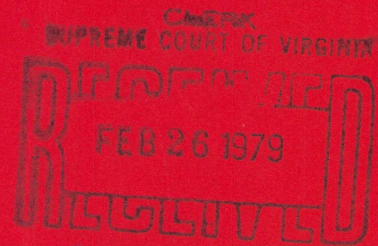


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IN THE  
**Supreme Court of Virginia**

AT RICHMOND

RECORD NO. 78-1452

WILLIAM JOE JENKINS

*Appellant*

v.

COMMONWEALTH OF VIRGINIA

*Appellee*

JOINT APPENDIX

L.G. FITCHETT  
Attorney at Law  
1310 Todds Lane, Suite B  
Hampton, Virginia 23666

*Counsel for Appellant*

ROBERT H. HERRING, JR.  
Assistant Attorney General  
900 Fidelity Building  
830 East Main Street  
Richmond, Virginia 23219

*Counsel for Appellee*

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APPENDIX  
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VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF GLOUCESTER

MAY 1, 1978

THE GRAND JURY CHARGES THAT:

On or about January 28, 1978, in the County of Gloucester, William Joe Jenkins did feloniously kill and slay Roosevelt Kenneth Redmond.

Virginia Code: 18.2-30, 18.2-36

A true bill ✓

Not a true bill.

Leon Baath  
FOREMAN

Upon evidence of P. J. Reardon, State Trooper, witness sworn in open court and <sup>N</sup>set to the grand jury to give evidence.

Filed in Open Court  
May 1, 1978

C. C. Daniel  
Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF GLOUCESTER

MAY 1, 1978

THE GRAND JURY CHARGES THAT:

On or about January 28, 1978, in the County of Gloucester, William Joe Jenkins did unlawfully and feloniously, as the driver of a vehicle involved in an accident in which a person was killed or injured, fail immediately to stop as close to the scene of the accident as possible and report forthwith to the police authority and to render reasonable assistance to a person injured in such accident, including the carrying of such injured person to a physician, surgeon or hospital for medical treatment, said killed or injured person being Roosevelt Kenneth Redmond.

Virginia Code: 46.1-176, 46.1-177

A true bill. ✓

Not a true bill.

  
FOREMAN

Upon evidence of P. J. Reardon, State Trooper, a witness sworn in open court and sent to the grand jury to give evidence.

Filed in Open Court  
May 1, 1978

  
Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF GLOUCESTER, ON THURSDAY,  
THE 13th DAY OF JULY, 1978

Commonwealth of Virginia

vs. (Felony No. 2550 (78-40) 5/1/78      Involuntary Manslaughter  
Jenkins, William Joe

This day came again Harry A. Morris, Jr., the Attorney for  
the Commonwealth, and William Joe Jenkins, age 20<sup>Born: 12/2/57</sup>/<sub>who stands</sub>  
indicted for a felony, to-wit: "xxx On or about January 28, 1978,  
in the County of Gloucester, William Joe Jenkins did feloniously  
kill and slay Roosevelt Kenneth Redmond. Virginia Code:  
18.2-30, 18.2-36 xxx", appeared according to the condition of his  
recognizance, and came also L. G. Fitchett, his attorney hereto-  
fore appointed.

Whereupon, the accused was arraigned and after private con-  
sultation with and being advised by his counsel, entered a No  
Plea, to the Indictment, whereupon, the court entered a plea of  
Not Guilty to the indictment on behalf of the defendant., which  
plea was tendered by the accused in person. And thereupon, after  
having been first advised by his attorney and by the Court of his  
right to trial by jury, the accused knowingly and voluntarily  
waived trial by a jury and with the concurrence of the Attorney  
for the Commonwealth and of the Court, here entered of record,  
the Court proceeded to hear and determine the case without the  
intervention of a jury, as provided by law, and the Commonwealth's  
evidence having been heard, counsel for the accused moved to  
strike the Commonwealth's evidence for the reasons stated to the  
record, which motion was overruled, and having heard all of the  
evidence, counsel for the defendant renewed his motion to strike

the Commonwealth's evidence for reasons stated in the record, which motion was overruled. And the Court, after argument of counsel, finds the accused GUILTY of Involuntary Manslaughter (Virginia Code Section 18.2-30, 18.2-38) as charged in the indictment.

