COMMONWEALTH VS LEROY ROACH

DESCRIPTION OF PRISONER

Last known address ROUTE 3 BOX 136 ELKTON VA.

Color WHITE Height 5-8 Eyes BLUE Hair BROWN Weight 142

Marks

Age 28 Occupation TRUCK DRIVER

Date of Trial 11-15-62 Sentenced 11-21-62

Result 5 years State pen

JAIL REPORT ON:

Leroy Roach

Placed in jail: 7-21-62

Bailed on: 8-26-62

Returned to jail: 11/16/62

288 12

Com. V. Leroy Roach

Jury Nov. 15, 1962

Geo W. Abbott
Scott D. Fawley
James A. Haney
Ralph E. Avey
Galen B. Dellinger
Kenneth Pennington
Hayward Butler
Robert F. Shank
Thomas O. Evans
William G. Bloom
W. Lee Deckert
Roy Earle

Com. atty 5.00 + 20.00 25.00
Clerk 12.50
Co. Court 2.00
Sheriff 5.18 3.60 jury 1.50 10.28
JP (Evans) 2.00
Jury 139.68 + 77.04 216.72
Witnesses 13.62
Total $ 282.12

Docket No. 4002

OCT 1962

COMMONWEALTH of VIRGINIA

VS. Indictment } Felony (murder)

LEROY ROACH

had Conv. Val. mans. 5 years
motion to set aside
as contrary to law & evidence - cont. Nov 21
accused to jail

David F. Berry, Madison, Va. p. d.
Own (x) Appointed ( )

1962
Oct. 15. Return of Grand Jury. 11/33.

Oct. 15. Arraigned and plea n.g.
Set for Nov. 15. 11/34

Nov. 15. Jury impanelled, etc., evidence heard, etc. 11/49

Nov. 16. Verdict of jury returned and accused found guilty and punishment fixed at 5 years in Pen. Motion to set aside continued to Nov. 21; accused committed to jail. 11/49.

Nov. 21. Motion to set aside overruled; and exception by accused. Roach sentenced in accordance with verdict. 11/51

Photographs are in File Z-3 (upstairs)

CIRCUIT COURT OF ROCKINGHAM COUNTY, VA.

KEYSTONE ENV. CO., PHILA 33, PA.

NO. 34758

Comp. Form 18-A

STATE OF VIRGINIA
COUNTY OF Rockingham } To-Wit: No.

TO ANY SHERIFF OR POLICE OFFICER:

Whereas, James R. Sipe

has this day made complaint and information on oath before me, Donald S. Evans (Name)

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

LeRoy Roach in the said County

did on the 21th day of July, 19 62: Unlawfully and feloniously kill and murder one John W. Shifflett, 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 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 21 th day of July, 19 62

Donald S. Evans (Seal)
(Title of Issuing Officer)
JUSTICE OF THE PEACE

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

I, _____ a Judge of the County Court / Justice of the Peace in and for the County aforesaid, State of Virginia, do certify that _____

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

_____ Judge—J. P.

DOCKET NO. 39137

COMMONWEALTH

vs.

WARRANT OF ARREST

LeRoy Roach

Executed this, the 24 day of _____, 19 62

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.

Given under my hand this 24th day of August, 1962.

ROCKINGHAM COUNTY JUDGE

To - 8-24-62 2:P.M.
BOND Waived 2500.00
Fine Returnable to 10-15-62
Costs _____
Total $ _____
Ret. N.G. 7-23-62 Pres. Judge

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

COSTS

Warrant	$ 2.00
Trial	2.00
Bail	
Arrest	1.00
Mileage	3.68
Clerk	1.25
Jail Fee and Board	.50
Witness Attendance	
Summoning Witnesses	
Commonwealth Attorney	5.00
Total Costs	$
Fine	
Total	$

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 Leroy Roach on the 21st day of July, 1962, in the County of Rockingham, Virginia, feloniously did kill and murder one John W. Shifflett, against the peace and dignity of the Commonwealth of Virginia.

Upon the evidence of Deputy Sheriff G. M. Wilcox and Mrs. John W. Shifflett, witnesses sworn in open court and sent to the Grand Jury to give evidence.

murder

4002

COMMONWEALTH

V.

ROACH David F. Benny aun

grand bad

aun + m.g.

Nov 15

A TRUE BILL

Foreman

James R. Sipe
Commonwealth's Attorney

(1)

November 15, 1962.

Commonwealth

v. On an indictment charging felony (murder)

Leroy Roach

This day came the attorney for the commonwealth, and the accused, Leroy Roach, came pursuant to his recognizance and by his attorneys, Hugh R. Ross and David F. Berry, of Madison, Virginia. And from persons summoned by the sheriff under a writ of venire facias, twenty persons were examined by the court and found duly qualified and free from exception; whereupon, a list containing the names of said twenty persons was handed to the attorney for the commonwealth and the accused, who each alternately struck therefrom the names of four persons, and the remaining twelve, namely: George W. Abbott, Scott D. Fawley, James A. Haney, Ralph E. Arey, Galen B. Dellinger, Kenneth Pennington, Haywood Butler, Robert F. Shank, Thomas O. Evans, William G. Blose, W. Lee Dechert, and Roy Earls, selected as aforesaid to constitute the jury, were sworn to well and truly try and true deliverance make between the commonwealth and the defendant at the bar and a true verdict render according to the law and the evidence; and having heard the evidence, received the instructions of the court, and heard the argument of counsel, the jurors retired to their room to consider their verdict, and after some time they came again into court, and not having yet reached a verdict, were adjourned until tomorrow morning at nine o'clock.

November 12, 1945.

Commonwealth

v. On an indictment charging Leroy (Burger)

Leroy Rosch

This day came the attorney for the commonwealth, and the accused, Leroy Rosch, came personal to his recognizance and by his attorneys, Hugh H. Rose and David P. Berry, of Madison, Virginia. And this personal attendance being dispensed with, the jury were called and fully impaneled and sworn to try the issue joint, and a true verdict render according to the law and the evidence; and having heard the evidence, received the instructions of the court, and passing the argument of counsel, the jury retired to their room to consider their verdict, and after some time came again into court, and not having yet reached a verdict, were adjourned until tomorrow morning at nine o'clock.

2.

November 16, 1962.

Commonwealth

v. On an indictment charging felony (murder)

Leroy Roach

This day came the attorney for the commonwealth, and the accused, Leroy Roach, came pursuant to his recognizance and by his attorneys, Hugh R. Ross and David F. Berry; and the jury impanelled and sworn for the trial of this case came pursuant to adjournment; whereupon, the jury again retired to their room to consider their verdict; and after some time they came again into court and returned the following verdict: "We, the jury, find the accused, Leroy Roach, guilty of voluntary manslaughter and fix his punishment at confinement in the penitentiary at 5 years. Galen H. Dellinger, foreman." Whereupon, the accused, by counsel, moved the court to set aside the verdict of the jury and grant a new trial on the ground that said verdict is contrary to the law and the evidence; and the court fixed the 21st day of November next for the hearing of argument in support of said motion; and the accused was committed to jail.

November 18, 1925.

