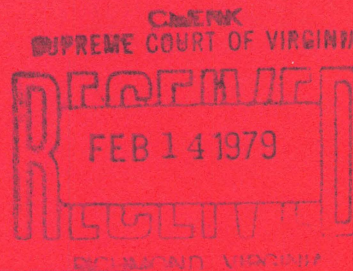


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IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 781348

JAMES RAY DEAVERS

APPELLANT

V.

COMMONWEALTH OF VIRGINIA

APPELLEE

JOINT APPENDIX

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COMMONWEALTH OF VIRGINIA

County of Warren, to-wit:

In the Circuit Court of Warren County

January Term, 1975

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Warren, now attending the Circuit Court of the said County, upon their oaths present that JAMES RAY DEAVERS on or about the 9th day of February, 1973, in the said County of Warren, unlawfully and feloniously did break and enter in the nighttime a certain dwelling house owned by Calvin P. Stride with intent to commit larceny therein, in violation of Section 18.1-86 of the Code of Virginia, against the peace and dignity of the Commonwealth.

SECOND COUNT: and the Grand Jurors aforesaid, upon their oaths aforesaid, do further present that the said JAMES RAY DEAVERS on the day and year aforesaid in the County aforesaid unlawfully and feloniously did take, steal and carry away a quantity of miscellaneous personal property of the value of \$100.00 or more, of the goods and chattels of Calvin P. Stride, with intent to deprive the said Calvin P. Stride, of the property therein permanently, in violation of Section 18.1-100 of the Code of Virginia, against the peace and dignity of the Commonwealth.

THIRD COUNT: and the Grand Jurors aforesaid, upon their oaths aforesaid, do further present that the said JAMES RAY DEAVERS on or about the 9th day of February, 1973 in the County aforesaid unlawfully and feloniously did break and enter in the nighttime a certain dwelling house owned by Lawrence Rayburn with intent to commit larceny therein, in violation of Section 18.1-86 of the Code of Virginia, 1950, as amended, against the peace and dignity of the Commonwealth.

FOURTH COUNT: and the Grand Jurors aforesaid, upon their oaths aforesaid do further present that the said JAMES RAY DEEVERS on the day and year aforesaid unlawfully and feloniously did take, steal and carry away a quantity of miscellaneous personal property of the value of \$100.00 or more, of the goods and chattels of Lawrence Rayburn, with intent to deprive the said Lawrence Rayburn of the property therein permanently, in violation of Section 18.1-100 of the Code of Virginia of 1950, as amended, against the peace and dignity of the Commonwealth.

WITNESSES:

1 ~~MR. EWELL: I have no further questions.~~

2 CROSS-EXAMINATION

3 BY MR. ADAMSON:

4 Q Mr. Parker, who is Sam Souers?

5 A He may be relation to me, he may not. He came down
6 and visited my aunt at the restaurant. And, I reckon he had
7 been around town a month or 2 months, or so. And, we just
8 knew him, you know, within that time, i reckon. At least
9 I did. I don't know about anybody else.

10 Q You stated that Sam and James Deavers came to your
11 house?

12 A Yes, sir.

13 Q Had they been drinking?

14 A No, sir.

15 Q Well, what did they say? Who said what when they came
16 to your house?

17 A Sam asked me if I would go help them unload some
18 articles... I mean, load some artciles.

19 Q Sam did?

20 A Yes.

21 Q Did James say anything to you?

22 A No. He just moved over and so I could get int.
23 That is all.

24 Q Was there any alcoholic beverages in the truck?

1 A Yes, sir.

2 Q What?

3 A Beer.

4 Q And, who was drinking it?

5 A My brother and Sam.

6 Q Did you ?

7 A I don't recall.

8 Q Where did you go in the truck?

9 A Toward Bentonville.

10 Q And, you mean just driving around or ...

11 A No. They just headed straight toward Bentonville.

12 I live off of John Marshall Highway.

13 Q You say "they". Who was "they"?

14 A Sam.

15 Q Your brother wasn't driving the truck?

16 A No.

17 Q It was Sam who was going?

18 A Yes, sir.

19 Q Did Sam know exactly where he was going, or appear
20 to know?

21 A He appeared to.

22 Q Did he stop?

23 A No. He appeared to know where he was going.

24 Q And, when you stopped at this first cabin that you

1 described did Sam say anything then?

