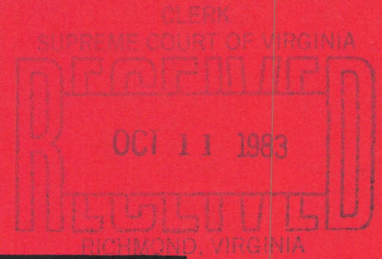


226 W 591



IN THE
Supreme Court of Virginia
AT RICHMOND

RECORD NO. 821794

RICHARD ALLISTER GRAY,
Appellant,

v.

COMMONWEALTH OF VIRGINIA,
Appellee.

APPENDIX

Christie W. Cyphers
135 Second Street
Williamsburg, VA 23185

Counsel for Appellant

Richard C. Kast
Assistant Attorney General
101 North Eighth Street
Richmond, VA 23219

Counsel for Appellee

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VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF WILLIAMSBURG AND
COUNTY OF JAMES CITY

September 14, 1981

The Grand Jury charges that:

On or about July 2, 1981, in the County of James City,
Virginia, RICHARD ALISTER GRAY did use or attempt to use a pistol,
shotgun, rifle, or other firearm or display such weapon in a
threatening manner while committing or attempting to commit
malicious wounding.

Va. Code Section 18.2-53.1

A True Bill ✓

Charles E. Gary
Foreman

Witness:

Deputy Sheriff Jeff Vellines

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF WILLIAMSBURG AND
COUNTY OF JAMES CITY

September 14, 1981

The Grand Jury charges that:

On or about July 2, 1981, in the County of James City,
Virginia, RICHARD ALISTER GRAY did feloniously kill and murder
William Bernard Jones.

Va. Code Section 18.2-32

A True Bill ✓

Charles E. Gray
Foreman

Witness:

Deputy Sheriff D. V. Linhart

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF WILLIAMSBURG AND
COUNTY OF JAMES CITY

September 14, 1981

The Grand Jury charges that:

On or about July 2, 1981, in the County of James City,
Virginia, RICHARD ALISTER GRAY did maliciously cause bodily
injury to Rebecca Christian with the intent to maim, disfigure,
disable or kill.

Va. Code Section 18.2-51

A True Bill ✓

Charles E. Gray
Foreman

Witness:

Deputy Sheriff Jeff Vellines

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF WILLIAMSBURG AND
COUNTY OF JAMES CITY

September 14, 1981

The Grand Jury charges that:

On or about July 2, 1981, in the County of James City,
Virginia, RICHARD ALISTER GRAY did attempt to feloniously kill
and murder Catherine Piggott.

Va. Code Section 18.2-32

Va. Code Section 18.2-26

A True Bill ✓

Charles E. Garry
Foreman

Witness:

Deputy Sheriff D. V. Linhart

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF WILLIAMSBURG AND
COUNTY OF JAMES CITY

September 14, 1981

The Grand Jury charges that:

On or about July 2, 1981, in the County of James City, Virginia, RICHARD ALISTER GRAY did drive a vehicle involved in an accident in which Blanche Adcock was injured and did not immediately stop as close to the scene of the accident as possible and give his name, address, operator's or chauffeur's license number and the registration and did not render reasonable assistance to Blanche Adcock.

Va. Code Section 46.1-176

A True Bill ✓

Charles E. Gray
Foreman

Witness:

Trooper T. J. Williams

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF WILLIAMSBURG AND
COUNTY OF JAMES CITY

September 14, 1981

The Grand Jury charges that:

On or about July 2, 1981, in the County of James City,
Virginia, RICHARD ALISTER GRAY did maliciously cause bodily
injury to Blanche Adcock with the intent to maim, disfigure,
disable or kill.

Va. Code Section 18.2-51

A True Bill



Foreman

Witness:

Trooper T. J. Williams

III. Assignment of Error

The trial court erred in overruling Appellant's motion to strike for cause certain jurors related to the victims and/or witnesses. Further, the court erred in overruling Appellant's motion for a new trial at the close of the evidence and prior to sentencing. Appellant's basis was the court's error in failing to strike the above jurors for cause (TR-65). The court further erred in overruling Appellant's motion for a new trial (TR-Vol. 3- Pages 3-5).

1 Jones?

2 JURORS: No.

3 COURT: Are any of you related, by
4 blood or marriage, to Rebecca Christian?

5 JURORS: No.

6 COURT: Are any of you related, by
7 blood or marriage, to Catherine Piggott?

8 JURORS: No.

9 COURT: All right, ladies and gentle-
10 men, are any of you related, by blood or marriage, to
11 Deputy Sheriff D. V. Linhart?

12 JURORS: No.

13 COURT: Are any of you related, by
14 blood or marriage, to Mary L. Jones?

15 JURORS: No.

16 COURT: Are any of you related, by
17 blood or marriage, to Doctor William Massello?

18 ~~JURORS: No.~~

19 MR. R. L. MOORE (JUROR): Excuse me,
20 Mary L. Jones?

21 COURT: Mary L. Jones.

22 MR. R. L. MOORE (JUROR): Is that
23 Mary Loucille Jones?

24 COURT: I don't know, sir. Her
25 address is Route 3, Box 206, Williamsburg.

1 MR. R. L. MOORE (JUROR): I believe
2 I'm third cousin of her.

3 COURT: Third cousin?

4 MR. R. L. MOORE (JUROR): I think so,
5 yes.

6 COURT: Mr. Person?

7 MR. PERSON: Yes sir.

8 COURT: Mrs. Jones is here, is she
9 not?

10 MR. PERSON: Yes sir.

11 COURT: I wonder if Mr. Moore can
12 take a look at her and see if that is the Mary Jones, to
13 whom he is related.

14 (At this time, Mrs.
15 Jones came into the Courtroom.)

16 MR. R. L. MOORE (JUROR): Yes.

17 COURT: That is the Mary Jones?

18 MR. R. L. MOORE (JUROR): Yes.

19 COURT: You are --

20 MR. R. L. MOORE (JUROR): I'm her
21 third cousin.

22 COURT: All right. Are any of you
23 related, by blood or marriage, to John Faunce, F-A-U-N-C-E?

24 JURORS: No.

25 COURT: Are any of you related, by

1 COURT: Any of you related to Mrs.
2 Darnell A. Hill?

3 JURORS: No.

4 MRS. CYPHERS: Could you please add
5 the name of Doctor Cary Suter? We're not sure he will be
6 testifying, but he may be.