COMMONWEALTH

v. On an indictment charging felony (murder)

Peter Horan

"Did you come the accused for the commonwealth" and the accused, Peter Horan, came forward to his recognizance and by his attorneys, Hugh H. Ross and David P. Betty; and the jury impanelled and sworn for the first of this case came forward to adjournment: Whereupon, the jury again retired to their room to consider their verdict: and after some time they came again into court and returned the following verdict: "We, the jury, find the accused, Peter Horan, guilty of aggravated manslaughter and fix his punishment at confinement in the penitentiary at 2 years. Galen H. Dellinger, foreman."

Whereupon, the accused, by counsel, moved the court to set aside the verdict of the jury and grant a new trial on the ground that said verdict is contrary to the law and the evidence; and the court fixed the 1st day of November next for the hearing argument in support of said motion; and the accused was committed to jail.

11/21/62

Commonwealth

v. On an indictment charging felony (murder)

Leroy Roach

This day came again the attorney for the commonwealth, and the accused, Leroy Roach, came in custody of the sheriff of this county and by his attorney, David F. Berry, of Madison, Virginia. And in support of his motion made at a former day of the term that the verdict herein be set aside as being contrary to the law and the evidence, the accused, by counsel, ~~the~~ submitted as a further ground therefor the giving of certain instructions on behalf of the commonwealth; and after hearing argument in support of said motion, the court overruled ~~xxx~~ the same, to which action of the court, said accused, by counsel, excepted. And it being inquired of said accused if anything he had or knew to say why the court should not pronounce sentence on him in accordance with the verdict of the jury rendered at a previous day of the term, and nothing being offered or alleged in delay thereof, it is therefore considered by the court that the commonwealth recover of the said Leroy Roach the costs incident to this prosecution, and that he be confined in the penitentiary of this state for the term of five (5) years at hard labor. And said accused is remanded to jail until he can be delivered into the custody of an officer of the State Penitentiary, to be removed and conveyed to the public jail and penitentiary house of this commonwealth, therein to be held and kept imprisoned and treated in the manner directed by law for the term aforesaid, his said term to be subject to credit for any time he may have been held in jail awaiting trial and/or sentence.

sentence on him in accordance with the verdict of the jury rendered in answer to the 4th issue, so that the costs accrue and be chargeable as a previous debt of the term, and nothing being offered or alleged in delay thereof, it is therefore considered by the court that the commonwealth recover of the said Leroy Rosch the costs incident to this prosecution, and that he be confined in the Penitentiary of this state for the term of five (5) years at hard labor. And said accused is remanded to jail until he can be delivered into the custody of an officer of the State Penitentiary, to be removed and conveyed to the public jail and penitentiary house of this commonwealth, there to be held and kept imprisoned and treated in the manner directed by law for the term aforesaid, this said term to be subject to credit for any time he may have been held in jail awaiting trial and\or sentence.

11/21/25

commonwealth

v. On an indictment charging larceny (market)

Leroy Rosch

This day came again the attorney for the commonwealth, and the accused, Leroy Rosch, came in custody of the sheriff of this county and by his attorney, David F. Berry, of Madison, Virginia. And in support of his motion made at a former day of the term that the verdict herein be set aside as being contrary to the law and the evidence, the accused, by counsel, ~~xxx~~ submitted as\further grounds the operation the existence of certain instructions on behalf of the commonwealth; and after hearing argument in support of said motion, the court overruled ~~xxx~~ the same, to which action of the court, said accused, by counsel, excepted. And it being inquired of said accused if anything he had or knew why the court should not proceed to pronounce judgment upon him according to law, the court upon mature consideration

Witness Subpoena

Commonwealth of Virginia:
County of Rockingham, to-wit:

To the Sheriff of said County, Greeting:

You are hereby commanded, in the name of the Commonwealth of Virginia to summon Mrs. John W. Shifflett - Elkton, Va.

Mr. Glen Wilcox -

to appear before The County Court of said County, sitting at Harrisonburg, Virginia, in said County, on 24th day of August, 19 62, at the hour of 2:00 P.M. of that day to give evidence in behalf of Commonwealth

in the pending case of Commonwealth

v. Leroy Roach

Given under my hand this 22nd day of August, 19 62

Heatha K. Johnson

Deputy Clerk
Asst. Clerk

The County Court

Docket No. 39137

Commonwealth

V. (Witness Subpoena

Leroy Roach

To: August 24, 1962

EXECUTED 8-22-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Subpoena TO Mrs. Gilbert IN PERSON.

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

By Robert H. Payne ..... D. S. R. C.

EXECUTED 8-22-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Subpoena TO Mrs. Jack Sheffield IN PERSON.

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

By Robert H. Payne ..... D. S. R. C.

(Copy)

Witness Subpoena

Commonwealth of Virginia:
County of Rockingham, to-wit:
To the Sheriff of said County, Greeting:

You are hereby commanded, in the name of the Commonwealth of Virginia to summon Elmer Lee Shifflett, Swift Run, Va
Bessie Roach (Mrs Kelly Roach) Elkton Va
Leon Shifflett % " " "
Dewey Conley, Elkton

to appear before The County Court of said County, sitting at Harrisonburg, Virginia, in said County, on 24th day of Aug, 1962, at the hour of 2 PM of that day to give evidence in behalf of Defendant, Leroy Roach

in the pending case of Com'th

v. Leroy Roach

Given under my hand this 18th day of Aug, 1962

Ada C Swartz, Clerk
Clerk
Asst. Clerk

The County Court

Docket No. 39137

Com'lth

V. (Witness Subpoena

Leroy Roach

To 8-24-62

(Copy)

Witness Subpoena

Commonwealth of Virginia:
County of Rockingham, to-wit:
To the Sheriff of said County, Greeting:

You are hereby commanded, in the name of the Commonwealth of Virginia to summon Elmer Lee Shifflett Swift Run Va
Bessie Roach (Mrs Kelly Roach) Elkton Va
Leon Shifflett " " " "
Dewey Conley Elkton

to appear before The County Court of said County, sitting at Harrisonburg, Virginia, in said County, on 24th day of Aug, 1962, at the hour of 2 PM of that day to give evidence in behalf of Defendant, Leroy Roach

in the pending case of Com'th

v. Leroy Roach

Given under my hand this 18th day of Aug, 1962

Ada C Swartz Clerk

Clerk
Asst. Clerk

The County Court

Docket No. 39137

Com'l.

V. (Witness Subpoena

Leroy Roach

To 8-24-62

Witness Subpoena

Commonwealth of Virginia:
County of Rockingham, to-wit:

To the Sheriff of said County, Greeting:

You are hereby commanded, in the name of the Commonwealth of Virginia to summon

Elmer Lee Shifflett Swift Run Va
Bessie Roach (Mrs. Kelly Roach) Elkton
Leon Shifflett " " "
Dewey Conley Elkton

to appear before The County Court of said County, sitting at Harrisonburg, Virginia, in said County, on 24th day of Aug, 1962, at the hour of 2 PM of that day to give evidence in behalf of Defendant Leroy Roach

in the pending case of Com'th

v. Leroy Roach

Given under my hand this 18th day of Aug, 1962

Ada C. Swartz, Clerk

Clerk
Asst. Clerk

EXECUTED 8-21-62 IN THE COUNTY OF FOUKTLGTAM BY DELIVERING A TRUE COPY OF THE WITHIN Subpoena

TO Bessie Roach

IN PERSON.

A. L. STRAWDERMAN

..... S. R. C.

