Arbogast may be guilty, ~~if any,~~ they shall resolve that doubt in his favor and find him guilty of the lower grade; to illustrate, if they have ~~reasonable~~ doubt as to whether he is guilty of murder in the first degree or the second degree, they should find him ^{of murder} guilty in the second degree. If they have ~~reasonable~~ doubt as to whether he is guilty of murder in the second degree or manslaughter, they should find him guilty of manslaughter, ~~and if they have a reasonable doubt as to whether he be guilty at all,~~ they must resolve that doubt in favor of arbogast and acquit him.

~~The Court further instructs you that the giving of this instruction is no indication from the Court that you should find Arbogast guilty of any offense.~~

Refused as indicated & H.

4-28-59

H.H.

Commonwealth

Adopt

INSTRUCTION NO. 14

The Court instructs the jury that every homicide in Virginia is presumed, in the absence of other evidence, to be murder in the second degree, and in order to elevate the offense to murder in the first degree the burden is on the Commonwealth.

The Court instructs the jury that if they have reasonable doubt as to the grade of offense of which Adopt may be guilty, they shall resolve that doubt in his favor and find him guilty of the lower grade; to illustrate, if they have reasonable doubt as to whether he is guilty of murder in the first degree or the second degree, they should find him guilty in the second degree. If they have reasonable doubt as to whether he is guilty of murder in the second degree or manslaughter, they should find him guilty of manslaughter, and if they have a reasonable doubt as to whether he is guilty of all, they must resolve that doubt in favor of Adopt and acquit him.

The Court further instructs you that the giving of this instruction is not intended to take from the Court that you should find Adopt guilty of any offense.

Adopt v. Commonwealth
1914
14

Commonwealth

v.

Arbogast

INSTRUCTION NO. 17

The Court instructs the jury that the good character of Arbogast as being a peaceful, law-abiding citizen, as shown by the evidence, may be received and weighed by the jury in favor of Arbogast.

The jury is further instructed that if they believe from the evidence that Reese had the reputation of being a man of violence and turbulence, that likewise may be considered in determining who was the aggressor.

Revised + L.
H. H.

Commonwealth

vs.

11 INSTRUCTION NO.

The Court instructs the jury that the good character of a witness, as shown by the evidence, may be received and weighed by the jury in favor of the witness.

The jury is further instructed that if they believe from the evidence that there was a fight between a man of violence and turbulence, that likewise may be considered in determining who was the aggressor.

James J. ...
Att. Gen.

Commonwealth

v.

A4bogast

INSTRUCTION NO. 18

The Court instructs the jury that although they may believe, from the evidence in this case, that there is a strong probability that the accused is guilty of the offence charged in the indictment, still, if upon the whole evidence, there is any other reasonable hypothesis consistent with his innocence, they cannot find the accused guilty, and this is true, although it may appear from the evidence that the probabilities of his guilt are greater than the probabilities of his innocence.

Referred as covered by #12
4-28-59
H.H. S.

with pleasure
P. S. - 8-2-4
A. H.
C. H.

The Court instructs the jury that although they may believe from the evidence
presented to them that the accused is guilty of the offense, they should not
convict him unless they believe from the evidence that the probabilities of his guilt
are so strong that they can say with a fair and reasonable degree of certainty
that he is guilty of the offense. If they believe from the evidence that the
probabilities of his guilt are so strong that they can say with a fair and
reasonable degree of certainty that he is guilty of the offense, they should
convict him. If they believe from the evidence that the probabilities of his
guilt are so strong that they can say with a fair and reasonable degree of
certainty that he is guilty of the offense, they should convict him. If they
believe from the evidence that the probabilities of his guilt are so strong
that they can say with a fair and reasonable degree of certainty that he is
guilty of the offense, they should convict him. If they believe from the
evidence that the probabilities of his guilt are so strong that they can say
with a fair and reasonable degree of certainty that he is guilty of the
offense, they should convict him.

INSTRUCTION NO. 21

Page 1

Page 2

Page 3

Commonwealth

v.

Arbogast

INSTRUCTION NO. 19

The Court instructs the jury that in the application of circumstantial evidence to the determination of the case, caution should be used. Such evidence is always insufficient where, assuming all to be true which the evidence tends to prove, some other reasonable hypothesis may still be true, for it is the actual exclusion of every other reasonable hypothesis which invests mere circumstances with the force of truth. Where the evidence leaves it indifferent which of several hypothesis is true, or establishes only some finite probability in favor of one hypothesis, such evidence cannot amount to proof, however great the probability may be.

Refused to Ex.

4-28-59

H. H.

Commonwealth

v.

Arbogast

INSTRUCTION NO. 20

The Court instructs the jury that even if you should believe from the evidence that the Commonwealth has proved beyond a reasonable doubt that Arbogast was the aggressor when he returned to the Davis Filling Station, if he afterwards in good faith announced his desire for peace and undertook to withdraw and if he was pursued by Reese, he was justified in defending himself, and to use such force as to him under all the circumstances seemed reasonably necessary.

Revised - L.

4-28-59

H. H.

Commonwealth

Attorney

INSTRUCTION NO. 20

The Court instructs the jury that even if you should believe from the evidence that the Commonwealth has proved beyond a reasonable doubt that Atogast was the aggressor when he returned to the Davis filling station, if he afterwards in good faith announced his desire for peace and undertook to withdraw and if he was pursued by force, he was justified in defending himself, and to use such force as to him under all the circumstances seemed reasonably necessary.

Refused to lit.

4-28-79

H. H.

51

Commonwealth

v.

Arbogast

INSTRUCTION NO. 20

The Court instructs the jury that even if you should believe from the evidence that the Commonwealth has proved beyond a reasonable doubt that Arbogast was the aggressor when he returned to the Davis Filling Station, if he afterwards in good faith ^{From the conflict as far as circumstances} ~~announced his desire for peace and~~ undertook to withdraw and if he was pursued by Reese, he was justified in defending himself, and to use such force as to him under all the circumstances seemed reasonably necessary.

Reasonably Necessary

Perkins v. Commonwealth, 186 Va. 867

Harper v. Commonwealth, 165 Va. 816

*Revised 1st.
4-28-57
H.H.*

as Pretenses

Commonwealth

v.