2 A No. He said, "We are here." or something like that.
3 He said, "This is the place." or something like that. And,
4 he backed the van down to it, or something.

5 Q Who was he talking to?

6 A Talking to us. Me and James.

7 Q I believe you stated who went down to the house.

8 A Sam, and my brother.

9 Q Could you see what he was doing?

10 A No. It was so dark you couldn't hardly see your
11 hand in front of you, really.

12 Q Well, when did there come a time when you went down
13 to the house?

14 A Yes, sir.

15 Q Was it a cabin or a house?

16 A A cabin, looked like to me.

17 Q When you got to the cabin was it in the front door,
18 or ...

19 A Yes, sir.

20 Q And, where was Sam at that time?

21 A He was inside.

22 Q And, where was James?

23 A Just going inside.

24 Q The door was open when James was going inside?

1 Is that what you are testifying to?

2 A Apparently. I was in the truck for a couple of
3 minutes, and then I got out. Ordinarily, I don't know whether
4 they went and opened the door, or what.

5 Q You stated that Sam went down first.

6 A Sam and James went down together. They got out
7 of the truck at the same time.

8 Q Is it your testimony that when you got to the house
9 James was just going in?

10 A Apparently he had just gone in.

11 Q And, the door was already open?

12 A Yes, sir.

13 Q And, Sam was inside?

14 A Yes, sir.

15 Q Did Sam, at any time, say, "We are going to steal
16 some things" in the truck or while you were at the houses?

17 A No. He didn't.

18 Q Did you, at any time, see Sam break into the
19 house?

20 A No. I didn't.

21 Q Did you, at any time, see your brother, half brother,
22 James, break into the house?

23 A No. I didn't.

24 Q And, you did not go into the house?

1 A Yes, sir. I did. I went up to the doorway.

2 Q After you left the first cabin who was driving the
3 truck?

4 A Sam.

5 Q And, where did he go?

6 A Down the road. I don't know, a few hundred feet,
7 maybe.

8 Q You just testified that Sam went and looked at the
9 cabin, and you and your brother were in the truck?

10 A Uh, huh.

11 Q And, he came back and said what?

12 A He didn't come back. He hollered for us to come on.

13 Q And, did you and James, then, go down to the door
14 of the dwelling?

15 A Yes, sir.

16 Q And, was the door open?

17 A Yes sir.

18 Q And, did you, at any time, see your brother break
19 that door or open that door?

20 A No. I didn't.

21 Q Or break that window?

22 A No. I didn't.

23 MR ADAMSON: I have no further questions.

24 ~~REDIRECT - EXAMINATION~~

1 Told me he could not get me a complete list then. Things were
2 scattered all through the house and he wouldn't know exactly
3 what was missing until he went through everything.

4 Q Did you continue on with the investigation, or did
5 you turn it over to someone else?

6 A I turned it over to Investigator Williams.

7 Q Why was that?

8 A It was just normal procedure with the Sheriff's
9 Department.

10 Q You are not an investigator?

11 A I wasn't then.

12 MR. EWELL: I have no further questions.

13 MR. ADAMSON: I have no questions.

14 (Whereupon, the witness is excused from further attendance
15 upon the court.)

16 Whereupon,

17 CECIL WILLIAMS

18 was called as a witness on behalf of the Commonwealth,
19 and after having been first duly sworn was examined and
20 testified as follows:

