

261 VA 196

In The
Supreme Court of Virginia

RECORD NO. 000143



IRVIN E. COLEMAN,

Appellant,

v.

COMMONWEALTH OF VIRGINIA,

Appellee.

APPENDIX

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297-360

2: May 15, 1997

CITY OF PETERSBURG,
COMMONWEALTH OF VIRGINIA,

To Wit

IN THE CIRCUIT COURT OF SAID CITY

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the City
of Petersburg, and now attending the said court, upon their oaths, present that

..... IRVIN E. COLEMAN.....

on or about the 12th day of January in the year Nineteen Hundred and
Ninety-seven in the said city, and within the jurisdiction of the said court,

did wilfully, deliberately and premeditatedly attempt to kill and murder one
Reginald Vincent, in the commission of robbery,

Va. Code 18.2-26

Va. Code 18.2-32

against the peace and dignity of the Commonwealth of Virginia.

Upon the testimony of

Off. Ramos

Det. D. Hamilton

Det. R. E. Richardson

Det. Braswell

Kevin Saunders, 13827 Sunnybrook Road, Prince George, VA;

Reginald Vincent, 17246 Pittmans Rd, Southampton County, (Boykins);

Audie Watson, 729 Fort Lee Road, City;

Lisa Dean, 729 Fort Lee Road, City

1

Sworn in Court and sent to the Grand Jury to give evidence.

Benjamin D. Smith Clerk

VIRGINIA

Circuit Court
City of Petersburg

0297-360

Commonwealth of Virginia

INDICTMENT FOR

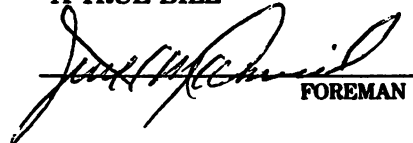
A FELONY

VS

Irvin E. Coleman (No. 1)

(Attempt to Murder - Reginald
Vincent)

A TRUE BILL


FOREMAN

Cassandra S. Burns
COMMONWEALTH'S ATTORNEY

297-363

2: May 15, 1997

CITY OF PETERSBURG,
COMMONWEALTH OF VIRGINIA,

To Wit

IN THE CIRCUIT COURT OF SAID CITY

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the City
of Petersburg, and now attending the said court, upon their oaths, present that

..... IRVIN E. COLEMAN.....

on or about the 12th day of January in the year Nineteen Hundred and
Ninety-seven in the said city, and within the jurisdiction of the said court,

did maliciously shoot and wound one Reginald O. Vincent, with the intent to
maim, disfigure, disable or kill,

Va. Code Sec. 18.2-51

against the peace and dignity of the Commonwealth of Virginia.

Upon the testimony of

Off. Ramos
Det. D. Hamilton
Det. R. E. Richardson
Det. Braswell
Kevin Saunders, 13827 Sunnybrook Road, Prince George, VA;
Reginald Vincent, 17246 Pittmans Rd, Southampton County, (Boykins);
Audie Watson, 729 Fort Lee Road, City;
Lisa Dean, 729 Fort Lee Road, City

3

Sworn in Court and sent to the Grand Jury to give evidence.

Benjamin O. Smith Clerk

VIRGINIA

Circuit Court
City of Petersburg

CR97-363

Commonwealth of Virginia

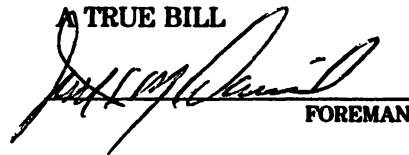
**INDICTMENT FOR
A FELONY**

VS

Irvin E. Coleman (No. 4)

(Malicious Wounding - Reginald
Vincent)

A TRUE BILL



FOREMAN

Cassandra S. Burns
COMMONWEALTH'S ATTORNEY

297-366

3: May 15, 1997

CITY OF PETERSBURG,
COMMONWEALTH OF VIRGINIA,

To Wit

IN THE CIRCUIT COURT OF SAID CITY

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the City
of Petersburg, and now attending the said court, upon their oaths, present that

..... IRVIN E. COLEMAN.....

on or about the 12th day of January in the year Nineteen Hundred and
Ninety-seven in the said city, and within the jurisdiction of the said court,

did use or did display in a threatening manner a certain firearm while
committing robbery,

Va. Code Sec. 18.2-53.1

against the peace and dignity of the Commonwealth of Virginia.

Upon the testimony of

Off. Ramos

Det. D. Hamilton

Det. R. E. Richardson

Det. Braswell

Kevin Saunders, 13827 Sunnybrook Road, Prince George, VA;

Reginald Vincent, 17246 Pittmans Rd, Southampton County, (Boykins);

Audie Watson, 729 Fort Lee Road, City;

Lisa Dean, 729 Fort Lee Road, City

5

Sworn in Court and sent to the Grand Jury to give evidence.

Benjamin O. Smith Clerk

VIRGINIA

**Circuit Court
City of Petersburg**

Ch97-3166

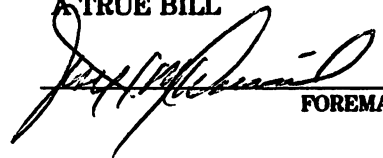
Commonwealth of Virginia

**INDICTMENT FOR
A FELONY**

VS

Irvin E. Coleman (No. 7)
(Use of Firearm - Jan 12, 1997)

A TRUE BILL


FOREMAN

Cassandra S. Burns
COMMONWEALTH'S ATTORNEY

297-367

E: May 15, 1997

CITY OF PETERSBURG,
COMMONWEALTH OF VIRGINIA, To Wit IN THE CIRCUIT COURT OF SAID CITY

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the City
of Petersburg, and now attending the said court, upon their oaths, present that

..... IRVIN E. COLEMAN.....

on or about the 12th day of January in the year Nineteen Hundred and
Ninety-seven in the said city, and within the jurisdiction of the said court,

did use or did display in a threatening manner a certain firearm while
attempting to commit ~~capital~~ murder, _____

Va. Code Sec. 18.2-53.1

against the peace and dignity of the Commonwealth of Virginia.

Upon the testimony of

- Off. Ramos
- Det. D. Hamilton
- Det. R. E. Richardson
- Det. Braswell
- Kevin Saunders, 13827 Sunnybrook Road, Prince George, VA;
- Reginald Vincent, 17246 Pittmans Rd, Southampton County, (Boykins);
- Audie Watson, 729 Fort Lee Road, City;
- Lisa Dean, 729 Fort Lee Road, City

Sworn in Court and sent to the Grand Jury to give evidence. *Benjamin O. Duff* Clerk

VIRGINIA

Circuit Court
City of Petersburg

CP97-3107

Commonwealth of Virginia

**INDICTMENT FOR
A FELONY**

VS

Irvin E. Coleman *(No. 8)*

(Use of Firearm - Attempt Murder
Jan 12, 1997)

A TRUE BILL

[Signature]
FOREMAN

Cassandra S. Burns
COMMONWEALTH'S ATTORNEY

297-368

E: May 15, 1997

CITY OF PETERSBURG,
COMMONWEALTH OF VIRGINIA,

To Wit

IN THE CIRCUIT COURT OF SAID CITY

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the City
of Petersburg, and now attending the said court, upon their oaths, present that

..... IRVIN E. COLEMAN.....

on or about the 12th day of January in the year Nineteen Hundred and
Ninety-seven in the said city, and within the jurisdiction of the said court,

did use or did display in a threatening manner a certain firearm while
committing malicious wounding,

Va. Code Sec. 18.2-53.1

against the peace and dignity of the Commonwealth of Virginia.

Upon the testimony of

Off. Ramos
Det. D. Hamilton
Det. R. E. Richardson
Det. Braswell
Kevin Saunders, 13827 Sunnybrook Road, Prince George, VA;
Reginald Vincent, 17246 Pittmans Rd, Southampton County, (Boykins);
Audie Watson, 729 Fort Lee Road, City;
Lisa Dean, 729 Fort Lee Road, City

Sworn in Court and sent to the Grand Jury to give evidence.

9

Benjamin D. Smith

Clerk

VIRGINIA

Circuit Court
City of Petersburg

CR97-3108

Commonwealth of Virginia

INDICTMENT FOR
A FELONY

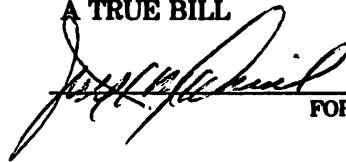
VS

Irvin E. Coleman

(No. 9)

(Use of Firearm - Malicious
Wounding - Jan 12, 1997)

A TRUE BILL



FOREMAN

Cassandra S. Burns
COMMONWEALTH'S ATTORNEY

2897-369

E: May 15, 1997

CITY OF PETERSBURG,
COMMONWEALTH OF VIRGINIA,

To Wit

IN THE CIRCUIT COURT OF SAID CITY

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the City
of Petersburg, and now attending the said court, upon their oaths, present that

..... IRVIN E. COLEMAN.....

on or about the 12th day of January in the year Nineteen Hundred and
Ninety-seven in the said city, and within the jurisdiction of the said court,

did rob Reginald Vincent of U.S. cash and currency or other properties, _____

Va. Code Sec. 18.2-58

against the peace and dignity of the Commonwealth of Virginia.