By Robert H. Rayne D. S. R. C.

The County Court

Docket No. 39137

Com. of

V.

Witness Subpoena

Leroy Roach

To Aug. 24, 1962

Not finding Elmer Lee Shifflett at his usual place of abode, Executed 8-21-62 by delivering a true copy of this ..... to Ethel Shifflett ..... in person, at said Elmer Lee Shifflett usual place of abode ....., 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.

By Robert H. Rayne Deputy Sheriff

Leon Shufflett ..... not found

in my bailiwick 8-21 ....., 1962

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

By Robert H. Rayne Deputy Sheriff

Denny Conley ..... not found

in my bailiwick 8-21 ....., 1962

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

By Robert H. Rayne Deputy Sheriff

COUNTY COURT

Criminal Docket **Nº 39137 A**

Commonwealth

V.

Leroy Roach

Defendant David T. Perry
Standardsville, Va

aw Appearance Date 7-23-62

Trial Date 8-24-62

G.J

8-18-62 WS. - 4 Def.
letter to atty to tell him court is at 2 P.M.
WS-2- Cont'd 8-22-62

JOHN J. MORRIS
(1907-1957)
HUGH R. ROSS
DAVID F. BERRY
FREDERICK R. COATES

ROSS, BERRY & COATES
ATTORNEYS AT LAW
STANARDSVILLE, VIRGINIA

MADISON
948-4430

STANARDSVILLE
985-2331

August 15, 1962

Clerk of County Court
of Rockingham County
Harrisonburg, Virginia

In Re: Commonwealth v.
Leroy Roach

Dear Madam:

Would you kindly issue witness subpoenas against the following named persons who are being called to testify in the above case in the Rockingham County Court on August 24, 1962:

Elmer Lee Shifflett, Swift Run, Va.
Bessie Roach (Mrs. Kelly Roach) Elkton, Va.
Leon Shifflett, c/o Mrs. Bessie Roach, Elkton, Va.
Dewey Conley, Elkton, Virginia

Our firm represents Leroy Roach in this case and it is our understanding that the preliminary hearing is set for August 24, 1962 at 10:00 a.m. If this information is incorrect, would you kindly advise me.

Very truly yours,

ROSS, BERRY & COATES

David F. Berry

By: David F. Berry

DFB:mfm

JOHN J. NORRIS
(1907-1967)
HUGH R. ROSS
DAVID F. BERRY
FREDERICK R. COATES

MADISON
945-4230

STANARDSVILLE
985-3341

ROSS, BERRY & COATES

ATTORNEYS AT LAW

STANARDSVILLE, VIRGINIA

August 15, 1962

Clerk of County Court
of Rockingham County
Harrisonburg, Virginia

In Re: Commonwealth v.
Leroy Roach

Dear Madam:

Would you kindly issue witness subpoenas against the following named persons who are being called to testify in the above case in the Rockingham County Court on August 24, 1962:

Elmer Lee Shiflett, Swift Run, Va.
Bessie Roach (Mrs. Kelly Roach) Elkton, Va.
Leon Shiflett, c/o Mrs. Bessie Roach, Elkton, Va.
Dewey Conley, Elkton, Virginia

Our firm represents Leroy Roach in this case and it is our understanding that the preliminary hearing is set for August 24, 1962 at 10:00 a.m. If this information is incorrect, would you kindly advise me.

Very truly yours,

ROSS, BERRY & COATES

By: David F. Berry

DFB:mfm

JOHN J. MORRIS
(1907-1957)
HUGH R. ROSS
DAVID F. BERRY
FREDERICK R. COATES

ROSS, BERRY & COATES
ATTORNEYS AT LAW
MADISON, VIRGINIA

MADISON
948-4430
STANARDSVILLE
985-2331

November 12, 1962

Mr. George W. Kemper, Clerk
Circuit Court of Rockingham County
Harrisonburg, Virginia

In Re: Commonwealth v. Leroy Roach

Dear Mr. Kemper:

My notes do not clearly indicate whether or not I have requested that Elmer Lee Shifflett of Swift Run, Virginia be summoned on behalf of the defendant in the above case on November 15th in your court. If subpoena has not been issued for Elmer Lee Shifflett, would you kindly do so.

Sincerely yours,

ROSS, BERRY & COATES

David F. Berry

By: David F. Berry

DFB:mfm

Issued 11/8/62 T.
Del to sheriff

JOHN J. MORRIS
(1907-1957)
HUGH R. ROSS
DAVID F. BERRY
FREDERICK R. COATES

MADISON
948-4420

STANARDSVILLE
985-2231

ROSS, BERRY & COATES

ATTORNEYS AT LAW

MADISON, VIRGINIA

November 12, 1962

Mr. George W. Kemper, Clerk
Circuit Court of Rockingham County
Harrisonburg, Virginia

In Re: Commonwealth v. Leroy Roach

Dear Mr. Kemper:

My notes do not clearly indicate whether or not I have requested that Elmer Lee Shifflett of Swift Run, Virginia be summoned on behalf of the defendant in the above case on November 15th in your court. If subpoena has not been issued for Elmer Lee Shifflett, would you kindly do so.

Sincerely yours,

ROSS, BERRY & COATES

By: David F. Berry

DFB:mfm

We, the jury find the accused, Leroy Roach, guilty of voluntary manslaughter and fix his punishment at confinement in the penitentiary at 5 years.

Galen H. Dellinger, Foreman

COMMONWEALTH

V.

ROACH

CHARGE TO JURY

If you find the accused, Leroy Roach, guilty of murder, as charged in the indictment, 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 the indictment, 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 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 John W. Shifflett without malice aforethought, actual or implied, upon sudden heat, on reasonable provocation, or in mutual combat, you will find him guilty of voluntary manslaughter and fix his punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree, nor of murder in the second degree, nor of voluntary manslaughter, but find him guilty of involuntary manslaughter, you will say so and fix his punishment at confinement in the penitentiary for not less than one nor more than five years, or, in your discretion, by a fine of not exceeding one thousand dollars, or by confinement in jail not exceeding one year, or by both such fine and imprisonment.

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

COMMONWEALTH

v.

KOVCH

CHANCE TO TALK

If you find the accused, Leroy Koch, guilty of murder, in the first degree and find him guilty of murder in the second degree, you will find him guilty of manslaughter, but if you find him guilty of involuntary manslaughter, you will find him guilty of voluntary manslaughter and fix his punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree, nor of murder in the second degree, nor of voluntary manslaughter, but find him guilty of involuntary manslaughter, you will say so and fix his punishment at confinement in the penitentiary for not less than one 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 John W. Smith without malice aforethought, express or implied, upon sudden heat, on reasonable provocation, or in mutual combat, you will find him guilty of voluntary manslaughter and fix his punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree, nor of murder in the second degree, and fix his punishment at confinement in the penitentiary for not less than five nor more than twenty years.

If you find the accused, Leroy Koch, guilty of murder, as charged in the indictment, and that the murder was committed with malice aforethought, and that it was willful, deliberate and premeditated, then you will fix his punishment at death.

If you find him not guilty of murder, as charged in the indictment, and that the murder was committed with malice aforethought, but that it was not willful, deliberate and premeditated, then you will fix his punishment at confinement in the penitentiary for not less than five nor more than twenty years.