21 DIRECT-EXAMINATION

22 BY MR. EWELL:

23 Q Will you tell the jury your name?

24 A Cecil Williams.

1 Q And, you are the Deputy Sheriff and Chief Investigator
2 for the Sheriff's Department for Warren County?

3 A That is correct, sir.

4 Q How long have you been in that capacity?

5 A I have been with the Sheriff's Department for 11
6 years, and been investigator for 7.

7 Q Did you have occasion to make investigation of both
8 of these cases?

9 A Yes, sir. I did.

10 Q Are you familiar with the Stride Property?

11 A Yes, sir. I am.

12 Q And, do you recall who had lived there previously?

13 A Samuel Deavers, sir.

14 Q To your knowledge, is he any relation to the
15 defendant in this case, James Ray Deavers?

16 A Not to my knowledge. No, sir.

17 Q What did you do with regard to the Stride dwelling
18 when he notified you of the breakin?

19 A I received a complaint from Mr. Stride. I went to
20 his home which was located in Thompson Hollow in Bentonville.
21 At this time I found entry had been gained by breaking a window
22 on the west side of the building, which would be facing the
23 Thompson Hollow road, which would be in front of the house,
24 Mr. Stride's driveway, which is just off of it. I went in and

1 several items were thrown around. Fingerprints were taken
2 and there were no prints found of value.

3 Q Why was that?

4 A Mustard jars and things in the refrigerator,
5 moisture distorted it, and what I did lift were cloth prints,
6 which appeared to be made from a glove, or other type of
7 material.

8 At this time I talked to Mr. and Mrs. Stride and
9 obtained a list from them, and after receiving this list I
10 went back and continued the investigation. Then, in
11 March received a complaint from Mr. and Mrs. Rayburn. Deputy
12 Meredith received this complaint and turned it over to me for
13 further investigation.

14 Q Did you subsequently have occasion to talk with the
15 defendant?

16 A Yes, sir. I did.

17 Q When was that?

18 A I talked to James Deavers on May 15, 1973 at
19 approximately 8:15, P.M. And, after being advised of his
20 Constitutional Rights he made a statement to me.

21 Q Where was this statement given to you?

22 A In the Sheriff's Department, sir.

23 Q And, what did he say?

24 A He stated that: "At some time after Christmas I

1 1972 I was in Pat's Restaurant on Main Street in Front Royal,
2 Virginia. I was drinking beer. There were several other
3 people present. Sam Souers came in. He sat down and drank
4 some beer. He asked me if I would go with him to help move
5 some stuff. He said a man had given him some stuff. And,
6 he wanted me to help move. I said, 'Okay.' He aske me where
7 Charles was and I said he is up to the house. So, we went
8 up on Short Street, and picked him up. On Short Street is
9 where Mrs. Parker lives, which is James mother, also Charles'
10 mother."

11 "Then we stopped at the grocery store and got a 6
12 pack of Budweiser beer and then went on up passed the
13 Skyline Caverns to a place called Bentonville. Then, we
14 turned left and went across the railroad tracks and then we
15 come to the dirt road and turned right. We went up this road
16 and turned around and came back, and turned up a dirt road.
17 There was a cabin that set on the leftphand side of this road.
18 Sam pulled the truck over and stopped. He went over to the
19 door. The door was open. I did not see anybody. And, then I
20 had a pretty good idea what was going on. I knew what was
21 going on, but I didn't say anything, because I was afraid Sam
22 would beat my ass. He asked me to help carry the stuff out.
23 Charles also helped to carry it out. We loaded it on Sam's
24 truck. We got a refrigerator, cabinets and something else,

1 I am not sure. Then, we all

2
3 I have given my permission to Cecil Williams to write this
4 statement for me. The statement is true and correct." Signed
5 James Deavers. Witnessed by me.

6 MR. EWELL: At this time, Your Honor, I would move
7 the introduction of this statement into evidence as
8 Commonwealth's Exhibit Number 1.

9 THE COURT: Without objection, so admitted.

10 MR. ADAMSON: Your Honor, I would like the opportunity
11 to determine whether or not the statement was voluntarily
12 made, and I can't do that without asking this witness some
13 introductory questions.

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. ADAMSON:

17 Q Mr. Williams, what was the occasion when you first on
18 this day, May 15th, immediately prior to the giving of this
19 statement, where did you first see Mr. Deavers?