7 COURT: What's his name?

8 MRS. CYPHERS: Doctor Cary Suter.
9 S-U-T-E-R.

10 COURT: Doctor Cary Suter. Ladies
11 and gentlemen, any of you related to him?

12 JURORS: No.

13 COURT: We're going to add any
14 more before I — quit?

15 MRS. CYPHERS: Don't anticipate so.

16 COURT: All right. None of you are
17 related, by blood or marriage, to any of these people that
18 I have named, except Mr. Moore is the third cousin of Mrs.
19 Jones?

20 MR. H. J. JOHNSON: I'm related to
21 Catherine Piggott by marriage.

22 COURT: What degree?

23 MR. H. J. JOHNSON: Her husband is
24 my third cousin.

25 COURT: Her husband is your third

1 cousin?

2 MR. H. J. JOHNSON: Yes.

3 COURT: Anyone else, reflecting now
4 on any of the names that I have read?

5 MS. A. M. TAYLOR: I'm a distant
6 cousin of Darnell Hill on her husband's side.

7 COURT: Third, fourth?

8 MS. A. M. TAYLOR: No, past that.

9 COURT: Are any of you closely
10 associated, either in business or socially, or any other-
11 wise, with Mr. William -- with Mr. Richard Alister Gray?
12 You work for him, he work for you, or do you have close
13 association with him? State your name.

14 MS. D. M. TUCKER: Dale Tucker. We
15 used to ride together when we worked together.

16 COURT: Ride together?

17 MS. D. M. TUCKER: Yes.

18 COURT: How long ago has this been?

19 MS. D. M. TUCKER: I guess about four
20 years, five, four or five years.

21 COURT: Four or five years ago?

22 MS. D. M. TUCKER: Yes.

23 COURT: Would the fact that you rode
24 with Mr. Gray four or five years ago in any way influence
25 your impartiality as a juror?

* * *

1 COURT: You want me to go over the
2 entire list with her again, or --

3 MS. CYPHERS: She was present.

4 COURT: She was sitting in the Court-
5 room. I'll ask her. Mrs. Warren, did you hear me explain
6 to the other members of the jury the charges against Mr.
7 Gray?

8 MS. A. A. WARREN: Yes sir.

9 COURT: Did you hear the list of
10 people that I read as witnesses?

11 MS. A. A. WARREN: Yes.

12 COURT: Do you want me to go over
13 them again, Mrs. Cyphers?

14 MRS. CYPHERS: No sir. Just ask
15 her if she knows any.

16 COURT: I'm going to ask her that.
17 I want to know, first, if you want me to go over it again?

18 MRS. CYPHERS: No.

19 COURT: Are you related, by blood
20 or marriage, to anyone of those people that I read out?

21 MS. A. A. WARREN: No sir.

22 COURT: All right.

23 MRS. CYPHERS: Your Honor, I would
24 like to question Mr. Moore, at least.

25 COURT: Mrs. Cyphers, I'm going to

1 give you a chance, when we get to it. Mr. Moore does not
2 fall into the relationship under the statute that dis-
3 qualifies him as such, ma'am.

4 All right. I'll now proceed on the
5 same basis as everybody together. I'll ask you, Mrs.
6 Warren, are you related -- closely associated with Mr.
7 Gray in business or socially, or any other way?

8 MS. A. A. WARREN: No.

9 COURT: Are you -- are any of you
10 closely associated in business, socially with any of the
11 people that I read?

12 JURORS: No.

13 COURT: Do any of you have any
14 interest in the outcome of these cases?

15 JURORS: No.

16 COURT: All right, now, ladies and
17 gentlemen, have any of you acquired any information from
18 the news media, television, radio, or has anyone told you
19 anything about Mr. Gray, or about the offenses, of which
20 he stands before the Court?

21 JURORS: No.

22 COURT: None of you read anything
23 to cause you or saw anything or been told anything about
24 this, is that correct?

25 JURORS: Yes.

1 COURT: Have any of you expressed
2 or formed any opinion as to the guilt or innocence of Mr.
3 Gray in any or all of these charges before you?

4 JURORS: No.

5 COURT: Are you sensitive of any
6 bias or prejudice against either Mr. Gray or the Common-
7 wealth?

8 MS. E. H. WELZEL (Juror): Yes.

9 COURT: I didn't hear you answer.

10 MS. E. H. WELZEL: I said I would be
11 biased, your Honor.

12 COURT: Biased against who?

13 MS. E. H. WELZEL: Mr. Gray. Mr.
14 Gray.

15 MR. PERSON: You might want to
16 question her by herself.

17 COURT: I certainly do. Would the
18 rest of you ladies and gentlemen go in the jury room.

19 (At this time, all
20 of the prospective jurors, except
21 Ms. Welzel, retired to the jury
22 room.)

23 COURT: Your name is?

24 MS. E. H. WELZEL: Elizabeth Welzel,
25 W-E-L-Z-E-L.

1 COURT: You say you would be pre-
2 judiced against the Defendant?

3 MS. E. H. WELZEL: Yes, your Honor.

4 COURT: Why would you be prejudiced
5 against him?

6 MS. E. H. WELZEL: He committed so
7 many crimes, and he hurt so many people, in my own heart,
8 I couldn't be a fair juror and give him a fair trial, as
9 far as I'm concerned.

10 COURT: I'm going to let you go,
11 Mrs. Welzel. You realize, of course, under the system in
12 this country, every person is presumed innocent until
13 proved guilty. I'll excuse you because of your feeling.
14 You may have a seat in the Courtroom.

15 (At this time, Ms.
16 Welzel took her seat in the
17 Courtroom.)

18 COURT: Marion Gertrude Oyer, Number
19 Fourteen.

20 (At this time, Ms.
21 Oyer was duly sworn on her voir
22 dire as follows.)

23 COURT: Is it Oyer, is that the way
24 you pronounce it?

25 MS. M. G. OYER: Yes.

* * *

1 these cases?

2 MS. M. G. OYER: No sir.

3 COURT: Are you sensitive of any bias
4 or prejudice against the Commonwealth or the accused?

5 MS. M. G. OYER: No sir.

6 COURT: Bring the rest of the jurors
7 back in.

8 (At this time, the
9 jurors returned to the Court-
10 room.)