Upon the testimony of

Off. Ramos
Det. D. Hamilton
Det. R. E. Richardson
Det. Braswell
Kevin Saunders, 13827 Sunnybrook Road, Prince George, VA;
Reginald Vincent, 17246 Pittmans Rd, Southampton County, (Boykins);
Audie Watson, 729 Fort Lee Road, City;
Lisa Dean, 729 Fort Lee Road, City

11

Sworn in Court and sent to the Grand Jury to give evidence.

Benjamin O. D. [Signature] Clerk

VIRGINIA

**Circuit Court
City of Petersburg**

CR 97-369

Commonwealth of Virginia

**INDICTMENT FOR
A FELONY**

VS

Irvin E. Coleman

(No. 10)

(Robbery - Reginald Vincent)

A TRUE BILL



FOREMAN

Cassandra S. Burns
COMMONWEALTH'S ATTORNEY

1 REGINALD VINCENT, called by the Commonwealth, first
2 being duly sworn, testifies and says as follows:

3

4 DIRECT EXAMINATION BY MR. VINCENT:

5 Q It's almost afternoon. Good
6 afternoon, Mr. Vincent.

7 A Good afternoon.

8 Q Could you tell these jurors your
9 name and where you live, sir.

10 A My name is Reginald Vincent. I'm
11 from Southampton County.

12 Q Now, I want to take you back in time
13 to January 12th. Is that a day you remember, sir?

14 A Yes. I do.

15 Q January 12th of this year. Tell the
16 Court and tell the jurors what happened that day,
17 starting in the evening, if you could, sir. Can you
18 tell us about that night?

19 A Well, I worked for United Parcel
20 Services. I was scheduled to work the air shift that
21 night. It started at six and it ended at about ten
22 after eleven.

23 Q Did you work that shift, sir?

24 A Yes.

1 Q And did you come to leave the place
2 of work?

3 A Yes. I left about ten after.

4 Q Ten after eleven in the evening?

5 A Yes.

6 Q Okay. Where did you go when you
7 left?

8 A I left there, went directly home to
9 Mount Airy Street.

10 Q Okay. Was that your only place of
11 dwelling, of living?

12 A Yes. For-- Yeah, up here. Yes.

13 Q When you say "up here," what do you
14 mean by that?

15 A Well, since I worked the night shift
16 at UPS, my mother was kind of worried about me
17 stopping off the side of the road sleeping, so she got
18 me a place up here to work--for during the week I
19 would stay.

20 Q So you sort of lived in two places,
21 both with your folks and the Mount Airy Road
22 apartment?

23 A Correct.

24 Q Now, did you-- You said you went to

1 your apartment. Did you go there and did you arrive
2 there?

3 A Yes. I arrived there, but--

4 Q Let me interrupt you one more time.
5 Is that in any city or county, sir? This apartment?

6 A Oh, Petersburg. City of Petersburg.

7 Q Please continue.

8 A Okay. And as I drove up to my
9 house, I could see a figure in the backyard. So I
10 didn't actually stop. I just crept to the side of
11 the house and was looking. And as I was riding past,
12 the figure waved at me like he knew me. So I stopped
13 the car, and he came over and started to talk, you
14 know. And it was a well-mannered guy. And he asked
15 me would I take him to Pegram Street.

16 Q Now, what was the lighting like at
17 this time?

18 A Well, it's a light in the backyard
19 that stays on.

20 Q You said you talked to this person?

21 A Yes.

22 Q Did you talk face to face?

23 A Yes. I cracked the window, and, as
24 he began to talk, you know, he talked like he was a

1 well-mannered guy, you know. So I rolled the window
2 down and was talking to him back.

3 Q Do you see that person you talked to
4 today?

5 A Yes. I do.

6 Q Where do you see him?

7 A Sitting there. (INDICATING.)

8 Q Are you pointing--indicating the
9 defendant next to Mr. Bland, seated here in the
10 courtroom?

11 A Correct.

12 MR. BARUCH: Please let the record
13 reflect he has identified Mr. Coleman as the person he
14 talked to.

15 BY MR. BARUCH:

16 Q Did you stop talking to him?

17 A Well, as--like I said, he asked me
18 to take him to Pegram Street, and I said yeah, because
19 he didn't have on a coat, and, you know, he was, like
20 I said, a well-mannered guy. So I said: I'll take
21 you to Pegram Street. You know, it's right around the
22 block, so--

23 Q Did you think it was normal that he
24 was where he was?

1 A Well, in that area, you know, see a
2 lot of traffic, you know. So I guess it was typical
3 for him to be there.

4 Q Okay. What happened then, sir?

5 A I took him on to Pegram Street, and
6 I-- Pegram Street is a dead-end street, so we got,
7 you know, right up to the end of the street. I said:
8 Now, where you going? You know, because I was
9 familiar with the street. He said: Turn around. And
10 I turned around and took him back and dropped him off.

11 Q Now, did you all talk in the car?

12 A No.

13 Q You didn't have any conversation?

14 A Well, no more than, yes-- I had on
15 my UPS vest, and he said: That's a good government
16 job. And I just nodded, and I said, well, he don't
17 know anything about UPS anyway. I said: Yeah. And
18 he asked: So y'all make pretty good money? I said:
19 Yeah. We make pretty good money, you know. And I
20 think that was about all that was said.

21 Q Did he ask of anything else, about
22 maybe where you live?

23 A Oh, I'm sorry. I'm sorry.

24 MR. BLAND: Your Honor, he's leading

1 the witness.

2 THE COURT: All right. I would
3 suggest not leading him, Mr. Baruch.

4 MR. BARUCH: I'm sorry, Your Honor.

5 A Before, you know-- This-- Before
6 we-- Before-- After he got in the car, and, you
7 know, he was saying where do you live and this, I
8 pointed to the house, you know, where I lived, and he
9 asked did I live by myself. I said: I have a
10 roommate, but he's not home, you know. And, from
11 there, we went to Pegram Street, and I turned and
12 dropped him off, and I came back home.

13 Q Did you come straight back home?

14 A Straight back home.

15 Q About what time is it now? Do you
16 remember?

17 A I would say it's like quarter to
18 twelve.

19 Q Okay. And what happened next once
20 you got home?

21 A Well, I went in the back, because I
22 had got a page from my mother. We have a trucking
23 business down home, and I had put the keys in my
24 pocket. And I told her soon as I get off work, I

1 would be coming home. So I went and pack--was packing
2 my clothes to go home.

3 Q So your mother wanted you to come
4 home?

5 A She wanted me to come home to bring
6 the keys. So, and that's what I was doing, packing my
7 clothes. And I was packing my clothes, and I heard a
8 knock on the door.

9 Q Were you expecting company?

10 A I wasn't expecting company, no.

11 Q You were not?

12 A No.

13 Q Okay. What did you do when you
14 heard the knock?

15 A And, as I heard the knock, I went
16 and peeped out the peephole. I said: Well, dog, this
17 is the same fellow that I just took up the street.
18 You know, I didn't think nothing of it. I opened the
19 door.

20 Q And when you opened the door, is it
21 pretty well lit?

22 A Yeah. I had-- Yeah. I had the
23 light on.

24 Q And who did you see when you opened

1 the door?

2 A Mr. Coleman there.

3 Q Right in front of your face?

4 A Yeah. Right in front of my face.

5 Q Okay. What happened when you opened
6 the door?

7 A And he said: I hate to be a bother,
8 but would you take me up Halifax Street? I said:
9 Well, buddy, I'm not a taxicab, but I got to go back
10 up Halifax to get on 95, and I will do that since I
11 was going back up. And I said: Well, come in. I
12 have to use the restroom. And I went in the restroom.
13 I closed the door. You know, before that, I told him:
14 Sit down. Make yourself at home.

15 Q All right. This whole time, do you
16 have lights in your apartment?

17 A Yes. The lights was on.

18 Q So was it as lit as this courtroom
19 is?

20 A Yes.

21 And I went in the restroom to use
22 the restroom, and by the time I could finish using the
23 restroom and was standing up, he was standing at my
24 restroom door with a gun pointed at my face.

1 Q When you said "he," you mean the
2 defendant?

3 A Yes, Mr. Coleman. And I said, well,
4 I said: If it's money you want, it's-- You know,
5 before that, he told me, said: Get on the floor. And
6 I got on the floor face down. I said: Well, if it's
7 money you want-- I rolled over. I said: The money's
8 in my vest pocket.

9 Q Where is the gun during all this?

10 A He had the gun over top me. I guess
11 he had it in the back of my head when I was on the
12 floor.

13 Q When you said "over top of me," when
14 you first saw it, was it pointed anywhere?

15 A Oh, yeah. He had it pointed at me.

16 Q Can you describe what the gun looked
17 like?

18 A It was a black handle and a chrome--
19 It was chrome plated with a black handle.

20 Q Okay. What had happened once you
21 got down, sir?

22 A Well, I got down, laid down, and he
23 come and got over top me over my back and was like
24 straddling me with the gun down on my--pointing down

1 on me. And I rolled over. He said: Don't look up.
2 I said: I'm letting you get the money, if that's what
3 you want, you know. I said: The money's in my vest.
4 He reached into my vest and got the money. And then
5 he was patting me down, and he hit me behind the
6 head--boom--behind the head with the gun. Said: I
7 thought you had no more money?