Atagost

INSTRUCTION NO. 51

The Court instructs the jury that even if you should believe from the evidence that the Commonwealth has proved beyond a reasonable doubt that Atagost was the aggressor when he returned to the Davis Filling Station, if he afterwards in good faith announced his desire for peace and undertook to withdraw and if he was pursued by Reese, he was justified in defending himself, and to use such force as to him under all the circumstances seemed reasonably necessary.

Perkins v. Commonwealth, 186 Va. 867
 Harper v. Commonwealth, 165 Va. 816

Perkins v. Commonwealth
 186 Va. 867
 Harper v. Commonwealth
 165 Va. 816
 H. H.

As to the above

Perkins v. Commonwealth
 186 Va. 867
 Harper v. Commonwealth
 165 Va. 816

27996

Apr. 27

COUNTY COURT

Criminal Docket No 27997 A

Com'th

Bill of indictment
ret apr 27 59

v.

Solomon Delta Arbogast
Defendant

a.w. Appearance Date 12-19-58

Trial Date 12-22-58 1:30 P.M.

To- 1-30-59 2:P.M.



COMMONWEALTH

V.

SOLOMON ARBOGAST

CHARGE TO JURY

If you find the accused guilty of murder, as charged in the *bill of indictment* ~~warrant~~, and that the murder was committed with malice aforethought, and that it was willful, 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 *said bill* ~~the warrant~~, and that the same was committed with malice aforethought, but that it was not willful, 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 years 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 Reese 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 year nor more than five years.

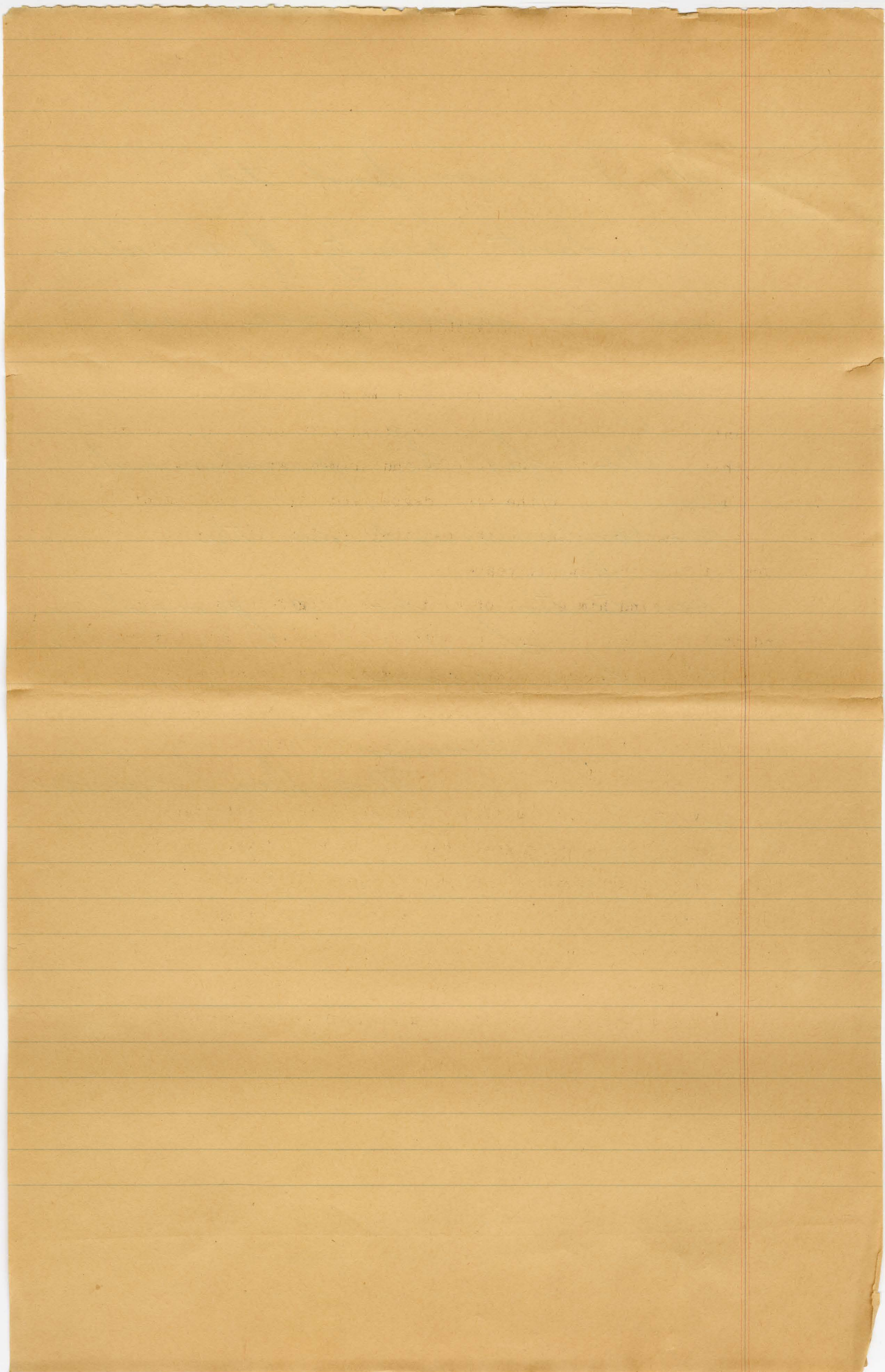
If you find him not guilty, you will say so and no more.

We, the jury find the
defendant guilty of murder
in the second degree, as
charged.

We fix his punishment
at confinement in the
penitentiary for a period
of five years.