If you find him guilty of murder in the second degree, and fix his punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree, nor of murder in the second degree, but that he killed John W. Smith without malice aforethought, express or implied, upon sudden heat, on reasonable provocation, or in mutual combat, you will find him guilty of voluntary manslaughter and fix his punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree, nor of voluntary manslaughter, but find him guilty of involuntary manslaughter, you will say so and fix his punishment at confinement in the penitentiary for not less than one nor more than twenty years.

If you find him not guilty of murder, as charged in the indictment, and that the murder was committed with malice aforethought, but that it was not willful, deliberate and premeditated, then you will fix his punishment at death.

If you find the accused, Leroy Koch, guilty of murder, as charged in the indictment, and that the murder was committed with malice aforethought, but that it was not willful, deliberate and premeditated, then you will fix his punishment at confinement in the penitentiary for not less than five nor more than twenty years.

If you find him guilty of murder in the second degree, and fix his punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree, nor of murder in the second degree, but that he killed John W. Smith without malice aforethought, express or implied, upon sudden heat, on reasonable provocation, or in mutual combat, you will find him guilty of voluntary manslaughter and fix his punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree, nor of murder in the second degree, nor of voluntary manslaughter, but find him guilty of involuntary manslaughter, you will say so and fix his punishment at confinement in the penitentiary for not less than one nor more than twenty years.

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

Bals Route #3 Collier

Elmer Lee Shufflett
miles — 25 miles 1-way

Hoyd C Shufflett — 26-1mi

James Leon Shufflett → for defendant
John Alexander 118 miles

J. J. Boyle

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Shirley Dean - Route #3, Elkton

Mrs. Wilmer (Leonard Lee) Shifflett - Swift Run

Elmer Lee Shifflett - Route #3, Elkton 25 mi away

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

Leroy Roach

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 10th of November, 1962, and in the 187th year of the Commonwealth.

James R. Sipe
Commonwealth's Attorney

120

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Subpoena TO Shirley Dean IN PERSON.

A. L. STRAWDERMAN S. R. C.

By A. T. Burnett D. S. R. C.

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Subpoena TO Mr. Wilmer Shiplett IN PERSON.

A. L. STRAWDERMAN S. R. C.

By A. T. Burnett D. S. R. C.

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Subpoena TO Elmer Lee Shiplett IN PERSON.

A. L. STRAWDERMAN S. R. C.

By A. T. Burnett D. S. R. C.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Floyd Shifflett - Route #3, Box 149B, Elkton 26 mi. away

Mary Beasley - Route #3, Elkton

Wayne Shifflett - Route #3, Box 149B, Elkton

Virgil Conley - Route #3, Elkton

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

Leroy Roach

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 10th of November, 1962, and in the 187th year of the Commonwealth.

James R. Sipe
Commonwealth's Attorney

160

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN summon

TO Floyd Shiplett IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN summon

TO Wayne Shiplett IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN summon

TO Vergil Conley IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN summon

TO Mary Beasley IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Dr. G. G. Tanner - Grottoes, 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 15th day of November, 1962, to testify and the truth to say in behalf of the Commonwealth ~~before the Grand Jury,~~ against

Leroy Roach

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 9th of November, 19 62, and in the 187th year of the Commonwealth.

James R. Sipe
Commonwealth's Attorney

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summon

TO Dr. G. G. Tanner

IN PERSON

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

By Robert H. Payne ..... D. S. R. C.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

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 15th day of November, 1962, to testify and the truth to say in behalf of the Commonwealth ~~before the Grand Jury,~~ against

Leroy Roach

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 10th of November, 1962, and in the 187th year of the Commonwealth.

James R. Sipe
Commonwealth's Attorney

.40

EXECUTED 11-10-62 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN Subpoena
TO A. M. Wilcox
IN PERSON.

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

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

My name is Leroy Roach. I am 28 years of age. My address is Route #3, Elkton, Va.

I have been told that I am entitled to counsel, Nevertheless I do make the following statement voluntarily this 21st day of July, 1962, at 8:30 p.m. in the presence of Chief Robert L. Deeds, Officer J. T. Howe, Deputy Sheriff G. M. Wilcox and Commonwealth's Attorney James R. Sipe.

Today, July 21, 1962, I had been doing some work with Virgil Conley. Virgil lives at Sandy Bottom and I had gone down the Beldor Road to pick him up this morning. I had a drink of whiskey this morning about 9 a.m., and Virgil and myself drank a pint during the day. I also had some beer to drink later this evening.

About 5 p.m. this afternoon I took Virgil home. On my way back down the Beldor Road towards Route #33, I saw Elmer Lee Shifflett, Leon Shifflett and another boy beside the road talking. I pulled off on the left side of the road to talk to them. We started talking about car motors and other things. A little later a man I know by the name of Wilmer Davis came down the Beldor Road and stopped a few minutes to talk to us. I knew that Wilmer was a good mechanic and I said something to him about fixing the carburetor on my car. He said he would look at it later today. I have known Wilmer for 7 or 8 years. Wilmer's wife and little girl were with him. A little later Leon Shifflett and the other young boy left. Then Wilmer came back up the road and stopped to talk. His wife and little girl were still with him. Then Elmer Lee Shifflett left and I started to leave. But then Wilmer and myself got in an argument and Wilmer hit me with his fist on my head and got me down on the ground. I got up and reached for the front left door on my car when he took me by my shoulder. I then turned around and struck him a hard blow with my fist right above his nose. Wilmer fell down over the trunk and left rear fender of my car and I then took hold of his shirt and hit him 4 or 5 more times with my fist. He then fell on down to the ground. After he fell down he was bleeding above his eyes and nose, and was also bleeding from his mouth. He still looked alive to me because he was making a little noise and his stomach moved a little. He never said anything or opened his eyes after he fell to the ground. He was laying down hill, and because he was bleeding so much I turned him around. After he had been laying there for about 5 or 10 minutes, Shirley Dean, who lives close to me, came by in her car and I asked her to tell my wife to come up there or get a doctor or ambulance. I waited for a while and I thought she had more than enough time to get back several times, so I then got in my car to go down to my house to see what was keeping my wife. After I had gone about 100 yards I met my wife and Shirley, so I then backed up to the road to where Wilmer was still laying. My wife saw Wilmer just lying there, so my wife and I decided to go down to the police station in Elkton to tell them about what had happened. After

Difference as to what Elmer said

no mention of argument with him over the car motor!

Shirley says no ambulance or doctor was requested

My name is Lenoy Rosch. I am 58 years of age. My address is Route #3, Elkton, Md.

I have been told that I am entitled to consent, however-
therefore I do make the following statement voluntarily this 21st day of July, 1962, at 8:30 p.m. in the presence of Capt. Robert L. Deeds, Officer L. T. Howe, Deputy Sheriff C. M. Wilcox and Commonwealth's Attorney James K. Pipe.

Today, July 21, 1962, I had been doing some work with Virgil Conley. Virgil lives at Sandy Bottom and I had gone down the Belgor Road to pick him up this morning. I had a drink of whiskey this morning about 9 a.m., and Virgil and myself drank a pint during the day. I also had some beer to drink later this evening.