8 Q Did he get the money?

9 A Yeah. He got the money out. I
10 said: That's no money; that's papers.

11 Q Where was the money?

12 A In my vest pocket.

13 Q And where was it in the vest pocket?

14 A It was just in the pocket. It's a
15 vest with a flap over it. He lift the flap and went
16 in my pocket.

17 Q Do you carry money in a wallet?

18 A No.

19 Q Did you have a wallet?

20 A I had a wallet.

21 Q That night?

22 A Yes, sir.

23 Q Okay. Did he ever see the wallet?

24 A Well, as he was searching me down,

1 he felt and got my wallet.

2 Q Was this before he hit you or after
3 he hit you?

4 A This was after he hit me with the
5 gun.

6 Q Where did he hit you?

7 A Behind the head.

8 Q What did he say when he hit you?

9 I'm sorry. I interrupted you. What did he say when
10 he hit you?

11 A He said: I thought you said you
12 didn't have anymore money? I said: I don't have
13 anymore money. That is all the money I have. Those
14 are papers. I said: You can-- You can look and see
15 what it is. And--

16 Q What did he do when he found your
17 wallet, sir?

18 A Well, he was looking through my
19 wallet, and I know I didn't have anything in it. And
20 he took my driver's license out. He said: I'm going
21 to take your license in case you go to the police, I
22 have something to run down on you with.

23 Q So this is what Mr. Coleman said?

24 A That's what he said.

1 Q Does your license have a picture on
2 it?

3 A Yes. It have my whole address on
4 it, really.

5 Q What happened after-- Or did there
6 come a time he stopped looking for money on you?

7 A Well, after he went through all my
8 pockets, he like told me, stand up and pull my pants
9 down to my ankles. And this is-- I guess after it
10 was all said and done, he told me to pull my pants
11 down.

12 Q Now, at this time, were you able to
13 see him?

14 A Yes. I was still looking at him.
15 He was in front of me then.

16 Q All right. Did he still have a gun?

17 A Yes.

18 Q Where was the gun?

19 A Still pointed at me.

20 Q Okay. Please continue.

21 A And I pulled the pants--pulled my
22 pants down, and he was slowly backing up. So, after
23 he got round the corner, the little bend, I reached
24 down and pulled my pants back up, and I stood there

1 momentarily.

2 Q Did you hear anything?

3 A I could still hear him in the front
4 room. And I'm saying to myself: What is he doing
5 now? So, I walked from the commode from the middle of
6 the floor to the door, and by the time I stepped out
7 of the door, he just started boom, boom. And I said
8 to myself--

9 Q How far away from you was he when he
10 started shooting?

11 A I'll say maybe eight foot.

12 Q Okay. Was he-- Where was the gun
13 pointing when he was shooting?

14 A It was just pointed straight at me,
15 you know.

16 Q And what happened when he started
17 shooting?

18 A I said to myself, at that time, I
19 got two options: To try to get to him and knock the
20 gun out of his hand, or turn my back and let him try
21 to--get a clean shot at my back or head.

22 Q And what did you do?

23 A And, so, I was trying to get to him,
24 but he had shot several times. And when I realized

1 that--

2 Q When you said "trying to get to
3 him," did you take more than one step to him?

4 A I maybe took two steps, but that's
5 as-- I maybe took two steps.

6 Q How close were you to him?

7 A I guess from here to where the young
8 lady is sitting behind you, I guess. Not even that
9 far. About from where you're standing at now.

10 Q And that's about eight to ten feet?

11 A Right.

12 Q And you said you were hit?

13 A Well, I didn't know I was hit.
14 Evidently I was hit in the legs, but they kept right
15 on traveling. And when I knew I--it was a--you know,
16 he was for real, it hit me in the arm and my arm just
17 went away. I said: Oh, God. You know.

18 Q Did he stop shooting?

19 A Huh?

20 Q Did he stop shooting?

21 A No. He kept right on shooting. I
22 threw this arm up, and it caught me here in the wrist.
23 (DEMONSTRATING.)

24 Q Now, show us, if you can-- You're

1 wearing a short-sleeve shirt today. Can you show the
2 jurors where you were shot? Describe to--

3 A Well, the first time when I realized
4 I was actually hit, he broke this arm. (INDICATING.)

5 Q The bullet broke the arm?

6 A And then he-- I threw up my hand,
7 and he hit me in the wrist and broke the wrist.
8 Meanwhile, I had my finger--my hand up, and he hit me
9 in the hand.

10 Q Can you stand up and point to any
11 other parts of your body that got struck, sir?

12 A Yeah. (WITNESS COMPLIES.) He hit
13 me in the groin and both thighs.

14 Q So you were struck in both thighs
15 and the groin where you pointed to just now?

16 A Right. Both thighs and the groin.

17 Q You can sit down again, sir.

18 (WITNESS COMPLIES.)

19 Q At any time did you--were you forced
20 to--or did you stop standing?

21 A Yes. I think as I--as it was all
22 over, I realized how many times I was shot. I
23 realized the last shot must have--I mean the sixth
24 shot must have been in the groin, which knocked my

1 balance off, and I went-- It's a little hallway that
2 leads from--that goes in the kitchen, and that's where
3 I fell face first into my kitchen.

4 Q So you were face down in the
5 kitchen?

6 A I was face down. So--

7 Q Was it over at this point?

8 A I thought it was over, but it was
9 far from being over. I guess it was like ten seconds
10 went past, and there was nothing said, no movement.

11 Q Now, when you say "ten seconds," one
12 thousand-one, one thousand-two, one thousand-three,
13 you're sure it was that long?

14 A Yes.

15 Q Okay. What happened?

16 A I could feel his presence still
17 being in the room with me. I was--didn't move a
18 muscle--wasn't saying anything. And he started to
19 walk towards me. And as he got towards me and over
20 me, he straddled me and just took a step and went--put
21 the gun right at my neck. I guess it was supposed to
22 have been a head shot, and boom. You know, all I
23 could say to myself: He shot me again.

24 Q Did you feel anything?

1 A Oh, yeah. I could feel, you know,
2 the--

3 Q Why don't you stay standing. Can
4 you point to the jurors where you were struck, sir?

5 A I was hit here. (INDICATING.)

6 Q Let's turn-- Oh, I'm sorry.

7 MR. BARUCH: Might the record
8 reflect there's a scar right here where I'm indicating
9 to the jurors in the back of his head.
10 BY MR. BARUCH:

11 Q Now what-- Do you know where that
12 bullet went?

13 A It come out here. (INDICATING.)

14 MR. BARUCH: And let the record
15 reflect there's a scar on his--I guess his beard line
16 on his right cheek.

17 BY MR. BARUCH:

18 Q Is that where the bullet went out?

19 A Yeah. That's where it come out.
20 And all I could say to myself, well, you know, excuse
21 me, but: Damn. He shot me again. You know? And I
22 laid there for a few minutes, and I could hear the
23 door open and close. So the whole time I'm saying,
24 you know: I can't die. I can't die. I'm down. You

1 know?

2 Q Why were you saying that?

3 A I had just lost a brother and a
4 close friend, and just thinking of my mother and son,
5 I just, you know, I just couldn't let myself go down.
6 I said: I got to get out the house. So, I struggled
7 and struggled and got up, and I made it to the door
8 and I tried to open the door, but I had two broke
9 arms, and it--you know, I couldn't get out.

10 So I'm saying to myself: All I can
11 do now is just try to break the window. And I took my
12 head and shoulder, and I broke the window, and I fell
13 out on the ground. And I just laid there and
14 hollered: Somebody-- Someone help me. Help me.

15 And the people in the back came
16 around, said I thought I heard a gunshot, and they see
17 me laying on the ground and they recognized who was
18 laying on the ground. They said: That's Sherman's
19 brother, which is my brother. The landlord of the
20 houses, he said--they said: Go get a blanket and call
21 the police. And they wrapped me up and called the
22 police. And I knew they had done that when I heard
23 the siren go off. I said, you know, if I could just
24 hold on, I'll be all right.

1 would overrule your objection to the--

2 MR. BLAND: We would except to the
3 Court's ruling.

4 THE COURT: Exception noted and
5 overruled.

6 THE JURY IS NOW PRESENT.

7 BY MR. BARUCH:

8 Q Mr. Vincent, I'm approaching you
9 with a stack of ten pictures which have collectively
10 been introduced as Commonwealth's Exhibit Number 1.
11 We have not yet moved them into evidence. The first
12 picture, can you describe what this scene depicts?

13 A Well, that's my bathroom where
14 the--he actually had me laying on the floor and he
15 took my money.

16 Q Okay. Is there also in there a
17 picture of your wallet on top of this green--

18 A Yeah. That's my wallet. Yes.

19 Q And this is where it first started?

20 A Yes.

21 Q Okay. What is this picture, sir?

22 A That's a picture of my Kerosun
23 heater.

24 Q Okay. What's this in the middle of

1 it?

2 A Look like two bullet holes.

3 Q Okay. And this is in your home?

4 A That's my home.

5 MR. BARUCH: And if these pictures
6 are introduced as evidence, you'll have an opportunity
7 to look at them closely.

8 BY MR. BARUCH:

9 Q What does this picture show, sir?
10 Can you tell?

11 A That's a bullet hole. It's leading
12 into one of the bedrooms.

13 Q Okay.

14 A That's my hallway.

15 Q And there's a tiny thing here.
16 Where is that? Is that--

17 A That's my roommate's bedroom. It's
18 a bullet laying beside the bed.

19 MR. BARUCH: It's a tiny thing
20 there. You all will see this close up later.

21 BY MR. BARUCH:

22 Q Now, this is a fourth picture. What
23 does this show?

24 A That's where I went face down in the

1 kitchen.