Whereupon, counsel for the defendant moved the Court to set aside the verdict for reasons stated in the record, which motion was overruled as to which ruling of the Court, counsel for the accused excepted.

Whereupon, counsel for the defendant moved that this case be referred to a Probation Officer of this Court for a pre-sentence report, which motion, after argument of counsel, the Court overruled.

And it being demanded of the defendant 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, it is accordingly the judgment of this Court that the defendant is hereby sentenced to confinement in the penitentiary of this Commonwealth for the term of Two (2) years, and that the Commonwealth of Virginia do recover against the defendant its costs in the amount of \$ , by it about its prosecution in this behalf expended.

And it is further ordered that as soon as possible after the entry of this Order the defendant be removed and safely conveyed according to law from the jail of this Court at Yorktown, Virginia to the said penitentiary, therein to be kept, confined and treated in the manner provided by law.

The Court certifies that at all times during the trial of this case the defendant was personally present and his attorney

was likewise personally present and capably represented the defendant, for which services he is allowed an attorney's fee of \$200.00. And the Court further certifies that a Court Reporter was also present during the trial of this case.

And the prisoner is remanded to jail at Yorktown, Virginia to await transfer to the penitentiary.

Common Law Order Book 23, page 328 .

A Copy-teste:

Charles E. King, Jr., Clerk

By \_\_\_\_\_, Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF GLOUCESTER, ON THURSDAY,  
THE 13th DAY OF JULY, 1978

Commonwealth of Virginia

vs. (Felony No. 2551 (T78-115) 5/1/78 Hit & Run

Jenkins, William Joe

This day came again Harry A. Morris, Jr., the Attorney for  
the Commonwealth, and William Joe Jenkins, <sup>Born: 12/2/57</sup> age 20/ who stands  
indicted for a felony, to-wit: "xxx On or about January 28, 1978,  
in the County of Gloucester, William Joe Jenkins did unlawfully  
and feloniously, as the driver of a vehicle involved in an  
accident in which a person was killed or injured, fail immediately  
to stop as close to the scene of the accident as possible and  
report forthwith to the police authority and to render reasonable  
assistance to a person injured in such accident, including the  
carrying of such person to a physician, surgeon or hospital for  
medical treatment, said killed or injured person being Roosevelt  
Kenneth Redmond. Virginia Code: 46.1-176, 46.1-177 xxx", appeared  
according to the condition of his recognizance, and came also  
L. G. Fitchett, his attorney heretofore appointed.

Whereupon, the accused was arraigned and after private consul-  
tation with and being advised by his counsel entered a no plea,  
to the indictment, whereupon, the Court entered a plea of Not  
Guilty to the indictment on behalf of the defendant., which plea  
was tendered by the accused in person. And thereupon, after having  
been first advised by his attorney and by the Court of his right  
to trial by jury, the accused knowingly and voluntarily waived  
trial by a jury and with the concurrence of the Attorney for the  
Commonwealth and of the Court, here entered of record, the Court  
proceeded to hear and determine the case without the intervention  
of a jury, as provided by law, and the Commonwealth's evidence



having been heard, and having heard all the evidence and argument of counsel, the Court finds the accused GUILTY of Hit & Run (Virginia Code Section 46.1-176, 46.1-177) as charged in the indictment.

Whereupon, counsel for the defendant moved the Court to set aside the verdict, for reasons as stated in the record, which motion the Court overruled and exception was noted .

Whereupon, counsel for the defendant moved that this case be preferred to a Probation Officer of this Court for a pre-sentence report, which motion, after argument of counsel, the Court overruled.

And it being demanded of the defendant 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, it is accordingly the judgment of this Court that the defendant is hereby sentenced to confinement in the penitentiary of this Commonwealth for the term of Two (2) years, and that the Commonwealth of Virginia do recover against the defendant its costs in the amount of \$ , by it about its prosecution in this behalf expended.

