

Com v. Alvin Lee Hensley  
Jury - 11-20-62

Geo W. Abbott  
James A. Haney  
Merrin Branner  
Ralph E. Arvey ~~Journal~~  
Kenneth Pennington  
Haywood Butler  
Robert Shank  
Conrad S. Davis  
William G. Bloss  
Roy Cails  
G. E. Birt  
Mary Gunn

Docket No. 4017

OCT

1962

COMMONWEALTH of VIRGINIA

VS. Indictment } Felony (manslaughter)  
}

ALVIN LEE HENSLEY *hail*

George D. Conrad

p. d.

Own (x) Appointed ( )

1962

Oct. 15. Return of Grand Jury. 11/33

Nov. 20. Jury impanelled, etc., and  
verdict of acquittal returned. 11/50.

*Photographs are  
in file Z-3  
(perpetrator)*

CIRCUIT COURT OF ROCKINGHAM COUNTY, VA.

KEYSTONE ENV. CO., PHILA. 33, PA.  
NO. 34758



39389

COUNTY COURT

Criminal  
Docket

Nº 39388 A

Commonwealth

v.

Alvin Lee Henstey  
Defendant

ABs Appearance Date 8-16-62

Trial Date 10-5-62 ✓

GRAND Jury 10-5-62 PR. J.



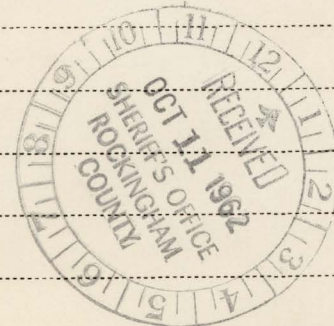


In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Trooper R. D. Schuder, Jr.



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 October, 1962, to testify and the truth to say in behalf of the Commonwealth before the Grand Jury, against

Alvin Lee 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, JAMES R. SIPE, Commonwealth's Attorney for Rockingham County and the City of Harrisonburg, Virginia, at the Court House, the 11th of October, 1962, and in the 187th year of the Commonwealth.

*James R. Sipe*

Commonwealth's Attorney

10/11/62  
EXECUTED IN THE COUNTY OF  
ROCKINGHAM BY DELIVERING A TRUE

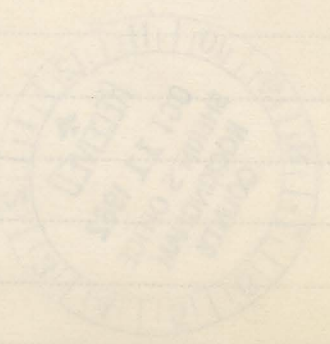
In the presence of

City of Rockingham County, Virginia

*Seaman*  
*Joseph B. D. Charles A.*  
You are hereby commanded to appear

A. L. STRAWDERMAN S. R. C.

By *W. M. [Signature]* D. S. R. C.



to appear before the Judge of the Circuit Court of Rockingham County at the Court House thereat at 9:30

o'clock a.m. on the 11th day of October 1962 to testify and the failure so to do

Commonwealth before the Grand Jury against

Alvin Lee Hensley

who stands charged with ~~murder~~ for a felony offense

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

Witness JAMES R. SHIP, Commonwealth's Attorney for Rockingham County and the City of Harrison

burg, Virginia, of the Court House, the 11th day of October 1962 and in the 18th year

of the Commonwealth

Commonwealth's Attorney





S. P. 82 REV. 7-21-58

## DEPARTMENT OF STATE POLICE

C 801899

County or City of ROCKINGHAMDate 8-11-62M R. ALVIN LEE HENSLEY You are hereby summoned to appear in theROCKINGHAM County Court at HARRISONBURG, VA.on 8-30-62 at 2:00 AM PM, to answer for violating the motor vehicle laws of Virginia, to wit:Reckless Driving  Speeding \_\_\_\_\_ MPH in a \_\_\_\_\_ MPH Zone  Chauffeurs  
No Operators License  Illegal \_\_\_\_\_ Other IN VOLUNTARY MANSLAUGHTER (ACCIDENT) 

I hereby promise to appear at the time and place specified above

Defendant's  
Signature \_\_\_\_\_

Summons issued under Title 46.1--Section 178, Code of Virginia. Failure to comply with this summons constitutes a separate offense.

Trooper

Shield No.

R. D. SCHUDER, JR.505

All traffic fines for State violations are paid into the Literary Fund for Educational purposes.