2 Q Okay. And you were on the floor of
3 this kitchen?

4 A I was on the floor of the kitchen.

5 Q And what is this a picture of?

6 A That's probably where I was trying
7 to get up.

8 Q Okay. Is this--

9 A Off my stove. That's my kitchen,
10 too.

11 Q Do you know where this is, sir?

12 A That's the blood leading from the
13 kitchen to the door where I stood there a couple
14 minutes trying to get the door open, or seconds, and
15 couldn't.

16 Q Here's another picture, sir. What
17 does this show?

18 A That's a picture showing where I
19 broke the window out with my head and shoulder and--

20 Q Is this from the inside or the
21 outside of your house?

22 A That's the inside of my house.

23 Q And is this where you forced
24 yourself out?

1 A Yes.

2 Q And what is this a picture of?

3 A That's a picture of the outside den
4 window where--

5 Q Same window?

6 A Same window. It's just where I had
7 fallen out there.

8 Q And last but not least, what is
9 this, sir?

10 A That's a picture of the blood where
11 I laid till the ambulance arrived.

12 Q And this-- What are these
13 particles?

14 A That's the glass and stuff that I
15 broke out the window with my head.

16 MR. BARUCH: At this point, these
17 are collectively Commonwealth's--marked for
18 identification purpose only, collectively, Number 1.
19 I will put this clip on it so the clerk won't have
20 them falling all over the place.

21 BY MR. BARUCH:

22 Q Mr. Vincent, what happened once
23 the-- You said somebody finally came and found you?

24 A Yes. Next thing I remember, the

1 ambulance came and put me on a stretcher and put me
2 into the ambulance, and they was asking me where I got
3 shot. You know, I said: Well, I know my arms. I
4 don't know where else.

5 Q Did they take you anywhere?

6 A Yeah. Took me to Southside.

7 Q Okay. How long did you stay there?

8 A I'm thinking just overnight.

9 Q Just overnight? Did there come a
10 time when you saw some police officers at the
11 hospital?

12 A Yes. The police officers came, but
13 the doctor was trying to get a vein and they was
14 cutting my foot open, and I told the police hold on
15 till they finished, and then I talked to the police
16 after they got my vein.

17 Q Now, once that happened, did you
18 talk to some police detectives?

19 A I talked to-- Yes.

20 Q Okay. Were they some gentlemen you
21 saw here earlier this morning?

22 A Yes. It was.

23 MR. BARUCH: I'm going to show you
24 something I would also ask madam clerk to be marked

1 for exhibit--or exhibition purposes Number 2. That is
2 the photo spread.

3 Defense counsel has had an
4 opportunity to look at this in detail in the past.

5 Does he wish to see it again, sir?

6 MR. BLAND: Yes.

7 (PHOTO SPREAD PROFFERED TO

8 MR. BLAND BY MR. BARUCH.)

9 (PHOTO SPREAD PROFFERED TO WITNESS.)

10 BY MR. BARUCH:

11 Q Mr. Vincent, have you seen these six
12 pictures before?

13 A Yes. I have.

14 Q And who showed these six pictures to
15 you?

16 A I think it was Detective Hamilton.

17 Q And did you see anybody in these six
18 pictures that you recognized?

19 A Yes.

20 Q And who did you recognize? You
21 can-- There's a number next to each picture.

22 A Yeah. I pointed to number two.

23 Q And who is that person that you
24 pointed to?

1 A That was Mr. Coleman.

2 Q That's the gentleman right there
3 next to Mr. Bland?

4 A (WITNESS NODS HEAD YES.)

5 Q Did it take you any time to pick out
6 his picture?

7 A Nope. I told him-- Well, I had my
8 glasses off, and I can't see with my glasses off, so
9 he gave me my glasses. Soon as he passed me my
10 glasses, I said: Well, that's the guy that shot me,
11 right there.

12 Q Did they tell you who to pick?

13 A They ain't tell me.

14 Q Did they say anything about which
15 picture you should look at?

16 A No.

17 Q Did they ask you to look at all six
18 at once?

19 A Well, he gave me the pictures and
20 said who shot--did one of these guys shoot you, and I
21 said: That's the one who shot me.

22 Q Okay.

23 MR. BARUCH: Again, this will be
24 shown to you all later.

1 At this point, I'll save to move
2 this into evidence once the preparer of the spread is
3 testifying later. But at this point this is
4 Commonwealth's Number 2.

5 BY MR. BARUCH:

6 Q I'm sorry. How many days did you
7 spend in the hospital, sir?

8 A Well, originally I spent, I guess
9 you can say seven days with Southside.

10 Q And did you have any, either then or
11 later, did you ever have any surgery?

12 A Yes. When I was moved to Norfolk
13 General, I had two surgeries. I had one on my right
14 arm. They put in a external fixation on. And one on
15 my wrist.

16 Q Had you had any surgery at Southside
17 Regional Hospital that night?

18 A No.

19 Q Okay. How many surgeries total did
20 you have, sir?

21 A I've had five surgeries.

22 Q Are you back to where you were
23 before you were shot?

24 A No. I lost use of my hand, and I

1 can't bend my right arm, and I just recently had knee
2 surgery.

3 Q Is that attributed to this shooting,
4 as well?

5 A Yes.

6 Q And have you gone back to work?

7 A No, sir.

8 Q Did your old job involve physical
9 labor?

10 A Yes, and I can't do it.

11 Q During this entire evening, did you
12 have a good look at the person who shot you?

13 A You talking about the night of the
14 shooting?

15 Q Yes, sir.

16 A Yes, sir.

17 Q Any doubt in your mind?

18 A There's no doubt in my mind.

19 MR. BARUCH: Mr. Bland may have some
20 questions for you.

21

22

23

24

1 CROSS-EXAMINATION BY MR. BLAND:

2 Q Mr. Vincent, you indicated in your
3 direct examination that the individual was at your
4 house twice; is that correct?

5 A He wasn't at my house twice. He was
6 behind my house the first time.

7 Q Well, in the vicinity of your house?

8 A Yes.

9 Q Now, you indicated that you go home
10 on the week--you were going home. Do you remember
11 what day of the week this was?

12 A Well, at that time, it was Saturday
13 night.

14 Q Saturday night? And so you had
15 finished working all week; is that correct?

16 A That's correct.

17 Q You were going home for the weekend.
18 Now, when the--when you opened the door and the
19 individual came in, did you have on your glasses then?

20 A I did.

21 Q Okay. At any point in time during
22 this situation were your glasses ever off?

23 A When I laid on the floor they was
24 off then, but I was face down on the floor.

1 Q Okay. When you were in the floor in
2 the bathroom or when you came out?

3 A In the bathroom.

4 Q In the bathroom. Okay. Now, at
5 some point in time I believe you indicated that you
6 were shot a total of six times?

7 A Seven times.

8 Q Seven times. Okay. And you were
9 shot in the bathroom-- Were you shot in the bathroom?

10 A I didn't say I was shot in the
11 bathroom. I said I was shot as I walked out the
12 bathroom.

13 Q Okay, as you walked out of the
14 bathroom. Okay.

15 Now, when you observed the
16 individual that shot you, approximately how tall was
17 he?

18 A I guess he's 5'9" or 5'8".

19 Q Okay. Now, did you ever give a
20 description to the police officers of the individual
21 who had shot you? Did you ever give a verbal
22 description?

23 A No, sir.

24 Q You never did?

1 A I wasn't able.

2 Q Okay. So when the police officers
3 came to see you, they brought you six pictures; is
4 that correct?

5 A Yes, sir.

6 Q Just six pictures? And they gave
7 you six pictures and told you to pick out one; is that
8 correct?

9 A That's correct.

10 Q Okay. And that was the only photo
11 lineup you ever saw?

12 A To my knowledge, yes.

13 Q Okay. All right. Now, it is true
14 that you've been convicted of a felony?

15 A That's true.

16 Q And what kind of--type of felony was
17 that?

18 A I have an involuntary manslaughter
19 and a distribution charge.

20 Q Do you know what time you went to
21 the hospital that night? Do you know approximately
22 how long this incident occurred before you went to the
23 hospital--before they took you to the hospital?

24 A No. I guess it-- I don't know. I

1 would say it's like quarter after twelve, ten minutes
2 after twelve.

3 Q And that was on a Sunday morning?

4 A That's correct.

5 Q Do you ever recall telling the
6 police officer that after the individual robbed you,
7 he was attempting to leave and you jumped him? Do you
8 recall that?

9 A No. I never got to him.

10 Q You never--

11 A No.

12 MR. BLAND: Those are all the
13 questions that I have.

14 MR. BARUCH: Just one brief
15 redirect, if I may, sir.

16 THE COURT: All right.

17

18 REDIRECT EXAMINATION BY MR. BARUCH:

19 Q You said something about a
20 manslaughter. Did that involve a car accident, sir?

21 A Yes, sir. That was a car accident.

22 MR. BARUCH: Thank you.

23 THE COURT: All right. You may step
24 down. Thank you, sir.

1 they're all back from lunch?

2 MR. BLAND: I'm satisfied they're
3 all back.

4 MR. BARUCH: The Commonwealth is
5 satisfied.

6 THE COURT: All right. Then we'll
7 waive poll.

8 And who will be your next witness,
9 Mr. Baruch?

10 MR. BARUCH: Detective David
11 Hamilton.

12 (PAUSE.)