Foreman:

Wm. W. Spencer



**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH
OFFICE OF THE CHIEF MEDICAL EXAMINER
404-406 NORTH 12TH STREET
RICHMOND 19, VA.**

REPORT OF INVESTIGATION BY MEDICAL EXAMINER

DECEDENT PETE M. REESE AGE: 42 SEX: male RACE: white

ADDRESS Route 2, Dayton, Va. (M)W S D OCCUPATION: Lumberman

TYPE OF DEATH: In prison Suspicious Unusual

Sudden in apparent health:
 Instantaneous without obvious cause
 After unexplained coma
 After unexplained rapidly fatal illness
 Unattended by a physician:
 Found dead without obvious cause
 Unattended during fatal illness
 Stillbirth attended by midwife
 Violent or Unnatural
 Means:

	LAST SEEN ALIVE	INJURY OR ILLNESS	DEATH	MEDICAL EXAMINER NOTIFIED	VIEW OF BODY	POLICE NOTIFIED
DATE	12/16/58	12/15/58	12/16/58	12/16/58	12/16/58	12/15/58
TIME	3:30 pm.	9 to 10 pm.	3:30 pm.	3:30 pm.	4 pm.	

IF MOTOR VEHICLE ACCIDENT CHECK ONE OF THE FOLLOWING
 DRIVER
 PASSENGER
 PEDESTRIAN

NOTIFICATION BY: Rockingham Memorial Hospital ADDRESS Harrisonburg, Va.

	LOCATION	CITY OR COUNTY	TYPE OF PREMISES (E. G., HOSPITAL, HOTEL, HIGHWAY, ETC.)
INJURY OR ONSET OF ILLNESS	Rawleys Springs	Rockingham Co.	Abandoned filling station
DEATH	Hospital	Harrisonburg	Rt # 33 near Rawley Springs. Hospital
VIEWING OF BODY BY MEDICAL EXAMINER	"	"	"

DESCRIPTION OF BODY	BLOOD	NOSE	MOUTH	EARS	NON FATAL WOUNDS	RIGOR	LIVOR
PARTLY CLOTHED <input type="checkbox"/> HAIR					CONTUSION <input type="checkbox"/> STAB <input type="checkbox"/>	NECK <input type="checkbox"/> CHEST <input type="checkbox"/>	ANTERIOR <input type="checkbox"/> POSTERIOR <input type="checkbox"/>
BEARD _____ MUSTACHE _____	OTHER (Sand, dirt, water, etc.)				GUNSHOT <input checked="" type="checkbox"/> INCISED <input type="checkbox"/>	BACK <input type="checkbox"/> ABDOMEN <input type="checkbox"/>	LATERAL <input type="checkbox"/>
CIRCUMCISED <input type="checkbox"/> PUPILS: R. _____ L. _____					LACERATION <input type="checkbox"/>	LEGS <input type="checkbox"/>	REGIONAL _____
EYES: Color _____ OPACITIES, ETC.					FRACTURE <input type="checkbox"/>		
	WEIGHT <u>280</u>		LENGTH <u>6'1"</u>		DISTRIBUTION: { SCALP <input type="checkbox"/> FACE <input type="checkbox"/> NECK <input type="checkbox"/> CHEST <input type="checkbox"/>		
	BODY HEAT: <u>yes</u>				{ BACK <input type="checkbox"/> ABDOMEN <input checked="" type="checkbox"/> ARMS <input type="checkbox"/> LEGS <input type="checkbox"/>		

FATAL WOUNDS:

TYPE (GUNSHOT, INCISED, STAB, ETC.)	SIZE	SHAPE	LOCATION	PLANE, LINE OR DIRECTION
Revolver 45	1 1/2 to 2 cm.	oval	abdomen	to left and downward

Probable cause of death: Gunshot wound of abdomen
Hemorrhage, shock and exposure
 Manner of death: (Check one only)
 Accident Suicide Homicide
 Natural Unknown Pending
 DISPOSITION OF CASE:
 1. Not a medical examiner case
 2. Autopsy authorized
 By: for removal of bullet
 Pathologist W. H. Talbert

I hereby declare that after receiving notice of the death described herein I took charge of the body and made inquiries regarding the cause of death in accordance with Section 19-23, Title 19 of the Code of Virginia as amended by Chapter 318 of the Acts of Assembly, 1952; and that the information contained herein regarding such death is true and correct to the best of my knowledge and belief.
12/18/58 Rockingham County S/ F. L. Byers, M. D.

Date _____ City or County of Appointment _____ Signature of Medical Examiner _____

I hereby declare that to the best of my knowledge and belief this is a true and correct copy of the original report filed with the Chief Medical Examiner by Dr. F. L. Byers concerning the death of Pete M. Reese
 December 30, 1958

DATE _____ CME FORM No. 1—Revised 4-56 _____ Chief Medical Examiner _____

MEDICAL AND OTHER PERSONAL HISTORY:

SYMPTOMS AND DISEASE, PAST AND PRESENT:

Addiction to Narcotics <input type="checkbox"/>	Convulsions <input type="checkbox"/>	Fever <input type="checkbox"/>	"Indigestion" <input type="checkbox"/>	Precordium <input type="checkbox"/>	Vertigo <input type="checkbox"/>
Anorexia <input type="checkbox"/>	Coryza <input type="checkbox"/>	Habitation: <input type="checkbox"/>	Jaundice <input type="checkbox"/>	Radiating to Arms <input type="checkbox"/>	Visual Disturbances <input type="checkbox"/>
Aphasia <input type="checkbox"/>	Cyanosis <input type="checkbox"/>	Sedatives <input type="checkbox"/>	Nausea <input type="checkbox"/>	Paralysis <input type="checkbox"/>	Vomiting <input type="checkbox"/>
Aphonia <input type="checkbox"/>	Delirium <input type="checkbox"/>	Alcohol <input type="checkbox"/>	Pain: <input type="checkbox"/>	Skin Rash <input type="checkbox"/>	Weakness <input type="checkbox"/>
Chills <input type="checkbox"/>	Diarrhea <input type="checkbox"/>	Headache <input type="checkbox"/>	Abdomen <input type="checkbox"/>	Somnolence <input type="checkbox"/>	Weight Loss <input type="checkbox"/>
Coma <input type="checkbox"/>	Dyspnea <input type="checkbox"/>	"Head Cold" <input type="checkbox"/>	Back <input type="checkbox"/>	Stiff Neck <input type="checkbox"/>	Weight Excess <input type="checkbox"/>
	Edema <input type="checkbox"/>	Hemorrhage from Body Orifices <input type="checkbox"/>	Chest <input type="checkbox"/>	Syncope <input type="checkbox"/>	