20 A I believe, sir, it was at the little restaurant on
21 Main Street.

22 Q And, were you seeking Mr. Deavers?

23 A Yes, sir.

24 Q And, why was that?

1 Q Was that before or after he made the statement?

2 A This was before he made the statement.

3 MR. ADAMSON: I have no further questions.

4 No objection to the introduction of the statement.

5 THE COURT: Without objection so admitted.

6 (Whereupon, the statement is received and marked as

7 Commonwealth's Exhibit Number 1.)

8 FURTHER DIRECT-EXAMINATION

9 BY MR. EWELL:

10 Q Did you also talk to him with respect, regarding
11 the Lawrence Rayburn incident?

12 A Yes, sir.

13 Q Was that statement?

14 A Yes, sir.

15 Q At the same time, or shortly thereafter did he give
16 you a statement with regard to Lawrence Rayburn's house?

17 A Yes, sir.

18 Q Would you tell the jury what he said?

19 A We already went to another place and went up to the
20 road to another cabin. Sam said something about checking on
21 this place. I am not sure what. We got the truck stuck. Sam
22 went around behind the cabin, and went in. Then he came back
23 out. He wanted to know if I had got the truck out. I told
24 him, yes. Then, he and Charles came out carrying some stuff.

Charles had a fireplace screen. Then, they put some stuff in

LINDA GRIMSLEY LOGAN, C.P., R.P.R.

VALLEY REPORTING AGENCY
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012

1 the truck. Then, we came back to Front Roya. We stopped at
2 Pats and he let me and Charles out. Then I took Charles home.
3 The next day Sam brought the kitchen cabinets and fireplace
4 set out to the house. I knew then, for sure, the stuff was
5 hot (stolen) but I went on and put the kitchen cabinets in my
6 house and also the fireplace set. Then, we carried the
7 refrigerator up to my mother's house at 522 Short Street. Sam
8 said he wanted \$25.00 for the refrigerator. So, I gave it to
9 him even though I knew it was stolen. The refrigerator is
10 still in my mother's house today. The kitchen cabinets are in
11 my house. This house is located near Mac Roller Rink on 340
12 towards Winchester. I gave Cecil Williams permission to write
13 this for me."

14
15
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24

1 A They are his words, sir.

2 Q You wrote it as he stated it, or afterwards?

3 A He was telling me and I was writing it down.

4 Q What would you tell him, to hold on a minute and ...

5 A Yes, sir.

6 MR. ADAMSON: No objection.

7 THE COURT: Without objection, so admitted.

8 (Whereupon, the statement is received and marked as

9 Commonwealth's Exhibit Number 2.)

10 FURTHER DIRECT-EXAMINATION

11 BY MR. EWELL:

12 Q You say at the time you talked to him you talked to
13 Samuel Jackson Souers?

14 A Yes.

15 Q At the time
16 /you talked to this defendant had you talked to
Charles Parker?

17 A Yes, sir.

18 Q Did you subsequently talk to this defendant again?

19 A Yes, sir.

20 Q And, when was that?

21 A May 16, 1973, sir.

22 Q And, did he give you another statement?

23 A Yes, sir.

24 Q And, would you tell the jury what he said on that

1 occasion?

2 A " He says,"Sometime in the early February of 1973
3 me and Sam Souers were at the little restaurant on Main Street.
4 Sam said he wanted to talk to me for a minute. We went outside
5 and Sam told me about a place up at Bentonville he wanted to
6 take some stuff out of. I knew the stuff was hot and Sam
7 asked me where Charles was. I said, he is probably up at the
8 house. So, we went up to my mother's house and got Charles.
9 After Charles got in the truck Sam asked Charles if he would
10 keep his mought shut about anything that happened. He said,
11 Okay. After we talked to him about what we were planning on
12 doing this was about 8:00, P.M. when we went up there."

13 MR. EWELL: Again, I move into evidence the introduct-
14 ion of this statement as Commonwealth's Exhibit Number 3.

15 FURTHER CROSS-EXAMINATION

16 BY MR. ADAMSON:

17 Q The statement was made the next day?

18 A Yes, sir.

19 Q Concerning the same events covered on the first day?

20 A Yes, sir.

21 Q Did you approach the defendant?

22 A I believe the defendant came to me, sir, or asked to
23 see me.

24 Q You say you believe?

1 been claimed.