11 COURT: Ladies and gentlemen, my last
12 question to you before you retired to the jury room was were
13 you sensitive of any bias or prejudice against either the
14 accused or the Commonwealth. Would you answer that question
15 again, please?

16 JURORS: No.

17 COURT: Do you know of any reason
18 whatsoever why you should not give a fair and impartial
19 trial to the Commonwealth and to the accused, based solely
20 on the law and the evidence in this case? Anyone of you --

21 JURORS: No.

22 COURT: Have anyone of you ladies
23 and gentlemen ever been represented in a private legal
24 matter by Mr. William L. Person, the Commonwealth Attorney?

25 JURORS: No.

1 COURT: Have any of you been repre-
2 sented in a private legal matter by Mrs. Christie Cyphers?

3 JURORS: No.

4 COURT: All right. Mr. Person, do
5 you have any relevant questions you wish to ask the jury?

6 MR. PERSON: One or two, Judge.
7 Mr. Johnson said he was related. I didn't take down how
8 he was related.

9 COURT: Mr. Johnson is the third
10 cousin of Mrs. Piggott.

11 MR. PERSON: That was Mr. Moore.

12 COURT: Mr. Moore is the third
13 cousin of Mrs. Jones. Mr. Johnson was the third cousin
14 of — tell us again.

15 MR. H. J. JOHNSON: Third cousin of
16 Catherine Piggott by marriage.

17 COURT: That was Harold Johnson.

18 MR. PERSON: Ladies and gentlemen,
19 I'm Bill Person, and I represent the Commonwealth in these
20 matters. I'd ask you have any of you ever studied psychia-
21 try or psychology?

22 MS. A. A. WARREN: In what depart-
23 ment?

24 COURT: In the classroom, in a
25 formal classroom.

* * *

1 Do you think you could follow the
2 instruction from the Judge at the close of the evidence?

3 MR. D. A. FRASER: I believe I
4 could.

5 COURT: All right.

6 MRS. CYPHERS: I don't have any
7 further questions.

8 COURT: All right. Anybody else
9 that you want brought back now?

10 MRS. CYPHERS: I think we covered
11 everybody.

12 MR. PERSON: I want to put something
13 on the record. Can he be excused?

14 (At this time, Mr.
15 Fraser left the Courtroom.)

16 MR. PERSON: This instruction she's
17 been reading is the one we agreed on initially as being
18 the law in Virginia. I just -- want to make that part of
19 the record.

20 COURT: All right, sir. Bring
21 everybody -- excuse me, anything else you want to bring up
22 now? I want to try to be exceedingly fair in the election
23 of the jury. You're entitled to a fair trial, not a perfect
24 trial, but a fair trial.

25 MRS. CYPHERS: While you're being

1 so cooperative, maybe we should question Mr. Robert Moore
2 about his relationship with Mary Jones.

3 COURT: I'll give you a chance to
4 talk to him when he comes back in here.

5 Would you bring them all back in
6 here?

7 (At this time, all
8 the jurors returned to the
9 Courtroom.)

10 COURT: Mr. Moore --

11 MR. R. L. MOORE: Yes.

12 COURT: You said that you were a
13 third cousin, I believe, of Mary L. Jones.

14 MR. R. L. MOORE: Yes.

15 COURT: Would the fact that you are
16 a third cousin in any way cause you to be impartial or
17 cause you to be partial toward anything that she may
18 testify to if someone else testified in a different light?

19 MR. R. L. MOORE: No sir.

20 COURT: All right. Mr. Johnson,
21 you stated, I believe, that you -- you were third cousin
22 of the husband of Mrs. Piggott. Would that fact cause you
23 to believe that if Mrs. Piggott testified, would that cause
24 you to believe her more than someone else who may say some-
25 thing contrary to what she testified to?

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1 MR. R. L. MOORE: No.

2 COURT: The answer is no. All
3 right. Anything else.

4 MRS. CYPHERS: Mr. Johnson, you
5 are related to Mrs. Piggott, third cousin?

6 MR. R. L. MOORE: Mrs. Piggott's
7 husband.

8 MRS. CYPHERS: Do you socialize
9 with Mrs. Piggott very much?

10 MR. R. L. MOORE: No.

11 MRS. CYPHERS: Have very much
12 contact in the last year?

13 MR. R. L. MOORE: No.

14 MRS. CYPHERS: As a member of her
15 family, have you been exposed to a lot of talk about the
16 events of that night?

17 MR. R. L. MOORE: No.

18 MRS. CYPHERS: I have no further
19 questions.

20 COURT: All right. Anything else?
21 Ladies and gentlemen, take a seat
22 in the jury box.

23 MRS. CYPHERS: Your Honor, Mr. John-
24 son and Mr. Moore both seem like they're fair men. On the
25 other hand, they are related to two of the victims in this

1 matter. This being, well, Williamsburg is large enough,
2 we can find two jurors who have no relationship whatsoever,
3 I'm sure, to the victims in this case.

4 COURT: Mrs. Cyphers, both these --
5 excuse me, go ahead.

6 MRS. CYPHERS: And I would ask we
7 excuse them, to be certain we have been absolutely fair
8 in this matter, and so it would not be raised later as to
9 an issue of having a relative of the Defendant on the
10 jury.

11 COURT: Mrs. Cyphers, the Code of
12 the Commonwealth sets forth the degree of relationship that
13 people cannot serve. Neither one of these folks serve or
14 fall within that category.

15 MRS. CYPHERS: Can I ask them one
16 more question?

17 COURT: Yes.

18 MRS. CYPHERS: Have any of you
19 served on a jury before?

20 (At this time, some
21 jurors raised their hands.)

22 MRS. CYPHERS: Was that criminal
23 or civil?

24 COURT: Mr. Sweeney, you indicated
25 you served on the jury, civil or criminal?

* * *

1 at that time, please.

2 (The Court declared
3 a recess at 12:25 p.m., and re-
4 convened at 1:30 p.m.)

5 (The jury returned
6 to the Courtroom, and resumed
7 their seats in the jury box.)

8 (The Defendant was
9 present, seated beside his
10 counsel.)