COMMONWEALTH OF VIRGINIA  
DIVISION OF MOTOR VEHICLES  
RICHMOND

If this abstract relates to a conviction of exceeding a speed limit, the Court is requested to state rate of speed and zone.

DEFENDANT		RACE	SEX	WEIGHT	HEIGHT	CODE
<u>ALVIN LEE HENSLEY</u>		<u>W</u>	<u>M</u>	<u>160</u>	<u>5 FT. 10 IN.</u>	
ADDRESS		EYES	HAIR	MONTH BORN	YEAR BORN	
<u>RT. 1 BOX 365</u>		<u>HAZEL</u>	<u>BRN</u>	<u>JULY</u>	<u>1941</u>	
CITY		OPER. OR CHAUF. LICENSE NO.		STATE		
<u>ELKTON, VA.</u>		<u>45 3823</u>		<u>VA.</u>		
JURISDICTION, COUNTY, CITY OR TOWN		VEHICLE	YEAR	MAKE	TYPE	
		<u>58</u>	<u>58</u>	<u>CHEV.</u>	<u>SED.</u>	
		VEHICLE LICENSE NO.		YEAR	STATE	
		<u>694-609</u>		<u>62</u>	<u>VA.</u>	
		OCCUPATION				
		<u>U. S. ARMY</u>				
OFFENSE DATE			PLEA	CONVICTED OF		DATE
<u>8-11-62</u>			GUILTY <input type="checkbox"/>			
			NOT GUILTY <input type="checkbox"/>			
PENALTY IMPOSED					LICENSE SUSPENDED?	
					YES <input type="checkbox"/> NO <input type="checkbox"/>	
PERIOD SUSPENDED	LICENSE SURRENDERED?		SIGNATURE OF JUDGE OR CLERK			
	YES <input type="checkbox"/> NO <input type="checkbox"/>					
NAME OF ARRESTING OFFICER			TITLE OF COURT OFFICIAL			DATE
<u>TROOPER R. D. SCHUDER, JR.</u>						

C 801899

This abstract is filed by the Judge or Clerk of the Court having jurisdiction of this case as required by Section 46.1-413, of the Code of Virginia, as amended.

801899

DEPARTMENT OF STATE POLICE



Group or Club Name: ROBINSON  
You are/who is/are arrested on charges of: ALVIN LEE HENSLER  
County: ROBINSON

Date: 8-30-62  
Time: 5:00 PM  
to arrest for violating the motor vehicle law of Virginia, in violation of:

Business Driving  Driving  Misdemeanor  Operator's License  Legal   
Offense: VOLUNTARY MANSLAUGH TER (ACCIDENT)

Defendant's Name: E. O. SCHUBERT JR  
Address: 208  
City: ELLINGTON, VA  
County: ROBINSON

Vehicle License No: 44-009  
Year: 1962  
State: VA  
Occupation: U.S. ARMY

JURISDICTION COUNTY, CITY OR TOWN: ELLINGTON, VA  
NAME OF COURT: U.S. ARMY  
VEHICLE LICENSE NO: 44-009  
YEAR: 1962  
STATE: VA  
OCCUPATION: U.S. ARMY

OR-RENEWED: 8-11-62  
ALSO: GUILTY  NOT GUILTY   
CHARGES OF: MANSLAUGH TER  
DATE: 8-30-62

PERIOD SUSPENDED: YES  NO   
SIGNATURE OF JUDGE OR CLERK: [Signature]

NAME OF COURT: U.S. ARMY  
DATE: 8-30-62

RECEIVED  
DIVISION OF MOTOR VEHICLES  
COMMUNICATIONS SECTION  
AUG 31 1962

801899

This document is filed in the Court of the County having jurisdiction of the case as provided by Section 56-1-413 of the Code of Virginia, as amended.



STATE OF VIRGINIA

COUNTY OF Harrisonburg

City

To-Wit:

No. \_\_\_\_\_

TO ANY SHERIFF OR POLICE OFFICER:

Whereas, R.D. Schuder, Jr.