13 THE COURT: He was sworn earlier?

14 MR. BARUCH: He was, sir.

15

16 DAVID HAMILTON, called by the Commonwealth, first
17 being duly sworn, testifies and says as follows:

18

19 DIRECT EXAMINATION BY MR. BARUCH:

20 Q Good afternoon.

21 A Good evening.

22 Q Could you identify yourself for
23 these jurors, on the record.

24 A Detective David Hamilton of

1 Petersburg Police Department.

2 Q And how long have you been employed
3 with the police department?

4 A Nineteen years.

5 Q Direct you to January 12 of this
6 year, do you remember that date, sir?

7 A Yes. I do.

8 Q Did you have occasion to investigate
9 anything that evening?

10 A Yes. I did.

11 Q Can you tell the jury briefly what
12 your investigation and your observations revealed and
13 where that happened.

14 A I went to 747 Mount Airy Street here
15 in the City of Petersburg. It was about seven after
16 twelve early Sunday morning, on a shooting call, a
17 person being shot outside--it was outside of the
18 apartment--I mean outside of the residence. Upon my
19 arrival, I observed the victim, who was Mr. Reginald
20 Vincent.

21 Q Is that the gentleman that was here
22 earlier today?

23 A Yes. It was.

24 Q And you talked-- Or you saw him?

1 A Yes. I did.

2 Q The same person you saw that night?

3 A Yes.

4 Q Can you describe what you saw that
5 night?

6 A He was outside. He had a blanket
7 covering him at that point and was bleeding from both
8 arms, his left arm and his right arm from what I could
9 see at the time. Also the neck area. At that point
10 he was laying on the ground outside of a window in
11 front of the residence.

12 Q Was the rest of his body covered?

13 A Yes, it was at that point.

14 At that point, I was unable to talk
15 to him because the crew members had got there and
16 began to wait on him--give him some first aid
17 assistance. They placed him in an ambulance. That's
18 when I observed that he did have wounds in his leg
19 area also, both legs.

20 Q And at some point did you go inside
21 the dwelling?

22 A Yes. I did.

23 Q And at some point did you look and
24 see Mr. Vincent again?

1 A Yes. I talked-- I went inside the
2 dwelling, and inside the dwelling I observed where
3 Mr. Vincent wallet was on the floor of the bathroom.
4 Also observed blood on the floor of the living room
5 and also the kitchen area. Once I left there, I went
6 to the hospital to try to interview Mr. Vincent.

7 Q Were you able to interview
8 Mr. Vincent?

9 A Yes. I did. He was--

10 Q Did you go to the hospital alone?

11 A I was there-- Yes. I went by
12 myself, but Investigator Ray Richardson was working at
13 the hospital at the time.

14 Q Is that a gentleman that is here
15 today, as well?

16 A Yes. He is. And Officer Ramos did
17 come up there, too.

18 Q Officer Ramos?

19 A Yes.

20 Q Did you ever speak with Mr. Vincent
21 at the hospital?

22 A Yes. I did.

23 Q And what did you all discuss?

24 A Discussed approximately what

1 happened, and he filled me in on the description of
2 the suspect. Also filled me in on the--that he had
3 picked up the suspect and he gave him a ride to
4 Mount Airy Street and dropped him off.

5 Q Let me cut you off, because we don't
6 want to tell the jury hearsay. Did you ever have
7 occasion to show him anything?

8 A Yes, I did. I showed him a photo
9 spread with several subjects in it along with the
10 defendant's picture.

11 Q I have before me, marked for
12 exhibition purposes only, Commonwealth's Number 2.
13 Can you-- Do you recognize what this is?

14 A Yes, it is. That's the same photo
15 spread that I showed Mr. Vincent at the hospital.

16 Q By looking at it, do you know who
17 put it together?

18 A Investigator Richardson had it.

19 Q What did you do with this photo
20 spread?

21 A I showed it to Mr. Vincent who
22 pointed out this person who had shot him.

23 Q And which picture did he point out?

24 A He pointed out the top, second

1 picture, which would be Mr. Irvin Coleman.

2 Q Did he have any hesitation in
3 identifying Mr. Coleman?

4 A No, he didn't. He picked him out
5 immediately.

6 Q And did he write down anything?

7 A He wasn't able to write anything
8 because of his bones were broken in his hands. He
9 couldn't use his hands. So I wrote it down for him.

10 Q And he appeared to have no problem
11 picking him out?

12 A He had no problem picking him out.

13 MR. BARUCH: At this point, this is
14 still Commonwealth's Exhibit Number 2 for exhibition
15 purposes. I'll move to introduce it later.

16 BY MR. BARUCH:

17 Q Did you ever have any further
18 contact with Mr. Vincent in reference to any evidence?

19 A Yes. I went to-- I received a
20 phone call from Norfolk General Hospital and also
21 Chesapeake General Hospital where they had removed
22 bone [sic] fragments from Mr. Vincent.

23 Q And did you--

24 A And I went down and recovered those

1 from the hospital.

2 Q Do you want to take that out of the
3 bag, sir?

4 (WITNESS COMPLIES.)

5 Q And you received this directly from
6 the two hospitals you just--

7 A Yes. I did.

8 Q And in one bag, we have a plastic
9 container with what, now, sir?

10 A With a bullet fragment that was
11 taken out of Mr. Vincent. It just came out his right,
12 upper--I believe it might be right, upper arm area.

13 MR. BLAND: Your Honor, I'm going
14 to, at this point, object to any testimony regarding
15 the details of what Mr. Hamilton allegedly received--

16 THE COURT: I would have to guess
17 that would be hearsay, Mr.--

18 MR. BARUCH: I would just limit it
19 from where he received it and leave it at that--

20 THE COURT: All right.

21 MR. BARUCH: --if that's fair, for
22 the Court's ruling.

23 THE COURT: Yes, sir.

24

1 BY MR. BARUCH:

2 Q And, so, I think you've identified
3 the item which has the blue plastic container came
4 from Chesapeake Hospital. And where did this item
5 come from? (INDICATING.)

6 A This item came from Norfolk General
7 Hospital.

8 MR. BARUCH: And this is the other.
9 (INDICATING.) And they are stapled together. I would
10 offer them into evidence as--

11 MR. BLAND: I would object, Your
12 Honor.

13 THE COURT: All right. Do you want
14 to discuss your objection outside the presence of the
15 jury, Mr. Bland?

16 MR. BLAND: Yes, sir.

17 THE COURT: All right. We'll have
18 the jury step outside, if you would, please.

19 THE JURY IS NOT PRESENT.

20 MR. BARUCH: Before we commence
21 argument, these would be Number 3, Madam Clerk?

22 Okay. Thank you.

23 MR. BLAND: Your Honor, if it please
24 the Court, other than the hearsay representations of

1 MR. BARUCH: I don't have any
2 further questions for you, Detective Hamilton. Please
3 answer the questions Mr. Bland may have for you, sir.
4

5 CROSS-EXAMINATION BY MR. BLAND:

6 Q Detective Hamilton, when you spoke
7 with Mr. Vincent in the hospital, where was he in the
8 hospital?

9 A He was in the emergency room, the
10 treatment area.

11 Q Okay. When you approached him, did
12 he have his glasses on?

13 A I believe he did. I can't recall
14 offhand if he did or not, but I believe he probably
15 did have glasses on.

16 Q Okay. Now, when you showed him the
17 pictures, is it fair to say you only showed him six
18 pictures?

19 A Correct.

20 Q And who else was present when you
21 showed him the pictures?

22 A Officer Ramos and Detective
23 Richardson.

24 Q Is it fair to say that you received

1 these six pictures from Detective Richardson?

2 A Correct.

3 Q Now, when you showed him these
4 pictures, was he in the emergency room?

5 A Yes. He was.

6 Q And the other two individuals you
7 named were there when you showed them to him?

8 A Yes. They was.

9 Q And, Officer Hamilton, I take it
10 that Mr. Vincent also described to you the sequence of
11 events that allegedly happened?

12 A Yes. He did.

13 Q Did he, prior to your showing him
14 the picture, give you a description of the individual
15 who shot him?

16 A Yes, he did. I believe so.

17 Q Okay. And what was that
18 description?

19 A I'll have to refer back to my notes.

20 Q Please do.

21 A (WITNESS VIEWING.) The only
22 description I got was a black male. I didn't get a
23 complete description on him.

24 Q Okay. Now, how long did you

1 interview him?

2 A To get the whole detail of the
3 events that happened.

4 Q Yes.

5 A Long enough, basically, to tell me
6 exactly what happened up at the scene.

7 Q How long was that?

8 A I can't recall exactly.

9 Q Now, did Mr. Vincent tell you that
10 after the individual shot him that he attempted to
11 stop the individual as he was leaving the house?

12 A No. He attempted to stop the
13 individual before he got shot.

14 Q Okay. And he told you-- Did he
15 tell you that there was a fight?

16 A He had apparently tried to jump the
17 individual from the back because the person thought
18 the individual had a toy gun. Apparently he was shot
19 and he attempted to get away from the subject by
20 running to the kitchen area and was shot again.

21 Q Okay. But prior to his being shot,
22 he told you that he attempted to jump the individual
23 because he thought he had a play gun?