OTHER PERSONAL HISTORY: Suicide attempts Suicide threats Hobbies, aptitudes or skills with firearms, chemicals, etc. Domestic, premarital or marital conflicts Financial or business reverses Social or religious conflicts Legal difficulties Criminal record Unemployment Fear of disease

CONDUCT BEFORE DEATH: Efforts to prevent help Efforts to obtain help Suicide attempt: Admitted Denied Refusal to talk Written declaration of intended suicide Accusations against others

MEDICAL ATTENTION AND HOSPITAL OR INSTITUTIONAL CARE:

NAME OF PHYSICIAN OR INSTITUTION	ADDRESS	DIAGNOSIS	DATE

PREVIOUS CHEMICAL OR MECHANICAL INJURY:

MANNER OF INJURY	PLACE: CHARACTER OF PREMISES	CHARACTER OF INJURY	DATE

CIRCUMSTANCES OF DEATH:

	NAME	ADDRESS
FOUND DEAD BY		
LAST SEEN ALIVE BY		
WITNESSES TO INJURY OR ILLNESS AND DEATH		

NARRATIVE SUMMARY OF CIRCUMSTANCES SURROUNDING DEATH:

DISPOSITION OF CASE: (Check one only) Manner of death: Accidental Suicide Homicide Natural Unknown Pending Pending Pending

I hereby declare that after receiving notice of the death described herein I took charge of the body and made inquiries regarding the cause of death in accordance with Section 19-26, Title 19 of the Code of Virginia as amended by Chapter 518 of the Acts of Assembly, 1952; and that the information contained herein regarding such death is true and correct to the best of my knowledge and belief.

Signature of Medical Examiner: S. F. L. Byers, M. D. Date: December 30, 1958
 Signature of Coroner: _____
 Chief Medical Examiner by: _____
 Date: _____

COMMONWEALTH

V.

ARBOGAST

INSTRUCTION NO. 22

The Court instructs the jury that although they believe from the evidence that the deceased Reese was the original aggressor in the difficulty that occurred between him and the accused on the night in question, yet if they further believe that when the accused went for his gun he was beyond any imminent danger of serious bodily harm and might have remained in a place of safety, then the Court tells the jury that the accused had no right to arm himself and return for the purpose of renewing the difficulty, and if the accused did return with such purpose and not for the purpose of recovering his check, and then killed the said Reese, he cannot rely upon the pleas of self defense, even though the jury believe that the deceased was threatening or pursuing the accused at the time the fatal shot was fired, but the accused would be guilty of murder or manslaughter, depending upon whether he was actuated by malice in going back to renew the difficulty or whether he acted without malice in a heat of blood excited by the original altercation.

4-28-59

H. H.

J. H.

The Court instructs the jury that although they believe from the evidence that the deceased Reese was the original aggressor in the difficulty that occurred between him and the accused on the night in question, yet if they further believe that when the accused went for his gun he was beyond any imminent danger of serious bodily harm and might have remained in a place of safety, then the Court tells the jury that the accused had no right to arm himself and return for the purpose of renewing the difficulty, and if the accused did return with such purpose and not for the purpose of recovering his check, and then killed the said Reese, he cannot rely upon the plea of self-defense, even though the jury believe that the deceased was threatening or pursuing the accused at the time the fatal shot was fired, but the accused would be guilty of murder or manslaughter, depending upon whether he was actuated by malice in going back to renew the difficulty or whether he acted without malice in a heat of blood excited by the original altercation.

4-28-29
H. H.
H

COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION 1

The Court instructs the jury that murder in the first degree is any willful, deliberate and premeditated killing of one human being by another with malice.

Murder in the second degree is the killing of one human being by another with malice, but without ^{any} ~~being~~ deliberate ~~and~~ ^{con} premeditated ~~on~~

Voluntary manslaughter is the killing of one human being by another without malice, in the heat of sudden passion engendered or brought about by reasonable provocation.

~~Involuntary manslaughter is the unintentional killing of a human being by another in the latter's performance of an act that is inherently unlawful, or in the grossly improper or culpably negligent performance of a lawful act under such circumstances as to indicate an indifference to consequences or an absence of decent regard for human life.~~

4-28-59

H. H.

S.

H

INSTRUCTION

The Court instructs the jury that murder in the first degree is any willful, deliberate and premeditated killing of one human being by another with malice.

Murder in the second degree is the killing of one human being by another with malice but without being deliberate and premeditated.

Voluntary manslaughter is the killing of one human being by another without malice, in the heat of sudden passion engendered or brought about by reasonable provocation.

~~The Court instructs the jury that murder in the first degree is any willful, deliberate and premeditated killing of one human being by another with malice.~~

~~Murder in the second degree is the killing of one human being by another with malice but without being deliberate and premeditated.~~

~~Voluntary manslaughter is the killing of one human being by another without malice, in the heat of sudden passion engendered or brought about by reasonable provocation.~~

4-11-29
H. B.
8.

COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION 2

The Court instructs the jury that every homicide in Virginia is presumed, in the absence of other evidence, to be murder in the second degree, and in order to elevate the offense to murder in the first degree the burden is upon the Commonwealth; and in order to reduce the offense to manslaughter or to show justification or excuse for the killing, the burden is upon the accused to introduce evidence to show extenuating circumstances, or justification, unless it appears from the evidence of the Commonwealth.

4-28-59

H. H.

H

COMMONWEALTH

v.

SOLOMON ARBOGAST

INSTRUCTION

The Court instructs the jury that every homicide in Virginia is presumed, in the absence of other evidence, to be murder in the second degree, and in order to elevate the offense to murder in the first degree the burden is upon the Commonwealth; and in order to reduce the offense to manslaughter or to show justification or excuse for the killing, the burden is upon the accused to introduce evidence to show extenuating circumstances, or justification, unless it appears from the evidence of the Commonwealth.

22-7-4-1
A. R.

COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION

3

The Court instructs the jury that on a charge of murder, malice is presumed from the fact of killing. When the killing is proved, ~~that~~ ^{if} unaccompanied with circumstances of extenuation, the burden of disproving malice is thrown upon the accused.

4-28-59

H. H. n

H

COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION 4

The Court instructs the jury that to constitute a willful, deliberate, and premeditated killing, it is not necessary that the intention to kill should exist for any particular length of time prior to the actual killing; it is only necessary that such intention should have come into existence for the first time at the time of such killing, or at any time previously.

4-28-59

H. H.

J.

H

COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION

The Court instructs the jury that to constitute a willful, deliberate, and premeditated killing, it is not necessary that the intention to kill should exist for any particular length of time prior to the actual killing; it is only necessary that such intention should have come into existence for the first time at the time of such killing, or at any time previously.

4-28-29
 H. H.
 H.

COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION 5

The Court instructs the jury that in a case of homicide, deliberation or premeditation by the accused may be proved like any other fact, by either direct or circumstantial evidence or by a combination of both; and if facts, surrounding circumstances and conditions are proven which warrant and justify an inference therefrom beyond a reasonable doubt of the existence of such deliberation or premeditation, then the same may be so inferred.

4-28-59

H. H.

L.

H

COMMONWEALTH
V.
SOLOMON ARBOGAST

INSTRUCTION

The Court instructs the jury that in a case of homicide, deliberation or premeditation by the accused may be proved like any other fact, by either direct or circumstantial evidence or by a combination of both; and if facts, surrounding circumstances and conditions are proven which warrant and justify an inference therefrom beyond a reasonable doubt of the existence of such deliberation or premeditation, then the same may be so inferred.

4-28-79
A
A
A

COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION 6

The Court instructs the jury that the word "malice" or "malicious", as applied to the law of homicide and used in the definition of murder, is used in a technical sense. It may be either express or implied. It includes not only anger and hatred but every unlawful and unjustifiable motive. Malice denotes an action flowing from any wicked and corrupt motive, done with an evil mind and purpose, attended with such circumstances as carry in them the plain indication of a heart regardless of social duty and deliberately bent on harm. Malice means a wrong act done intentionally without just cause or excuse. It may be inferred or implied from any deliberate and cruel act done without reasonable provocation or excuse.

The Court further instructs the jury that it is not necessary that malice shall have existed for any particular length of time and it may first come into existence at the time of the killing or at any previous time.

4-28-59
H. H.

H.

Handwritten scribbles and numbers, possibly "7-2-20" and "H.H."

at any previous time.
and it may still come into existence at the time of the killing or
that notice shall have existed for any particular length of time

The court further instructs the jury that it is not necessary
therefore and exact and done without reasonable provocation or excuse
that cause of excuse. It may be imputed or imputed from any de-
fendant or victim. Justice means a wrong not done intentionally without
provocation of a party regardless of whether and whether
force attended with such circumstances as carry in them the idea
that the party was not provoked and that the party was not
provoked and that the party was not provoked. Justice denotes an action flowing
from the party and not from any other party. It is imputed to a party
regardless of whether it is imputed to any other party. It may be either
imputed to a party or imputed to a party. It may be either
imputed to a party or imputed to a party.

The court further instructs the jury that the word "malice" or

INSTRUCTIONS

STATE OF ARIZONA

v.

DEFENDANT

COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION 7

The Court instructs the jury that a man is presumed to intend that which he does, or which is the immediate or probable consequence of his act, and if the jury believes from the evidence, beyond reasonable doubt, that the prisoner shot and killed Reese, *Without any or upon very slight provocation,* there raises a presumption that the prisoner is guilty of willful, deliberate and premeditated killing, and the burden rests upon him of showing ^{justification or} extenuating circumstances, and without ~~such~~ a showing of ^{such} ~~extenuating~~ circumstances, or ^{unless} such circumstances appear from the case made by the Commonwealth, he is guilty of murder in the first degree.

4-28-59

H. H.

INSTRUCTION

The Court instructs the jury that a man is presumed to intend that which he does, or which is the immediate or probable consequence of his act, and if the jury believes from the evidence, beyond reasonable doubt, that the prisoner shot and killed Reese, ^{without any or upon any slight provocation,} there arises a presumption that the prisoner is guilty of willful, deliberate and premeditated killing, and the burden rests upon him of showing ^{justified or} extenuating circumstances, and without such a showing of ^{such} extenuating circumstances, or, such circumstances appear from the case made by the Commonwealth, he is guilty of murder in the first degree.

4-28-29
H. H.

COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION 8

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.

The most that drunkenness can accomplish in the way of relieving the criminal responsibility of an accused in the case of a homicide is to reduce the offence from first degree murder to second degree murder where the evidence tends to support the theory that the accused was so intoxicated as to prevent him from deliberating or premeditating the killing.

4-28-59

A. H. S.
H.

8

INSTRUCTION

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.

The Court that drunk cannot can be
 accomplished by the jury in reviewing the
 criminal responsibility of an accused in
 the case of a homicide is to reduce
 the offence from first degree murder
 to second degree murder where the evidence
 tends to support the theory that the
 accused was so intoxicated as to prevent
 him from deliberating or premeditating
 the killing.

Arbogast
 A.H. 2
 H.

Commonwealth

v.

Arbogast

INSTRUCTION NO. 9

The Court instructs the jury that even though you may believe from the evidence that Arbogast did not use good discretion in returning to the Rawley Springs area for the alleged purpose of hunting for his check, and that he did return for that purpose, he nevertheless had the legal right to do so.

And, if you further believe from the evidence that Arbogast had reasonable grounds to believe that if he again came in contact with Reese that he ^(Reese) would attack him for the purpose of doing him serious bodily harm, then Arbogast had the right to arm himself for self-protection and no inference of malice or any other inference against Arbogast can be drawn from the fact that he so armed himself.

4-28-59

A. H.

A

Commonwealth

vs.

INSTRUCTION NO. 9

The Court instructs the jury that even though you may believe from the evidence that Arpogast did not use good discretion in returning to the lawley 2 rings case for the alleged purpose of hunting for his check, and that he did return for that purpose, he nevertheless had the legal right to do so.