About 2 p.m. this afternoon I took Virgil home. On my way back down the Belgor Road towards Route #213, I saw Elmer Lee Shirley, Leon Shirley and another boy beside the road walking. I pulled off on the left side of the road to talk to them. We started talking about car motors and other things. A little later a man I know by the name of Milmer Davis came down the Belgor Road and stopped a few minutes to talk to us. I knew that Milmer was a good mechanic and I said something to him about fixing the carburetor on my car. He said he would look at it later. Milmer's wife and boy stopped a little later from Shirley's and I have known Milmer for 7 or 8 years. A little later Leon Shirley and the other boy left and Milmer came back up the road and stopped to talk. I then got out of my car and I then took hold of his shirt and left rear fender of my car and pulled him a little ways with my first right above his nose. Milmer fell down over the trunk and put him 4 or 5 more times with my fist. He then fell on down to the ground. After he fell down he was pleading from his mouth. He still held his nose, and was also pleading with his eyes and nose, but he was making a little noise and his head falling down to me because he was making a little noise and his head fell to the ground. He was laying down hill, and even after he fell to the ground. After he became so weak I turned him around. After he had been laying there for about 5 or 10 minutes, Shirley been who lives close to me, came up in his car and I asked her to tell my wife to come up there or get a doctor or ambulance. I walked for a while and I thought she had more than enough time to get back several times, so I then got in my car to go down to my house to see what was keeping my wife. After I had gone about 100 yards I met my wife and Shirley, so I then packed up to the road to where Milmer was still laying. My wife was Milmer's wife and I decided to go down to the bottom laying there, so my wife and I decided to call them about what happened. After assistance in Elkton to call the police.

we told the police, we started to go home but I decided to go back up to where Wilmer was lying beside the road. The ambulance and a number of people were already there when we arrived, the ambulance getting there right before us.

Nobody else was there at the time of the fight or when we were having the argument except Wilmer, his wife and little girl, and myself.

When I started to leave, just before Wilmer and I got into the fight, he told me that Billy, my brother-in-law, and told him that I would run if anyone came after me, or some language similar to that indicating that Billy had told him I was yellow.

I have read the above statement written on 3 pages, and the statements are true and correct to the best of my knowledge.

S/ Leroy Roach

WITNESS:

J. T. Howe
G. M. Wilcox
James R. Sipe
R. L. Deeds, Jr.

we told the police, we started to go home but I decided to go back up to where Miller was lying beside the road. The ambulance and a number of people were already there when we arrived, the ambulance getting there right before us.

Nobody else saw there at the time of the fight or when we were pulling the argument except Miller, Pie Mile and little girl, and myself.

When I started to leave, just before Miller and I got into the fight, he told me that BILLY, my protector-in-law, and two or more told him that I would rue it anyone came after me, or some language similar to that indicating that BILLY had told him I saw yellow.

I have read the above statement written on 3 pages, and the statements are true and correct to the best of my knowledge.

s\ Leroy Roach

WITNESS:

L. T. Howe
C. M. Millcox
James R. Sipe
R. L. Deegs, Jr.

Com Ex 5

HH

My name is Leroy Roach. I am 28 years of age. My address is Route #3, Elkton, Va.

I have been told that I am entitled to counsel, Nevertheless I do make the following statement voluntarily this 21st day of July, 1962, at 8:30 p.m. in the presence of Chief Robert L. Deeds, Officer J. T. Howe, Deputy Sheriff G. M. Wilcox and Commonwealth's Attorney James R. Sipe.

Today, July 21, 1962, I had been doing some work with Virgil Conley. Virgil lives at Sandy Bottom and I had gone down the Beldor Road to pick him up this morning. I had a drink of whiskey this morning about 9 a.m., and Virgil and myself drank a pint during the day. I also had some beer to drink later this evening.

About 5 p.m. this afternoon I took Virgil home. On my way back down the Beldor Road towards Route #33, I saw Elmer Lee Shifflett, Leon Shifflett and another boy beside the road talking. I pulled off on the left side of the road to talk to them. We started talking about car motors and other things. A little later a man I know by the name of Wilmer Davis came down the Beldor Road and stopped a few minutes to talk to us. I knew that Wilmer was a good mechanic and I said something to him about fixing the carburetor on my car. He said he would look at it later today. I have known Wilmer for 7 or 8 years. Wilmer's wife and little girl were with him. A little later Leon Shifflett and the other young boy left. Then Wilmer came back up the road and stopped to talk. His wife and little girl were still with him. Then Elmer Lee Shifflett left and I started to leave. But then Wilmer and myself got in an argument and Wilmer hit me with his fist on my head and got me down on the ground. I got up and reached for the front left door on my car when he took me by my shoulder. I then turned around and struck him a hard blow with my fist right above his nose. Wilmer fell down over the trunk and left rear fender of my car and I then took hold of his shirt and hit him 4 or 5 more times with my fist. He then fell on down to the ground. After he fell down he was bleeding above his eyes and nose, and was also bleeding from his mouth. He still looked alive to me because he was making a little noise and his stomach moved a little. He never said anything or opened his eyes after he fell to the ground. He was laying down hill, and because he was bleeding so much I turned him around. After he had been laying there for about 5 or 10 minutes, Shirley Dean, who lives close to me, came by in her car and I asked her to tell my wife to come up there or get a doctor or ambulance. I waited for a while and I thought she had more than enough time to get back several times, so I then got in my car to go down to my house to see what was keeping my wife. After I had gone about 100 yards I met my wife and Shirley, so I then backed up to the road to where Wilmer was still laying. My wife saw Wilmer just lying there, so my wife and I decided to go down to the police station in Elkton to tell them about what had happened. After

My name is Leroy Roach. I am 28 years of age. My address is Route #3, Elkton, Va.

I have been told that I am entitled to counsel. However, whether I do make the following statement voluntarily this 21st day of July, 1962, at 8:30 p.m. in the presence of Curtis Kopert, L. Deegs, Officer L. T. Howe, Deputy Sheriff C. M. Milcox and Commonwealth's Attorney James K. Pipe.

[illegible] Route #33, I saw Elmer Vinzill coming. Vinzill lives at Sandy Bottom and I had gone down the Belgor Road to pick him up this morning. I had a drink of whiskey this morning about 6 a.m., and Vinzill and myself drank a pint during the day. I also had some peax to drink later this evening.

About 5 p.m. this afternoon I took Vinzill home. On my way back down the Belgor Road towards Route #33, I saw Elmer Lee Spitzfeet, Leon Spitzfeet and another boy beside the road walking. I hollied out on the left side of the road to talk to them. We started talking about car motors and other things. A little later a man I know by the name of Milmer Davis came down the Belgor Road and stopped a few minutes to talk to us. I knew that Milmer was a good mechanic and I said something to him about fixing the carburetor on my car. He said he would look at it later today. Milmer's wife and [illegible] 8 years. Milmer, Elmer and myself got in an argument and Milmer put me with his wife and myself got in the Ford to come on my head and got me down on the Ground. I got up and tried to get my car open he took me by the rescued for the front left door on my car when he took me by the spontaneous. I then turned around and struck him a hard blow with my first right above his nose. Milmer fell down over the trunk and left rear fender of my car and I then took hold of his shirt and put him 4 or 5 more times with my fist. He then fell on down to the Ground. After he fell down he was pleading above his eyes and nose, but was also pleading from his mouth. He still looked alive to me because he was making a little noise and his stomach moved a little. He never said anything or opened his eyes after he fell to the Ground. He was laying down hill, and because he was pleading so much I turned him around. After he had been laying there for about 5 or 10 minutes, maybe, came by in her car and I asked her to call two lives close to me, came by in her car and I asked her to call my wife to come up there or get a doctor or ambulance. I waited for a while and I thought she had more than enough time to get back several times, so I then got in my car to go down to my pack several times, so I then got in my car to go down to my house to see what was keeping my wife. After I had gone about 100 yards I met my wife and sprinkle, so I then packed up to the road to where Milmer was still laying. My wife was Milmer just laying there, so my wife and I decided to go down to the Bottom section in Elkton to tell them about what had happened. After

we told the police, we started to go home but I decided to go back up to where Wilmer was lying beside the road. The ambulance and a number of people were already there when we arrived, the ambulance getting there right before us.