11 COURT: Call your first witness,
12 Mr. Person.

13 MR. PERSON: Catherine Piggott.

14 COURT: Catherine Piggott.

15
16
17
18 CATHERINE MARIE PIGGOTT, called as
19 a witness by the Commonwealth, being duly sworn, testified
20 as follows:

21
22 DIRECT EXAMINATION

23
24 BY MR. PERSON:

25 Q Mrs. Piggott, will you tell the

1 ladies and gentlemen of the jury your name, please?

2 A Catherine Marie Piggott.

3 Q How old are you?

4 A Forty.

5 Q Where do you present live?

6 A Sherwood Arms, Newport News.

7 Q On July 2nd, 1981, where did you
8 live?

9 A John Yancey Apartments.

10 Q What apartment did you live in?

11 A 319.

12 Q John Yancey located in James City
13 County, Virginia?

14 A Yes sir.

15 Q And how long did you live up at the
16 John Yancey?

17 A About nine months.

18 Q Do you work?

19 A Holiday Inn.

20 Q Here in Williamsburg?

21 A Yes sir.

22 Q Can you tell the ladies and gentlemen
23 of the jury what happened on the evening of July 2nd, 1981?

24 A Approximately 8:30, Richard Gray, he
25 came by the apartment, but I had company, so he left.

1 Q Who was the company, excuse me, who
2 was the company you had?

3 A Mr. Jones.

4 Q All right. Is that William Bernard
5 Jones?

6 A Yes sir.

7 Q Who is Mr. Gray, is he in the Court-
8 room?

9 A Yes sir.

10 Q Can you point him out?

11 A Sitting right there (indicating).

12 COURT: Let the record show she
13 identified the Defendant, Richard Alister Gray.

14 BY MR. PERSON:

15 Q What was your relationship with Mr.
16 Jones?

17 A Our relationship, a friend.

18 Q You date him?

19 A Yes sir.

20 Q How about Mr. Gray?

21 A Yes sir.

22 Q You date him, also?

23 A Yes sir.

24 Q What happened that night?

25 A Approximately about ten to ten, he

1 came by the apartment.

2 Q What happened at 8:30?

3 A Oh, I had company. He left.

4 Q And when he got there, did he knock
5 on the door, or -- what happened?

6 A He knocked on the door.

7 Q Did you answer the door?

8 A Yes sir.

9 Q And what happened after you answered
10 the door at 8:30?

11 A I asked who was it, and he said,
12 "Gray Boy."

13 Q Then what happened?

14 A And I opened the door for him. He
15 said, "I'm sorry, you got company," and he left.

16 Q And how was he acting at that time?

17 A He acted all right to me.

18 Q And then did he reappear at your
19 apartment door?

20 A About ten.

21 Q And what happened this time?

22 A I was coming down the hall from the
23 sewing machine, and he -- met me coming, you know, toward
24 my apartment.

25 Q Who met you?

1 A Mr. Gray.

2 Q Okay.

3 A And he asked for the address, you
4 know -- in North Carolina, where I went to -- purchase
5 some dentures. He said his sister wanted the address,
6 because he wanted to take her to get some.

7 Q Had you actually gone to North
8 Carolina to get some dentures?

9 A Yes, I had.

10 Q Did he know you had gone to North
11 Carolina to get the dentures?

12 A Yes, he did.

13 Q After he asked you that, what did
14 you do?

15 A I went into the apartment, got my
16 purse to get the papers for him, and give him some papers
17 that another lady had left for him. And the sewing machine
18 was broke, and when I turned around and looked, he was
19 gone. So I assumed that he was gone to the sewing machine
20 to get him to sew it. Next thing I know, he was standing
21 in the door, and this is it, and bullets started flying.

22 Q What, if anything, did he have in
23 his hand?

24 A What?

25 Q What, if anything, did he have in

1 his hand?

2 A He had a gun, what type, I don't
3 know.

4 Q And did he shoot anybody?

5 A Yes, he did.

6 Q Who did he shoot?

7 A Mr. Jones.

8 Q And did you do anything when the
9 shooting started?

10 A I ran toward the bathroom and shut
11 the door and locked it, and got over in the bath tub. And
12 after I heard the shot, then he kicked the bathroom door,
13 three shots rang out in the bathroom door.

14 Q Three shots went through the bath-
15 room door?

16 A Through the bathroom door.

17 Q Into the bathroom, where you were?

18 A No, it went across the stool.

19 Q You were in the shower?

20 A I was in the tub, standing up in the
21 tub.

22 Q And how many rooms does your apart-
23 ment have?

24 A One.

25 Q And the bathroom is the second room?

1 A The bathroom is straight down from
2 the bed.

3 Q Now, had you seen Mr. Gray, the
4 Defendant, earlier that week?

5 A Yes, I have.

6 Q And did you have a conversation with
7 him?

8 A Yes, I did.

9 Q What was that conversation?

10 A Tuesday evening, he came by and he
11 had told me that he was going to kill me and Mr. Jones.
12 He said he didn't know whether to run into us with the
13 car, because he may not get both of us, shoot through the
14 car, because he may not get both of us, and then he stated
15 he was just joking, because I probably go and tell some-
16 body, and anything happened they would blame it on him.

17 Q How many shots did you hear him
18 shoot?

19 A I heard two before I went into the
20 bathroom, and three after I got in the bathroom.

21 (At this time, a
22 photograph was exhibited to
23 Mrs. Cyphers by Mr. Person.)

24 MR. PERSON: I propose to introduce
25 a picture, and Mrs. Cyphers has an objection.

1 COURT: What's the objection?

2 MRS. CYPHERS: Your Honor, may I
3 address the Court in front of the jury, or would it be
4 better to talk about it out of the presence of the jury?

5 COURT: Ladies and gentlemen, go
6 into the jury room, please.

7 (At this time, the
8 jury retired to the jury room.)

9 COURT: All right, Mrs. Cyphers,
10 what's your objection?

11 MRS. CYPHERS: Your Honor, we're
12 more than willing to -- to stipulate that Mr. William
13 Jones was indeed killed, and that she saw him killed, and
14 there is no purpose in having her identify that picture
15 except to inflame the minds of the jurors to see that
16 picture. It would seem unnecessary in light of the fact
17 that --

18 MR. PERSON: All right, with the
19 stipulation that Mr. Jones, Mr. William Bernard Jones was
20 killed, the problem that I foresee is that when I put the
21 medical examiner on as my next witness, I'm going to have
22 to show him who he did an autopsy on, and if you will
23 stipulate that's William Bernard Jones who was in the
24 apartment, I will withdraw the picture.