And, if you further believe from the evidence that Arpogast had reasonable grounds to believe that if he again came in contact with Kears that he would attack him for the purpose of doing him serious bodily harm, then Arpogast had the right to arm himself for self-protection and no inference of malice or any other inference against Arpogast can be drawn from the fact that he so armed himself.

4-27-79
A. H.

Commonwealth

v.

Arbogast

INSTRUCTION NO. 10

The Court instructs the jury that the mere fact that the deceased did not use any deadly weapons does not deprive the accused, Delton Arbogast, of the right to justify himself under the law of self-defense if he believed and had reason to believe that he was in danger of serious bodily harm at the hands of Reese, and in passing upon this question the jury is instructed that they may take into consideration the comparative size and strength of the said Reese and the accused, Delton Arbogast.

4-28-59
H. H.

H.

Commonwealth

vs.
Adogast

10 INSTRUCTION NO.

The Court instructs the jury that the mere fact that the deceased did not use any deadly weapons does not deprive the accused, Dalton Adogast, of the right to justify himself under the law of self-defense if he believed and had reason to believe that he was in danger of serious bodily harm at the hands of Kees, and in passing upon this question the jury is instructed that they may take into consideration the comparative size and strength of the said Kees and the accused, Dalton Adogast.

4-28-17
H. A.

COMMONWEALTH

V.

ARBOGAST

INSTRUCTION NO. 11

If the jury believe from the evidence Delton Arbogast shot Reese under a reasonable belief that his own life was in imminent danger or that he was in imminent danger of serious bodily harm, based upon the facts and circumstances as they reasonably appeared to him at the time, and that such shooting was reasonably necessary for his own protection, he was justified in so doing.

The question for the jury in this case is not whether the shooting of Reese might have been safely avoided, but whether the accused, at the time of the shooting, believed and had reasonable grounds to believe it necessary to shoot as he did in order to save his own life or avoid serious bodily harm.

4-28-59

A. H.

COMMONWEALTH

V.

ARBOGAST

INSTRUCTION NO. 12

The Court instructs the jury that the accused is presumed to be innocent of the crime with which he is charged, and that this presumption follows the accused throughout every stage of the trial. By his plea of "not guilty" the accused has denied every essential allegation of the accusation and has put upon the Commonwealth the burden of proving every element of the crime charged and the guilt of the accused beyond every reasonable doubt.

This burden, as imposed on the Commonwealth, does not shift but remains throughout the entire trial. The accused is under no requirement to prove or establish his innocence, and if, after considering the evidence you entertain any reasonable doubt of the guilt of the accused, you must give him the benefit of such doubt and find him not guilty.

This presumption of innocence is not a mere form to be disregarded by you at your pleasure, but it is an essential and binding part of the law of the land, and you must give the accused the full benefit of such presumption.

You are further instructed that while you may be suspicious that the accused committed the crime with which he is charged, this is not sufficient to convict, nor is it sufficient if you feel that he is probably guilty or more likely guilty than not guilty, but to warrant the conviction of this accused, his guilt must be proved so clearly that there remains not one reasonable theory consistent with the evidence upon which he can be innocent.

If a set of facts or circumstances should be equally susceptible to two or more reasonable interpretations, any one of which interpretations points to the innocence of this accused, the jury must accept that interpretation pointing to his innocence.

4-28-59
H. H.

INSTRUCTION NO. 12

The Court instructs the jury that the accused is presumed to be innocent of the crime with which he is charged, and that this presumption follows the accused throughout every stage of the trial. By his plea of "not guilty" the accused has denied every essential allegation of the accusation and has put upon the Commonwealth the burden of proving every element of the crime charged and the guilt of the accused beyond every reasonable doubt.

This burden, as imposed on the Commonwealth, does not shift but remains throughout the entire trial. The accused is under no requirement to prove or establish his innocence, and if, after considering the evidence, you entertain any reasonable doubt as to the guilt of the accused, you must give him the benefit of such doubt and find him not guilty.

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COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION 13

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 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.

428-59

A. H.

24.

INSTRUCTION

In considering whether or not the Commonwealth has met its bur-
den 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
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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 con-
sideration 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.

4. A. 4
4-2-19

COMMONWEALTH

V.

ARBOGAST

INSTRUCTION NO. 14 *A*

The Court instructs the jury that if they find the accused guilty, but are in doubt as to the grade of offense of which Arbogast may be guilty, they shall resolve that doubt in his favor and find him guilty of the lower grade; to illustrate, if they have doubt as to whether he is guilty of murder in the first degree or the second degree, they should find him guilty of murder in the second degree. If they have doubt as to whether he is guilty of murder in the second degree or manslaughter, they should find him guilty of manslaughter.

4-28-59

H. H.

COMMONWEALTH

V.

SOLOMON ARBOGAST

INSTRUCTION 15

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 witnesses 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, ^{the jury has the right to determine} which witnesses are more worthy of credit and what is the relative weight of any such testimony and to give credit accordingly.

4-28-59

H. H.

L.

H.

COMMONWEALTH

V.

ARBOGAST

INSTRUCTION NO. 17 A

The Court instructs the jury that the good character of Arbogast as being a peaceful, law-abiding citizen, as shown by the evidence, may be received and weighed by the jury along with all the evidence in the case.

The jury is further instructed that if they believe from the evidence that Reese had the reputation of being a man of violence and turbulence, that likewise may be considered along with other evidence in this case in determining who was the aggressor.

4-28-59

A. H.

COMMONWEALTH

v.

ARBOGAST

IV A INSTRUCTION NO.

The Court instructs the jury that the good character of
Arbogast as being a peaceful, law-abiding citizen, as shown by
the evidence, may be received and weighed by the jury along with
all the evidence in the case.

The jury is further instructed that if they believe from
the evidence that Reese had the reputation of being a man of
violence and turbulence, that likewise may be considered along
with other evidence in this case in determining who was the ag-
gressor.

4-28-27
H. H.

REPORT
of theFEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C.

S # 2
A.H.