Nobody else was there at the time of the fight or when we were having the argument except Wilmer, his wife and little girl, and myself.

When I started to leave, just before Wilmer and I got into the fight, he told me that Billy, my brother-in-law, and told him that I would run if anyone came after me, or some language similar to that indicating that Billy had told him I was yellow.

I have read the above statement written on 3 pages, and the statements are true and correct to the best of my knowledge.

S/ Leroy Roach

WITNESS:

J. T. Howe
G. M. Wilcox
James R. Sipe
R. L. Deeds, Jr.

we told the police, we started to go home but I decided to go back up to where Miller was lying beside the road. The ambulance and a number of people were already there when we arrived, the ambulance backing there right before us.

Nobody else was there at the time of the fight or when we were paying the argument except Miller, his wife and little girl, and myself.

When I started to leave, just before Miller and I got into the fight, he told me that Billy, my brother-in-law, and some language similar to that indicating that Billy had told him I was yellow.

I have read the above statement written on 3 pages, and the statements are true and correct to the best of my knowledge.

S/ Leroy Kosch

WITNESS:

L. I. Howe
G. M. Wilcox
James K. Sipe
K. L. Beegs, Jr.

For Murder Warrant Issued 7-21-62
James R. Sipe, Complainant

STATE OF VIRGINIA—~~COUNTY~~ City 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 Leroy Roach

and Mary Roach & Mannis Roach, 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 Leroy Roach, shall appear before the ~~County~~ Circuit Court of Rockinham County, on the 15th day of October, 19 62, at 9:30 A 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 _____ 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 26th day of August, 19 62.

John G. Leake ~~Judge~~. J. P.

DOCKET NO. _____

COMMONWEALTH

vs.

WARRANT OF ARREST

Executed this, the _____ day of _____, 19____

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

Total $ _____

Costs _____

Fine $ _____

The following witnesses were recognized to appear before the Circuit Court of _____ County,

Virginia, at _____,

Virginia, at _____ M., on the _____ day of _____, 19____,

under penalty of $_____

COSTS

Warrant $ _____

Trial _____

Bail _____

Clerk _____

Commital _____

Witnesses _____

Sheriff/Sergeant: Fees _____

Mileage _____

Commonwealth Attorney _____

Weighing Fee _____

Total Costs _____

Fine _____

Total _____

Comp. Form 18

STATE OF VIRGINIA
COUNTY OF _____ } To-Wit: No. _____

TO ANY SHERIFF OR POLICE OFFICER:

Whereas, _____

has this day made complaint and information on oath before me, _____ (Name)

_____ (Title) of the said County, that _____

_____ in the said County

did on the _____ day of _____, 19____: Unlawfully _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

These are, therefore, to command you, in the name of the Commonwealth, to apprehend and bring before the 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 _____ day of _____, 19____

_____ (Seal)
(Title of Issuing Officer)

W. H. NICHOLSON, M. D.

REG. NO. 1598 OFFICE HOURS: 9 TO 9:30 A.M. 1:30 TO 2, 7 TO 9 P.M. ELKTON, VA.

FOR To the Clerk of the Court — DATE 11/14/67

ADDRESS _____ AGE _____

℞ Bertie Shifflett has a bronchio-pneumonia & will not be able to be in court for several days.

W. H. Nicholson

REFILL

REFILL 1-2-3-4

NO REFILLS

BROWN'S PHARMACY

ELKTON, VIRGINIA

PHONE 298 - 6881

_____ M. D.

[illegible]

[illegible]

[illegible]

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon Mannis Roach (Swift Run, Va.);
Mrs. Beulah Lawson (Montevideo);
Mrs. Walter Williams (Sleepwear Corp., Elkton);
Earman Roach (Dean Lumber Co., Elkton);
Bertie Shifflett (Swift Run, Va.);
Frank Harlow (Swift Run, Va.);
Lloyd Dean (Elkton, Va.);
Elmer Lee Shifflett (Swift Run, Va.);
Leon Shifflett (c/o Mrs. Bessie Roach, Elkton, Va.);

Dayton Poultry

Floyd Dean C. Shifflett
298-4113

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 November, 1962, to testify and the truth to say **in behalf of the Defendant** in the prosecution of the Commonwealth against

Leroy Roach

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 8th day of November, 1962, and in the 187th year of the Commonwealth.

George W. Kemper, Clerk
By Margie Bowers, D.C.

Ross, Berry & Coates, Attorneys, Madison, Va.

3,60

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summon

TO Manie Roach IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summon

TO Frank Marlo IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summon

TO Earma Roach IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summon

TO Elma Lee Shiplett IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summon

TO Bertie S. Shiplett IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

EXECUTED 11-10-62 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summon

TO Leon S. Shiplett IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

EXECUTED ..... IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summon

TO ..... IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

EXECUTED ..... IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summon

TO ..... IN PERSON.

A. L. STRAWDERMAN S. R. C.

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

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon Mannis Roach (Swift Run, Va.);
Mrs. Beulah Lawson (Montevideo);
Mrs. Walter Williams (Sleepwear Corp., Elkton);
Earman Roach (Dean Lumber Co., Elkton);
Bertie Shifflett (Swift Run, Va.);
Frank Harlow (Swift Run, Va.);
Lloyd Dean (Elkton, Va.);
Elmer Lee Shifflett (Swift Run, Va.);
Leon Shifflett (c/o Mrs. Bessie Roach, 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 15th day of N ovember, 19 62, to testify and the truth to say **in behalf of the Defendant** in the prosecution of the Commonwealth against

Leroy Roach

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 8th day of November, 19 62, and in the 187th year of the Commonwealth.

George W. Kemper, Clerk

Mrs. Beulah Lawson

In my bailiwick 11-15- 1962

A. L. STRAWDERMAN

S. R. C.

By G. T. Burnett Deputy Sheriff

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon Mannis Roach (Swift Run, Va.);
Mrs. Beulah Lawson (Montevideo);
Mrs. Walter Williams (Sleepwear Corp., Elkton);
Earman Roach (Dean Lumber Co., Elkton);
Bertie Shifflett (Swift Run, Va.);
Frank Harlow (Swift Run, Va.);
Lloyd Dean (Elkton, Va.);
Elmer Lee Shifflett (Swift Run, Va.);
Leon Shifflett (c/o Mrs. Bessie Roach, 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 15th day of N ovember, 19 62, to testify and the truth to say **in behalf of the Defendant** in the prosecution of the Commonwealth against

Leroy Roach

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 8th day of November, 19 62, and in the 187th year of the Commonwealth.