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

Justice of The Peace

City

(Name)

of the said County, that

(Title)

Alvin Lee Hensley

Rockingham  
in the said County

did on the 11th day of August, 19 62; Unlawfully and feloniously  
kill and slay one Glenwood Taylor, 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 said County, the body (bodies) 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 11th day of August, 19 62

*John G. Leake*

(Title of Issuing Officer)

JUSTICE OF THE PEACE

(Seal)



STATE OF VIRGINIA—COUNTY OF Harrisonburg, to-wit:  
 I, John G. Leake a Judge of the County Court Justice of the Peace in and for the County aforesaid, State of Virginia, do certify

that Alvin Lee Hensley  
 and Rachel M. Hensley & Jacob R. Hensley, as his sureties, have this day each acknowledged themselves indebted to the Commonwealth of Virginia in the sum of TWO THOUSAND FIVE HUNDRED Dollars (\$ 2500.00 ), 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 Alvin Lee Hensley, shall appear before the Circuit Court of Rockingham County, on the 30th day of August, 1962 at 2 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 further condition that the said \_\_\_\_\_ 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 11th day of August, 1962 John G. Leake Judge, J. P.

DOCKET NO. 39588

COMMONWEALTH  
 vs.  
 WARRANT OF ARREST  
Alvin Lee Hensley

Executed this, the 11th day of Aug., 1962  
R.O. Schuler

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

There being sufficient probable cause the defendant is held for action by the Grand Jury of Rockingham County, Va.

Given under my hand this 5th day of October, 1962.

[Signature]  
 Rockingham County Judge

The following witnesses were recognized to appear before the Circuit Court of \_\_\_\_\_ County, \_\_\_\_\_ County, Virginia, at \_\_\_\_\_ M., on the \_\_\_\_\_ day of \_\_\_\_\_, 1962, under penalty of \$ \_\_\_\_\_

Virginia, at \_\_\_\_\_  
 Virginia, at \_\_\_\_\_  
 Virginia, at \_\_\_\_\_  
 day of \_\_\_\_\_, 1962  
 under penalty of \$ \_\_\_\_\_

COSTS

Warrant \$ 2.00  
 Trial 2.00  
 Bail 1.50  
 Arrest \_\_\_\_\_  
 Mileage \_\_\_\_\_  
 Clerk 1.25  
 Jail Fee and Board \_\_\_\_\_  
 Witness Attendance \_\_\_\_\_  
 Summoning Witnesses \_\_\_\_\_  
 Commonwealth Attorney \_\_\_\_\_  
 Total Costs \$ 6.75  
 Fine \_\_\_\_\_  
 Total \$ 6.75

10-10-5-62 2:PM  
 Total \$  
Recd. N.Y. 8-16-62 2:PM



In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon .....

Trooper R. D. Schuder, Jr. - Elkton

William Garfield Hammer - Route #3, Elkton, Va.

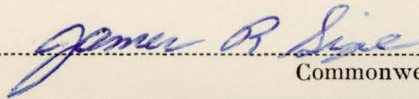
to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a. m., on the 20th day of November, 1962, to testify and the truth to say in behalf of the Commonwealth ~~before the Grand Jury~~, against .....

Alvin Lee 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, JAMES R. SIPE, Commonwealth's Attorney for Rockingham County and the City of Harrisonburg, Virginia, at the Court House, the 19th of November, 1962, and in the 187th year of the Commonwealth.

  
Commonwealth's Attorney

EXECUTED *11/19/62* IN THE COUNTY OF  
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN *Summons*  
TO *Sp. R. D. Schudo, Jr.*  
IN PERSON.

A. L. STRAWDERMAN

By *George R. Price* S. R. C.

EXECUTED *11-20-62* IN THE COUNTY OF  
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN *Summons.*

TO *William G. Wassner*  
IN PERSON.

A. L. STRAWDERMAN

By *George R. Price* S. R. C.

Alvin Lee Hensley

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

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

Witness JAMES R. SIBB, Commonwealth's Attorney for Rockingham County and the City of Harrison-

burg, Virginia at the Court House, the *19th* of *November*, 19*62* and in the *1876th* Year

of the Commonwealth.

Commonwealth's Attorney

80





POLAROID

J210220

Def A

H H



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

BLOOD ALCOHOL REPORT

AUG 14 1962

# 623802

Date of Report

ACCUSED: ALVIN L. HENSLEY

Material Submitted By:

RECEIVED AT OFFICE OF CHIEF MEDICAL EXAMINER:

Name: Tpr. R. D. Schuder, Jr.

10 cc of Blood for Alcohol Content.

Box 261

BY: Barbara Richards

Address: Elkton, Virginia

DATE: 8/13/62 TIME: 9 am.

Examined By: s/ Sidney Kaye, Ph. D.