2 Q If they have not been claimed how can you determine
3 they are stolen?

4 A How can I determine they are stolen? Because the
5 man told me they were stolen, sir.

6 Q What man are you talking about?

7 A Samuel Souers, and also the woman that was staying
8 there with him at the time.

9 MR. ADAMSON: I have no further questions.

10 MR. EWELL: I have no further questions.

11 Commonwealth rests.

12 MR. ADAMSON: Defense would call Mr. Parker to the
13 stand, Your Honor.

14 Whereupon,

15 CHARLES R. PARKER

16 was called as a witness on behalf of the Commonwealth, and
17 after having been first duly sworn was examined and testified
18 as follows:

19 DIRECT-EXAMINATION

20 BY MR. ADAMSON:

21 Q Mr. Parker, prior to your trial, did you make a
22 statement?

23 A Yes, sir.

24 Q Did you make that statement to Mr. Williams?

1 A Yes, sir.

2 Q Did Mr. Williams tell you before you made that
3 statement that things would go easier if you made it?

4 A Yes, sir.

5 MR. ADAMSON: I have no further questions.

6 CROSS-EXAMINATION

7 BY MR. EWELL:

8 Q Mr. Parker, do you recall making the statement?

9 A I remember going down to the police station and
10 making it.

11 Q Is this your signature to that sheet of paper there?

12 A Yes, sir.

13 Q And, this is Mr. Williams' signature, here?

14 A Yes, sir.

15 Q Do you recall Mr. Williams going over your rights
16 with you prior to making the statement?

17 A Yes, sir.

18 Q Do you recall him telling you that you did not have
19 to make a statement? That, you had the right to remain
20 silent?

21 A Yes, sir.

22 Q Do you recall him telling you that any statement
23 that you make may be used against you as evidence in a court
24 of law?

1 A Yes, sir.

2 Q Do you recall him telling you that you have the
3 right to call a lawyer and have him present during all of the
4 questions, if you desire?

5 A Yes, sir.

6 Q Do you recall him telling you that if you can not
7 afford to hire a lawyer one would be appointed for you?

8 A Yes, sir.

9 Q Do you recall him asking you if you could sign this
10 question that "The above rights have been fully explained to me
11 and I sign this paper with complete understanding of them, and
12 I further waive these rights, and desire to make a statement?"

13 A Uh, huh.

14 Q Do you recall signing "yes" to this statement "This
15 statement is completely free and voluntary on my part without
16 any threats from anyone."

17 A Yes, sir.

18 Q What is what you signed at that time? There have
19 been no threats or promises made to you?

20 A No.

21 Q You also answered to the question, "You have the
22 right to stop this interview at any time you want to."

23 A Yes, sir.

24 MR. EWELL: I have no further questions.

REDIRECT-EXAMINATION

BY MR. ADAMSON:

Q Mr. Parker, did you plead guilty to this offense?

MR. EWELL: Your Honor.

THE WITNESS: Yes, sir.

MR. EWELL: Your Honor, I believe that we are getting into an area, perhaps, that we should not get into. This man has admitted that he has been convicted of this.

THE COURT: Yes, sir. Objection sustained. I don't think it is proper to go over in detail this charge, other than the fact that he was convicted.

MR. ADAMSON: Only purpose of it, Your Honor, is to determine whether or not this defendant was offered some...

THE COURT: You have asked him that question, and he answered.

MR. ADAMSON: Made that question with respect to the statement he made to the officer, not with respect to the sentence he received, and any agreement between the Prosecutor and he in exchange for his testimony here today.

THE COURT: I don't think that is proper.

MR. EWELL: I have no objection to that question. When we go into that we will go into it at some length.

THE COURT: Objection sustained. We will not go into that.

1 MR. EWELL: Your Honor, he has made a comment with
2 regard to any agreement between the Prosecutor and I think that
3 we should have an opportunity to disspell that, to lay that
4 at rest, to show that there was no agreement of any kind.