To: Mr. Charles E. Earman, Jr.
Commonwealth's Attorney
Harrisonburg, Virginia

January 26, 1959

This examination has been made with the understanding that the evidence is connected with an official investigation of a criminal matter and that the Laboratory report will be used for official purposes only, related to the investigation or a subsequent criminal prosecution. Authorization cannot be granted for the use of the Laboratory report in connection with a civil proceeding.

Re: SOLOMON ARBOGAST, SUSPECT;
UNNAMED VICTIM;
MURDER

J. Edgar Hoover
John Edgar Hoover, Director

YOUR FILE NO.

FBI FILE NO.

LAB. NO.

95-79158

PC-55524 IJ

Examination requested by: Addressee

Reference: Letter 12/19/58; personal delivery by Deputy Sheriff
R. H. Raynes on 12/23/58

Examination requested: Firearms

Specimens:

Q1 Bullet from victim's body
Q2 Bullet from wall
Q3 Denim jacket

K1 .44 S & W Russian caliber, no serial number, revolver of unknown
manufacture

RESULTS OF EXAMINATION:

The bullet from the victim's body, Q1, was identified as having been fired from K1.

The bullet from the wall, Q2, does not possess sufficient microscopic marks which are suitable for identification purposes. The rifling impressions remaining on Q2 are similar to those produced on test bullets obtained from K1. Because of this, it is possible that Q2 was also fired from K1.

2 # 4
K.H.

REPORT
of the

7-1a (Rev. 12-31-58)



FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C.

January 25, 1959

To: Mr. Charles E. Earman, Jr.
Commonwealth's Attorney
Harrisonburg, Virginia

This examination has been made with the understanding that the evidence is connected with an official investigation of a criminal matter and that the Laboratory report will be used for official purposes only. It is the policy of the Laboratory to make no statement or acknowledgment of any kind in connection with a civil proceeding.

John Edgar Hoover, Director

Re: SOLOMON ARBOGAST, SUSPECT;
UNNAMED VICTIM;
MURDER

LAB. NO. PC-55224 I1
FBI FILE NO. 92-70158
YOUR FILE NO.

Examination requested by: Addressee

Reference: Letter 12/19/58; personal delivery by Deputy Sheriff
R. H. Payne on 12/23/58

Examination requested: Firearms

- Q1 Bullet from victim's body
- Q2 Bullet from wall
- Q3 Dentin jacket

K1 .44 S & W Russian caliber, no serial number, revolver of unknown manufacture

RESULTS OF EXAMINATION:

The bullet from the victim's body, Q1, was identified as having been fired from K1. The bullet from the wall, Q2, does not possess sufficient microscopic marks which are suitable for identification purposes. The rifling impressions remaining on Q2 are similar to those produced on test bullets obtained from K1. Because of this, it is possible that Q2 was also fired from K1.

One hole was found in the left front side of specimen Q3 near the lower pocket. The area surrounding this hole was examined microscopically and processed chemically for the presence of any gunpowder residues. No such residues were found. The absence of any residues around this hole prevents the determining of the approximate muzzle-to-garment distance, if in fact the hole in Q3 was produced by a bullet. The absence of any gunpowder residues around a bullet hole in a garment could be due to any one or a combination of the following conditions:

1. The weapon used was held beyond the maximum distance at which gunpowder residues would be deposited.
2. The weapon was held in contact with the garment. In this case all of the powder residues would be projected into the wound. With regard to the hole found in Q3, microscopic examination failed to reveal any smoky deposits or singeing of the fibers surrounding this hole such as would be encountered if the hole was produced by a contact shot.
3. Any gunpowder residues deposited on Q3 may have been so loosely adhering to the garment that they became dislodged with normal handling.

The three cartridges, delivered by Deputy Sheriff Raynes to the Laboratory with the above-listed evidence were returned to Deputy Sheriff Raynes on the date of delivery in order that the evidence in this case could be returned to you by registered mail. Accordingly, the evidence, listed above, is being returned to you under separate cover by registered mail.

One hole was found in the left front side of specimen Q3 near the lower pocket. The area surrounding this hole was examined microscopically and processed chemically for the presence of any gunpowder residues. No such residues were found. The absence of any residues around this hole prevents the determining of the approximate muzzle-to-garment distance, in fact the hole in Q3 was produced by a bullet. The absence of any gunpowder residues around a bullet hole in a garment could be due to any one or a combination of the following conditions:

1. The weapon used was held beyond the maximum distance at which gunpowder residues would be deposited.
2. The weapon was held in contact with the garment. In this case all of the powder residues would be projected into the wound. With regard to the hole found in Q3, microscopic examination failed to reveal any smoky deposits or singeing of the fibers surrounding this hole such as would be encountered if the hole was produced by a contact shot.
3. Any gunpowder residues deposited on Q3 may have been so loosely adhering to the garment that they became dislodged with normal handling.

The three cartridges, delivered by Deputy Sheriff Raynes to the Laboratory with the above-listed evidence were returned to Deputy Sheriff Raynes on the date of delivery in order that the evidence in this case could be returned to you by registered mail. Accordingly, the evidence listed above, is being returned to you under separate cover by registered mail.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

✓ ROBERT LON RAY, Star Route, Hinton

✓ MRS. PETE REESE D.S.

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 27th day of April, 1959, to testify and the truth to say in behalf of the Commonwealth before the Grand Jury, against SOLOMON ARBOGAST

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 April, 1959, and in the 183rd year of the Commonwealth.

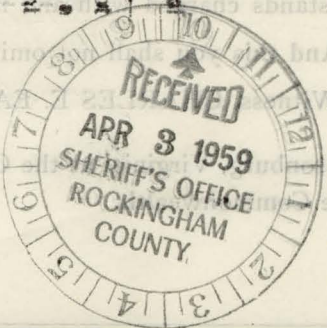
Charles E. Earmann, Jr.
Commonwealth's Attorney

Executed on the 13 day of April 1959 in the County of Rockingham, Virginia, by calling at the usual place of abode, 1111 1/2 of the Pitt River and not finding him there, or any other person upon whom service could be made, I left a true copy of the above mentioned papers attached to each other, posted on the front door of his usual place of abode.