The container seal when received had not been broken or otherwise tampered with.

Date: 8/14/62 Time: 11:10 am.

The container was provided by the Chief Medical Examiner.

RESULTS: Blood: 0.08 % alcohol by weight.

A COPY TESTE:

*R. C. Henry M.D.*

Asst. Chief Medical Examiner

s/ Sidney Kaye, Ph. D.

STATE TOXICOLOGIST



COMMONWEALTH OF VIRGINIA  
 DEPARTMENT OF HEALTH  
 OFFICE OF THE CHIEF MEDICAL EXAMINER  
 404 502 NORTH 12TH ST.  
 RICHMOND 12, VIRGINIA

BLOOD ALCOHOL REPORT

AUG 14 1982

\* 623802

ACCUSED:

ALVIN J. HENLEY

Material Submitted by:

Dr. S. P. Bonner, Jr.

Name:

Box 281

Address:

Sixton, Virginia

Examined By:

S. Sidney Kaye, Ph. D.

Date:

8/11/82

Time: 11:30 am

RESULTS:

Blood: 0.08 g alcohol by weight.

A COPY TESTED:

*[Signature]*  
 Asst. Chief Medical Examiner

ONE FORM NO. 1-8-8  
 REV. 6-82

Received at Office of Chief Medical Examiner:

to \_\_\_\_\_ of Blood for Alcohol Content

BY:

Barbara Richards

DATE:

8/11/82

TIME:

9 am

The container seal when received had not been broken or otherwise tampered with.

The container was provided by the Chief Medical Examiner.

S. Sidney Kaye, Ph. D.

STATE LABORATORY

COMMONWEALTH OF VIRGINIA

COUNTY OF ROCKINGHAM, to-wit:

In The Circuit Court of Rockingham County,      October Term, 1962

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 oaths present that Alvin Lee Hensley, on the 11<sup>th</sup> day of August, 1962, in the County of Rockingham, Virginia, unlawfully and feloniously did kill and slay one Glenwood Taylor, against the peace and dignity of the Commonwealth of Virginia.

Upon the evidence of Trooper R. D. Schuder, Jr., witness sworn in open court and sent to the Grand Jury to give evidence.



COMMONWEALTH OF VIRGINIA

COUNTY OF ROCKINGHAM, to-wit:

COMMONWEALTH

*Paul*

V. ALVIN LEE HENSLEY

*9800 amount*

*New 70*

*to be paid*

A TRUE BILL

*Wm. J. Thompson*

Foreman

manslaughter

*1017*

James R. Sipe  
Commonwealth's Attorney

AFFIDAVIT

I, HENRY H. COVINGTON, 1st Lieutenant, CE, do choose to make the following statement in behalf of Specialist Fourth Class Alvin Hensley.

I have known Specialist Hensley since his entry into the service in April 1960. At that time he was assigned to a platoon which I commanded. Specialist Hensley remained a member of that platoon for 14 months. During this time, I was able to observe his actions and character closely, under pressures which were extreme for him. I found him to be an able soldier who possessed both a level mind and sound judgment.

Following the time I was Specialist Hensley's platoon leader, I was the executive officer of his company, and for a short period, his company commander. During these periods, Specialist Hensley continued to display the highest standards of judgment and personal conduct.

I have been associated with Specialist Hensley during his entire tenure of military service and feel that his demonstrated qualities of sound mind and gentlemanly conduct while serving in the United States Army ~~should be considered~~ ~~in any charges placed against him.~~

I regret that due to the present national military situation, I will be unable to appear at Specialist Hensley's trial personally; however, I feel free to make this unqualified statement in his behalf.

WITNESS

Alvin E. Kellum

Henry H. Covington  
HENRY H. COVINGTON  
1st Lt Corps of Engineers

Subscribed and sworn before me this 16th day of November 1962. My commission expires 18 August 1965.



Ullie R. Boyce  
NOTARY PUBLIC



AFFIDAVIT

I, HENRY H. COVINGTON, 1st Lieutenant, CE, do choose to make the following statement in behalf of Specialist Fourth Class Alvin Hensley.

I have known Specialist Hensley since his entry into the service in April 1960. At that time he was assigned to a platoon which I commanded. Specialist Hensley remained a member of that platoon for 14 months. During this time, I was able to observe his actions and character closely, under pressures which were extreme for him. I found him to be an able soldier who possessed both a level mind and sound judgment.