5 THE COURT: Yes,, sir. Ladies and gentlemen, you will
6 disregard the statement made by the attorney that there may have
7 been some agreement between this individual and the Commonwealth
8 Attorney as to trial. That is not proper. You will all
9 disregard it. At this time we don't know whether there was and
10 agreement, and so you will just put that out of your mind.

11 MR. ADAMSON: I have no further questions of this
12 witness.

13 THE COURT: You may have a seat back there,
14 Mr. Parker.

15 MR. ADAMSON: Your Honor, the Defense rests. We have
16 no further evidence to present.

17 MR. EWELL: Commonwealth rests, Your Honor.

18 THE COURT: Ladies and gentlemen, suppose we take a
19 5 or 10 minute-break.

20 As I tell you each time, be sure not to discuss
21 the case with anybody, nor permit anybody to discuss the
22 case in your presence.

23 (RECESS-PREPARATION OF INSTRUCTIONS BY COUNSEL AND THE COURT)

24 THE COURT: Ladies and gentlemen, I will now read

1 were not dwelling houses within the concept of the statute.
2 And, that they were neither occupied. One was under construction
3 and on that grounds I would move to strike the burglary
4 counts.

5 THE COURT: Motion is denied.

6 In regard to the motion to strike the burglary
7 counts, I think maybe you may be late on that. That should
8 have been done by objection to the instruction. But, anyway,
9 I will deny your motion.

10
11 THE CLERK: Members of the jury, have you agreed upon
12 a verdict?

13 THE FOREMAN: Yes. We have.

14 THE COURT: Please pass it to the Sheriff.

15 THE CLERK: We the jury find the defendant not
16 guilty of common law burglary on the dwelling house of
17 Calvin P. Stride.

18 We find the defendant guilty of grand larceny of
19 Calvin P. Stride building, and set the penalty at 1 year
20 in the penitentiary.

21 We also find the defendant guilty of common law
22 burglary on the dwelling house of Lawrence Rayburn and fix
23 his penalty at 5 years in the penitentiary.

24 We also find the defendant guilty of grand larceny

1 on the dwelling house of Lawrence Rayburn and fix a penalty
2 at 1 year in the penitentiary. Signed Joseph G. Brogen,
3 Foreman.

4 THE COURT: Any objection to the form of the verdicts?

5 MR. EWELL: No, Your Honor.

6 THE COURT: Ladies and gentlemen, your verdict will
7 be recorded.

8 (Whereupon, the jury is dismissed.)

9 MR. ADAMSON: Your Honor, again, at this time the
10 Defense would move to set aside the judgment for insufficiency
11 based on the law and the evidence, and that it is contrary to
12 the law and the evidence. And, I would ask the Court that I
13 be permitted to have some time to prepare my argument on the
14 law and set a date.

15 THE COURT: Motion is granted as far as granting you
16 time to prepare your argument on the motion to set aside
17 And, the matter will be continued until March 3rd for hearing
18 on your motion.

19 MR. EWELL: Accused remanded to the custody of the
20 Sheriff.

21 THE COURT: You have any other motions you desire to
22 make, Mr. Adamson?

23 MR. ADAMSON: No, sir.

24 THE COURT: Accused remanded to the custody of the
Sheriff. * * *

STATEMENT OF:

JAMES RAY DORRERS.

Date

May 15, 1943

Page No.

1

Sometime after Christmas 1942 I was
 in Port's Restaurant on Main St. in Port Republic.
 I was drinking beer. There were several other people
 present. Sam Dorris came in the Port Republic
 and asked some beer. He asked me if I
 would go with him and help move some stuff.
 He said I may have given him some stuff and
 he wanted me to help move it. I said ok. He
 asked me where Charles was and I said he
 was in the house. So we went up on Short St.
 and picked him up. Then we went to a grocery store
 and got a 6 pack of Budweiser beer. Then we
 went on up by the Highway Caverns to a
 place called Bentonville. Then we turned left and
 went across the rail road track. Then we came
 to a dirt road. That turn right. We went
 up this road. We turned around and came back
 and turned right up a dirt road. Then was a
 cabin that sat on the left hand side of this
 road. Sam pulled his truck over and stopped.
 He went over to the door. The door was
 open. I did not see any help. Then I had
 a pretty good idea what was going on. I
 knew that was going on. I did not say
 anything because I was afraid Sam would hit
 me. He asked me to help carry the
 stuff.