24 A Correct.

1 Q And did it seem that he was in his
2 right mind when he told you that?

3 A Yes, sir. I mean, no more the pain
4 from the wounds he had.

5 MR. BLAND: All right. Those are
6 all the questions I have.

7

8 REDIRECT EXAMINATION BY MR. BARUCH:

9 Q Mr. Bland has asked you questions
10 about your conversations with Mr. Vincent at the
11 hospital.

12 A Uh-huh (yes).

13 Q Did he have any questions for you
14 once he--once you showed him the pictures?

15 A No, he didn't, I don't believe.

16 Q Okay. He was fairly--

17 A He was sure about the person who had
18 shot him.

19 MR. BARUCH: Thank you, sir.

20 I don't have any further questions.
21 I don't know if the Court would require Detective
22 Hamilton to stay.

23 THE COURT: Do you want him to
24 remain or not?

1 MR. BLAND: Yes, sir.

2 THE COURT: All right. If you will
3 remain outside.

4 (WITNESS STOOD ASIDE.)

5 MR. BARUCH: The next witness would
6 be Detective Richardson. Or Investigator.

7

8 RAY RICHARDSON, called by the Commonwealth, first
9 being duly sworn, testifies and says as follows:

10

11 DIRECT EXAMINATION BY MR. BARUCH:

12 Q Good afternoon, sir.

13 A Good afternoon.

14 Q Please tell these jurors who you
15 are.

16 A My name is Detective Ray Richardson
17 with Petersburg Police.

18 Q How long have you been employed with
19 the police department, sir?

20 A Approximately 18 years.

21 Q Direct your attention to January 12
22 of this year. Do you remember that day, sir?

23 A Yes, sir.

24 Q Did you have occasion to meet with

1 anybody that you've seen here today?

2 A Yes. No, he's not in here now, the
3 victim of this incident.

4 Q And do you know his name, sir?

5 A I'm sorry. I don't recall it right
6 offhand.

7 Q Okay. But you saw him and you
8 recognized his face?

9 A Yes. I met with him at the
10 hospital.

11 Q And who was with you at the
12 hospital, sir?

13 A Detective David Hamilton was also
14 there.

15 Q Did you have occasion to-- Well,
16 actually, let me-- I'm showing you what is marked as
17 Commonwealth's Number 2. Do you know what this is?

18 A Yes.

19 Q Tell us what it is.

20 A This is a composite of six
21 individuals that I made up from previous cases that
22 involved this same gentleman.

23 Q So you had prepared this before that
24 day?

1 A Yes. I did.

2 Q And you yourself picked out the
3 pictures?

4 A Yes.

5 Q And were you present when these six
6 pictures were shown to Mr. Vincent?

7 A Yes. I was.

8 MR. BARUCH: And, Your Honor, at
9 this point, I would move to introduce this as--
10 previously marked as Number 2--I'd move this into
11 evidence as Commonwealth's Exhibit Number 2, the photo
12 spread.

13 THE COURT: Any objection to that,
14 Mr. Bland?

15 MR. BLAND: Subject to cross, Your
16 Honor.

17 THE COURT: All right. We'll hold
18 it from admission until he's had a chance to cross.

19 BY MR. BARUCH:

20 Q Sir, I take you to January 22nd,
21 which is ten days after this day we talked about, sir.

22 A Yes.

23 Q Anything unusual happen on that day,
24 sir?

1 A Yes. I was called out on that
2 evening, I think it was just before midnight, and I
3 was advised that they had the suspect in a house on
4 Stainback and West Street. They had him surrounded,
5 and they were trying to get him, to talk him to come
6 out the house.

7 Q Did there come a time that evening
8 when you actually saw--

9 A Yes.

10 Q --Mr. Irvin Coleman, the defendant?

11 A Later that evening, it came down to
12 the point where the SWAT team went in, and the house
13 caught on fire, and he came out a back window, and he
14 was brought up front onto the street away from the
15 fire. At that time, we all got around him, and they
16 did a search, started searching him, because he had a
17 coverall, boots--

18 Q And when you say "we," were you one
19 of the officers present for this?

20 A Yes, I was. I and several members
21 of the SWAT team. When they pulled off his shoes, a
22 plastic bag fell out, and in that bag was some
23 ammunition.

24 Q Sir, I'm showing you an evidence

1 bag.

2 MR. BARUCH: I would ask this be
3 marked as Commonwealth's Number 3.

4 BY MR. BARUCH:

5 Q Can you-- You just told us about
6 something you found that night. What is that in front
7 of you, sir?

8 A Yes. This-- This bag on the inside
9 of this second bag is how all the bullets was inside
10 this bag tied together--

11 MR. BLAND: Your Honor, I would--

12 A --and stuffed in the shoe.

13 MR. BLAND: --object to the
14 testimony as to relevance at this point.

15 THE COURT: All right. Again, we
16 are in an area, I think we're going to have to ask the
17 jury to step out, because I'm not sure where we're
18 going with this testimony.

19 MR. BARUCH: All right, sir.

20 THE COURT: I hate to keep running
21 you in and out, but I want to make sure this ruling
22 is--what I'm ruling on.

23 THE JURY IS NOT PRESENT.

24 MR. BARUCH: Your Honor, if I may,

1 did he make any statements to you, sir?

2 A No.

3 MR. BARUCH: At this point I would
4 have no further question for you, sir. Please answer
5 the questions that Mr. Bland may have for you.

6

7 CROSS-EXAMINATION BY MR. BLAND:

8 Q Officer Richardson, you accompanied
9 Detective Hamilton and Mr. Ramos to the hospital; is
10 that correct?

11 A I was already at the hospital. I
12 was working security at the hospital at the time when
13 they brought the victim in.

14 Q Okay. And did you just happen to
15 carry around a photo spread with you?

16 A No. I was listening to the
17 conversation of the victim to Detective Hamilton,
18 asked him questions, and based on his description of
19 the suspect, and--

20 Q What description did he give you?

21 A He gave us--my understanding, was a
22 short guy, not long hair, real dark complected and was
23 wearing, you know, different type clothing, matches to
24 some of the other things we were working on. I told

1 David I need to--let's get a--put--show him the photo
2 spread that I had.

3 Q Now, you were overhearing this
4 conversation? Is that--

5 A I was standing on the opposite side
6 of where they were questioning him.

7 Q So you heard him give a detailed
8 description--

9 A It wasn't a detailed, but it was a
10 description of a black male that-- There were several
11 cases in that area that we were working on--

12 Q But the description that he gave you
13 was what?

14 A Enough to make me feel that it might
15 have been Irvin Coleman.

16 Q How tall did he say--

17 A I-- A little-- Maybe 5'6", 5'7".
18 Somewhere in that vicinity. I'm not sure.

19 Q What color skin?

20 A Dark-- He was dark complected.

21 Q Okay. Did he tell you what kind of
22 clothes he had on?

23 A He had on, I think it was a--either
24 a military type pants and a dark jacket, or something

1 to that effect.

2 Q So, at that time, you reached the
3 conclusion that it was Irvin Coleman?

4 A Yes. Based on the chain of events,
5 yes.

6 Q So you, at that time, brought a
7 photo lineup with Irvin Coleman in it?

8 A Yes.

9 Q Okay. And you presented that to
10 Mr. Vincent?

11 A I gave it to Hamilton, and Hamilton
12 held it up in front of him, because he was more in a
13 position to show it to him from where I was.

14 Q Okay. When you first brought the--
15 When the photo spread was first brought to him, did he
16 have his glasses on?

17 A I don't recall.

18 Q Okay. Were you standing there when
19 he identified the photograph?

20 A Yes.

21 Q Okay. Was there any suggestions
22 made to him that Irvin Coleman, the picture number
23 two, was the one?

24 A No.

1 Q But, at that time, you had reached
2 in your mind that it was Irvin Coleman?

3 A No. I didn't reach in my mind.
4 Based on the chain of events, the way it was explained
5 right there while it happened, that made me--got the
6 suspicion because of the previous week and working
7 another one. That's what made me felt so.

8 Q And that was based on the
9 description of the individual, the detailed
10 description that Mr. Vincent allegedly gave you?

11 A Well, based on the description. I
12 won't say how detailed it was.

13 MR. BLAND: Okay. That's all.

14

15 REDIRECT EXAMINATION BY MR. BARUCH:

16 Q Detective Richardson, didn't you
17 base your hunch on a description of the events more
18 than you did of the physical description of the
19 perpetrator?

20 A Yes.

21 MR. BLAND: Judge, he's leading his
22 witness.

23 THE COURT: I think you asked the
24 question. I don't think that's suggesting his--

1 BY MR. BARUCH:

2 Q So you used your--what you knew
3 about the description of the offense itself?

4 A Yes.

5 MR. BARUCH: Thank you, sir.

6 I don't have any further questions
7 for Detective Richardson.

8 THE COURT: All right. Thank you.

9 MR. BARUCH: Will counsel be holding
10 him as well, or may he be free to leave--

11 THE COURT: He may want to remain.

12 (WITNESS STOOD ASIDE.)