George W. Kemper, Clerk

Lloyd Dean not found

In my bailiwick 11-15, 1962

A. I. STRAWDERMAN S. R. C.

By A. I. Burnett Deputy Sheriff

1

Com Ex 4
H. H.

My name is Leroy Roach. I am 28 years of age. My address is Route #3, Elkton, Va.

I have been told that I need not make a statement unless I desire to do so and that anything I say must be of my own free will. I have also been told that I am entitled to counsel. Nevertheless I do make the following statement voluntarily this 21st day of July, 1962, at 8:30 p.m. in the presence of Chief Robert L. Deeds, ~~Sheriff A. L. Brandenburg~~ Office G. T. Hoover, Deputy Sheriff R. M. Wilcox and Commonwealth's Attorney James R. Sipe.

Today, July 21, 1962, I had been doing some work with Virgil Conley. Virgil lives at Sandy Bottom and I had gone down the Belden Road to pick him up this morning. I had a drink of whiskey this morning about 9 a.m., and Virgil and myself drank a pint during the day. I also had some beer to drink later this evening.

About 5 p.m. this afternoon I took Virgil home. On my way back down the Belden Road towards Rt #33, I saw Elmer Lee Shifflett, Leon Shifflett and another boy beside the road talking. I pulled off on the left side of the road to talk to them. We started talking about car motors and other things. A little later a man I know by the name of Wilmer Davis came down the Belden Road and stopped a few minutes to talk to us. I knew that Wilmer was a good mechanic and I said something to him about piping the carburetor on my car. He said he would look at it later today. I

Leroy Roach

Witness:
James R. Sipe
R. M. Wilcox
G. T. Hoover
Robert L. Deeds Jr.

have known Wilmer for 7 or 8 years. Wilmer's wife and little girl were with him. A little later Leon Shifflett and the other young boy left. Then Wilmer came back of the road and stopped to talk. His wife and little girl were still with him. Then Elmer Lee Shifflett left and I started to leave. But then Wilmer and myself got in an argument and Wilmer hit me with his fist on my head and got me down on the ground. I got up and reached for the front left door on my car when he took me by my shoulder. I then turned around and struck him a hard blow with my fist right above his nose. Wilmer fell down over the trunk & left rear fender of my car and I then took hold of his shirt and hit him 4 or 5 more times with my fist. He then fell on down to the ground. After he fell down he was bleeding above his eyes and nose, and was also bleeding from his mouth. He still looked alive to me because he was making a little noise and his stomach moved a little. He never said anything or opened his eyes after he fell to the ground. He was laying down-hill, and because he was bleeding so much I turned him around. After he had been laying there for about 5 or 10 minutes, Shirley Dean, who lives close to me, came by in her car and I ask her to tell my wife to come up there or get a doctor or ambulance. I waited for a while and I thought she had more than enough time

Lonzy Roach

witness: Jerrie J. Lipe
T. M. Wilson
J. Shirley Dean

to get back several times, so I then got in my car to go down to my house to see what was keeping my wife. After I had gone about 100 yards I met my wife and Shirley, so I then backed up the road to where Wilmer was still laying. My wife saw Wilmer just lying there, so my wife & I decided to go down to the police station in Elkton to tell them about what had happened. After we told the police, we started to go home but I decided to go back up to where Wilmer was lying beside the road. The ambulance and a number of people were already there when we arrived, the ambulance getting there right before us.

Nobody else was there at the time of the fight or when we were having the argument except Wilmer, his wife and little girl, and myself.

When I started to leave, just before Wilmer and I got into the fight, he told me that Billy, my brother-in-law, ~~had~~ had told him that I would run if anyone came after me, or some language similar to that indicating that Billy had told him I was yellow.

I have read the above statement written on 3 pages, and the statements are true and correct to the best of my knowledge.

Leroy Roach

witness:

J. T. Howe

G M Wilson

James B Sipe

F. L. Deeds Jr.

COMMONWEALTH

V.

ROACH

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 willful killing of one human being by another with malice, but without any deliberation and premeditation.

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

Involuntary manslaughter is the killing of one accidentally, contrary to the intention of the parties, in the prosecution of some unlawful, but not felonious, act; or, in the improper performance of a lawful act.

H. H.

COMMONWEALTH

v.

NOACH

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 willful killing of one human being by another with malice, but without any deliberation and premeditation.

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Involuntary manslaughter is the killing of one accidentally, contrary to the intention of the parties, in the prosecution of some unlawful, but not felonious, act; or, in the improper performance of a lawful act.

COMMONWEALTH

V.

ROACH

INSTRUCTION 2

The Court instructs the jury that every unlawful homicide in Virginia is presumed in law to be murder in the second degree. In order to elevate the offense to murder in the first degree, the burden of proof is on the Commonwealth; and in order to reduce the offense to manslaughter, or to show a justification or excuse, the burden is upon the accused.

H. H.

J.

COMMONWEALTH

v.

ROACH

INSTRUCTION 7

The Court instructs the jury that every unlawful homicide in Virginia is presumed in law to be murder in the second degree. In order to elevate the offense to murder in the first degree, the burden of proof is on the Commonwealth; and in order to reduce the offense to manslaughter, or to show a justification or excuse, the burden is upon the accused.

COMMONWEALTH

V.

ROACH

INSTRUCTION 3

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.

H. H.

Ex.

COMMONWEALTH

v.

KONGH

INSTRUCTION 2

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 express or implied. It includes not only sudden and premeditated malice and hatred, but every unlawful and unjustifiable motive. Malice denotes an evil mind and purpose, accompanied with such circumstances as certify to 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.

COMMONWEALTH

V.

ROACH

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 there was some deliberation and premeditation given by the accused to his purpose at the time of the killing or at any time previously.

H. H. Z.

COMMONWEALTH

V.

ROACH

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 there was some deliberation and premeditation given by the accused to his purpose at the time of the killing or at any time previously.

Commonwealth

v.

Leroy Roach

INSTRUCTION NO. 5

The Court instructs the jury that the indictment in this case does not raise the slightest presumption of guilt against the accused, but on the contrary he is presumed to be innocent of wrongful acts, and that presumption continues and remains with the accused throughout the trial and every stage thereof. Nothing is to be presumed or taken by implication against him. No mere preponderance of the evidence will be enough, as in the trial of a civil case, nor is it enough by conjecture or speculation that he may be supposed to be guilty, but the jury must be satisfied by the evidence that he is guilty beyond any reasonable doubt, and unless the Commonwealth has established by clear, distinct and reliable evidence, and to the exclusion of any reasonable doubt, every element essential to the crime charged against the accused, you must find the defendant not guilty.

Commonwealth

v.

Leroy Roach

INSTRUCTION NO. _____

The Court instructs the jury that the indictment in this case does not raise the slightest presumption of guilt against the accused, but on the contrary he is presumed to be innocent of wrongful acts, and that presumption continues and remains with the accused throughout the trial and every stage thereof. Nothing is to be presumed or taken by implication against him. No mere preponderance of the evidence will be enough, as in the trial of a civil case, nor is it enough by conjecture or speculation that he may be supposed to be guilty, but the jury must be satisfied by the evidence that he is guilty beyond any reasonable doubt, and unless the Commonwealth has established by clear, distinct and reliable evidence, and to the exclusion of any reasonable doubt, every element essential to the crime charged against the accused, you must find the defendant not guilty.