James R. Dorris

Date May 15, 1973 Page No. 2

STATEMENT OF:

and Charles also help them it out
was loaded it on the truck we got a
refrigerator. (Chests and maybe something else
I can not sure. Then we all got back in
the truck and went up the road to another
place.

The refrigerator is at my mother's house on Short
St.

I gave my permission for Cecil William
to write this for me. This statement is true
and correct.

Witness

Cecil D. William

[Signature]

INSTRUCTION NO. 6

Under the testimony given by Charles Parker in this case, he was an accomplice in the commission of the offense charged in the indictment, and while the jury may found its verdict upon the uncorroborated testimony of an accomplice, it is the duty of the jury to receive such testimony with great care and caution and the Court warns the jury of the danger of convicting upon the uncorroborated testimony of an accomplice.

~~REMOVED~~

Frank B.
R. C. L.

VIRGINIA: IN THE CIRCUIT COURT OF WARREN COUNTY

COMMONWEALTH OF VIRGINIA

v. Felony

AT LAW NO. 3771

JAMES RAY DEEVERS

On the 8th day of June, 1978, came the accused in person, in custody of the Sheriff, also came his Court appointed attorney, Eric E. Adamson, Esquire, also came the Commonwealth, by her attorney. Also came Linda G. Logan, Court Reporter, who was previously duly sworn well and truly to record the felony proceedings before this Court on this date.

Linda G. Logan, Court Reporter, then read portions of the transcript of the trial of this matter as requested by counsel for the accused, and the Court then heard argument on the accused's written motion to set aside the verdict of the jury. After consideration of said argument, said motion was denied by the Court.

The Court then demanded of the accused if anything for himself he had or knew to say why judgment should not be pronounced against him according to law, and nothing being offered or alleged in delay of judgment, in accordance with the verdict of the jury and evidence heard in open Court, it is the judgment of this Court that the accused is guilty of grand larceny, as charged in the second count of the indictment, and the Court doth sentence him to one year in the State Penitentiary, and he shall pay the costs of this prosecution.

In accordance with the verdict of the jury and evidence heard in open Court, it is the judgment of this Court that the accused is guilty of common law burglary, as charged in the third

count of the indictment, and the Court doth sentence him to five years in the State Penitentiary, and he shall pay the costs of this prosecution.

In accordance with the verdict of the jury and evidence heard in open Court, it is the judgment of this Court that the accused is guilty of grand larceny, as charged in the fourth count of the indictment, and the Court doth sentence him to one year in the State Penitentiary, and he shall pay the costs of this prosecution.

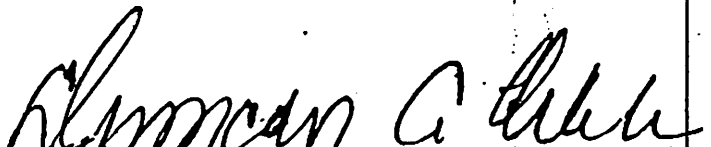
In accordance with the verdict of the jury and evidence heard in open Court, it is the judgment of this Court that the accused is not guilty of common law burglary, as charged in the first count of the indictment, and the accused is discharged from further custody as to this charge.

The Court certifies that at all times during the trial of this case the accused was personally present and his attorney was likewise personally present and capably represented the accused.

The accused is entitled to 144 days credit for time spent in jail awaiting trial as of June 8, 1978.

The accused is remanded to the custody of the Sheriff.

ENTERED this 9 day of June, 1978.


DUNCAN C. GIBB, JUDGE

SEEN:


Commonwealth's Attorney

ASSIGNMENTS OF ERROR

The Trial Court erred:

1. In denying the Defendant the opportunity to question the alleged accomplice as to whether that witness had been promised leniency in exchange for his testimony.
2. In directing the jury to disregard any notion as to whether there was any agreement between alleged accomplice and the prosecution.
3. In denying, the Defendant's motion to set aside verdict.