25 MRS. CYPHERS: Fine.

1 MR. PERSON: We may as well argue
2 about the pictures I'm going to show Doctor Massello now.

3 COURT: While the jury is out, are
4 you saying you will agree that -- William Bernard Jones
5 was in the apartment, and that the person that the autopsy
6 was performed on by Doctor Massello was one and the same
7 person?

8 MRS. CYPHERS: Yes sir.

9 MR. PERSON: All right. Now, of
10 course, when we get to the medical examiner, I'll want to
11 introduce some pictures to show -- aid the Commonwealth
12 in proving first degree murder in regards to the bullet
13 holes and the intentional shooting of him. She doesn't
14 have anything to do with that.

15 COURT: She didn't?

16 MR. PERSON: No.

17 COURT: All right. You want me to
18 tell the jury the stipulation when they come in?

19 MRS. CYPHERS: Yes sir.

20 (At this time, the
21 jury returned to the Courtroom,
22 and resumed their seats in the
23 jury box.)

24 (The Defendant was
25 present, seated beside his counsel.)

1 COURT: Ladies and gentlemen, it's
2 been stipulated between the Commonwealth and the Defense
3 that the person killed in Apartment 319 at John Yancey
4 Motel on July 2nd, 1981 was William --

5 MR. PERSON: Bernard --

6 COURT: Bernard Jones, and that
7 the autopsy, which was later performed by Doctor Massello,
8 was performed on that same William Bernard Jones.

9 BY MR. PERSON:

10 Q Now, did you see Mr. Jones fall?

11 A No, I didn't. I saw him grab for
12 his chest.

13 Q After the first shot?

14 A After the first shot.

15 Q And then you ran into the bathroom?

16 A Then I ran.

17 Q Did he have any weapons on him, any
18 guns or anything?

19 A No, he didn't.

20 Q How long were you in the bathroom?
21 How long were you locked up?

22 A In the bathroom?

23 Q Yes.

24 A Approximately an hour.

25 Q Did the police finally get there

1 and knock on the door, do you know?

2 A Yes.

3 Q And let you out. Now, the apartment
4 that you have, is that on the second floor or the first
5 floor?

6 A First floor.

7 (At this time, Mr.

8 Person exhibited a diagram to
9 Mrs. Cyphers.)

10 MR. PERSON: I show you a diagram,
11 and will you mark this Commonwealth Exhibit Number One,
12 for identification?

13 (At this time, the
14 diagram was received and marked
15 as Commonwealth's Exhibit Number
16 One, for identification.)

17 MRS. CYPHERS: That's not -- to
18 scale, is it?

19 MR. PERSON: No.

20 BY MR. PERSON:

21 Q Mrs. Piggott, this is a diagram
22 marked Commonwealth Exhibit One, for identification. This
23 is Richmond Road, and this represents the Building 200 at
24 John Yancey, this is facing it from Richmond Road (indicat-
25 ing). This is Building 400 (indicating). This would be

1 Building 300, where you lived, is that correct?

2 A Yes.

3 Q And you lived in Apartment Building
4 319?

5 A Right.

6 Q And you lived on the bottom floor,
7 is that correct?

8 A Yes sir.

9 Q Would that be the approximate loca-
10 tion of your apartment (indicating) at Building 300? It
11 says Apartment 319.

12 A Right.

13 Q As I understand those apartments,
14 you go into the door to your apartment, you have to go in --
15 MRS. CYPHERS: Your Honor, could he
16 just ask the question?

17 COURT: Beg your pardon?

18 MRS. CYPHERS: I object, your Honor,
19 to the leading question. They have gone on for a while,
20 and I haven't objected.

21 COURT: It's leading, Mr. Person.

22 MR. PERSON: I agree it's leading.
23 I didn't think it was anything of consequence.

24 COURT: All right.

25 BY MR. PERSON:

1 Q How do you get into your apartment?

2 A To my place, two ways. I can come
3 in the front, or I can come in on the side.

4 Q All right. And how can you leave
5 your apartment?

6 A I got to leave, when I come up my
7 door, I either go down the hall or either I can leave to
8 the entrance coming in from the motel part.

9 Q And what type of -- they're the
10 doors that you can go out of, is that correct?

11 A Sliding doors. You can go out the
12 sliding doors, but you cannot lock them, and you can't
13 come in from it with the lock on the inside.

14 Q And what type of sliding doors are
15 you talking about?

16 A Storm sliding doors.

17 (At this time, Mr.

18 Person exhibited a photograph
19 to Mrs. Cyphers.)

20 BY MR. PERSON:

21 Q I show you a photograph, and ask you
22 if you can recognize what that is a photograph of (indicat-
23 ing)?

24 A This is one of the apartments at
25 John Yancey.

1 Q Is that the type of sliding glass
2 door?

3 A Yes.

4 Q That is at your apartment, too?

5 A Yes.

6 Q You can walk on the patio?

7 A Yes, it is.

8 MR. PERSON: Mark this for identifica-
9 tion Commonwealth Exhibit, for identification, Two.

10 (At this time, the
11 photograph was received and
12 marked as Commonwealth's Exhibit
13 Number Two, for identification.)

14 MR. PERSON: Answer Mrs. Cypher's
15 questions.

16
17 CROSS EXAMINATION

18 BY MRS. CYPHERS:

19 Q How are you, Mrs. Piggott?

20 A How are you?

21 Q We talked before, haven't we?

22 A Yes.

23 COURT: Mrs. Cyphers, whether you
24 talked before or not is immaterial. The question is you

1 cross examine her, please, in regard to her testimony.

2 BY MRS. CYPHERS:

3 Q You say -- you said today that
4 Richard told you on, I believe you said, Tuesday prior to
5 the crime that he was going to kill you?

6 A Right.

7 Q And then at the time you didn't
8 believe him, did you?

9 A No, I didn't.

10 Q He said things like that before,
11 hadn't he, kidding around?

12 A Well, kidding around, sure. I
13 thought he was kidding around, but I find out different.

14 Q You've said things like that
15 probably to him, kidding around?

16 A No, I haven't.

17 Q You didn't say anything like that.
18 And who broke up with who, Mrs. Piggott, did you break up
19 with him, or he broke up with you?