Following the time I was Specialist Hensley's platoon leader, I was the executive officer of his company, and for a short period, his company commander. During these periods, Specialist Hensley continued to display the highest standards of judgment and personal conduct.

I have been associated with Specialist Hensley during his entire tenure of military service and feel that his demonstrated qualities of sound mind and gentlemanly conduct while serving in the United States Army ~~are well known to me~~.

I regret that due to the present national military situation, I will be unable to appear at Specialist Hensley's trial personally; however, I feel free to make this unqualified statement in his behalf.

Henry H. Covington  
HENRY H. COVINGTON  
1st Lt. Corps of Engineers

WITNESS  
Henry H. Covington

Subscribed and sworn before me this 16th day of November 1962. My commission expires 18 August 1965.

William R. Boyer  
NOTARY PUBLIC



RECEIPT FOR FEES COLLECTED

H 30716

County of Rockingham Virginia Nov. 13, 1962

Received of George Conrad \$ 3.00

Three <sup>00</sup>/<sub>100</sub> DOLLARS

For Quit Summ On \_\_\_\_\_ 19\_\_\_\_  
Type of Service or Process Date of Service

In matter of Conith VS Hensley

George R. Price  
Deputy—Sheriff—Sergeant

ORIGINAL—TO PAYER



H 30716

RECEIPT FOR FEES COLLECTED

County of Washington Virginia Nov. 13 1962

Received of George C. Smith \$ 3.00

George C. Smith DOLLARS 3/100

For Cost of Service On 19

Type of Service or Process vs George C. Smith

George C. Smith  
Deputy Sheriff - Sealer

ORIGINAL-TO PAYER

**In the Name of the Commonwealth of Virginia:**

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon .....

William Garfield Hammer, Route 2, Elkton, Virginia

Melvin McKinley Hammer, Route 1, Elkton, Virginia

*Merick ↑  
Stone on Creek*

Francis H. Jackson, Montevideo, Virginia

Jesse A. Lawson, Route 1, Elkton, Virginia

*Rock Garage at In YD Bridge*

Hurdle Davis, Route 1, Elkton, Virginia

*Just around corner from Garage*

Elmer C. Lam, U.S. 33 East, Elkton, Virginia

*Alter Dal Amer 5T*

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 20th day of November, 1962, to testify and the truth to say in behalf of

the Defendant in the prosecution of the Commonwealth against .....

Alvin L. Hensley .....

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

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 13th day of November, 1962, and in the 187th year of the Commonwealth.

*George W. Kempner* Clerk  
*By Mary Nellie B. Prude h. c.*

*3.00 pd.*



EXECUTED 11-16-62 IN THE COUNTY OF  
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN *Summons*

TO *W. D. Hammer*  
IN PERSON.

..... **A. L. STRAWDERMAN** ..... S. R. C.

By *A. J. Burnett* ..... D. S. R. C.

EXECUTED 11-16-62 IN THE COUNTY OF  
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN *Summons*

TO *M. B. Hammer*  
IN PERSON.

..... **A. L. STRAWDERMAN** ..... S. R. C.

By *A. J. Burnett* ..... D. S. R. C.

EXECUTED 11-16-62 IN THE COUNTY OF  
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN *Summons*

TO *F. H. Jackson*  
IN PERSON.

..... **A. L. STRAWDERMAN** ..... S. R. C.

By *A. J. Burnett* ..... D. S. R. C.

..... **A. L. STRAWDERMAN** ..... S. R. C.

By *A. J. Burnett* ..... D. S. R. C.

..... **A. L. STRAWDERMAN** ..... S. R. C.

By *A. J. Burnett* ..... D. S. R. C.

..... **A. L. STRAWDERMAN** ..... S. R. C.

EXECUTED 11-16-62 IN THE COUNTY OF  
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN *Summons*

TO *J. A. Lawson*  
IN PERSON.

..... **A. L. STRAWDERMAN** ..... S. R. C.

By *A. J. Burnett* ..... D. S. R. C.

EXECUTED 11-16-62 IN THE COUNTY OF  
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN *Summons*

TO *W. Davis*  
IN PERSON.

..... **A. L. STRAWDERMAN** ..... S. R. C.

By *A. J. Burnett* ..... D. S. R. C.

EXECUTED 11-16-62 IN THE COUNTY OF  
ROCKINGHAM BY DELIVERING A TRUE

COPY OF THE WITHIN *Summons*

TO *E. C. Lam*  
IN PERSON.