Whereupon, counsel for the defendant moved the Court to have the sentence imposed herein run concurrently with the sentence imposed in Case No. 2550, which motion, after argument of counsel, the Court overruled.

And it is further ordered that as soon as possible after the entry of this Order the defendant be removed and safely conveyed according to law from the jail of this Court to the said penitentiary, therein to be kept, confined and treated in the manner provided by law.

The Court certifies that at all times during the trial of this case the defendant was personally present and his attorney was likewise personally present and capably represented the defendant for which services he is allowed an attorney's fee of \$200.00. The Court further certifies that a Court Reporter was also present during the trial of this case.

And the prisoner is remanded to jail at Yorktown, Virginia to await transfer to the penitentiary.  
Common Law Order Book 23, page 329 .

A Copy-teste: Charles E. King, Jr., Clerk

By                     -12-                    , Deputy Clerk

### ASSIGNMENTS OF ERROR

#### I.

The Court erred in refusing to grant a pre-sentence report after a finding of guilty as requested by defendant's counsel, under Indictment Nos. 2550 and 2551.

#### II.

The Court erred in its finding that the Appellant was guilty of involuntary manslaughter, since the evidence was insufficient to show that the conduct of the Appellant amounted to gross and culpable negligence.

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7 I found the scene to be located in Gloucester  
8 County, four-tenths of a mile north of Vail and Belle Roy on  
9 Virginia Route 614, and four-tenths of a mile north of the inter-  
10 section with Route Virginia 616.

11 At that point, the road is asphalt. The road is  
12 eighteen feet, seven inches wide. On the east shoulder there is  
13 a dirt shoulder of three feet, one inch, and the west shoulder  
14 is a dirt shoulder, four feet, three inches.

15 On the east shoulder of the road I found the body  
16 of a Negro male. I examined the body and found no signs of life.

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TAYLOE ASSOCIATES  
REGISTERED PROFESSIONAL REPORTERS  
NORFOLK, VIRGINIA

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7 A He gave me two statements, a real quick one and  
8 then a more formal one.

9 The very first statement was, "About 1:30 a.m. I  
10 was coming towards home in the truck, alone. Suddenly there was  
11 a man in the middle of the left side of the road. I was doing  
12 about forty-five. I didn't hardly have time to see him. I  
13 didn't stop, because I was scared. I was not drinking. I was  
14 just riding around. I then went right home."

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16  
17 "Saturday morning, about 1:30 a.m., I was coming  
18 towards home in my dad's pickup, alone." And I repeatedly asked

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23 "Suddenly the man was there in the middle of the  
24 left side of the road. I was driving down the middle of the road,  
25 doing about forty-five miles per hour. I didn't hardly have time



1 to see him. I didn't stop because I was scared. I was not  
2 drinking. I was just riding around. After the accident I then  
3 went right home."

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A Subsequent investigation led me to contact Mr. Jenkins, and I contacted him at his place of employment at Smith's Wheel Alignment. This was at 1:00 p.m. on the 31st.

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9 I asked him if he had told me the entire truth  
10 when I talked to him before, and he said, no. And I said, "Well,  
11 tell me again what happened."

12 And his statement this time was identical to the  
13 other statements, except that he admitted having two other people  
14 in there with him.

15 We went to the office, here at the Courthouse,  
16 where I asked him to sit down and, in his own words, write out  
17 for me a statement as to what happened, and this is what he  
18 wrote.

19 Q Did he sign this?

20 A Yes, sir, he did.

21 Q All right. Read it, please.

22 A "I was going on 614 at about forty-five miles an  
23 hour when I came upon a man. I was too close to him to stop,

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23 Q This road where the accident occurred, there is,  
24 I believe, a slight curve close to where the victim was, apparently,  
25 struck; is that not correct?

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REGISTERED PROFESSIONAL REPORTERS  
NORFOLK, VIRGINIA

1 A Yes, sir.

2 Q And the road is, what, somewhere in the neighbor-  
3 hood of eighteen feet?

4 A The road surface itself is eighteen feet, seven  
5 inches, and you have a dirt shoulder on each side. One shoulder  
6 is four feet, three inches, and the other shoulder is three  
7 feet, one inch, which gives you about seven and a half more feet  
8 of road but —

9 Q He did state to you that the deceased was standing  
10 in the left lane?

11 A The middle of the left-hand side of the road.

12 Q So that would have put him somewhere approximately  
13 four to four and a half feet from the line?

14 A Probably.

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Q When you went to the scene, you say you lifted the sheet from the deceased?