20 A He broke up with me.

21 Q About how long before this incident
22 had that happened?

23 A Two weeks.

24 Q Two weeks. And you continued to
25 see him, though, is that correct?

1 A He came by the apartment, sure.

2 Q About every day, didn't he?

3 A Yes, he did.

4 Q But you weren't seeing him as boy-
5 friend-girlfriend?

6 A No.

7 Q Now, what was your relationship
8 again with Mr. Jones?

9 A Friends.

10 Q And that's all?

11 A Well, I put it this way. When I
12 mean when I say friends, I'm a woman and he is a man, so
13 you should get from that point of view when I said friends.

14 Q And before the incident occurred,
15 had you ever seen anything violent in the nature of Richard
16 Gray, has your relationship itself been a violent one?

17 A No, it hasn't.

18 Q Had you ever -- had he ever hit
19 you?

20 A No, he never.

21 Q During -- had you ever had any argu-
22 ments?

23 A One.

24 Q How long before this incident was
25 that?

1 A I guess about eight, nine months.

2 Q Eight or nine months. Did you ever
3 see him get in a fight with anybody?

4 A No, I can't say I saw him get into
5 a fight, because I haven't been anywhere with him, you
6 know, for him to get in a fight with anybody, so I wouldn't
7 know that.

8 Q How long had you been seeing Richard?

9 A About twenty-one months.

10 Q About twenty-one months?

11 A Yes.

12 Q And for twenty-one months you never
13 saw him hit or in any way show any violent nature?

14 A No.

15 Q Did he help you?

16 A Help me?

17 Q Yes.

18 A Yes, he helped me when he could.

19 Q How did he help you?

20 A What I say, we helped each other.

21 Q He take you places in his car and
22 things like that?

23 A Yes.

24 Q Had he ever seen you and Mr. Jones
25 together prior -- to this incident?

1 A Yes, he had seen us on a couple of
2 occasions.

3 Q And he had never offered to do
4 violence toward either of you on those occasions, had he?

5 A No.

6 Q Had you ever seen him when he had
7 too much to drink?

8 A Yes, I have.

9 Q And had you ever seen him violent
10 on those occasions?

11 A No.

12 Q Had you ever seen him drunk?

13 A Yes, I have.

14 Q When did you see him drunk?

15 A A few occasions. I don't know
16 exact date.

17 Q Would you describe your feelings when
18 you saw Richard come into your house and do those things as
19 one of shock?

20 A Yes, more of a shock and more -- of
21 a -- I just don't understand the reason why he did it.

22 Q Do you base that on the fact that
23 you had never seen anything like this from him before in
24 the past?

25 A Repeat your question.

1 Q Do you base --
2 MR. PERSON: I object. That would
3 be based on opinion.

4 BY MRS. CYPHERS:

5 Q Do you know whether Richard ever
6 took any drugs?

7 COURT: Mr. Person made an objection.
8 I sustain the objection. All right, go ahead.

9 BY MRS. CYPHERS:

10 Q Do you know whether Richard ever
11 took any drugs?

12 A I don't know.

13 Q You've talked with Richard since he
14 has been in jail, haven't you?

15 A Yes, I talked to him once.

16 Q Did he tell you on that evening --
17 MR. PERSON: I would object to any-
18 thing he told her.

19 MRS. CYPHERS: Well, she's testified,
20 your Honor, as to what he told her before.

21 MR. PERSON: This is part of cross
22 examination. I'll take it up out of the presence of the
23 jury.

24 COURT: I'll permit her to ask the
25 question, Mr. Person, but it's her witness as far as what-

1 ever she says. It is beyond cross examination.

2 MR. PERSON: I would object to any-
3 thing he said.

4 COURT: I understand that, but you
5 know my policy, I'm going to let it be asked.

6 MRS. CYPHERS: I'll withdraw the
7 question. I don't have any further questions.

8 COURT: Any redirect?

9 MR. PERSON: No sir.

10 COURT: Any further need for Mrs.
11 Piggott?

12 MR. PERSON: Yes sir, I might need
13 her on rebuttal.

14 COURT: Beg your pardon?

15 MR. PERSON: I might need her on
16 rebuttal.

17 COURT: Rebuttal will be sometime
18 tomorrow, I assume?

19 MR. PERSON: Yes, I might need her.

20 COURT: All right. I won't make
21 her stay here the rest of the day.

22 MR. PERSON: Let her go on home and
23 come back ten o'clock tomorrow.

24 COURT: Do you have any objection
25 to that, Mrs. Cyphers?

1 MRS. CYPHERS: No sir.

2 COURT: All right, Mrs. Piggott, you
3 can leave and go home and be back tomorrow morning at ten
4 o'clock.

5 In the meantime, I would admonish
6 you and tell you don't discuss your testimony with anybody
7 or permit anyone to talk to you about their testimony.

8 MRS. CYPHERS: May I ask her one more
9 question?

10 COURT: Yes ma'am.

11 BY MRS. CYPHERS:

12 Q Who did you discuss this case with?

13 A Me?

14 Q Yes.

15 A No one.

16 Q You gave a statement to the Common-
17 wealth Attorney?

18 A Yes. I thought you meant outside of
19 the Court.

20 Q Did you give a written statement and
21 sign it?

22 A I don't know whether I did or not.
23 I know I gave a written statement. Yes, I think I signed
24 it.

25 Q Mrs. Piggott, I hate to ask you this

1 question, but I feel I would be remiss if I didn't.

2 COURT: Do you object to -- Mrs.
3 Cyphers, please ask the question. Don't dress up each
4 question with some statement like that. Ask your question.

5 BY MRS. CYPHERS:

6 Q Have you ever been convicted of a
7 felony?

8 A Yes, I have.

9 Q What was the nature of that?

10 MR. PERSON: She knows that's not
11 permissible.

12 MRS. CYPHERS: Yes, it is.

13 COURT: No ma'am, it's not. You
14 got in the fact she has been convicted of a felony. You
15 may argue that to the jury at the proper time.