..... **A. L. STRAWDERMAN** ..... S. R. C.

By *A. J. Burnett* ..... D. S. R. C.

..... **A. L. STRAWDERMAN** ..... S. R. C.

By *A. J. Burnett* ..... D. S. R. C.

..... **A. L. STRAWDERMAN** ..... S. R. C.

By *A. J. Burnett* ..... D. S. R. C.

..... **A. L. STRAWDERMAN** ..... S. R. C.

Clerk

*Handwritten signature*

3.00 00



We, the jury, find the defendant,  
Alvin Lee Hensley, not guilty.

R. E. Grey Foreman.



Mr. J. E. Bennett, 101  
St. Louis, Mo.

R. E. Bennett



COMMONWEALTH

V.

HENSLEY

INSTRUCTION 1

The Court instructs the jury that involuntary manslaughter is the unintentional killing of a human being as a consequence of such a reckless or culpably negligent act on the part of the accused as is incompatible with the proper regard for human life.

*H. H.*





COMMONWEALTH

V.

HENSLEY

INSTRUCTION 2

The Court instructs the jury that if you believe from the evidence beyond a reasonable doubt that the death of Glen Taylor resulted from injuries received by him while a passenger in an automobile driven by the accused, Alvin Hensley, and that such accident resulted from Hensley's operation of said car in an unlawful or reckless manner, such as to indicate carelessness or indifference incompatible with a proper regard for human life, then you shall find him guilty of involuntary manslaughter as charged in the indictment.

A. H.



COMMONWEALTH

HENSLEY

INSTRUCTION

The Court instructs the jury that if you believe from the evidence beyond a reasonable doubt that the death of Glen Taylor resulted from injuries received by him while a passenger in an automobile driven by the accused, Alvin Hensley, and that such accident resulted from Hensley's operation of said car in an unlawful or reckless manner, such as to indicate carelessness or indifference incompatible with a proper regard for human life, then you shall find him guilty of involuntary manslaughter as charged in the indictment.

K.A.

COMMONWEALTH

v.

ALVIN LEE HENSLEY

INSTRUCTION NO. 3

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 indictment and has put upon the Commonwealth the burden of proving every element of the crime charged and the accused's guilt beyond every reasonable doubt.

This burden, as so 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 a reasonable doubt of the accused's guilt, 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 pleasure but it is an essential and binding part of the law of the land, and you must give the defendant the full benefit of such presumption.

You are further instructed that while you may be suspicious that the accused is guilty of 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.

*A. A.*





COMMONWEALTH

V.

HENSLEY

INSTRUCTION 4

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.

*D.* *H. H.*



4 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.

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COMMONWEALTH

v.

ALVIN LEE HENSLEY

INSTRUCTION NO. 5

The Court instructs the jury that the gist of the crime charged against the defendant is criminal negligence; by the term criminal negligence is meant not simply such negligence as might be the foundation of a suit for damages by the person injured or by his personal representatives if killed, but something more than that; in order to be criminal negligence, as distinguished from such negligence as is necessary for a civil damage action, it must be shown that the negligence of the accused was gross or culpable negligence. Culpable or gross negligence is that which indicates a callous disregard of human life and of the probable consequence of his act. Criminal liability cannot be predicated upon every act carelessly performed merely because such carelessness results in the death of another, but in order for criminal liability to result from negligence, it must necessarily be reckless or wanton and of such a character as to show disregard of the safety of others under circumstances likely to cause injury or death, and unless you believe from the evidence beyond a reasonable doubt that Alvin Lee Hensley was guilty of negligence of such a degree or nature you shall find him not guilty in this case.

A. H.





COMMONWEALTH

v.

ALVIN LEE HENSLEY

INSTRUCTION NO. 6

The Court instructs the jury that the mere happening of an accident does not raise any presumption whatever of any negligence either ordinary, gross, or culpable on the part of the operator of the motor vehicle involved.

*A. H.*



COMMONWEALTH

v.

ALVIN LEB HENSLEY

INSTRUCTION NO. 2

The Court instructs the jury that the mere happening of an accident does not raise any presumption whatever of any negligence either ordinary, gross, or culpable on the part of the operator of the motor vehicle involved.

4. A.

COMMONWEALTH

v.