COMMONWEALTH

V.

ROACH

INSTRUCTION 6

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.

H. H.

COMMONWEALTH

v.

KOACH

INSTRUCTION

In considering whether or not the Commonwealth has met its burden of proving the guilt of the accused beyond reasonable doubt, the court must consider the entire case, including the natural and reasonable inferences to be drawn from lack of evidence, from conflicting testimony or from unreasonable proof of any material 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.

It, 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 rendering 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 con-viction of the truth of the charge, you are then satisfied beyond all reasonable doubt.

Furthermore, the jury should bear in mind that any doubt arising from lack of evidence, from conflicting testimony or from unreasonable proof of any material 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.

It, 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 rendering a convinced belief of the guilt of the accused, then the Commonwealth has failed to meet its burden.

In basing 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 speculate, nor its meaning. A reasonable doubt is a doubt which is founded on reason, and is not to be confused with imaginary or possible doubt. For the law does not say that a man must be proved guilty beyond every imaginable, conceivable or possible doubt.

In basing 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 speculate, nor its meaning. A reasonable doubt is a doubt which is founded on reason, and is not to be confused with imaginary or possible doubt. For the law does not say that a man must be proved guilty beyond every reasonable doubt.

COMMONWEALTH

V.

ROACH

INSTRUCTION 7

The Court instructs the jury that circumstantial evidence is just as legal and just as effective as any other, provided the circumstances are of such character and force as to satisfy the minds of the jurors of the defendant's guilt beyond a reasonable doubt.

COMMONWEALTH

v.

ROACH

INSTRUCTION 7

The Court instructs the jury that circumstantial evidence is just as legal and just as effective as any other, provided the circumstances are of such character and force as to satisfy the minds of the jurors of the defendant's guilt beyond a reasonable doubt.

COMMONWEALTH

V.

ROACH

INSTRUCTION 8

The Court instructs the jury that words, however grievous or insulting, do not in any manner excuse or justify the killing of the deceased, John W. Shifflett, by the defendant.

Commonwealth

v.

Leroy Roach

INSTRUCTION NO. 9

If the jury believe from the evidence in this case that Leroy Roach, the defendant, without fault on his part was assaulted by John W. Shifflett with such violence as to make it reasonably appear to the defendant at the time that John W. Shifflett manifestly intended and was endeavoring to take his life or do him some great bodily harm and that the danger was imminent and impending, then the defendant was not bound to retreat, but had the right to stand his ground, repel force with force, and if need be kill his adversary to save his own life or prevent his receiving great bodily injuries. And it is not necessary that it shall appear to the jury to have been necessary.

H. H.

KOACH

v.

COMMONWEALTH

INSTRUCTION

The court instructs the jury that where death follows an altercation of mutual combat, the killing is manslaughter, and in order to justify such killing as done in self-defense, the accused must prove two things: (1) That before the mortal wound was given, he declined further combat, and retreated as far as he could with safety; and (2) That he killed the deceased through the necessity of preserving his own life or to save himself from great bodily harm, or that there was reasonable ground to believe that the killing was necessary to preserve his own life or to save himself from great bodily harm.

COMMONWEALTH

V.

ROACH

INSTRUCTION 10

The Court instructs the jury that where death follows an altercation of mutual combat, the killing is manslaughter, and in order to justify such killing as done in self-defense, the accused must prove two things, (1) That before the mortal wound was given, he declined further combat, and retreated as far as he could with safety; and (2) That he killed the deceased through the necessity of preserving his own life or to save himself from great bodily harm, or that there was reasonable ground to believe that the killing was necessary to preserve his own life or to save himself from great bodily harm.

H. H.

COMMONWEALTH

V.

ROACH

INSTRUCTION

The Court instructs the jury that where death follows an altercation of mutual combat, the killing is manslaughter, and in order to justify such killing as done in self-defense, the accused must prove two things, (1) That before the mortal wound was given, he declined further combat, and retreated as far as he could with safety; and (2) That he killed the deceased through the necessity of preserving his own life or to save himself from great bodily harm, or that there was reasonable ground to believe that the killing was necessary to preserve his own life or to save himself from great bodily harm.

COMMONWEALTH

V.

ROACH

INSTRUCTION 11

The Court instructs the jury that a man is taken to intend that which he does or which is the ~~immediate~~ natural ~~or~~ and ~~necessary~~ probable consequence of his act.

H. W.

COMMONWEALTH

V.

ROACH

INSTRUCTION 12

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.

H.H.

COMMONWEALTH

V.

ROACH

INSTRUCTION 17

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.

Leroy Roach

13

INSTRUCTION NO. _____

The Court instructs the jury that a reasonable doubt is that state of the case which, after a full consideration of all the evidence, both for the state and the defendant, leaves the mind of the jury in the condition that they cannot say they feel an abiding conviction, amounting to a moral certainty from the evidence in the case, that the defendant, Leroy Roach, is guilty of the charge alleged in the indictment. If the jury has such a doubt, or if the conviction of the jury of the guilt of the defendant, Leroy Roach, as alleged in the indictment, does not amount to a moral certainty from all the evidence in the case, then the Court instructs you that you should acquit the defendant.

H. H.

Commonwealth

v.

Leroy Roach

INSTRUCTION NO. _____

The Court instructs the jury that a reasonable doubt is that state of the case which, after a full consideration of all the evidence, both for the state and the defendant, leaves the mind of the jury in the condition that they cannot say they feel an abiding conviction, amounting to a moral certainty from the evidence in the case, that the defendant, Leroy Roach, is guilty of the charge alleged in the indictment. If the jury has such a doubt, or if the conviction of the jury of the guilt of the defendant, Leroy Roach, as alleged in the indictment, does not amount to a moral certainty from all the evidence in the case, then the Court instructs you that you should acquit the defendant.

Commonwealth

v.

Leroy Roach

INSTRUCTION NO. 14

The Court instructs the jury that the defendant cannot be convicted of 1st or 2nd degree murder ~~the felony~~ charged unless you believe that he intended to kill or maim or disable or disfigure permanently the deceased, John W. Shifflett, in this case.

H. H.

Commonwealth

v.

Leroy Roach

INSTRUCTION NO. _____

The Court instructs the jury that the defendant cannot be convicted of the felony charged unless you believe that he intended to kill or maim or disable or disfigure permanently the deceased, John W. Shifflett, in this case.

Commonwealth

v.

Leroy Roach

INSTRUCTION NO. 15

The Court instructs the jury that if they have a reasonable doubt as to the grade of offense of which the defendant 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 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. If they have a reasonable doubt as to whether he is guilty of manslaughter ~~or simple assault,~~ voluntary or involuntary they should find him guilty of ~~simple assault~~ involuntary manslaughter. If they have reasonable doubt as to whether he be guilty at all, they must resolve that doubt in favor of the defendant and acquit him.

H. H.

Commonwealth

v.

Leroy Roach

INSTRUCTION NO. _____

The Court instructs the jury that if they have a reasonable doubt as to the grade of offense of which the defendant 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 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. If they have a reasonable doubt as to whether he is guilty of manslaughter or simple assault, they should find him guilty of simple assault. If they have reasonable doubt as to whether he be guilty at all, they must resolve that doubt in favor of the defendant and acquit him.