16 MRS. CYPHERS: Can I be heard on
17 this matter, please?

18 COURT: No ma'am, you may not be
19 heard on it.

20 MRS. CYPHERS: Your Honor, I have
21 evidentiary law that says --

22 COURT: Mrs. Cyphers, the Court has
23 ruled that you may not be heard on it, please, ma'am, and
24 note your exception to that. And let's get on to something
25 else.

1 MRS. CYPHERS: I have no further
2 questions.

3 COURT: Do you have any further
4 questions you want to ask Mrs. Piggott?

5 MR. PERSON: No sir.

6 COURT: Do you have any questions
7 you want to ask Mrs. Piggott?

8 MRS. CYPHERS: No sir.

9 COURT: I didn't hear you.

10 MRS. CYPHERS: No sir.

11 COURT: Mrs. Piggott, I'll permit
12 you to leave. Don't discuss your testimony with anyone or
13 permit anyone to discuss it with you, and return tomorrow
14 morning at ten o'clock.

15 Who is your next witness?

16 MR. PERSON: Doctor Massello.

17 - - -

18
19
20 DOCTOR WILLIAM MASSELLO, called as a
21 witness by the Commonwealth, being duly sworn, testified as
22 follows:

23
24 DIRECT EXAMINATION

25 * * *

1 me check. No sir.

2 COURT: Any further need for Mrs.
3 Christian?

4 MRS. CYPHERS: No sir.

5 COURT: Mrs. Christian, you may have
6 a seat in the Courtroom, or you may leave, as you see fit.

7 MR. PERSON: You did say you lived
8 in James City County?

9 A Yes.

10 MR. PERSON: Mrs. Christian, you
11 can take your son home with you, too.

12 COURT: He said you can take your
13 son home with you, too. He's not going to need him.

14 MR. PERSON: Mrs. Mary L. Jones.

15
16 - - -

17
18 MARY L. JONES, called as a witness
19 by the Commonwealth, being duly sworn, testified as follows:

20
21 DIRECT EXAMINATION

22
23 BY MR. PERSON:

24 Q You are Mrs. Mary L. Jones?

25 A Yes, I am.

1 Q And your husband was William Bernard
2 Jones?

3 A Yes sir.

4 Q What's your telephone number?

5 A 565-0238.

6 Q Is that the same telephone number
7 you had on July 2nd, 1981?

8 A Yes.

9 MR. PERSON: That's all the questions
10 I have.

11 COURT: Any cross examination?

12 MRS. CYPHERS: No sir.

13 COURT: Any further need for Mrs.
14 Jones?

15 MR. PERSON: Yes, I might need her
16 on rebuttal.

17 COURT: Tomorrow morning?

18 MR. PERSON: Yes, it would be all
19 right if she went home and came back.

20 COURT: Mrs. Jones, you may go home
21 and be back tomorrow morning at ten o'clock. I tell you
22 don't discuss your testimony with anyone or permit anyone
23 to discuss your testimony with you.

24 MR. PERSON: Sylvia Brown.
25

* * *

1 and you can ask her any questions you want.

2 MRS. CYPHERS: That's fine.

3 COURT: Other than that, are we
4 ready?

5 MRS. CYPHERS: Yes sir.

6 COURT: Call the jury in.

7 (At this time, the
8 jury returned to the Courtroom,
9 and resumed their seats in the
10 jury box.)

11 (The Defendant was
12 present, seated at counsel
13 table.)

14 COURT: Good morning, ladies and
15 gentlemen.

16 Mr. Dutton, would you call Mrs.
17 Catherine Piggott back, please?

18
19 ---
20

21 CATHERINE MARIE PIGGOTT, recalled
22 as a witness by the Commonwealth, having been previously
23 duly sworn, testified as follows:
24

25 COURT: Mrs. Piggott, the Court would

1 remind you that the oath that you took yesterday is still
2 binding on you as far as this case is concerned?

3 A Yes.

4 COURT: All right, Mrs. Cyphers,
5 you may ask her any questions.

6
7 CROSS EXAMINATION

8
9 BY MRS. CYPHERS:

10 Q Mrs. Piggott, have you ever been
11 convicted of a felony?

12 A Yes, I have.

13 Q How many and what is the nature of
14 those convictions?

15 A I was convicted of murder in '79.
16 Murder in '69, and arson in '79.

17 MRS. CYPHERS: Thank you. No further
18 questions.

19 MR. PERSON: No questions.

20 COURT: All right, Mrs. Piggott, you
21 may go back out, but stay out there.

22 MRS. PERSON: I might need you.

23 COURT: Who is your next witness?

24 MR. PERSON: Mr. Vellines.
25

* * *

1 (Sylvia H. Clifton was duly
2 sworn as the Court Reporter.)

3 (The Defendant was present,
4 seated beside his counsel.)

5 MR. PERSON: Richard Alister
6 Gray.

7 MS. CYPHERS: Your Honor, --

8 COURT: Yes, ma'am.

9 MS. CYPHERS: -- I have a motion --

10 COURT: All right.

11 MS. CYPHERS: -- to put before
12 the Court.

13 COURT: All right. Commonwealth
14 versus Richard Alister Gray.

15 MS. CYPHERS: As you will recall,
16 I objected to Junius Johnson and another juror, whose
17 name escapes my memory right now, who were related to
18 the victims, from serving as jurors, and I asked that
19 they be challenged or called stricken for cause. And
20 that motion was denied.

21 I have since, specifically today,
22 run across something that says that one related to the
23 victim within the ninth degree of consanguinity or
24 affinity is not competent to serve as a juror. And
25 the case that that was cited from is Salina versus

1 Commonwealth. That just merely recites apparently the
2 common law rule. And in that particular case it was
3 reversed and remanded for a new trial.

4 I would ask the Court to grant
5 a new trial at this time to save time, money, effort
6 in having an appeal be taken and being remanded for a
7 new trial.

8 COURT: Mr. Person?

9 MR. PERSON: Well, I would object
10 to it. I don't -- you know, there are some facts,
11 argument as to what degree a relationship -- I wouldn't
12 have any idea what to respond to, --

13 COURT: Well, I remember --

14 MR. PERSON: -- what case we're
15 talking about. Are we talking about all of them or
16 one of them or --

17 COURT: Well, as I remember, one
18 of the people --

19 MR. PERSON: I know one was by
20 marriage.

21 COURT: I beg your pardon?

22 MR. PERSON: By marriage.

23 COURT: One was related only by --
24 was the brother-in-law of the prior husband or --

25 MS. CYPHERS: Mr. Johnson was

1 married to the third cousin of Catherine Piggot, who
2 was the victim. The other juror was married -- is
3 married to the third cousin of Mrs. Jones, who is the
4 victim's wife, Mr. Jones' wife.