ALVIN LEE HENSLEY

INSTRUCTION NO. 7

The Court instructs the jury that even though the accused may have violated a traffic law or laws in the operation of his motor vehicle, you cannot find him guilty unless such violation, or violations, were of such a dangerous nature as to be incompatible with a proper regard for human life as the mere violation of a traffic law does not of itself render a person guilty of involuntary manslaughter.

*H. H.*





COMMONWEALTH

v.

ALVIN LEE HENSLEY

INSTRUCTION NO. 8

The Court instructs the jury that the mere swerving of an automobile on a curve is not a fact or occurrence of such a nature as will alone amount to proof of negligence of such a degree as to constitute wanton or culpable negligence on the part of the accused.

H. S.



COMMONWEALTH

v.

ALVIN LEE HENLEY

*B*

INSTRUCTION NO.

The Court instructs the jury that the mere swerving of an automobile on a curve is not a fact or occurrence of such a nature as will alone amount to proof of negligence of such a degree as to constitute wanton or culpable negligence on the part of the accused.

*H. H.*

COMMONWEALTH

v.

ALVIN LEE HENSLEY

INSTRUCTION NO. 9

The Court instructs the jury that the character of an accused person, when proved, whether good or bad, is a fact to be considered by the jury, and its weight as affecting the guilt or innocence of a prisoner is a matter for the determination by the jury, in connection with all other facts proven in the case.

A. H.





COMMONWEALTH

V.

HENSLEY

INSTRUCTION 10

The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury; and 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 opportunity of the witnesses to know whereof they speak, 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.



COMMONWEALTH

HEMBLEY

INSTRUCTION 10

The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury; and 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 opportunity of the witnesses to know whereof they speak, 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.

COMMONWEALTH

V.

HENSLEY

INSTRUCTION 11

The Court instructs the jury that when any blood sample of an accused is taken in accordance with the law and an analysis thereof is made through the office of the Chief Medical Examiner, the amount of the alcohol in the blood of the accused, as indicated by said chemical analysis, shall give rise to the following presumption:

(1) If there was at that time 0.05 per cent or less by weight of alcohol in the accused's blood, it shall be presumed that the accused was not under the influence of alcoholic intoxicants;

(2) If there was at that time in excess of 0.05 per cent but less than 0.15 per cent by weight of alcohol in the accused's blood, such facts shall not give rise to any presumption that the accused was or was not under the influence of alcoholic intoxicants, but such fact# may be considered with other competent evidence in determining whether or not the accused was under the influence of alcoholic intoxicants.

(3) If there was at that time 0.15 per cent or more by weight of alcohol in the accused's blood, it shall be presumed that the accused was under the influence of alcoholic intoxicants.

*X. H.*



COMMONWEALTH

v.

HENRY

INSTRUCTION

The Court instructs the jury that when any blood sample of an accused is taken in accordance with the law and an analysis thereof is made through the office of the Chief Medical Examiner, the amount of the alcohol in the blood of the accused, as indicated by said chemical analysis, shall give rise to the following

presumption:

(1) If there was at that time 0.05 per cent or less by

weight of alcohol in the accused's blood, it shall be presumed that the accused was not under the influence of alcoholic intoxicants;

(2) If there was at that time in excess of 0.05 per cent

but less than 0.15 per cent by weight of alcohol in the accused's blood, such facts shall not give rise to any presumption that the accused was or was not under the influence of alcoholic intoxicants, but such facts may be considered with other competent evidence in determining whether or not the accused was under the influence of alcoholic intoxicants.

(3) If there was at that time 0.15 per cent or more by

weight of alcohol in the accused's blood, it shall be presumed that the accused was under the influence of alcoholic intoxicants.

*Handwritten initials*

COMMONWEALTH

V.

HENSLEY

CHARGE TO JURY

If you find the accused guilty of involuntary manslaughter, as charged in the indictment, then you will say so and fix his punishment by confinement in the penitentiary for a period of not less than one year nor more than five years, or, in your discretion, by a fine not exceeding One Thousand Dollars (\$1,000.00), or by confinement in jail for a period not exceeding one year, or by both such fine and confinement in jail.

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



COMMONWEALTH

v.

HENRY

CHARGE TO JURY

If you find the accused guilty of involuntary manslaughter, as charged in the indictment, then you will say so and fix his punishment by confinement in the penitentiary for a period of not less than one year nor more than five years, or, in your discretion, by a fine not exceeding one thousand dollars (\$1,000.00), or by confinement in jail for a period not exceeding one year, or by both such fine and confinement in jail.

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

more.