13 MR. BARUCH: Detective J.D. Thomas
14 will be Commonwealth's last witness.

15 THE COURT: At this point, I don't
16 know, has the photo spread been entered at this--

17 MR. BARUCH: It has.

18 THE COURT: Okay.

19 MR. BLAND: And, Your Honor, for the
20 record, note my objection.

21 THE COURT: All right, sir. Noted
22 and overruled.

23

24

1 MR. BLAND: Yes, sir.

2 THE COURT: Do you want him to
3 remain?

4 MR. BLAND: No, sir.

5 THE COURT: All right. You may be
6 excused.

7 And I'll ask the jury to step out
8 for just a moment.

9 THE JURY IS NOT PRESENT.

10 THE COURT: They have rested. Do
11 you have any motions, Mr. Bland?

12 MR. BLAND: Yes, sir.

13 THE COURT: All right.

14 MR. BLAND: Judge, my first motion
15 is related to the malicious wounding charge. I would
16 move to strike as it relates to that charge. The
17 basis for the strike is that we have testimony before
18 us from one witness of the Commonwealth that there was
19 a pulling of a gun and then a shooting. We have
20 testimony from another Commonwealth witness that the
21 same person gave a little different story as to how
22 the shootings occurred. He indicated that the victim
23 stated to him that when the individual, after he had
24 allegedly committed the robbery, proceeded to leave,

1 that he thought it was a toy gun, so he attacked him,
2 and--

3 MR. BARUCH: Your Honor, I object.
4 There was no word--the word attack--

5 THE COURT: I don't think there was
6 any indication that he ever got to him. I think he
7 went for him, but I don't believe there's any
8 indication of any struggle, according to the officer.

9 MR. BLAND: Well, as I recall, he
10 said that he did thought it was a toy gun.

11 THE COURT: He said that.

12 MR. BLAND: And he proceeded toward
13 him, and that's basically when the shootings--you
14 know, the first series of shootings occurred. So I
15 would certainly submit that, under those
16 circumstances, it may not arise to a malicious
17 wounding, but maybe something else as to the shooting.

18 And as to the other charges that are
19 before the Court, I would submit to the Court that
20 the--certainly the Commonwealth has established a
21 prima facie case on the robbery, assuming that you,
22 you know, believe the Commonwealth's witnesses.
23 However, for the record, we would move to strike as to
24 the robbery.

1 We'd move to strike as to the
2 attempted murder in as much as the alleged malicious
3 wounding and the alleged attempted murder would be all
4 a part of one transaction. And I would submit to the
5 Court that what we probably have here, even if you
6 believe the Commonwealth's witnesses, at the most,
7 would be a malicious wounding or unlawful wounding,
8 use of a firearm, and possibly a robbery.

9 I would also point out, Your Honor,
10 that there is some discrepancy in the testimony of the
11 Commonwealth's witnesses as to the identification of
12 the defendant, Mr. Coleman. We have eyewitness--
13 alleged eyewitness, Mr. Vincent, testifying that the
14 only thing he said was there was a black male. And
15 then we have Detective Richardson who said he
16 overheard the conversation between Detective Hamilton
17 and Mr. Vincent, and he goes into a detailed
18 description. And based on, quote, that detailed
19 description, he goes and gets a lineup which has six
20 pictures in it. And I would also point out that
21 Detective Richardson stated that at that point he
22 identified Irvin Coleman based on the alleged detailed
23 description and sequence of other events that
24 Mr. Vincent made.

1 So I would submit to the Court those
2 facts to--in support of the motion to strike all of
3 the charges and the specific emphasis on the fact that
4 you have an attempted murder and a malicious wounding
5 here together.

6 MR. BARUCH: Your Honor, taking
7 Mr. Bland's motions, the Commonwealth has more than
8 met its burden on all six indictments, certainly the
9 robbery of taking money by force, as testified and
10 uncontradicted by the victim.

11 The correct analysis of the
12 evidence, as the Court will recall, is the victim,
13 Mr. Vincent, said he thought it was a toy gun. He
14 took one or two steps towards Mr. Coleman, who was
15 some eight to twelve feet away, was unable to continue
16 as he was riddled with six bullets. There was a
17 pause.

18 Now, clearly, before the pause and
19 during the shooting, this is clearly a malicious
20 wounding with an attempt to maim, disfigure. There
21 can be no other interpretation. There was a definite
22 break. The witness testified that it was at least ten
23 seconds, and then the victim was straddled by
24 Mr. Coleman, and then a last bullet was shot at the

1 base of the neck. Clearly an attempt to kill.

2 He had already maimed his victim.

3 The victim--some time had passed, and there was a
4 break in the sequence. Clearly he walked up to him,
5 and, with one final bullet, can only be interpreted,
6 as it was aimed near the head, as a bullet with the
7 intent to kill.

8 With reference-- I don't know if
9 the Court would--

10 THE COURT: I think you've
11 established a prima facie case. I have to give the
12 Commonwealth the deference to the evidence in the
13 light most favorable to them, and it's supported on
14 all six counts. So I would overrule defense motion at
15 this time.

16 MR. BARUCH: And is there a need for
17 comment on the identification? I believe--

18 THE COURT: I think we're getting
19 into argument now, Mr. Bland. I think that's a matter
20 of the weight of the evidence. It's the only
21 evidence, so I'm going to-- I certainly think that
22 they are entitled to believe the amount of time he had
23 to observe the man, the enormous amount of time, in
24 light of the way these things happen, and I think

1 certainly that I don't have--I can't find that his
2 testimony is incredible in any way. So I would
3 overrule your motion on all counts. I think a prima
4 facie case has been made on all counts.

5 Do you intend to put on evidence,
6 Mr. Bland?

7 MR. BLAND: Well, first of all, I
8 would like to except to the Court's rulings, Your
9 Honor.

10 THE COURT: All right, sir.

11 MR. BLAND: And let me consult with
12 my client.

13 THE COURT: All right, sir.

14 (MR. BLAND AND THE DEFENDANT CONFER.)

15 MR. BARUCH: Your Honor, if the
16 Court would be so kind, let the record reflect that
17 there is some intimate consultation going on between
18 defense counsel and his client.

19 THE COURT: I think that's correct.
20 He's discussing with him his right to testify or not
21 testify, whichever he prefers.

22 MR. BLAND: Your Honor, I've
23 finished consulting with him, and my client has
24 decided that he wants to testify.

1 THE COURT: He wishes to testify?

2 MR. BLAND: Yes, sir.

3 THE COURT: All right. Now, he's
4 going to be-- He's got a restraint on him. Obviously
5 he's serving a ten-year sentence on another
6 conviction, so that restraint will be made--or will
7 remain on him while he's on the stand. But I think
8 the thing to do is have him take the stand now.

9 MR. BARUCH: Your Honor, could the
10 Court reaffirm its previous ruling in regard to his
11 unfiled notice of alibi claim?

12 THE COURT: I don't know where
13 you're going with it, Mr. Bland.

14 MR. BLAND: Judge, I haven't
15 mentioned-- I don't have a-- The Court has denied me
16 to have a witness here, so I-- I mean, I could only
17 put on an alibi if I had a witness.

18 THE COURT: I understand. All
19 right. I'm not going to-- But, obviously, that
20 aspect of this case has been ruled on.

21 I would have him take the stand if
22 he intends to testify.

23 Would he be your only witness,
24 Mr. Bland?

1 MR. BLAND: Yes, sir.

2 THE COURT: All right. He has not
3 been sworn, I don't believe.

4 MR. BARUCH: No, sir.

5 THE COURT: If you will put him
6 under oath.

7 MR. BARUCH: Should that be done
8 before the jury, sir?

9 THE COURT: Either way. That's
10 fine. Just let him take the stand. We'll put him
11 under oath when the jury comes back.

12 Bring the jury back in.

13 THE JURY IS NOW PRESENT.

14

15 IRVIN COLEMAN, the Defendant, called in his own behalf,
16 first being duly sworn, testifies and says as follows:

17

18 DIRECT EXAMINATION BY MR. BLAND:

19 Q Sir, you're Mr. Irvin Coleman?

20 A Yes, sir.

21 Q Mr. Coleman, you've heard the
22 testimony here today. I have one question for you,
23 and that question is: Did you shoot Mr. Reginald
24 Vincent?

1 you, and we do mean thank you for a long and difficult
2 day and a long and difficult term. I know you've been
3 here, and you've been faithful, and you've been
4 attentive. And the only good news is you won't have
5 to come back. This is the last jury this term, and
6 you are excused with the utmost appreciation of the
7 Court. We do thank you.

8 THE JURY EXITS THE COURTROOM.

9 THE COURT: Any motions, Mr. Bland?

10 MR. BLAND: Yes, sir, Your Honor.

11 Judge, at this point, I would take
12 the opportunity to basically renew and reaffirm all of
13 the previous motions and exceptions that I have made
14 on behalf of Mr. Coleman on this particular case, to
15 include the motions to strike and other exceptions.

16 And I would also, for the record at
17 this time, move the Court to set aside the verdict of
18 the jury as--and the sentencing, as contrary to the
19 evidence that has been presented, and we would note
20 that motion for the record, Your Honor.

21 THE COURT: All right.

22 MR. BARUCH: Your Honor, I would
23 oppose these motions. Clearly, the jury has spoken.
24 The evidence has been overwhelming. The evidence has

CONVICTION AND SENTENCING ORDER

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF PETERSBURG

FEDERAL INFORMATION PROCESSING
STANDARDS CODE: 730

Hearing Date: November 19, 1997

Judge: Honorable James F. D'Alton, Jr.

COMMONWEALTH OF VIRGINIA

v.