5 And affinity means by marriage
6 rather than by blood.

7 COURT: I'm familiar with the
8 word affinity.

9 MS. CYPHERS: Therefore, I think
10 it would come within the common law rule that I just
11 stated.

12 MR. PERSON: I didn't even know
13 Miss Piggott was married.

14 MS. CYPHERS: No, I'm saying
15 it's Miss Piggot's relative. Mr. Johnson is married
16 to a cousin of Miss Piggott, a third cousin of Miss
17 Piggott.

18 MR. PERSON: Well, I just don't
19 know what the record is, so --

20 COURT: Well, Mr. Person, you
21 tell me.

22 MR. PERSON: Well, I would object
23 to the motion.

24 COURT: All right, sir. Overrule
25 your motion. Is there anything else in the way of --

* * *

1 MR. PERSON: Just very briefly,
2 based on the facts that you've heard of his prior
3 criminal record, I'd ask you to sentence him in ac-
4 cordance with the sentence that the jury gave him on
5 that particular date. I thought it was very fair,
6 under the circumstances.

7 COURT: All right. Anybody else
8 got anything you want to say?

9 All right. Mr. Gray, you may
10 stand up, sir.

11 (The Defendant complied
12 with the request of the Court.)

13 COURT: On the seventh day of
14 June, 1982, the Court found you guilty of the charge
15 that you did attempt to feloniously kill and murder
16 one Catherine Piggott.

17 The Court will now impose sentence
18 for that conviction. Is there anything you wish to
19 say before sentence is imposed?

20 MR. R. A. GRAY: (Shook head.)

21 COURT: All right, sir. It's
22 the sentence of the Court you be sentenced to a period
23 of five years in the penitentiary for that offense.

24 On the seventh day of June the
25 Court found you guilty of the charge that you did

1 display a firearm or weapon in a threatening manner
2 while attempting to commit malicious wounding.

3 The Court will now impose sentence
4 for that conviction. Anything you wish to say before
5 sentence is imposed?

6 MR. R. A. GRAY: (Shook head.)

7 COURT: It's the sentence of the
8 Court you be sentenced to a period of one year con-
9 finement in the penitentiary for that offense.

10 On the seventh day of June, 1982,
11 the Court found you guilty of the charge that you did
12 maliciously cause bodily injury to one Rebecca Christian,
13 with intent to maim, disfigure, disable, or kill.

14 The Court will now impose sentence
15 for that conviction. Is there anything you wish to
16 say before sentence is imposed?

17 MR. R. A. GRAY: (Shook head.)

18 COURT: It's the sentence of the
19 Court you be sentenced to a period of 20 years in the
20 penitentiary for that offense.

21 On the seventh day of June, 1982,
22 the Court found you guilty of the charge that you did
23 hit and run, causing personal injury to one Blanche
24 Adcock.

25 The Court will now impose sentence

1 for that conviction. Is there anything you wish to
2 say before sentence is imposed?

3 MR. R. A. GRAY: (Shook head.)

4 COURT: It's the sentence of
5 the Court you be sentenced to one year in the
6 penitentiary for that offense.

7 On June seventh, 1982, the Court
8 found you guilty of the charge that you did -- that you
9 were guilty of the charge of first degree murder in
10 the killing and shooting of -- killing and murder of
11 one William Bernard Jones.

12 The Court will now impose sentence
13 for that conviction. Is there anything you wish to
14 say before sentence is imposed?

15 MR. R. A. GRAY: I would like to
16 say one word.

17 COURT: Yes sir.

18 MR. R. A. GRAY: Your Honor, I'm
19 sorry it happened. Anybody that drink -- never drink
20 with a stranger no more or drink or smoke with no
21 stranger. It never would have happened. I wouldn't
22 be here today. And I'm sorry it happened.

23 MS. CYPHERS: He's sorry that it
24 happened and he would advise anyone not to drink and
25 smoke marijuana together with any strangers. And he's

1 sorry for the shame he has caused Williamsburg and
2 his family and the community, and that's the reason
3 he's here today.

4 COURT: Anything else, Mr. Gray?

5 MR. R. A. GRAY: No.

6 COURT: The Court having found
7 you guilty of the charge of first degree murder, in
8 that you did murder one William Bernard Jones, the
9 Court will now impose sentence for that conviction.
10 Is there anything you wish to say before sentence
11 is imposed?

12 MR. R. A. GRAY: (Shook head.)

13 COURT: It's the sentence of the
14 Court that you be sentenced to 30 years in the
15 penitentiary for that offense.

16 Also, the Court, on the seventh
17 day of June found you guilty of the charge of assault
18 and battery on one Blanche Adcock, and will now impose
19 sentence for that conviction.

20 Is there anything you wish to say
21 before sentence is imposed?

22 MR. R. A. GRAY: No.

23 COURT: It's the order of the Court
24 that you be sentenced to a period of 12 months in jail.
25 I will suspend the fine of one thousand dollars. But

1 I do order you to serve 12 months in jail.

2 It's the order of the Court that
3 you be taken from here to jail and there to the
4 penitentiary, and there to serve a term of 57 years
5 in the penitentiary and 12 months in jail, a total
6 of 58 years, unless you are sooner released in accordance
7 with law.

8 Ms. Cyphers, will you advise Mr.
9 Gray that he has a right to appeal to the Supreme Court
10 of Virginia, that if he does not have money to secure
11 the services of an attorney to pursue that appeal the
12 Court will appoint one for him, that if he does not
13 have money to secure a transcript of the record the
14 Court will likewise provide that for him.

15 The Court will order that the
16 transcript be made a part of the record. The Court
17 will further order that whatever time he has spent
18 in jail awaiting trial he will be given credit on the
19 sentences imposed by the Court.

20 Would you advise him now, please,
21 of that.

22 MS. CYPHERS: Yes sir, I have
23 advised him of all this.

24 COURT: Beg pardon?

25 MS. CYPHERS: I have advised him --

* * *