BY [Signature] S. R. C.
DEPUTY SHERIFF

Executed on the 17th day of April 1959 in the County of Rockingham, Virginia, by calling at the usual place of abode, North Lee of Robertson Post and not finding him there, or any other person upon whom service could be made, I left a true copy of the above mentioned papers attached to each other, posted on the front door of his usual place of abode.

BY [Signature] S. R. C.
DEPUTY SHERIFF



In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

✓ MARY PARKER *Project 5 - auto*

✓ KERNIE RICHARDS *PS*

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 27th day of April, 1959, to testify and the truth to say in behalf of the Commonwealth ~~before the Grand Jury~~, against SOLOMON ARBOGAST

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, 1959, and in the 183rd year of the Commonwealth.

Charles E. Earmann, Jr.
Commonwealth's Attorney

EXECUTED 4-13-59 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN Summons

TO Hernie Richards
IN PERSON.

G.M. Wilcox Dep. for
A. L. STRAWDERMAN

SHERIFF

ROCKINGHAM COUNTY

Not finding Mary Propst at his usual

place of abode, Executed April 13, 1959 by delivering a

true copy of this Summons to Hernie Richards

(sister) in person, at said Mary Propst

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

A. L. Strawderman S. R. C.

Deputy Sheriff G. M. Wilcox



In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

✓ PETE McDORMAN, Raleigh Springs *PS*

✓ DICK THOMPSON, " "

~~XXXXXXXXXXXX~~

✓ NORMAN PENNINGTON " " *DS*

*14
1959*

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 27th day of April, 1959, to testify and the truth to say in behalf of the Commonwealth ~~before the Grand Jury~~, against SOLOMON ARBOGAST

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 April, 1959, and in the 183rd year of the Commonwealth.

Charles E. Earmann Jr.
Commonwealth's Attorney

EXECUTED 4-13-59 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN summons
TO Chas. McCombs
IN PERSON.

Chas. McCombs
A. L. STRAWDERMAN

SHERIFF

ROCKINGHAM COUNTY

Executed on the 13th day of April, 1959, in the County of
Rockingham, Virginia, by calling at the usual place of abode, Franklin Ave
of Thomas Lemington and not
finding him there, or any other person upon whom service could be made, I left a
true copy of the above mentioned papers attached to each circuit, posted on the front
door of his usual place of abode.

A. L. Strawderman
S. R. ©

BY

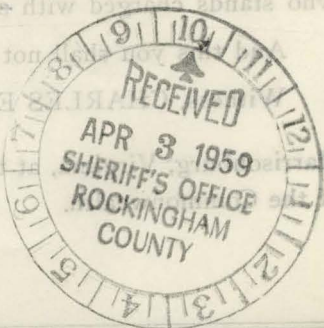
Chas. McCombs
DEPUTY SHERIFF

EXECUTED 4-13-59 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN summons
TO Chas. McCombs
IN PERSON.

Chas. McCombs
A. L. STRAWDERMAN

SHERIFF

ROCKINGHAM COUNTY



In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

✓ T. L. MARTIN 4/3

✓ G. M. WILCOX 4/3

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 27th day of April, 1959, to testify and the truth to say in behalf of the Commonwealth before the Grand Jury, against SOLOMON ARBOGAST

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 April, 1959, and in the 183rd year of the Commonwealth.

Charles E. Earmann 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

T. L. MARTIN

G. M. WILCOX

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 27th day of April, 1959, to testify and the truth to say in behalf of the

Commonwealth before the Grand Jury against SOLOMON ARBOGAST

who stands charged with and indicted for a felony misdemeanor.

And have then and there this writ.

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

the County of Rockingham, at the Court House, the 2nd of April, 1959, and in the 188th year

Charles E. Farmans
Commonwealth's Attorney



In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon.....

✓ DR. WILLIAM TALBOT.....

✓ DR. C. SHERRILL ARMENTROUT.....

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 27th day of April, 1959, to testify and the truth to say in behalf of the Commonwealth before the Grand Jury, against SOLOMON ARBOGAST.....

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 April, 1959, and in the 183rd year of the Commonwealth.

Charles E. Earmann, Jr.
Commonwealth's Attorney

4/22/59 1959 Court

EXECUTED 4/22/59 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN Summons
TO Dr. William Talbot
IN PERSON.

George R. Prine
Deputy Sheriff

A. L. STRAWDERMAN
SHERIFF
ROCKINGHAM COUNTY

Not finding Dr. C. Sheppell Amentant at his usual
place of abode, Executed April 22, 1959 by delivering a
true copy of this Summons to Mrs. Amentant
his wife in person, at said Dr. C. Sheppell Amentant
usual place of abode Oct St., being a member of
his family above the age of 16 years, and explaining the purport thereof
to her.

A. L. Strawderman S.R.C.
Deputy Sheriff George R. Prine Deputy



[Faint signature]

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Rodney
✓ ROY HOWDYSHELL, Lilly Section

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

✓ MRS. *valley* ROY HOWDYSHELL, " *ps*

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 27th day of April, 1959, to testify and the truth to say in behalf of the Commonwealth ~~before the Grand Jury~~, against SOLOMON ARBOGAST

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 April, 1959, and in the 183rd year of the Commonwealth.

Charles E. Earman Jr.
Commonwealth's Attorney

EXECUTED 4-13-59 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN Summons
TO Mrs Roy Howdyshell
IN PERSON.

G.M. Wilcox Deppes
A. L. STRAWDERMAN
SHERIFF
ROCKINGHAM COUNTY

Not finding Roy Howdyshell at his usual

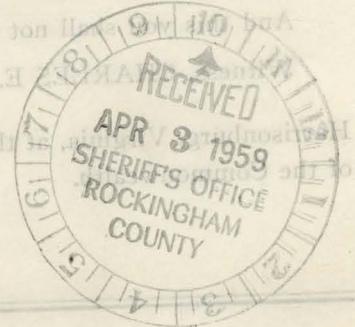
place of abode, Executed: April 13, 1959 by delivering a

true copy of this Summons to Mrs Roy Howdyshell

in person, at said Roy Howdyshell

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

A. L. Strawderman S. R. C.
Deputy Sheriff G.M. Wilcox



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