A Yes, sir, I did.

Q At that time, did you detect an odor of alcohol?

A Not at that time, no.

Q At any time did you ever detect an odor of alcohol?

A When I took some pictures -- I took one picture, I believe it was, close up of his face for, more or less, identification purposes, and in dealing with the camera and trying to

1 take the pictures, I detected an odor that I associate with  
2 alcohol.

3 Q Was it strong or weak or what?

4 A It wasn't as strong as I've smelled, but it was an  
5 odor that I could detect, but I had to get right down — naturally,  
6 I had to get right down to the victim to even begin to detect  
7 the odor.

8 Q And this was at what time?

9 A Oh, at the time I was doing this, this could have  
10 been right around 12:00, more or less. I didn't, you know, time  
11 each step that day.

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Q Could you or could you not determine from which  
direction the man was struck?

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A The man appears to have been struck from his  
front, standing towards the moving object.

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Q Facing the moving object?

A Facing the moving object.

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1 Q I do have one further question. According to your  
2 report, what degree of alcohol did he have in his blood?

3 A His level of blood alcohol was .20 percent weight  
4 volume.

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Q From a .20 would or would not this man have been  
intoxicated?

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TAYLOE ASSOCIATES  
REGISTERED PROFESSIONAL REPORTERS  
NORFOLK, VIRGINIA



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2 THE COURT: I presume it takes judicial notice of  
3 .20 that he would be intoxicated.

4 MR. FITCHETT: Yes, sir.

5 THE COURT: Can you answer the question, Doctor?  
6 Repeat your question.

7  
8 BY MR. FITCHETT:

9 Q At .20, would this man be intoxicated?

10 A With varying blood levels, different individuals  
11 will show different symptoms; with varying blood levels of blood  
12 alcohol.

13 However, with the level of .20 the individual --  
14 even if someone was to talk to him long enough -- would certainly  
15 show some symptoms of intoxication.

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7 to the same man. Was there damage to this truck anyplace,  
8 besides the front end?

9 A Yes, sir. You can see a place between the --  
10 well, just below the steering wheel you can see a mark. There  
11 was a dent, indentation type mark on the hood.

12 Q Was there anyplace else, Trooper?

13 A Let me look. I've got a drawing that I made of  
14 the damage. No, that was about it. Just on the left side of  
15 the hood. The driver's side of the hood.

16 Q This is the dent you identified in Exhibit No. 6,  
17 is that correct, Trooper?

18 A Yes, sir.

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Q Will you state your name, please?

A William Joe Jenkins.

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Q All right. Directing your attention to the 28th of January, of this year, and the charge before the Court, would you tell us, in your own words, exactly what happened?

A Would you repeat that?

1 Q I say, directing your attention to the 28th of  
2 January of this year, in reference to the matter before this  
3 Court, would you tell us exactly what happened?

4 A From the beginning?

5 Q Well, from the time you were coming down the road.

6 A Well, I was coming down the road, driving about  
7 forty-five. It was nighttime. And I didn't know the road very  
8 well, and I was just driving along, and he just appeared out of  
9 nowhere, and I wasn't in the middle of the road. I was maybe --  
10 a quarter of the truck was on the left side of the road, if there  
11 had been a line in the road.

12 Q Is there a line in the road?

13 A No.

14 Q What time was this?

15 A About 1:30.

16 Q Were you watching the road?

17 A Yes.

18 Q And was it a -- describe what type of night it was;  
19 whether it was, you know, bright or dark or what.

20 A Black night. It was just dark.

21 Q All right. Do you know why you didn't see the  
22 party you struck?

23 A No. The headlights on the truck were aimed kind  
24 of low on the road. He was just there before I realized it.

25 Q Where was he located in the road?

1 A Well --

2 Q Let me show you one of the pictures, if I may.

3 MR. FITCHETT: May I have just one moment, please?

4

5 BY MR. FITCHETT:

6 Q Mr. Jenkins, approximately how far from the center  
7 line of the road -- there is no line in the road, but now how  
8 far from the center of the road was the individual located when  
9 you first saw him?