Irvin E. Coleman, DEFENDANT

This day came the defendant, who appeared in person with his attorney, Paul Bland - Appointed. The Commonwealth was represented by Peter Baruch. The Attorney for the defendant made a motion in limine, which motion was overruled, and his exception was noted. Whereupon the defendant was arraigned as charged in the indictments and after being advised by his counsel pleaded **not guilty** to the indictments, which plea was tendered by the defendant in person, and after being first advised by his counsel and by the Court of his right to trial by jury, the defendant in person, knowingly and voluntarily requested a trial by jury, and with the concurrence of the Attorney for the Commonwealth and of the Court, the Court proceeded to try the case with a jury. Whereupon the defendant was rearraigned and pleaded **not guilty** to the indictments, which pleas were tendered by the accused in person.

The Court, then impaneled twenty qualified jurors, free from exception for the trial of the defendant. Whereupon the Attorney for the Commonwealth and the Attorney for the defendant each alternately exercised their rights to strike the names of four veniremen from the panel, as provided by law, and the remaining twelve jurors, constituting the jury for the trial of the defendant, were duly sworn.

After opening statements, the evidence was presented by the Commonwealth and the defendant. At the conclusion of the Commonwealth's evidence, the attorney for the defendant made a motion to strike the Commonwealth's evidence for reasons stated to the record, which motion was overruled, and his exception was noted. At the conclusion of all the evidence, and the defendant

having presented his evidence, the attorney for the defendant renewed his motion to strike the Commonwealth's evidence for reasons stated to the record, which motion was overruled, and his exception was noted.

After hearing the evidence, the instructions of the Court, and argument of counsel, the jurors were sent to the jury room to consider their verdict. They subsequently returned their verdict in open court, in the following words:

"We, the Jury, find the defendant **guilty** of attempted murder of Reginald Vincent.

Lawrence Saunders
FOREMAN

"We, the Jury, find the defendant **guilty** of displaying or using a firearm while committing attempted murder.

Lawrence Saunders
FOREMAN

"We, the Jury, find the defendant **guilty** of the robbery of Reginald Vincent."

Lawrence Saunders
FOREMAN

"We, the Jury, find the defendant **guilty** of displaying or using a firearm while committing robbery."

Lawrence Saunders
FOREMAN

"We, the Jury, find the defendant **guilty** of displaying or using a firearm while committing malicious wounding."

Lawrence Saunders
FOREMAN

"We, the Jury, find the defendant **guilty** of malicious wounding of Reginald Vincent with intent to maim, disfigure, disable or kill."

Lawrence Saunders
FOREMAN

After the jury returned its verdict, the Court asked if the jury should be polled, and the defendant moved to poll the jury and all the jurors affirmed their vote as to the verdict.

After hearing the evidence, the instructions of the Court, and argument of counsel, the jurors were sent to the jury room to consider their sentence. They subsequently returned their verdict in open court, in the following words:

"We, the Jury, having found the defendant guilty of displaying or using a firearm in the commission of attempted murder, do ascertain his punishment to be confinement in the penitentiary for five (5) years."

Lawrence Saunders
FOREMAN

"We, the Jury, having found the defendant guilty of robbery of Reginald Vincent, do ascertain his punishment to be confinement in the penitentiary for seven (7) years."

Lawrence Saunders
FOREMAN

"We, the Jury, after having found the defendant guilty of displaying or using a firearm in the commission of malicious wounding, do ascertain his punishment to be confinement in the penitentiary for five (5) years."

Lawrence Saunders
FOREMAN

"We, the Jury, having found the defendant guilty of the attempted murder of Reginald Vincent, do ascertain his punishment to be confinement in the penitentiary for ten (10) years."

Lawrence Saunders
FOREMAN

"We, the Jury, after having found the defendant guilty of displaying or using a firearm in the commission of robbery, do ascertain his punishment to be confinement in the penitentiary for five (5) years."

Lawrence Saunders
FOREMAN

"We, the Jury, after having found the defendant guilty of displaying or using a firearm in the commission of robbery, do ascertain his punishment to be confinement in the penitentiary for five (5) years.

Lawrence Saunders
FOREMAN

"We, the Jury, having found the defendant guilty of the malicious wounding of Reginald Vincent, do ascertain his punishment to be confinement in the penitentiary for fourteen (14) years and a fine of \$5,000.00."

Lawrence Saunders
FOREMAN

The attorney for the defendant then made a motion to set aside the jury verdict, which motion was denied, and his exception was noted.

Having heard the evidence and the argument of counsel, the Court upholds the jury verdict and finds the defendant guilty of the following offenses:

CASE NUMBER	OFFENSE DESCRIPTION AND INDICATOR (F/M)	OFFENSE DATE	VA. CODE SECTION
CR97-360	Attempt to Murder (F)	01/12/97	18.2-26 18.2-32
CR97-363	Malicious Wounding (F)	01/12/97	18.2-51
CR97-366	Use of Firearm (F)	01/12/97	18.2-53.1
CR97-367	Use of Firearm (F)	01/12/97	18.2-53.1
CR97-368	Use of Firearm (F)	01/12/97	18.2-53.1
CR97-369	Robbery (F)	01/12/97	18.2-58

Pursuant to the provisions of Code Section 19.2-298.01, the Court has considered and reviewed the applicable discretionary sentencing guidelines and the guidelines worksheets. The sentencing guidelines worksheets and the written explanation of any departure from the guidelines are ordered filed as a part of the record in this case.

Before pronouncing the sentence, the Court inquired if the defendant desired to make a statement and if the defendant desired to advance any reason why judgment should not be pronounced.

The Court **SENTENCES** the defendant to:

Incarceration with the Virginia Department of Corrections for the term of: five (5) years for Use of a Firearm, seven (7) years for Robbery, five (5) years for Use of a Firearm, ten (10) years for Attempted Murder, five (5) years for Use of Firearm, and fourteen (14) years for Malicious Wounding. The total sentence imposed is forty-six (46) years.

A fine of \$5,000.00 for Malicious Wounding.

These sentences shall run consecutively with all other sentences.

Costs. The defendant shall pay costs of \$6,583.00.

Credit for time served. The defendant shall be given credit for time spent in confinement while awaiting trial pursuant to Code § 53.1-187.

November 19, 1997

2-27-1498

DATE

ENTER:

James F. Walsh

JUDGE

DEFENDANT IDENTIFICATION:

Alias: None

SSN: 227-19-3910

DOB: 05/24/76

Sex: M

SENTENCING SUMMARY:

TOTAL SENTENCE IMPOSED: Forty-six (46) years

COPY

VIRGINIA:

In the Court of Appeals of Virginia on Tuesday the 21st
day of December, 1999.

Irvin E. Coleman, Appellant,
against Record No. 2871-97-2
Circuit Court Nos. CR97-360, CR97-363 and
CR97-366 through CR97-369
Commonwealth of Virginia, Appellee.

Upon a Rehearing En Banc

Before Chief Judge Fitzpatrick, Judges Benton, Coleman,
Elder, Bray, Annunziata, Bumgardner, Lemons and Frank

Steven D. Benjamin (Betty Layne DesPortes;
Benjamin & DesPortes, P.C., on briefs), for
appellant.

Steven A. Witmer, Assistant Attorney General
(Mark L. Earley, Attorney General, on brief), for
appellee.

By memorandum opinion dated July 20, 1999, a majority of a
panel of the Court affirmed the judgment of the trial court.
Coleman's petition for rehearing en banc was granted, the mandate of
the July 20, 1999 decision was stayed and the case was heard on
November 16, 1999.

A majority of the Court sitting en banc voted to affirm the
attempted murder (Circuit Court No. CR97-360) and malicious wounding
(Circuit Court No. CR97-363) convictions by the trial court. Judges
Coleman, Bray, Bumgardner and Frank voted to affirm because they
opined that the facts at trial proved that the attempted murder and
the malicious wounding were separate and distinct transactions.

Judge Annunziata voted to affirm on the basis that Coleman's appeal was procedurally defaulted by Rule 5A:18.

Chief Judge Fitzpatrick, Judges Benton, Elder and Lemons voted to reverse on the basis that Coleman's actions were a single transaction and based upon this record, attempted murder is a lesser-included offense of malicious wounding under a double jeopardy analysis.

Appellant did not challenge on appeal those parts of the trial court's judgment pertaining to appellant's convictions of robbery and three counts of use of a firearm in the commission of a felony (Circuit Court Nos. CR97-366 through CR97-369).

Accordingly, the stay of this Court's July 20, 1999 mandate is lifted and the said convictions are affirmed.

It is ordered that the trial court allow Steven D. Benjamin, Esquire, court-appointed counsel for the appellant, an additional fee of \$200 for services rendered the appellant on this appeal, in addition to counsel's costs and necessary direct out-of-pocket expenses. This amount shall be added to the costs due the Commonwealth in the July 20, 1999 mandate.

This order shall be certified to the trial court.

A Copy,

Teste:

By:

Cynthia L. McCoy, Clerk

Mary K. P. Ring
Deputy Clerk

ASSIGNMENTS OF ERROR

- I. The trial court erred in overruling the defendant's motion to bar his convictions for *both* attempted murder *and* malicious wounding.
- II. Four judges of the Court of Appeals erred in finding that the facts at trial proved that the attempted murder and the malicious wounding were separate and distinct transactions.
- III. One judge of the Court of Appeals erred in affirming the defendant's convictions on the basis that the appeal was procedurally defaulted by Rule 5A:18.