10 A If there had been a center line, I'd say about, oh,  
11 three feet, maybe four.

12 Q From the center line?

13 A Uh-huh.

14 Q All right. Now, go ahead and tell us what happened,  
15 starting from the point you were coming down the road, and I  
16 believe you said he appeared. Go from there, if you will, please.

17 A So before I could react, I done hit him, and I lost  
18 control of the truck, and I managed to get it straightened out.

19 I didn't know what to do. I didn't know whether  
20 to stop or go or who to go see. The only thing that was in my  
21 mind was to get home. I figured I would tell my father about it  
22 and see if he could help me.

23 So I took everybody home, and I went on home, and  
24 I really didn't want to tell him, because he just got out of the  
25 hospital, and I was afraid if he found out it would tie him up.



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Q At the scene, where this accident occurred, is there a slight curve there in the road?

A Slight one, I guess. I really don't know. I don't know the road that well. It was dark.

Q Coming down that road, where the deceased was when you first saw the deceased, just prior to where he would have been standing, would your lights have shown on the spot where you came into contact with him, approaching that spot?

A No, I don't guess they would have. If they would have, I probably would have seen him.

Q Where did he come from, do you know?

A No. He come from out of nowhere. He was just there.

Q Why didn't you stop and help him?

A That, I don't know. I just don't know. I was

1 scared, I reckon. I didn't know what to do. At the time, I  
2 thought I was doing the best thing, I guess.

3 Q Well, didn't you know that the man might be  
4 injured?

5 A No. The way I hit him, I thought it would kill  
6 him for sure.

7 Q And can you tell us, in feet, approximately how much  
8 of your truck was over the center of the road?

9 MR. MORRIS: Your Honor, he -- correction, go ahead.

10 MR. FITCHETT: I said in feet, how much of his  
11 truck.

12 THE WITNESS: Well, there was four people in the  
13 truck, and I would say if there had been a line in the  
14 road the line would have been between me and the one sitting  
15 aside of me. Just -- I probably would have been on  
16 that side of the road.

17 BY MR. FITCHETT:

18 Q Can you tell me what the contour of the road is?  
19 Is it flat or curved or what?

20 A It's curved. That's why I was driving like that.

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I was getting tired. I don't know what made me do it, but I just figured I would take that road to save some time or something. So I went through that road, and I was just riding along through there and listening to the tape play and everything, and Ray, he kicked the wires loose on the tape player in the truck. So I told them to try and fix it.

So Stanley and Frankie was trying to fix the wires

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NORFOLK, VIRGINIA

1 on it, and after they got it fixed, and everything, it kept  
2 falling off. So I told Stanley to look in the glove compartment  
3 and get some tape and tape them up.

4 While they were doing all that, that's when the man  
5 come up in front of me and I hit him.

6 Q Isn't it true, at that time, you were probably  
7 paying more attention to getting the tape player fixed than you  
8 were driving? You were distracted from that, weren't you?

9 A Not really.

10 Q Not really, okay. In other words, you were just  
11 out joyriding?

12 A That's about all.

13 Q You say you lost control. Is that because you hit  
14 him so hard it just --

15 A No. When I hit him, I had locked up on the brakes.

16 Q After you hit him?

17 A Yeah. Well, about the same time, I guess, and the  
18 truck just got away. She spun around sideways, so I managed to  
19 straighten out.

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2 Q Have you ever been convicted of a crime involving  
3 moral turpitude; that is like cheating or stealing?

4 A Yes, sir.  
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TAYLOE ASSOCIATES  
REGISTERED PROFESSIONAL REPORTERS  
NORFOLK, VIRGINIA

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5 MR. FITCHETT: Judge, I would request a presentence  
6 report on this after disposition of the Court.

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12 as charged. The Court denies the motion for a presentence report.

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